

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 meetings of the Council, the Cabinet, Committees and other member bodies (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 County Hall, Worcester (the designated office).

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 will be open to inspection for the time the item was added to the agenda and where reports are prepared after the summons has been sent out, the Director of Corporate Services shall make each such report available to the public as soon as the report is completed and sent to councillors.

5.2 The Chairman of the meeting of the Council, the Cabinet or a Committee or other member body may bring before the meeting and cause to be considered an item of business not specified in the summons of 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 meetings as a matter of urgency.

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

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- (c) if the Director of Corporate Services 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 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 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

but 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.

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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 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 (except in relation to the Health Scrutiny Panel)

Exempt information means information falling within the following 15 categories (subject to any qualification). Four additional categories in paragraph 10.5 apply to the Standards and Ethics Committee.

Category	Qualification
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office holder or applicant to become an office-holder under the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
2. Information relating to a particular employee former employee or applicant to become an employee of, or a particular office holder, former office holder or applicant to become an office holder under, a magistrates' court Committee or probation Board	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.

4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority.	Information is not exempt information, unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
6. Information relating to the adoption, care, fostering or education of any particular child.	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of Section 31 Children Act 1989.
7. Information relating to the financial or business affairs of any particular person (other than the authority).	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons.
9 Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it).
10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services	For the purposes of this paragraph "tender" includes a DLO/DSO written bid.

<p>11. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority</p>	<p>Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter "Labour relations matters" are as specified in paragraphs (a) to (g) of section 178(2) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. Matters which may be the subject of a collective agreement or any dispute about a matter falling within the above.</p>
<p>12. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceeds) and any advice received, information obtained or action to be taken in connection with: (a) any legal proceedings by or against the authority; or (b) the determination of any matter affecting the authority; whether, in either case, proceedings have been commenced or are in contemplation</p>	
<p>13. Information which, if disclosed to the public, would reveal 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</p>	<p>Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made</p>
<p>14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	
<p>15. The identity of a protected informant</p>	<p>A "protected informant" means a person giving the authority information which tends to show that (a) a criminal offence; (b) a breach of statutory duty; (c) a breach of planning control; or (d) a nuisance, has been, or is being, or is about to be committed</p>

Information falling within any of items 1-15 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.

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10.5 Meaning of Exempt Information (in relation to the Standards and Ethics Committee)

Where the Standards and Ethics Committee meets to consider a matter referred under section 64(2) of the Local Government Act 2000 (reports and investigations by ethical standards officers), exempt information means information falling within the categories in paragraph 10.4 together with the following four categories

Category	Qualification
16. Information relating to the personal circumstances of any person	
17. Information which is subject to any obligation of confidentiality	
18. Information which relates in any way to matters concerning national security	
19. The deliberations of the standards and ethics committee or of any sub-committee of it in reaching any finding on a matter referred under the provisions of section 64(2) of the Local Government Act 2000	

10.6 Meaning of exempt information (in relation to the Health Scrutiny Panel)

Exempt information means information falling within the following 14 categories (subject to any qualification)

Category	Qualification
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a relevant body.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated. (Employee means a person employed under a contract of service; office-holder means the holder of any panel office appointments to which are or may be made or confirmed by the body or by any person who holds any such office or is an employee of the body)
2. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of a relevant body.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.

<p>3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by a relevant body.</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.</p>
<p>4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body.</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.</p>
<p>5. The amount of any expenditure proposed to be incurred by a relevant body under any particular contract for the acquisition of property or the supply of goods and services.</p>	<p>Information is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with a relevant body in respect of the property, goods or services, whether the advantage would arise as against that body or as against other such persons.</p>
<p>6. Any terms proposed or to be proposed by or to a relevant body in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.</p>	<p>Information is only exempt if, and for so long as, disclosure to the public of the terms would prejudice a relevant body in those or any other negotiations concerning the property or goods or services. (The disposal of property includes the granting of an interest in or right over it).</p>
<p>7. The identify of a relevant body (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services.</p>	
<p>8. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between a relevant body or a Minister of the Crown and employees of, or office-holders under, a relevant body.</p>	<p>Information is only exempt if and so long as its disclosure to the public would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter, as mentioned. ("Labour relations matters" are as specified in paragraphs (a) to (g) of section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a collective agreement; or any dispute about a matter falling within the above). (The above enactments, with the necessary modifications shall apply in relation to office holders under a relevant body as they apply in relation to employees of a relevant body).</p>

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	(Office-holder means the holder of any paid office appointments to which are or may be made or confirmed by the body or by any person who holds any such office or is an employee of the body)
9. Any instructions to counsel and any opinions of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with- (a) any legal proceedings by or against a relevant body, or (b) the determination of any matter affecting a relevant body, (whether, in either case, proceedings have been commenced or are in contemplation).	
10. Information relating to a particular person who is or was formerly included in, or is an applicant for inclusion in, a list of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Health Authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
11. Information relating to a particular person who is or was providing services, or has made a request to a Health Authority to become a person providing services, under arrangements under Section 28C of the 1977 Act.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
12. Information relating to a particular person who is or was formerly performing personal medical services or personal dental services in accordance with arrangements under section 28C of the 1977 Act.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
13. Information relating to any particular employee, former employee, or applicant to become an employee, or a person referred to in paragraph 10, 11 or 12.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated. (Employee means a person employed under a contract of service;)
14. Information relating to the physical or mental health of a particular individual.	

A relevant body includes Health Authorities, Primary Care Trusts or NHS Trusts but does not include Special Health Authorities.

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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 the Cabinet. If the Cabinet meet 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:

- (i) 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
- (ii) 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 Rule 4 (notice of meetings).

14. The Forward Plan

14.1 Period of Forward Plan

Forward Plans will be prepared by the Leader 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 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.

14.3 Publication of Forward Plan

The Forward Plan must be published at least 14 days before the start of the period covered. 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;

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- (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.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

15. General Exception

15.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to paragraph 16 (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 Director of Corporate Services has informed the Chairman of the relevant Overview and Scrutiny Panel, or if there is no such person, each member of that Panel by notice in writing of the matter to 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 decision is taken collectively, it must be taken in public, unless paragraph 10.1 or paragraph 10.3 (Exclusion of the Public) applies.

16. Special Urgency

If by virtue of the date by which a key decision must be taken paragraph 15 above (general exception) cannot be followed, then the key decision can only be taken if the Leader obtains the agreement of the Chairman or in his/her absence Vice Chairman of the relevant Overview and Scrutiny Panel or in their absence the Chairman or Vice-Chairman of the Scrutiny Steering Group, that the taking of the decision cannot reasonably be deferred. If either the Chairman or Vice Chairman of the relevant Panel or Scrutiny Steering Group is unwilling or 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 Overview and Scrutiny Steering Group or Panel can require a report

If the Scrutiny Steering Group or a Panel 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 Scrutiny Steering Group or Panel may require the Cabinet to submit a report to the Council within such reasonable time as the Panel 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 Panel, 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 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 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.

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 a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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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 exemption in paragraph 10.1 and 10.3 apply), although it 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 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 Private Meeting of the Cabinet

Members of the Cabinet or any Cabinet Sub-Committee 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 Officers and/or their nominees are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless each of them has been given reasonable notice 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 is made 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 Steering Group and Panels Access to Documents

23.1 Rights to copies

Subject to paragraph 23.2 below the Scrutiny Steering Group and Panels 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 transacted at a public or private meeting of the Cabinet.

23.2 Limit on rights

The Scrutiny Steering Group or a Panel 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 the Scrutiny Steering Group or a Panel are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser (if any).

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24. Additional Rights of Access for Members

- 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 either to be transacted at a public meeting or which has been previously transacted at a private meeting of the Cabinet unless either (a) or (b) below applies.
- (a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information in paragraph 10.4; or
 - (b) it contains the advice of a political adviser or assistant (if any).

24.2 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 Cabinet which relates to any key decision unless paragraph 24.1 (a) or (b) above applies.

24.3 Nature of rights

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

25. Confidentiality

- 25.1 No member of the Council, nor any co-opted member of any Committee, Scrutiny Steering Group or Panel, shall without the permission of the Council or the Cabinet (in respect of executive functions) or the appropriate Committee, Scrutiny Steering Group 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 placed in the public domain by the Council, the Cabinet or the appropriate Committee, Scrutiny Steering Group or Panel (as the case may be).
- 25.2 Any information treated as exempt or confidential in accordance with paragraph 25.1 may with the approval of the Leader of the Council (in respect of executive functions) or the Chairman of the Committee 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.