

# Access to Information Procedure Rules

## **1 Scope**

- 1.1. These rules apply to all meetings of the Council, Cabinet and other Committees (together, called meetings).

## **2 Additional Rights to Information**

- 2.1. These rules do not affect any more specific rights to information contained elsewhere in the Constitution or Law.

## **3 Notices of Meeting**

- 3.1. The Council will give at least five clear working days (excluding the day of the meeting) notice of any meeting by posting details of the meeting at the Civic Centre and on its website.

## **4 Access to Agenda and Reports Before Meeting**

- 4.1. The Council will make copies of the agenda and reports available to the public for inspection at the Civic Centre five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be available to the public as soon as the report is completed and sent to Councillors. The agendas and reports will also be made available on the Council's website.

## **5 Supply of Copies**

- 5.1. The following documents will be published on the Council's website and supplied to any person on payment of a charge or to any newspaper on payment of postage or other necessary charge(s):
  - a) any agenda and reports which are open to public inspection
  - b) any further statements or particulars necessary to indicate the nature of the items in the agenda
  - c) if the Chief Executive/Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

## **6 Access to Minutes and Decisions After Meeting**

- 6.1. The Council will make copies of the following available for six years after a meeting:
- a) the minutes of the meeting or records of decisions taken. This will exclude any part of the minutes of proceedings when the meeting was not open to the public or which disclosed exempt or confidential information
  - b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
  - c) the agenda for the meeting
  - d) reports relating to items when the meeting was open to the public.

Cabinet will publish a list of Key Decisions as soon practicable after each of its meetings. This list will comply with any legal requirements. Decisions taken by Portfolio Holders or Officers will also be subject to any provisions set out in the Access to Information Rules.

## **7 Background Papers**

- 7.1. The Officer writing a report will set out a list of the documents (called background papers) enclosed with the report that relate to the subject matter of the report which:
- a) disclose any facts or matters on which the report or a part of the report is based
  - b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined) or the advice of a political advisor.
- 7.2. The Council will make one copy of each of the documents on the list of background paper available for public inspection for four years after the date of the meeting.

## **8 Summary of Public's Right**

- 8.1. A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and be available to the public at the Civic Centre.

## 9 Exclusion of Access by Public to Meetings

- 9.1. Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 9.2. Confidential information
  - a) This is information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order. The public must be excluded from meetings when confidential information would be disclosed.
- 9.3. Exempt information – discretion to exclude public
  - a) The public may be excluded from meetings when it is likely that exempt information would be disclosed.
  - b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in article 6. The reason must also be recorded in the minutes.
- 9.4. Meaning of exempt information
  - a) Paragraph 1 – Information relating to any individual
    - i) Information is not exempt information unless it relates to an individual i.e. it must relate to and be recognisable as referring to a particular individual.
  - b) Paragraph 2 – Information which is likely to reveal the identity of an individual
    - i) Information is not exempt information unless it relates to an individual i.e. it must relate to and be recognisable as referring to a particular individual.
  - c) Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)
    - i) Information is not exempt information if it is required to be registered under:
      - the Companies Act 1985
      - the Friendly Societies Act 1974
      - the Friendly Societies Act 1992
      - the Industrial and Provident Societies Act 1965 to 1978

- the Building Societies Act 1986
  - the Charities Act 1993. To be exempt the information must relate to a particular third person who is identifiable.
- d) Paragraph 4 – Information relating to consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority
- i) Information is only exempt information if and so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. “Labour Relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions Act 1974, i.e. matters which may be the subject of a trade dispute.
  - ii) For the purposes of the paragraph this shall apply to office holder under the authority as it applies in relation to employees of the authority.
- e) Paragraph 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
- f) Paragraph 6 - Information that reveals that the authority proposes:
- i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person
  - ii) to make an order or direction under any enactment.
- g) Information is exempt information only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.
- h) Paragraph 7 – Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- i) Information is not exempt if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- j) Information which:
- i) falls within paragraphs a-h of paragraph 10.3 above; and

- ii) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9.5. The public may also be excluded to maintain orderly conduct or prevent misbehaviour.

## **10 Exclusion of Access by Public to Reports**

10.1. If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10 above, the meeting is likely not to be open to the public. Such reports will be marked "Confidential" together with the category of information likely to be disclosed.

## **11 Additional Rights of Councillors to Information**

- 11.1. Any Councillor may ask the Chief Executive for written factual information about a service. The request will be met subject to any legal requirements and to paragraph 11.2. A copy of the Chief Executive's response may be given to the Leader or relevant Chair/Vice Chair of an appropriate Committee unless the Councillor's letter is marked personal and/or confidential. If the information provided is of a routine or minor nature or if the request concerns matters relating to the Councillor's ward.
- 11.2. The Chief Executive can reject a request to provide information if they consider that the information requested could only be provided at unreasonable cost or at the expense of other matters being delayed. In addition, the Chief Executive should consult with the Monitoring Officer in order to confirm the legal entitlement to the information. Councillors should note that access to information is subject to legal rights and restrictions such as The General Data Protection Regulations 2016/676 (as applied), Data Protection Act 2018 and Freedom of Information Act for which separate guidance is available.
- 11.3. Councillors should not put Officers under pressure to release information and/or documents to which the Councillor is not entitled to have access.
- 11.4. The common law right of Councillors is based on the principle that any Councillor has a right to inspect Council documents if their access to the documents is reasonably necessary to enable the Councillor properly to perform their duties. This is the "need to know" principle.
- 11.5. The exercise of this common law right depends upon the Councillor's ability to demonstrate that they have the necessary basis for a "need to know" entitlement to access. The "need to know" basis will initially be determined by the Chief Executive (with advice from the Monitoring Officer). If a decision is taken to refuse a Councillor's request for access to

information, the Councillor may appeal to the Cabinet, or the Information Commissioner's Office.

- 11.6. In some circumstances a Councillor's "need to know" will normally be presumed. In other circumstances a Councillor will normally be expected to justify the request in specific terms.