

# Access to Information Procedure Rules

## 1. Scope

These rules apply to all meetings of the Council, the Executive, scrutiny committees, the Audit and Governance Committee and regulatory committees (together called meetings).

## 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.

## 4. Notices of Meeting

The council will give at least five clear days' notice of any meeting by posting details of the meeting at the Civic Centre, Exeter. Publication of these details on the Council's website will constitute appropriate notice of these meetings.

## 5. 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 at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda. A reason as to why the addition to the agenda will be published at the same time.

## 6. Supply of Copies

The Council will supply copies of:

- (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; and
- (c) if the Democratic Services Manager 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.

## **7. Access to Minutes etc. after the Meeting**

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

- (a) the minutes of the meeting [or records of decisions taken, together with reasons, for all meetings of the Executive], excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose 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; and
- (d) 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 make available on the Council's website access to those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (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 in Rule 10).

### **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 will be kept at and be available to the public at the Civic Centre, Exeter.

## **10. Exclusion of Access by the Public to Meetings**

### **10.1 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.

### **10.2 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 it is proposed to consider an item of business in the private part of an Executive meeting, 28 days notice must be given of the intention to exclude the press and public.

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.

### **10.3 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.

### **10.4 Meaning of exempt information.**

10.4.1 Exempt information means information defined as such in Schedule 12A to the Local Government Act 1972 which is reproduced below:

## **SCHEDULE 12A**

### **ACCESS TO INFORMATION: EXEMPT INFORMATION**

#### **Part 1**

#### **Descriptions of Exempt Information: England**

- 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—
  - (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 enactment.
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## **Part 2**

### **Qualifications: England**

- 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 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; or
  - (f) the Charities Act 1993.
- 9 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.
- 10 Information which—
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) 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.

## **Part 3**

### **Interpretation: England**

- 11 (1) In Parts 1 and 2 and this Part of this Schedule—

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“labour relations matter” means—

  - (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 falling within paragraph (a) above; 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;

“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;

“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).

- (2) Any reference in Parts 1 and 2 and this Part of this Schedule to “the authority” is a reference to the principal 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 and includes a reference—
  - (a) in the case of a principal council, to any committee or sub-committee of the council; and
  - (b) in the case of a committee, to—
    - (i) any constituent principal council;
    - (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
    - (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
  - (c) in the case of a sub-committee, to—
    - (i) the committee, or any of the committees, of which it is a sub-committee; and
    - (ii) any principal council which falls within paragraph (b) above in relation to that committee.

10.4.2 The following additional categories of exempt information apply to Audit and Governance Committee when undertaking the responsibilities of a Standards Committee:-

(7A) Information which is subject to any obligation of confidentiality

(7B) Information which relates in any way to matters concerning national security

(7C) The deliberations of a Standards Committee or of a sub-committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred on the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act

## **11. Exclusion of Access by the Public to Reports**

If the Democratic Services Manager 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. Procedure before Taking Key Decisions (Standing Order 14)**

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least five clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **13 The Forward Plan**

### **13.1 Period of forward plan**

Forward plans will be prepared by the Leader 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**

13.2.1 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 Executive, a committee of the Executive, individual members of the Executive, officers, area committees 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:

- (a) the matter in respect of which a decision is to be made;
- (b) 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;

- (c) the date on which, or the period within which, the decision will be taken;
- (d) 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; and
- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter.

13.2.2 The forward plan must be published at least 14 days before the start of the period covered.

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:

- (a) 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;
- (b) the proper officer has informed the chair of a 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;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 3 clear days have elapsed since the proper officer complied with (b) and (c).

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 chair of the body making the decision, obtains the agreement of the chair of a relevant scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant scrutiny committee, or if the chair of each relevant scrutiny committee is unable to act, then the agreement of the Lord Mayor, or in his/her absence the Deputy Lord Mayor 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:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the chairman/vice chairman of the Council under Rule 15;

the committee may require the Executive 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 the relevant scrutiny committee.

### **16.2 Executive's report to Council**

The Executive 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 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 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**

After any meeting of the Executive 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. Decisions by Individual Members of the Executive**

### **18.1 Reports intended to be taken into account**

Where an individual member of the executive 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 five clear days after receipt of that report.

### **18.2 Provision of copies of reports to scrutiny committees**

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

### **18.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive 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 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **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 Executive and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive; or
- (b) any decision taken by an individual member of the Executive.

### **19.2 Limit on rights**

A scrutiny committee will not be entitled to:

- (a) any document that is in draft form;
- (b) 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
- (c) 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 Executive and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information, or exempt information within paragraph 3 to the extent that it relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract;  
or
- (b) 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 Executive which relates to any key decision unless paragraph 20.01(a) or (b) above applies.

### **20.3 Nature of rights**

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