

Part 4.2 - Access to Information Procedure Rules

1. SCOPE

These rules apply to all meetings of the Council, the Cabinet, the Standards Committee and all other Committees.

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 three clear days notice of any meeting by posting details of the meeting at County Hall, Carmarthen and on the Council's web site. However, an exception will arise where the Council has received an application from the Police under section 53A of the Licensing Act 2003 for the summary review of a premises licence (The Council being required to decide on whether to take any preliminary measures within 48 hours of receiving the application), the Council may give less than 3 clear days notice of the meeting of the Licensing Committee meeting called to consider the application .

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 on the Authority's website and at the designated office at least three 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 Chief Executive will make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.

6. ACCESS TO AGENDA AND REPORTS

The Chief Executive will make paper copies available to the public for inspection at County Hall, Carmarthen for a period of one month after the date of the meeting otherwise details can be viewed on the Council's website.

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available to view on its website copies of the following for a period of six years after a meeting:

- (a) the minutes of the meeting or record of decisions taken by the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;

- (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 Chief Executive 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:

- (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

These rules constitute the written summary of the public's rights to attend meetings and to inspect and copy documents as required by Sections 100A – H and schedule 12A of the Local Government Act 1972.

Copies will be available to inspect by the public at County Hall, Carmarthen and on the Authority's website.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Public and Private Meetings of the Cabinet

The Cabinet may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with Article 12 and these procedure rules. This does not prevent the Cabinet from holding informal deliberations in private, with or without officers present, but these meetings shall not take decisions.

10.2 Confidential Information – Requirement to Exclude the 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.

10.3 Exempt Information – Discretion to Exclude the 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.

10.4 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.

10.5 Meaning of Exempt Information

Information falling within the scope of paragraphs 12 to 18 of Part 4 of Schedule 12A to the Local Government Act 1972, subject to the qualifications and interpretation set out in Parts 5 and 6 of the Schedule, a summary of which is set out below:

CATEGORY OF EXEMPT INFORMATION	QUALIFICATION
12. Information relating to a particular individual	Public interest test applies (see below)
13. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
14. Information relating to the financial or business affairs of any particular person (including the Authority holding that information)	<p>Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under-</p> <ul style="list-style-type: none"> the Companies Act 1985; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993 <p>Public interest test applies (see below)</p>
15. 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.	Public interest test applies (see below)

CATEGORY OF EXEMPT INFORMATION	QUALIFICATION
16. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	(No public interest test)
17. Information that 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.	Public interest test applies (see below)
18. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Public interest test applies (see below)
(in relation to a meeting of a standards committee, or a sub-committee of a standards committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000): 18A. Information which is subject to any obligations of confidentiality 18B. Information which relates in any way to matters concerning national security. 18C. The deliberations of a standards committee or 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 to it.	Public interest test applies (see below)
	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

Public Interest Test

Information which-

- (a) falls within any of paragraphs 12 to 15, 17 and 18 above
- (b) is not prevented from being exempt by virtue of the qualifications 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.

INTERPRETATION: WALES

(1) In Parts 4 and 5 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 4 and 5 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”.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Monitoring 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. THE FORWARD WORK PROGRAMME

12.1 Period of forward work programme

The forward work programme will be prepared by the Chief Executive to cover a period of one year. It will be updated quarterly.

12.2 Contents of forward work programme

The forward work programme will contain matters which the Cabinet, Scrutiny Committees and full Council are likely to consider. It will contain information on:

- (a) the timetable for considering the budget and any plans forming part of the Budget and Policy Framework and requiring Council approval, and which body is to consider them;
- (b) the timetable for considering any plans which are the responsibility of the executive;
- (c) any individual matters on which the executive intends to consult in advance of taking a decision, and the timetable for consultation and decision;
- (d) the work programme of the scrutiny committees, to the extent that it is known.

The forward work programme will be published at least 14 days before the start of the period covered. The Chief Executive will also publish the programme on the Council's web site.

13. CONSULTATION ON PROPOSALS TO BE CONSIDERED BY THE EXECUTIVE

13.1. At least 4 weeks should be permitted in the forward plan timetable for consultation with relevant Scrutiny Committees and ward members where a matter is to be considered by the executive and is not urgent (as defined below) or confidential or exempt (as defined in para 10).

13.2 A matter may be considered urgent where the events to which it is addressed were unforeseen at the time that the last forward work programme was produced and a decision is required within 4 weeks.

13.3 A decision can only be treated as urgent 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 Chair of the Council, or in his/her

absence the Vice Chair will suffice. Any decisions taken under this urgency procedure will be recorded as having been taken in the absence of consultation in the decision record.

14. RECORD OF DECISIONS OF THE EXECUTIVE

14.1 The Decision Record

A written record will be made of every executive decision made by the Cabinet and its committees (if any) and individual members, and by joint committees whose members are all members of a Local Authority executive.

This decision record will include a statement, for each decision, of:

- the decision made;
- the date the decision was made;
- the reasons for that decision;
- any personal interest declared;
- any dispensation to speak granted by the Authority's Standards Committee;
- the consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

14.2 Preparing the Decision Record

14.2.1 The Chief Executive or an officer designated by him when attending any meeting of the Cabinet or, where an individual member has made any executive decision, will produce a decision record, normally within three working days of the meeting. The decision will not be implemented until the decision record has been produced, subject to paragraph 14.2.2 below.

14.2.2 Where the date by which an executive decision made by an individual member must be implemented makes compliance with 14.2.1 above impracticable, the decision may be implemented if the decision maker has the agreement of the Chair of the relevant Scrutiny Committee, or if there is no such person or that person is unable to act, the Chair of the Council, or if there is no Chair of the relevant scrutiny committee or the Council, the Vice-Chair of the Council that the making of the decision is urgent and cannot reasonably be deferred.

15. DECISIONS BY AN INDIVIDUAL MEMBER OF THE CABINET

15.1 Reports Intended to be Taken into Account

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

15.2 Provision of Copies of Reports to Scrutiny Committees

On giving of such a report to an individual decision maker, the Chief Executive will give a copy of it to the Chair and members of every relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

15.3 Record of Individual Decision

The decision recording rules in para. 14 will apply.

16. SCRUTINY COMMITTEE MEMBERS' ACCESS TO DOCUMENTS

16.1 Rights of access

Subject to Rule 16.2 below, a Scrutiny Committee will be entitled to access any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet [or its committees if any; or
- (b) any decision taken by an individual member of the Cabinet.

16.2 Limit on Rights

A Scrutiny Committee will not be entitled to any part of a document that contains:

confidential or exempt information, or advice provided by a political advisor or assistant, unless that information is relevant to an action or decision that is being reviewed or scrutinised or, any review contained in a programme of work of that committee.

17. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

17.1 Rights of Access

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees if any and contains material relating to any business transacted at a meeting of the Cabinet or by an individual Cabinet member.

17.2 Limitation on Rights

A member will not be entitled to any part of a document where it would disclose exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of Part 1 of Schedule 12A of the Local Government Act 1972, or it would disclose advice of a political advisor or assistant.

17.3 Nature of Rights

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