

Access to Information Procedure Rules

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Access To Information Procedure Rules

Rule No. 1 - Scope

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Panels, the Standards Committee, Licensing and Regulatory and Planning Application Committees and public meetings of the Cabinet (together called meetings).

Rule No. 2 – Additional Rights to Information

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, including the Freedom of Information Act 2000.

Rule No. 3 – Right to Attend and Record Meetings

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.
- 3.2 Members of the public may record any part of a meeting, unless excluded by these rules, by filming, photographing or making an audio recording of proceedings or by using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later. Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. It is not permitted for oral commentary to be provided during a meeting as this would be disruptive to the good order of the meeting. Further information is available in the Council's protocol "Guidance for the recording of public Council meetings".

Rule No. 4 – Notice of Meetings

- 4.1 The Council will give at least five clear days notice of any meeting by publishing a notice on the Council's website and by posting details of the meeting at Moorlands House, Stockwell Street, Leek, Staffordshire, ST13 6HQ which for the purposes of these Rules is "the designated office".

Rule No. 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 (where reports are prepared after the summons 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) will be open to inspection for the time the item was added to the agenda. Copies of agenda and reports may be inspected at all Council Offices and will be placed on the Council's website.
- 5.2 The Designated Officer for all meetings of the Cabinet, Overview and Scrutiny Panels, Committees and Council is the Monitoring Officer.

Rule No. 6 – Supply of Copies

- 6.1 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 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, copying and any other necessary costs.

Rule No. 7 – Access to Minutes etc. after the Meeting

7.1 The Council will make available copies of the following for a minimum period of 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.

Rule No. 8 – Background Papers

8.1 List of background papers

The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

Rule No. 9 – Summary of the Public's Rights

9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Moorlands House, Stockwell Street, Leek, Staffordshire, ST13 6HQ. This shall also be available on the Council's website.

Rule No. 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 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 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 confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order. The Council has no discretion to enable it to disclose such information.

10.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition):-

Category	Condition
1. Information relating to any individual	Information may not be 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 which is likely to reveal the identity of an individual	Information may not be 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 the financial or business affairs of any particular person (including the authority holding that information)	Information is not exempt information if it is required to be registered under - (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992;

Category	Condition
	(d) the Industrial and Provident Societies Act 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1983
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.	Information 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 218 of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Information is exempt only if and for 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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

10.5 Information falling within any of paragraphs 1-7 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.

10.6 Information falling within any of paragraphs 1-7 (above) and not prevented from being exempt by any of the conditions specified thereto or Procedure Rule 10.5, is 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.

Rule No. 11 – Exclusion of Access by the Public to Reports

11.1 If the Proper Officer 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 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.

Rule No. 12 – Application of Rules to the Cabinet

12.1 Rules 13 - 22 apply to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12.3 of this Constitution.

Rule No. 13a – Procedure Before Holding Private Meetings of the Cabinet

13a.1 The Council will give at least 28 clear days notice of any private meeting of the Cabinet by publishing a notice (called here a Forward Plan) on the Council's website and by posting the notice at Moorlands House, Stockwell Street, Leek, Staffordshire, ST13 6HQ which for the purposes of these Rules is "the designated office". The Forward Plan must include a statement of the reasons for the meeting to be held in private.

13a.2 At least five clear days before a private meeting the Cabinet must make available at the Council's designated office and on the Council's website a further notice of its intention to hold a meeting in private. This notice must include:-

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received by the Cabinet about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

13a.3 Where the date by which a private meeting must be held makes compliance with this rule impracticable, the meeting may only be held in private where the Cabinet has obtained agreement, that the meeting is urgent and cannot be reasonably deferred, from:-

- (a) the Chair of the relevant Overview and Scrutiny Panel; or
- (b) if there is no such person, or if the Chair of the relevant Overview and Scrutiny Panel is unable to act, the Chairman of the Council, or in his/her absence the Vice-Chairman of the Council.

13a.4 As soon as reasonably practicable after the Cabinet has obtained agreement under rule 13a.3 to hold a private meeting it must make available at the Council's designated office and on its website a notice setting out the reasons why the meeting is urgent and cannot be reasonably be deferred.

Rule No. 13b – Procedure Before Taking Key Decisions

13b.1 Subject to Rule 15 (general exception) and Rule 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 28 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).

Rule No. 14 – The Forward Plan

14.1 Period of Forward Plan

Forward plans will be prepared by the Leader of the Council and be issued at least 28 days prior to each meeting of the Cabinet.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader of the Council has reason to believe will be subject of a key decision to be taken by the Cabinet, individual members of the Cabinet, or Officers, in the course of the discharge of a Cabinet 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) where the decision taker is an individual, his/her name and 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 maker for consideration in relation to the matter in respect of which the key decision is to be made.
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available.
- (f) that other documents relevant to those matters may be submitted to the decision maker and
- (g) the procedure for requesting details of those documents (if any) as they become available.

The Forward Plan will also state which decisions will be made during a private meeting of the Cabinet and include a statement of the reasons for the meeting to be held in private.

Rule No. 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 Rule 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 Forward Plan;

- (b) the Proper Officer has informed the Chair of a relevant Overview and Scrutiny Panel, or if there is no such person, each member of that Panel in writing, by notice, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council and published the notice on the Council's website; and
- (d) at least five clear days have elapsed since the Proper Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public unless Rule 10.1 or 10.2 (Exclusion of the Public) applies.

Rule No. 16 – Special Urgency

- 16.1 If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of a relevant Overview and Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant Overview and Scrutiny Panel or if the Chair of each relevant Overview and Scrutiny Panel is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.
- 16.2 As soon as reasonably practical after the decision maker has obtained agreement under rule 16.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available a notice setting on the reasons that the meeting is urgent and cannot reasonably be deferred at the office of the Council and on the Council's website.

Rule No. 17 – Report to Council

17.1 When an Overview and Scrutiny Panel can require a report

If a key decision has been taken which was not:-

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Panel Chair, or the Chairman/Vice Chairman of the Council under Rule 16;

an Overview and Scrutiny Panel may require the Cabinet to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Panel, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Panel when so requested by (the Chairman or any 3 Members). Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Panel.

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 5 working days of the resolution of the Panel, then the report may be submitted to the meeting after that or an Assembly meeting may be called. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 **Reports on special urgency decisions**

In any event the Leader will submit a report to the Council, at least on an annual basis, on the Cabinets decisions taken in the circumstances set out in Rule 16 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

Rule No. 18 – Record of Cabinet Decisions

18.1 After any meeting of the Cabinet, whether held in public or private, the Chief Executive 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) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected at the Cabinet meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

18.2 As soon as practicable after an individual member/officer has made an executive decision, that member/officer must produce a record of that executive decision which includes:-

- (a) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member/officer when making the decision;
- (d) a record of any conflict of interest declared by any member of the Cabinet who is consulted by the member/officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

Rule No. 19 – Cabinet Meetings Relating to Matters Which Are Not Key Decisions

- 19.1 The Cabinet will not normally hold private meetings when decisions which are not key decisions are taken, except in accordance with the provisions of Rule 10 but may hold private briefing meetings with or without Officers, or forward planning sessions.

Rule No. 20 – Attendance of Officers at Meetings of the Executive

- 20.1 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless the Head of Paid Service has been given reasonable notice that a meeting is to take place.
- 20.2 Any Cabinet meeting may only take place in the presence of the Monitoring Officer or his/her nominee with responsibility for recording and publishing the decisions.

Rule No. 21 – Overview and Scrutiny Panels Access to Documents

21.1 Rights to copies

Subject to Rule 22.2 below, an Overview and Scrutiny Panel (including its Sub-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:-

- (a) any business transacted at a meeting of the Cabinet; or
- (b) any decision taken by an individual Member of the Cabinet; or
- (c) any decision taken by an officer of the authority in accordance with executive arrangements.

The Cabinet must provide a document that falls under Rule 21.1 as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

21.2 Limit on rights

An Overview and Scrutiny Panel will not be entitled to any document that is in draft form or which has not been published with an agenda for consideration by the Cabinet, Committee or Overview and Scrutiny Panel, etc.

Where the Cabinet determines that a member of an Overview and Scrutiny Panel is not entitled to a copy of a document or part of any such document it must provide the Overview and Scrutiny Panel with a written statement setting out its reasons for that decision.

Rule No. 22 – Additional Rights of Access to documents for Members

22.1 Material relating to business to be transacted

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 to be transacted. Any document will be made available in accordance with Rule 5.1.

22.2 Material in which a Member has an interest

A Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he/she has a professional interest or in which he/she has a Disclosable Pecuniary Interest.

Note: This Procedure Rule shall not preclude the Monitoring Officer or a Solicitor acting for the Council from declining to allow inspection of any document which in the event of legal proceedings would be protected by Solicitor and client privilege.

22.3 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 (a) or (b) above applies.

22.4 Nature of rights

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

Rule No. 23 – Offences

23.1 A person who has custody of a document that relates to a meeting of the Cabinet (agenda, reports, background papers or decisions) which is required to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person:-

- (a) intentionally obstructs any person exercising a right conferred under these rules to inspect, or to make a copy of the whole or part of the document; or
- (b) refuses to supply a copy of the whole or part of the document in accordance with these rules.

23.2 A person who commits an offence under Rule 23 is liable on summary conviction to a fine not exceeding level 1 on the standard scale.