

## **ARTICLE 3 – THE PUBLIC AND THE COUNCIL**

### **3.01 The Public's rights**

The public have the following rights:

#### **(a) Voting, petitions and questions**

Residents on the electoral roll for the county area have the right to vote and sign a petition as a means of bringing issues to the Council's attention, or to request a referendum for an elected mayor form of executive. The public may also ask questions at meetings of the Cabinet and at most of the Council's committees.

#### **(b) Information**

In summary, the public have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Cabinet when key decisions are being considered except where confidential or exempt information is likely to be discussed, and the meeting is therefore held in private;
- (iii) take photographs, film, audio-record and report (including via social media) on all meetings of the Council and its committees held in public;
- (iii) be notified in advance that all or part of a Cabinet meeting may be held in private, to make representations as to why it should be held in public and to receive a response to those representations;
- (iv) find out from the Notice of Decisions what key decisions will be taken, and when, so that they can make their views known;
- (v) see reports and background papers, and any records of decisions made by the Council, Leader and/or the Cabinet, their committees, and by officers on their behalf under delegated powers; and
- (vi) inspect the Council's accounts and make their views known to the external auditor during the statutory 20 working days period prior to the external auditor giving his/her opinion.

(c) **Complaints**

The public have the right to complain to:

- (i) the Council itself under its complaints procedure;
- (ii) the Local Government Ombudsman after using the Council's own complaints procedure;
- (iii) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.

**3.02 Access To Information Rules:**

**Part A - General**

(a) **Scope**

These rules allow the public rights of access to meetings and information and reflect the Council's policy of open, transparent and accountable decision-making. They apply to all meetings of the Council, select committees, Health Scrutiny Committee, local committees, Planning and Regulatory Committee, Audit and Governance Committee, People, Performance and Development Committee, and the Cabinet (together called meetings).

(b) **Additional rights to information**

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

(c) **Rights to attend meetings**

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

(d) **Notices of meeting**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at County Hall and at the venue of the meeting if outside County Hall, except where Rule (6.05 1(f)) (special urgency) applies (see page 26).

(e) **Access to agenda and reports before the meeting**

The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and at the designated office at least five clear days before the meeting. If an item is added to the agenda later, each such report will be made available to the public as soon as the report is completed and sent to councillors, and the revised agenda will be open to inspection from the time the item was added to the agenda.

(f) **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; and
- (iii) if the proper officer thinks fit, 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.

(g) **Access to minutes after the meeting**

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

- (i) the minutes of the meeting or records of decisions taken, together with reasons, 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) 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;
- (iii) the agenda for the meeting; and
- (iv) reports relating to items when the meeting was open to the public.

(h) **Non-Executive Decisions Delegated to officers**

As soon as reasonably practicable after an officer has made a non-executive decision delegated to them by the Council, its committees or sub-committees or a joint committee, the officer will produce a written statement which includes:

- (i) a record of the decision including the date it was made;
- (ii) a record of the reasons for the decision;
- (iii) details of any alternative options considered and rejected by the officer when making the decision;
- (iv) a record of any conflict of interest declared by any Member who is consulted by the officer which relates to the decision; and
- (v) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

The requirements listed in (f) (i) - (v) above apply only to decisions to grant a permission or licence; that affect the rights of an individual; or to

award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

**(i) Inspection of documents following non-executive decisions**

After an officer has made a non-executive decision, the proper officer will ensure that a copy of:

- (i) any records prepared in accordance with the decisions made and
- (ii) any report considered by the officer and relevant to the decision or, where only part of the report is relevant to such a decision, that part,

will be available for inspection by members of the public, as soon as is reasonably practicable, at the main Council offices and on the Council's website.

**(j) Background papers**

**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; and
- (ii) 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 in Rule (k)) and in respect of Cabinet reports, the advice of a political adviser.

**(k) Public inspection of background papers**

The list of background papers will be included when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public.

At least one copy of each of the documents included in that list, will be available for inspection by the public at the main Council offices and on the Council's website. The Council will make these documents available for public inspection for four years after the date of the meeting.

**(l) Summary of public's rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be published on the Council's website.

(m) **Exclusion of access by the public to meetings**

Where any 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.

**Orderly conduct and misbehaviour – lawful powers to exclude**

Lawful powers may be used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

Members of the public exercising their right to take photographs, film, audio-record and report at a meeting may be excluded if their activity or behaviour is disruptive to the conduct of the meeting.

**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.

Confidential information means information given to the Council by a Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

**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.

Exempt information means information falling within the following 7 categories (subject to the qualifications set out in paragraphs 8, 9 and 10 below):

<b>Category</b>	<b>Description of Exempt Information</b>
1.	Information relating to any individual.
2.	Information which is likely to reveal the identity of an individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).

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.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6.	Information which reveals that the authority proposes - <ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>(b) to make an order or direction under any enactment.</li> </ul>
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**Qualifications:**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –
- (a) the Companies Acts (as defined in Section 2 of the Companies Act 2006);
  - (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; or
  - (f) the Charities Act 1993.
9. Information is not exempt 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.
10. Information which -
- (a) falls within any of paragraphs 1-7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 and 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.

(n) **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 (k), 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.

(o) **Decisions to be taken at a meeting held in private**

The Council will produce public notices and follow the procedures set out in Access to Information Rule (6.05 (j)) - Procedures prior to a private meeting (see page 29) of its intention to hold all or part of a Cabinet meeting (including its committees) in private.

(p) **Reporting of public meetings**

Any person attending a meeting in public for the purpose of reporting the proceedings will, so far as practicable, be afforded reasonable facilities for taking their report.