

## **Part 4, Section 2**

### **Access to Information Procedure Rules**

#### **1. SCOPE**

With the exception of Rules 10.01 and 10.02, Rules 1 to 11 apply to all meetings of Council and its Committees, Cabinet and its Committees, Overview and Scrutiny meetings (including formally constituted Task Groups) and Area Forums. Rules 10.1 and 10.2 apply to all meetings of the Cabinet and its committees.

#### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in the 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 Lancaster Town Hall and Morecambe Town Hall.

#### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will publish copies of the agenda and reports open to the public on its website and make them available for inspection at Lancaster and Morecambe Town Halls at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be published and open to inspection from the time when the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Head of Governance shall make each such report available to the public as soon as the report is completed and sent to councillors.

#### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda, reports and background papers 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 Proper Officer 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, for all meetings of the Council, 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**

### **8.01 List of Background Papers**

Every report will include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the writer of the report:

- (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) and, in respect of Cabinet reports, the advice of a political advisor.

### **8.02 Public Inspection of background papers**

Background papers will remain available for public inspection for four years after the date of the meeting. Background papers for meetings of the Cabinet and its committees will be published on the Council's website when the agenda is published and copies will be made available at Lancaster Town Hall and Morecambe Town Hall.

## **9. SUMMARY OF THE 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 available to the public at Lancaster Town Hall and Morecambe Town Hall.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.01 Notice of Private Meetings of the Executive**

When the public are to be excluded from a meeting, or part of a meeting of the Cabinet or its committees a notice of intention to hold a meeting in private will be published on the Council's website at least 28 clear days before the date of the private meeting. The notice will also be made available at Lancaster and Morecambe Town Halls.

The notice will state the reasons why the meeting is to be held in private and how to make representations about holding the meeting in public.

At least five days before the meeting a further notice will be published of the intention to hold a private meeting. This notice will include a statement of the reasons why the meeting is to be

held in private, details of any representations made about holding the meeting in public, and the response to those representations.

#### **10.02 Urgent Private Meetings of the Executive**

If the urgency of a decision makes compliance with rule 10.01 impracticable, the decision maker or decision making body will seek agreement from the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chairman of the Overview and Scrutiny Committee, the Mayor shall be asked for their agreement and, in their absence, the Deputy Mayor. If agreement is granted, a notice will be published on the Council's website and made available at the two Town Halls setting out why the meeting is urgent and cannot reasonably be deferred.

#### **10.03 Confidential Information – requirement to exclude public**

Subject to Rules 10.01 and 10.02 above, 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.

#### **10.04 Exempt Information – discretion to exclude public**

Subject to Rules 10.01 and 10.02 above, 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.

In determining whether information is to be treated as exempt, Members will consider the extent to which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Convention for the Protection of Human Rights 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.

#### **10.05 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, and information the public disclosure of which is prohibited by Court Order, or by virtue of any enactment.

#### **10.06 Meaning of exempt information**

Exempt information means information falling within the following categories.

Category	Qualification
1. Information relating to any individual	<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 living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"><li>(a) Where disclosure is prohibited by statute, or</li><li>(b) Where disclosure might involve providing personal information about individuals, or</li><li>(c) Where disclosure might breach a duty of confidentiality, and</li><li>(d) In all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.</li></ul>
2. Information which is likely to reveal the identity of an individual	<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 living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"><li>(a) Where disclosure is prohibited by statute, or</li><li>(b) Where disclosure might involve providing personal information about individuals, or</li><li>(c) Where disclosure might breach a duty of confidentiality, and</li><li>(d) In all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.</li></ul>

Category	Qualification
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p><i>(‘Financial or business affairs’ includes contemplated, as well as past or current, activities)</i></p> <p><i>This category will include commercial and contractual interests)</i></p>	<p>Information is not exempt if it is required to be registered by law under:</p> <ul style="list-style-type: none"> <li>• The Companies Act 1985</li> <li>• The Friendly Societies Act 1974</li> <li>• The Friendly Societies Act 1992</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978</li> <li>• The Building Societies Act 1986 (recorded in the public file of any building society, within the meaning of the Act)</li> <li>• The Charities Act 1993</li> </ul> <p>Information is only exempt if and for so long as:</p> <ol style="list-style-type: none"> <li>(a) Disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods, services whether the advantage would arise as against the Council or as against other persons, or</li> <li>(b) Disclosure would prejudice the efficiency and effectiveness of the use of Council resources, or</li> <li>(c) Disclosure of trade secrets and other information would or would likely prejudice the commercial interests of any person, including the Council, and</li> <li>(d) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ol>
<p>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.</p> <p><i>(‘Labour relations matters’ are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute)</i></p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <ol style="list-style-type: none"> <li>(a) Would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</li> <li>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ol>

<b>Category</b>	<b>Qualification</b>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information is only exempt:</p> <p>(a) Where a claim of legal professional privilege could be maintained in legal proceedings, e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and</p> <p>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</p> <p>(b) To make an order or direction under any enactment</p>	<p>Information is exempt only if and so long as:</p> <p>(a) 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; and</p> <p>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7. Any action to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is only exempt if its disclosure would, or would likely to, prejudice:</p> <p>(a) Criminal investigations and proceedings, or</p> <p>(b) The apprehension or prosecution of offenders, or</p> <p>(c) The administration of justice, or</p> <p>(d) The assessment or collection of any tax or duty or of any imposition of a similar nature, or</p> <p>(e) Regulatory enforcement, or</p> <p>(f) Any civil proceedings, or</p> <p>(g) Health and safety, or</p> <p>(h) Information obtained from confidential sources, and</p> <p>(i) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

**11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his 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 “exempt from publication”, together with the category of information likely to be disclosed.

**12. PROCEDURE BEFORE TAKING KEY DECISIONS**

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 Key Decision Notice) has been published in connection with the matter in question at least 28 clear days before the date when the decision is to be taken; and
- (b) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 7 (notice of and summons to meetings).

**13. KEY DECISION NOTICE**

**13.1 Content of the Key Decision Notice**

A Key Decision Notice will contain details of

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name, 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) a list of the documents submitted to the decision taker for consideration in relation to the matter and how to obtain copies of such documents
- (e) a statement that other documents may be taken into account by the decision taker and how to obtain copies of any such documents.

**14. GENERAL EXCEPTION – URGENT BUSINESS**

14.01 Subject to Rule 16, where a matter which is a Key Decision requires an urgent decision and the required 28 days notice has not been given , the decision may still be taken if:

- (a) The Chairman of the Overview and Scrutiny Committee, or, if there is no such person, each member of the Overview and Scrutiny Committee, has been informed by notice in writing of the matter about which the decision is to be made;
- (b) a Key Decision Notice has been published and made available for inspection by the public; and
- (c) five clear days have elapsed following the day on which the Key Decision Notice was published and made available.

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 Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor will suffice, or, in the absence of the Mayor, the agreement of the Deputy Mayor.

16. **REPORT TO COUNCIL**

16.01 **Report to Council when the key decision procedure is not followed**

If an executive decision has been made and was not treated as a key decision, and the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, the Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and if the Cabinet is of the opinion that the decision was not a key decision, the reasons for that opinion. 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 three members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

16.02 **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 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 Cabinet 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, any alternative options considered and rejected at that meeting and any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision.

18. **MEETINGS OF THE CABINET AND ITS COMMITTEES RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will meet in public for all its decisions, except for decisions based on those parts of any document that contain exempt or confidential information. In such cases Rules 10.01 and 10.02 will apply.

19. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

19.01 **Material relating to business to be transacted at a public meeting of Cabinet**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any



business to be transacted at a public meeting, and any such document must be available for inspection for at least five clear days before the meeting

#### 19.02 **Other Material relating to business transacted**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of Cabinet and contains material relating to any business transacted at a private meeting of Cabinet, or any decision made by an individual Cabinet member or an officer, within 24 hours after the meeting concludes or after the decision has been made.

#### 19.03 **Exceptions**

However, a document is not required to be available for inspection under Rules 19.01 or 19.02 if it contains exempt information as set out in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of contract negotiations), or paragraph 6 of Schedule 12A.. Further, a document is not required to be available for inspection if advice provided by a political adviser or assistant would be disclosed.

#### 19.04 **Nature of Rights**

These rights of a member are additional to any other right they may have in statute or at common law.

### 20. **OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS**

20.01 Within 10 clear days of so requesting, a member of the Overview and Scrutiny Committee (including task groups) or Budget and Performance Panel will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (i) any business that has been transacted at a meeting of a decision-making body of the Council
- (ii) any decision that has been made by an individual Cabinet Member in accordance with executive arrangements or
- (iii) any decision that has been made by an officer of the Council in accordance with executive arrangements

except for documents, or parts of documents, which contain

- (a) advice provided by a political adviser or
- (b) exempt or confidential information, unless that information is relevant to
  - (i) an action or decision that the Member is reviewing or scrutinising; or
  - (ii) any review contained in the work programme of the Overview and Scrutiny Committee or Budget and Performance Panel.

Overview and Scrutiny will not be entitled to any document which is in draft form.

Where the Cabinet determines that a member of an Overview and Scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in (a) or (b) above, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.