

ACCESS TO INFORMATION RULES

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APPENDIX 5 - ACCESS TO INFORMATION RULES

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APPENDIX 5 – ACCESS TO INFORMATION RULES

1. Scope

These rules apply to all formal meetings of the Council, the Cabinet, 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.

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.

4. 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, Worcester (the designated office), unless the meeting needs to be convened at shorter notice in which case such details will be posted from the time the meeting was convened.

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. They will also be made available on the Council's website 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 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, out, the Director of Corporate Services shall make each such agenda or report available to the public 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 decision-making body concerned.

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 Director of Corporate Services thinks fit, copies of any other documents supplied to councillors in connection with such an item and which do not contain exempt or confidential information

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 for all meetings of the Cabinet), 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 considered when the meeting was open to the public.

8. Background Papers

8.1 List of background papers

The Proper Officer (the Chief Officer responsible for the report) 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

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but this does not include published works or those which disclose exempt or confidential information (as defined in paragraph 10 below) and in respect of Cabinet reports, the advice of a political advisor (if any has been appointed).

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 provide a written summary of the public's right to attend meetings to and inspect and copy documents.

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 Meaning of confidential information

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

10.3 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.

10.4 Meaning of exempt information

Exempt information means information falling within any of the following 10 categories (subject to any qualification or conditions set out).

Category	Additional Conditions
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 local authority holding that information).	Financial or Business affairs include contemplated, as well as past or current activities. Information is not exempt if it is

	<p>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 (d) the Building Societies Act 1986 (e) the Charities Act 1993
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 employee of, or office-holders under, the Authority.	'Labour relations matter' is defined in accordance with Schedule 12A of the Local Government Act 1972.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
<p>6. Information which reveals that the Authority proposes:</p> <ul style="list-style-type: none"> (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.	
8. Information which is subject to any obligation of confidentiality.	<p>Categories 8, 9 and 10 are exempt information only where a meeting of a Standards Committee or sub-committee is to consider a matter as set out in category 10.</p> <p>NB Assessment and Review sub-committees are not subject to the Access to Information Rules when convened to assess or review complaints.</p>
9. Information which relates in any way to matters concerning national security.	
10. Information presented to a standards committee or to a sub-committee of a standards committee set up to consider any matter under Regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58 (1)(c) of the Local Government Act 2000.	

10.5 Public Interest Test

Information in categories 1 to 7 in the table above is only exempt 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.

10.6 Planning Restriction

Information falling within any of categories 1-10 in the table above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11. Exclusion of Access by the Public to Reports

If the Director of Corporate Services thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with paragraph 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.

12. Application of Rules to the Cabinet

12.1 Paragraphs 13 – 24 apply to meetings of the Cabinet only. If the Cabinet meets to take a 'key decision' then it must also comply with paragraphs 1 – 11 above unless paragraph 15 (general exception) or paragraph 16 (special urgency) apply. It will also normally comply with paragraphs 1-11 if it is meeting to take a decision which is not a key decision.

12.2 A key decision is an executive decision which is likely:

- (a) to result in the County Council incurring expenditure which is (or the making of savings which are) significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the County area.

12.3 These rules do not apply to any meeting whose sole purpose is to brief councillors.

13. Procedure before taking key decisions

Subject to paragraph 15 (general exception) and paragraph 16 (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 Cabinet, notice of the meeting has been given in accordance with Paragraph 4 (notice of meetings).

14. The Forward Plan

14.1 Period of Forward Plan

Forward Plans will be prepared by the Leader of the Council to cover a period of four months, beginning with the first working 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.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader of the Council has reason to believe will be the subject of a key decision to be taken by the Cabinet, 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) the names and details of membership of the Cabinet;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken; the date by which any representations must be received and the addressee by whom it must be received, if it is to be taken into account;
- (f) a list of the documents submitted to the decision taker for consideration in relation to the matter.

[Note- for the sake of transparency, the Forward Plan also contains matters planned to be before Cabinet which are not key decisions].

Where the public may be excluded from the meeting at which a matter is to be discussed, or documents relating to the decision need not be disclosed to the public, particulars of the matter may be included in the Forward Plan but the Plan may not contain exempt or confidential information.

14.3 **Publication of Forward Plan**

The Forward Plan must be published at least 14 days before the start of the period covered and made available at County Hall, Worcester during normal working hours. It will also be made available on the Council's website. The Director of Corporate Services will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) 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;
- (f) 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;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) 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.

15. **General Exception**

15.1 If a matter which is likely to be a 'key decision' as defined in the Constitution has not been included in the Forward Plan, then subject to paragraph 16 (special urgency), the decision may still be taken if:

- (a) 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 Director of Corporate Services has informed the Chairman (or in his/her absence the Vice-Chairman) of the Overview and Scrutiny Performance Board, or if there is no such person, or in their absence, each member of the Overview and Scrutiny Performance Board by notice in writing of the matter about which the decision is to be made;

- (c) the Director of Corporate Services has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear days have elapsed since the Director of Corporate Services complied with (b) and (c).

15.2 Where such a key decision is taken collectively, it must be taken in public, unless paragraph 10 (Exclusion of the Public) applies.

16. Special Urgency

If by virtue of the date by which a key decision must be taken compliance with paragraph 15 above (general exception) is impracticable or cannot be followed, then the key decision can only be taken if the Leader of the Council obtains the agreement of the Chairman (or in his/her absence the Vice-Chairman) of the Overview and Scrutiny Performance Board, that the taking of the decision is urgent and cannot reasonably be deferred. If the Chairman and Vice-Chairman of the Overview and Scrutiny Performance Board are unable to act, then the agreement of the Chairman of the Council (or in his/her absence the Vice-Chairman of the Council) will suffice.

17. Report to Council

17.1 When the Overview and Scrutiny Performance Board can require a report

If the Overview and Scrutiny Performance Board 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 under paragraph 15; or
- (c) the subject of an agreement under paragraph 16;

the Overview and Scrutiny Performance Board may require the Cabinet to submit a report to the Council within such reasonable time as the Board specifies.

17.2 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 14 days of the resolution of the Overview and Scrutiny Performance Board under 17.1 then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, and by whom it was taken and if the Leader of the Council is of the opinion that it was not a key decision, the reasons for that opinion.

17.3 Quarterly reports on Special Urgency decisions

In any event the Leader of the Council will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in

paragraph 16 (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. This may be included within the reports of Cabinet to Council.

18. Record of Decisions of the Cabinet

After any meeting of the Cabinet, the Director of Corporate Services will produce a record of every decision taken at that meeting as soon as practicable. The record will include as appropriate a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. This record will normally be done through the production of the minutes of the meeting.

19. Cabinet Meetings relating to matters which are not key decisions

19.1 The Cabinet will also hold in public meetings to consider matters which are not key decisions (unless the exemptions in paragraph 10.1 and 10.3 apply), although it or the Leader may from time to time decide whether meetings relating to matters which are not key decisions will be held in public or private.

19.2 The Leader has determined that the only business at any private meeting of the Cabinet will be the discussion of matters with officers and not the taking of decisions.

20. Notice of Meetings of the Cabinet

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

21. Attendance of Officers at Meetings of the Cabinet

21.1 The Chief Executive, Directors and the Monitoring Officer (and/or their nominees) are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless reasonable notice has been given that a meeting is to take place.

21.2 A private Cabinet meeting may only take place in the presence of the Director of Corporate Services or his/her nominee and any other relevant Chief Officer or his/her nominee.

22. Key decisions by individual members of the Cabinet

No provision has currently been made by the Leader for key or other decisions which fall to be taken by the Cabinet to be taken otherwise than by the Cabinet acting collectively.

23. Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Scrutiny Task Groups - Access to Documents

23.1 Rights of Access to documents for Overview and Scrutiny purposes

Subject to paragraph 23.2 below, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Scrutiny Task Groups will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to any business which has been transacted at a public or private meeting of the Cabinet.

23.2 Limit on rights

There is no entitlement under 23.1 to:

- (a) any document that is in draft form;
- (b) any document or part of a document that contains exempt or confidential information unless that information is relevant to an action or decision the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group are reviewing or scrutinising or intend to scrutinise as part of an agreed work programme; or
- (c) the advice of a political adviser or assistant (if any).

24. Rights of Access for Members of the Council

24.1 All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business:

- (a) to be transacted at a public meeting of the Cabinet or
- (b) which has been previously transacted at a private meeting of the Cabinet

unless it is in draft form or paragraph 24.2 applies.

24.2 Members have no right to inspect a document which discloses:

- (a) exempt information as defined in paragraph 10.4. However, members can inspect a document if it only discloses information falling within category 3 (but cannot inspect it if the information relating to terms proposed or to be proposed by or to the Council in the course of negotiation for a contract) or category 6 in paragraph 10.4; or
- (b) the advice of a political adviser or assistant (if any).

24.3 **Attendance at Cabinet**

Members have no right of attendance at a private meeting of the Cabinet or one where the press and public have been excluded nor a right to inspect in advance any document relating to its business other than as set out above, except at the discretion of the Chairman of the Cabinet meeting.

24.4 **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 which relates to any key decision subject to paragraph 24.2 above.

24.5 **Nature of rights**

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

25. **Confidentiality**

- 25.1 Members are provided with any exempt or confidential information in confidence for the performance of their duties as councillors and disclosures to a 3rd party may be a breach of the Members' Code of Conduct.
- 25.2 No member of the Council, nor any co-opted member of any Committee, Panel or other member body, or a Scrutiny Task Group, shall without the permission of the Council or the Leader or Cabinet (in respect of executive functions) or the appropriate Committee or Panel (in respect of functions which are not executive functions), disclose any exempt or confidential information unless and to the extent only that that information shall have been properly placed in the public domain by the Council, the Cabinet or the appropriate Committee or Panel.
- 25.3 Any information treated as exempt or confidential may with the approval of the Leader of the Council (in respect of executive functions) or the relevant Chairman of the Committee, Panel or other member body (in respect of non-executive functions), as the case may be, be released for publicity purposes, whereupon that information shall be considered to have been published in the ordinary course of the Council's business.
26. Written records of decisions made or action taken by an individual local member of the Council by virtue of arrangements made under Section 236 of the Local Government and Public Involvement in Health Act 2007 will be open to inspection by the public at County Hall for 6 years from the decision or action in accordance with the Exercise of functions by local Councillors (Written Records) Regulations 2009 as amended from time to time.

Note – no such arrangements have been made.

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