

Section 8

Access to Information Procedure Rules

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1. Scope and definitions

Unless otherwise indicated, these rules apply to all formal meetings of the Council, the Cabinet, Committees including Joint Committees, Overview and Scrutiny Performance Board and its Overview and Scrutiny Panels, the Health Overview and Scrutiny Committee, and the Appointments etc. Panel which are together called 'meetings'. These rules do not apply to briefings, working parties, scrutiny task groups, training and development sessions etc.

Where indicated, certain rules apply only to:

- an 'executive decision-making body' (meaning meetings of the Cabinet, its committees, a joint committee of local authority executives or its subcommittees) or to
- decisions by an 'executive decision-maker' (meaning such a body as above or an individual making an executive decision)
- 'executive decision' means a decision by an executive decision-maker in connection with the discharge of a function which is the responsibility of the executive.

'Regulations' in relation to executive decisions refer to the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as amended or replaced.

2. Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules or the law allowing them to be excluded.

4. Notices of Meetings

The Council will give at least five clear days' notice of the time and place of any meeting by posting details of the meeting at Wyre Forest House (the designated office) and on its website, unless the meeting is convened at shorter notice in which case such notice will be given from the time that the meeting is convened.

5. Access to Agenda and Reports before the Meeting

- 5.1 Subject to other provisions in these rules or the law, the Council will make copies of the agenda and reports which are open for public inspection at the designated office and on its website at least five clear days before the meeting.
- 5.2 If an item is added to the agenda later than as set out in 5.1, the revised agenda will be open to inspection as above from the time the item was



added to the agenda. If a report is not available when the agenda is made open to inspection, the report will be open to inspection as set out in 5.3.

- 5.3 If the meeting is convened at shorter notice than five clear days, or where reports are finalised after the agenda has been published, the Solicitor to the Council shall make each such agenda or report available to the public as above as soon as the agenda or report is completed and sent to councillors.
- 5.4 The Chairman of the meeting may bring before it and cause to be considered an item of business not specified in the summons or agenda where the Chairman is of the opinion, by reason of special circumstances (which shall be specified in the minutes) that the item should be considered at the meeting as a matter of urgency.
- 5.5 Nothing in these Rules requires a copy of the agenda, items or report to be available for inspection by the public until a copy is available to members of the meeting concerned.

6. Supply of Copies

The Council will supply copies of:

- (i) Any agenda and reports which are open to public inspection.
- (ii) Any further statements or particulars necessary to indicate the nature of the items in the agenda open to the public.
- (iii) If the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

To any person on payment of a charge for postage, copying and any other costs.

Except during any part of the meeting during which the public are excluded. The Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and reports which are accessible to the public.

7. Access to Minutes et cetera after the Meeting or executive decision

As soon as is reasonably practicable after a meeting or an executive decision, the Council will make available on its website and for inspection at County Hall copies of the following for six years

- (i) The minutes of the meeting (or written statement/record in accordance with the Regulations) of decisions taken by an executive decision-maker, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;



- (ii) Summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record.
- (iii) The agenda for the meeting.
- (iv) Reports relating to items when the meeting was open to the public.

8. Background Papers

8.1 List of Background Papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (i) Disclose any facts or matters on which the report or an important part of the report is based.
- (ii) Have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

8.2 Public Inspection of Background Papers

The Council will make available for public inspection, for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

9. Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Wyre Forest House, Finepoint Way, Kidderminster, Worcestershire DY11 7WF.

10. Exclusion of Access by the Public to Meetings

- (i) Confidential Information – Requirement to Exclude Public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

- (ii) Meaning of Confidential Information



Confidential information means 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.

(iii) Exempt Information – Discretion to Exclude Public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. 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.

(iv) Meaning of Exempt Information

Exempt information means information falling within the following categories (subject to any condition) contained in Appendix A.

11. Exclusion of Access by the Public to Reports

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Application of Rules to the Cabinet

Rules 13 – 23 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution. If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. The Forward Plan

13.1 Period of Forward Plan

Forward Plans will be prepared by the Leader – in Leader and Cabinet form to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and



subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

13.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (i) The matter in respect of which a decision is to be made.
- (ii) Where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership.
- (iii) The date on which, or the period within which, the decision will be taken.
- (iv) The identity of the principal groups whom the decision taker proposes to consult before taking the decision.
- (v) The means by which any such consultation is proposed to be undertaken.
- (vi) The steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken.
- (vii) A list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 28 days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (i) That key decisions are to be taken on behalf of the Council.
- (ii) That a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis.
- (iii) That the plan will contain details of the key decisions to be made for the four month period following its publication.



- (iv) That each plan will be available for inspection at reasonable hours free of charge at the Council's offices.
- (v) That each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan.
- (vi) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available.
- (vii) That other documents may be submitted to decision takers.
- (viii) The procedure for requesting details of documents (if any) as they become available.
- (ix) The dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

14. General Exception

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 15 (special urgency), the decision may still be taken if:

- (i) The decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates.
- (ii) The Proper Officer has informed the chairman of the relevant scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made.
- (iii) The Proper Officer has made copies of that notice available to the public at the offices of the Council.
- (iv) At least 3 clear days have elapsed since the proper officer complied with (i) and (ii).

Where such a decision is taken collectively, it must be taken in public.



15. **Special Urgency**

If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the relevant scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant scrutiny committee, or if the chairman of each relevant scrutiny committee is unable to act, then the agreement of the chairman of the Council, or in his/her absence the vice-chairman will suffice.

16. **Report to Council**

16.1 **When a Scrutiny Committee Can Require a Report**

If a scrutiny committee thinks that a key decision has been taken which was not:

- (i) Included in the Forward Plan.
- (ii) The subject of the general exception procedure.
- (iii) The subject of an agreement with a relevant scrutiny committee chairman, or the chairman/vice chairman of the Council under Rule 15; the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested (by the chairman or any four members).

Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committee.

16.2 **Cabinet's Report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

16.3 **Quarterly Reports on Special Urgency Decisions**

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will



include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17. Record of Decisions

After any meeting of the Cabinet or any of its committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable.

The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

18. Cabinet Meetings relating to Matters which are not Key Decisions

The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private. This Authority has decided that these meetings, will be held in public.

19. Scrutiny Committees Access to Documents

19.1 Rights to Copies

Subject to Rule 19.2 below, a scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (i) Any business transacted at a public or private meeting of the Cabinet or its committees.
- (ii) Any decision taken by an individual member of the Cabinet.

19.2 Limit on Rights

A scrutiny committee will not be entitled to:

- (i) Any document that is in draft form.
- (ii) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.
- (iii) The advice of a political adviser.



20 Additional Rights of Access for Members

20.1 Material Relating to Previous Business

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless either (i) or (ii) below applies:

- (i) It contains exempt information falling within paragraphs 1 to 4, and 6 of the categories of exempt information; or
- (ii) It contains the advice of a political adviser.

20.2 Material relating to Key Decisions

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph (i) or (ii) above applies.

20.3 Nature of rights

These rights of a Member are additional to any other right he/she may have.



21. Appendix A - Access to Information Procedure Rules

Category	Qualifications/Interpretation
<p>1. Information relating to any individual.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information 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.</p>
<p>2. Information which is likely to reveal the identity of an individual.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information 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.</p>



<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p> <p>Information falling within paragraph 3 is not exempt by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> a) the Companies Act 1985 b) the Friendly Societies Act 1974 c) the Friendly Societies Act 1992 d) the Industrial and Provident Societies Acts 1965 to 1978 e) the Building Societies Act 1986 f) the Charities Act 1993 <p>“Registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p> <p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information 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.</p>
<p>4. Information relating to any 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.</p>	<p>“Employee” means a person employed under a contract of service.</p> <p>“Labour relations matter” means:-</p> <ul style="list-style-type: none"> a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or b) any dispute about a matter of falling within paragraph (a) above;



	<p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>“Office Holder”, in relation to the authority means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p> <p>Information 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.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information 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.</p>
<p>6. Information which reveals that the authority proposes:-</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information 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.</p>



<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information 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.</p>
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