

Part 4.2:

Access to Information Procedure Rules

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Part 4.2 - Access to Information Procedure Rules

1. SCOPE

- 1.1 These Rules apply to all meetings of the Council, and its committees, including the East Northamptonshire Joint Standards Complaints Committee, (together called “meetings”).
- 1.2 These Rules do not apply to meetings of the Appointments Panel established for the purposes of officer recruitment in accordance with the Officer Employment Rules or to meetings of advisory working parties set up under Council Procedure Rule 23.2.
- 1.3 The requirements contained in these Rules do not include those meetings whose sole purpose is for officers to brief councillors.

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 (or such time as may be prescribed by law) notice of any meeting by posting details of the meeting at East Northamptonshire House, Cedar Drive, Thrapston, NN14 4LZ, (the designated office of the Council).

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting (or such time as may be prescribed by law). 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. Where reports are prepared after the agenda has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

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 Chief Executive or his designated 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, 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

Every report will list those documents (called background papers) relating to the subject matter of the report, except exempt or confidential information (as defined in Rule 10), which

- (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 .

8.2 Public inspection of background papers

The Council will make available on request 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 CITIZENS'S RIGHTS

A written summary of citizens's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the designated office.

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.

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

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Where the meeting will determine any person's civil rights or obligations, or where any decision taken at a meeting may adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of exempt information

Exempt information means information falling within the ten categories set out in the following table (subject to the qualification shown).

10.4 Meaning of “public”

- (a) The definition does not include councillors who do not serve on a particular committee or sub-committee. Rule 27 in Part 4.1 allows such councillors to remain in meetings after the exclusion of the public provided that they -
- Do not have a discloseable pecuniary interest or an ‘other’ interest in the matter to be discussed, and the councillor has considered the implications of the Code of Conduct in relation to interests
 - Fully observe Parts 5.3 - Paragraph 5 (Member & Officer Relations – Confidentiality) and 5.6 of the constitution (Protocol for Members on Confidentiality).
- (b) A meeting may conclude that any person, for example, a consultant or representative from a partner organisation, can remain in a meeting after the exclusion of the public to provide information or answer questions on a matter to be discussed. Once information has been given and the meeting is ready to take a decision, the person(s) shall leave the meeting before such decision is taken.

Schedule 12A from 1st March 2006 (English principal councils)

Description of exempt information	Qualification	Notes
	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992	Applies to all categories of otherwise exempt information
1. Information relating to any individual	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 – see note on public interest at end of table	Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities.
2. Information which is likely to reveal the identity of an individual	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 – see note on public interest at end of table	Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>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 – see note on public interest at end of table</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is 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 (e) the Building Societies Act 1986 (f) the Charities Act 1993 	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p> <p>Financial or business affairs includes contemplated, as well as past or current activities</p> <p>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)</p>

Description of exempt information	Qualification	Notes
<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>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 – see note on public interest at end of table</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p> <p>Employee means a person employed under a contract of service</p> <p>Labour relations matter means :-</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218 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</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>(applies to trade disputes relating to office holders as well as employees)</p> <p>Office holder in relation to the authority, means the holder of any paid office appointments 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</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>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 – see note on public interest at end of table</p>	<p>Privilege lies with the “client” which broadly is the council. Seek the view of the relevant Chief Officer whether they wish to waive privilege.</p>

Description of exempt information	Qualification	Notes
<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>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 – see note on public interest at end of table</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>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 – see note on public interest at end of table</p>	
<p>Description of exempt information relating to Standards Committee ONLY</p> <p>(in addition to paras 1 – 7 above)</p>	<p>Qualification</p>	<p>Notes</p>
<p>8. Information which is subject to any obligation of confidentiality.</p>	<p>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 – see note on public interest at end of table</p>	<p>This will not apply to all the papers before a Standards Committee but is likely to need careful consideration in the circumstances of a Local Investigation or Determination.</p>
<p>9. Information which relates in any way to matters concerning national security.</p>	<p>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 – see note on public interest at end of table</p>	

Description of exempt information	Qualification	Notes
10. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	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 – see note on public interest at end of table	This will apply in relation to Local Determinations whether the original report came from an Ethical Standards Officer or from a Local Investigator.

Public Interest

There is no legal definition of what the “public interest” is.

A study in 2003 called “Balancing the Public Interest: Applying the public interest test to exemptions in the UK Freedom of Information Act 2000” identifies the following as some of the relevant considerations:-

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to current national debate.
- The issue has generated public or parliamentary debate
- Proper debate cannot take place without wide availability of all the relevant information
- The issue affects a wide range of individuals or companies
- The public interest in a local interest group having sufficient information to represent effectively local interests on an issue
- Facts and analysis behind major policy decisions
- Knowing reasons for decisions
- Accountability for proceeds of sale of assets in public ownership
- Openness and accountability for tender processes and prices
- Public interest in public bodies obtaining value for money
- Public health
- Contingency plans in an emergency
- Damage to the environment

Report authors should seek advice from

- The Information Governance and Programme Manager (as the responsible officer for DP and FOI) and
- ⊖ LGSS Legal Service
- ⊖ Democratic and Electoral Services Manager

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive 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. INFORMATION FOR COUNCILLORS

- 12.1 Councillors’ rights of access to information are set out in Part 5.3 of this constitution.
- 12.2 A report of decisions for policy committees will be made available to councillors serving on Scrutiny Committee within three working days of the meeting.

Amended by Council 11 January 2010 minute 311(a); Amended by Council 1 November 2010 minute 212; Amended by Council 13 January 2014 minute 319; Amended by Council 23 January 2017 minute 371; Amended by Council 22 July 2019 minute 111
