

PART F - ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

- 1.1. These rules apply to the following meetings; Meetings of the County Council, Committees of Council, Meetings of Cabinet, Committees of Cabinet, Overview and Scrutiny Committees, The Standards Committee and Regulatory Committees.
- 1.2. The Proper Officer referred to in these rules is the Chief Executive.

2. Additional Rights to Information

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

3. Rights to Attend Meetings

- 3.1. Members of the public may attend all meetings subject only to the exceptions in these rules.

4. Notices of Meeting

- 4.1. The Council will give at least five clear days notice of any meeting by posting details of the meeting at County Hall, West Bridgford, Nottingham NG2 7QP and at the venue where the meeting is to be held, if other than County Hall.

5. Access to Agenda and Reports before the Meeting

- 5.1. The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda and any additional or late reports will be open to inspection from the time the item was added to the agenda.

6. Supply of Copies

- 6.1. The Council will supply copies of:
 - 6.1.1. any agenda and reports which are open to public inspection;
 - 6.1.2. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - 6.1.3. if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an itemto any person but may make a charge for postage and any other costs.

7. Access to Minutes etc after the Meeting

7.1. The Council will make available copies of the following for six years after a meeting:

7.1.1. the minutes of the meeting and records of decisions taken, together with reasons, for all meetings and decisions of the Cabinet and of Cabinet Members excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

7.1.2. 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;

7.1.3. the agenda for the meeting; and

7.1.4. reports relating to items when the meeting was open to the public.

8. Background Papers

8.1. 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:

8.1.1. disclose any facts or matters on which the report or an important part of the report is based; and

8.1.2. which have been relied on to a material extent in preparing the report.

8.1.3. The list will not include published works or those which disclose exempt or confidential information (as defined in Rule 10) nor, in respect of executive reports, the advice of a political advisor.

8.2. 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

9.1. 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 County Hall.

10. Exclusion of Access by the Public to Meetings

10.1 There are two legal circumstances where one of the meetings referred to in 1.1 above can be conducted in private without the public present. The first circumstance is 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.

- 10.2 Confidential information is defined in section 100A(3) of the Local Government Act 1972 as inserted by section 1(1) of the Local Government (Access to Information) Act 1985, as information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by virtue of any enactment or by Court Order. When this situation arises the law requires that the public must be excluded from the meeting.
- 10.3 The second legal circumstance is 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.
- 10.4 Exempt information has the meaning ascribed to it under Schedule 12A of the Local Government Act 1972, as amended by Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006, the Local Government (Access to Information) (Variation) Order 2006 and the relevant authorities (Standards Committee) (Amendment) Regulations 2006 which, for convenience, is set out in a table below:
- 10.5 When the second situation arises the law provides that the public may be excluded from the meeting by resolution of that meeting.

Description of Exempt Information	Notes	Qualification
		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.
1. Information relating to any individual.	Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities.	Exempt information if and so long, as in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<p>2. Information which is likely to reveal the identity of an individual.</p>	<p>Names, addresses or telephone numbers can identify individuals.</p> <p>Also consider the Council's Data Protection Act responsibilities.</p>	<p>Exempt information if and so long, as in 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>The authority is a reference to the principle Council or as the case may be the committee or sub committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>Financial or business affairs include contemplated as well as past or current activities.</p> <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>Exempt information if and so long, as in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under 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, and f) the Charities Act 1993.</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>The Authority is a reference to the principle Council or as the case may be the Committee or Sub Committee in relation to those proceedings or documents to question whether information is exempt or not falls to be determined. Employee means a person employed under a contract of service. Labour relations matter means:- a) any of the matters specified in paragraphs A – G of section 218 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 falling within paragraph (a) above (applies to trade disputes relating to office holders as well as employees. Office holder in relation to the Authority means the holder of any paid office appointments 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>Exempt information if and so long, as in 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 for legal professional privilege can be maintained in legal proceedings.</p>	<p>Privilege lies with the “client” which broadly is the County Council. Seek the view of the relevant Chief Officer whether they wish to “waive” or give up the privilege.</p>	<p>Exempt information if and so long, as in 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 a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactments.</p>	<p>The Authority as a reference to the principle Council or, as the case may be, the Committee or Sub Committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p>	<p>Exempt information if and so long, as in 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>Exempt information if and so long, as in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>Description of Exempt Information Relating to Standards Committee</p>	<p>Interpretation</p>	<p>Qualification</p>
<p>7a. Information which is subject to any obligation of confidentiality.</p>	<p>This will not apply to all the papers before a Standards Committee but is likely to need careful consideration in the circumstances of a Local Investigation or Determination.</p>	<p>Exempt information if and so long, as in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7b. Information which relates in any way to matters concerning national security.</p>		<p>Exempt information if and so long, as in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

<p>7c. Deliberations of a Standards Committee or of a Sub Committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60 (2) or (3), 64 (2), 70 (4) or (5) or 72 (2) of that act.</p>	<p>This will apply in relation to Local Determinations whether the original report came from an Ethical Standards Officer or from a Local Investigator.</p>	<p>Exempt information if and so long, as in 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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11. Public Access to Information Contained in the Reports

11.1 The County Council is committed to open public access to information and to pro-active responsiveness to the statutory requirements of the Freedom of Information Act 2000. In accordance with the principles of openness and accountability which underpin the Freedom of Information Act the following shall apply:-

11.1.1 If the Proper Officer thinks fit the Council may exclude access by the public to reports or selected documentation or information contained in reports which in his or her 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 "Not for publication" together with the category of information likely to be disclosed. ,

11.1.2 There shall be a paragraph in the body of such a report setting out which is the relevant category of exempt information and whether on balance the public interest should override the application of the exemption,

11.1.3 Where practical, any exempt information required to enable a proper decision to be taken on a matter being reported to a meeting as specified in 1.1 above should be separate from the body of the report in a schedule or appendix.

12. Procedure before taking Key Decisions*

12.1 Subject to Rule 14 (General Exception) and Rule 15 (Special Urgency), a key decision may not be taken unless:

* Key decisions are defined in *Article 13* of this Constitution, together with the Council's policy for their identification

- 12.1.1 a notice (called here a Forward Plan) has been published in connection with the matter in question;
- 12.1.2 at least 5 clear days have elapsed since the publication of the Forward Plan; and
- 12.1.3 where the decision is to be taken at a meeting of the Cabinet or a Committee of Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

13. The Forward Plan

- 13.1 Forward plans will be prepared by the Cabinet 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 The forward plan will contain matters which the Cabinet has reason to believe will be the subject of a key decision to be taken by the Cabinet, Cabinet Members or Officers, 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:
 - 13.2.1. the matter in respect of which a decision is to be made;
 - 13.2.2 where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and details of membership;
 - 13.2.3 the date on which, or the period within which, the decision will be taken;
 - 13.2.4 the identity of the principal groups whom the decision maker proposes to consult before taking the decision;
 - 13.2.5 the means by which any such consultation is proposed to be undertaken;
 - 13.2.6 the steps any person might take who wishes to make representations to the Cabinet or decision maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
 - 13.2.7 a list of the documents submitted to the decision maker for consideration in relation to the matter.

- 13.3 The forward plan must be published at least 14 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:
- 13.3.1 that key decisions are to be taken on behalf of the Council;
 - 13.3.2 that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared and revised on a monthly basis;
 - 13.3.3 that the plan will contain details of the key decisions to be made for the four month period following its publication;
 - 13.3.4 that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
 - 13.3.5 that each plan will contain a list of the documents submitted to the decision makers for consideration in relation to the key decisions on the plan;
 - 13.3.6 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;
 - 13.3.7 that other documents may be submitted to decision makers;
 - 13.3.8 the procedure for requesting details of documents (if any) as they become available; and
 - 13.3.9 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.
- 13.4 Exempt information need not be included in a forward plan and confidential information cannot be included.

14. General Exception

- 14.1 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:
- 14.1.1 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;
 - 14.1.2 the proper officer has informed the chair of a Select Committee by written notice, of the matter to which the decision is to be made;

14.1.3 the proper officer has made copies of that notice available to the public at the offices of the Council; and

14.1.4 at least 3 clear days have elapsed since the proper officer complied with ii and iii.

14.2 Where such a decision is taken collectively, subject to Rule 10 above it must be taken in public.

15. Special Urgency

15.1 If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a Select Committee that the taking of the decision cannot be reasonably deferred. If the chair of a Select 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 If a Select Committee thinks that a key decision has been taken which was not:

16.1.1 included in the forward plan; or

16.1.2 the subject of the general exception procedure; or

16.1.3 the subject of an agreement under Rule 16;

the Committee may require 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 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of a Select Committee.

16.2 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 7 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 Cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

16.3 In any event Cabinet will submit reports not less than quarterly to the Council on the executive 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

17.1 After any meeting of 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. Notice of Meetings of the Executive

18.1 Members of Cabinet and its committees will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

18.2 The Chief Executive, the Director of Resources and the Monitoring Officer, and their nominees are entitled to attend any meeting of Cabinet and its committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.

19. Decisions by Individual Members of the Executive

19.1 Where an individual Cabinet Member receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

19.2 On giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of the relevant Select Committee and any other relevant Select Committee as soon as reasonably practicable, and make it publicly available at the same time.

19.3 As soon as reasonably practicable after an executive decision has been taken by an individual Cabinet Member or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 will also apply to the making of decisions by individual Cabinet Members. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

20. Overview and Scrutiny Committees Access to Documents

20.1 Subject to Rule 21.3.2 below, a relevant Select Committee will be entitled to copies of any document which is in the possession or control

of the Cabinet or its committees or a Cabinet Member and which contain material relating to

20.1.1 any business that has been transacted at a meeting of Cabinet or a Committee of Cabinet;

20.1.2 any decision taken by an individual Cabinet Member; or

20.1.3 any key decision made by an officer

20.2 A Select Committee will not be entitled to:

20.2.1 any document that is in draft form;

20.2.2 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; or

20.2.3 any document or part of a document which contains the advice of a political advisor

21. Additional Rights of Access for Members

21.1 Subject to Rule 21.3.2 below, all Members of the Council will be entitled to inspect any document which is in the possession, or under the control, of Cabinet, a Committee of Cabinet or a Cabinet Member and which contains material relating to any business to be transacted at a public meeting.

21.2 Subject to Rule 21.3.2 below, all Members of the Council will be entitled to inspect any document which is in the possession, or under the control, of Cabinet, a Committee of Cabinet or a Cabinet Member and which contains material relating to:

21.2.1 any business previously transacted at a meeting of Cabinet or a Committee of Cabinet;

21.2.2 any decision made by a Cabinet Member; or

21.2.3 any key decision made by an officer

21.3 The provisions of Rules 21.1 and 21.2 above will not apply to a document which, in the opinion of the proper officer:

21.3.1 is in draft form

21.3.2 contains exempt information falling within paragraphs 1- 7c of the categories of exempt information; or

21.3.3 contains the advice of a political advisor;

21.4 Documents described in Rule 21.2 must be available for inspection immediately after the meeting, or immediately after the decision has been taken as the case may be.

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