

Part 3 Chapter 4

Public Access to Information Procedure Rules

1. Background

- 1.1 The Local Government Act 1972 (“the 1972 Act”) Part VA (as amended) sets out the statutory requirements in respect of rights of access of the public to Meetings and Reports of the County Council, its Committees, Sub-Committees and Standing Panels.
- 1.2 Section 9 FA (6) of Part 1A of the Local Government Act 2000 (“the 2000 Act”), applies the requirements set out in Part VA of the 1972 Act in respect of rights of access of the public to Meetings and Reports to Select (Overview and Scrutiny) Committees.
- 1.2 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the Access to Information Regulations”) made pursuant to the 2000 Act set out the statutory requirements in respect of rights of access of the public to Meetings and Reports of the Executive and the publication of Executive Decisions.
- 1.3 The Openness of Local Government Bodies Regulations 2014 made pursuant to the Local Audit and Accountability Act 2014 (“the Openness of Local Government Bodies Regulations’) set out further provisions regarding the publication of certain records of Non-Executive Decisions made by Officers under delegated powers.
- 1.5 The rights contained in the above legislation are supplemented by statutory guidance. In practice as a modern business providing public services, the County Council operates a procedure more generous than the statutory requirements in respect of access to information, and aims to be as open as possible in all aspects of its decision making.

2. County Council, Committee, Sub-Committee and Standing Panel Meetings

2.1 Publication of Notice of Meetings

Public notice of the time and place of County Council, Committee, Sub-Committee and Standing Panel Meetings of the County Council will be published at least five clear working days before any Meeting.

2.2 Meetings to be open to the public

County Council, Committee, Sub-Committee and Standing Panel Meetings will be open to the public (unless confidential or exempt items as referred to at Paragraph 2.6 of this Part are discussed).

2.3 Access to Agenda and Reports before the Meeting

Copies of the Agenda and any Reports (save for confidential and exempt items) to be considered at a Meeting of the County Council, a Committee, Sub-Committee or Standing Panel Meetings will be open for inspection by the public at least five clear working days before any Meeting, unless a matter is to be considered as a matter of urgency, in which case the item will be available for inspection as soon as it is added to the Agenda for the Meeting.

2.4 Access to Minutes and other Documents after County Council, Committee, Sub-Committee and Standing Panel Meetings

Copies of the Minutes, Agenda, and Reports considered at County Council, Committee, Sub-Committee and Standing Panel Meetings will be available for public inspection for six years after a Meeting, except where confidential or exempt information was discussed, in which case a summary of the relevant part of the proceedings will be available.

2.5 Access to Reports and Records relating to Non-Executive Decisions taken by Officers

Subject to Paragraph 2.5.5 below, as soon as reasonably practicable after an Officer has made a Non-Executive Decision under delegated powers, the Officer must produce a written statement which must include:

2.5.1 a record of the decision including the date it was made;

- 2.5.2 a record of the reasons for the decision;
- 2.5.4 where made under a specific delegation a record of any Member of the decision making body that delegated authority to make the decision.
- 2.5.5 The provisions of Paragraph 2.5 only apply where:
- (a) An Officer is discharging a Non-Executive Function pursuant to a specific express delegation; **or**
 - (b) where the decision is made pursuant to a general delegation to Officers to take a decision and the effect of the decision is:
 - (i) to grant a permission or licence: **or**
 - (ii) affects the rights of an individual; **or**
 - (iii) is to award a contract or incur expenditure which in either case materially affects the County Council's position.
- 2.5.6 A written statement of any Non-Executive Decision taken by an Officer produced pursuant to this Paragraph 2.5 will be available for public inspection for six years after the date of the decision except any exempt or confidential information contained.

2.6 **Background Papers**

A list of Background Papers will be included in any Report to be considered at a County Council, Committee, Sub-Committee or Standing Panel Meetings. Such Background Papers and the Background Papers for any Non-Executive Decision referred to at Paragraph 2.5.5 made by an Officer (other than confidential or exempt items) will be available for inspection by the public from the time any Report to which such Background Papers relate to is available for inspection, or from the date of the relevant Non-Executive Decision made by an Officer, as the case may be.

“Background Papers” are those documents (excluding any published works) which disclose any facts or matters on which, in the opinion of the Monitoring Officer, the report or an important part thereof is based, and which have been relied on to a material extent in preparing the Report and in the case of relevant decisions made by Officers are those documents that relate to the subject matter of the decision and which in the opinion of the Monitoring Officer disclose any facts or matters on

which the decision or an important part of the decision is based; and were relied on to a material extent in making the decision..

Background Papers will be available for inspection by the public for a period of at least four years beginning with the date of the Council, Committee or Standing Panel Meeting at which the Report to which such Background Papers relate were considered, or the date of a relevant Non-Executive Decision taken by an Officer as the case may be.

2.7 Restriction of Public Rights of Access to Meetings and Reports containing Confidential or Exempt information

2.7.1 Members of the public are excluded from County Council, Committees, Sub-Committee and Standing Panel Meetings where confidential information would otherwise be disclosed in breach of an obligation of confidence. Confidential information means information given to the County Council on terms which forbid its public disclosure, or information which cannot by law be disclosed, or by a court order.

2.7.2 Members of the public are also excluded from a Meeting where exempt information would otherwise be disclosed, after resolution at the meeting to exclude the public. Categories of exempt information are set out at Schedule 12A of the 1972 Act, and include;

- i) Information relating to any individual;
- ii) Information which is likely to reveal the identity of an individual;
- iii) Information relating to the financial or business affairs of any particular person (including the Authority holding that information);
- iv) 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;
- v) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- vi) 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
- vii) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

2.8 Where a Report or any part of a Report relates to confidential, or exempt information where the public are likely to be excluded, such Reports or part of any such Report will be marked "Confidential Not for Publication", together with the category of information otherwise likely to be disclosed.

3. Executive Decision Meetings and Individual Executive Member Decision Days

3.1 Publication of Notice of Public Meetings

3.1.1 Public notice of the time and place of Cabinet, Committees of Cabinet and Individual Executive Member Decision Days will be published at least five clear working days before any public Meeting or Individual Executive Member Decision Day

3.1.2 At least 28 clear calendar days before Cabinet or a Committee of Cabinet considers a report where members of the public are excluded from the meeting on the basis that the report contains exempt or confidential information a notice must be made available and published on the County Council's website setting out the intention to hold the meeting or part of the meeting in private and stating why the meeting or the part of the meeting is to be held in private ('Private Meeting')

3.1.3 At least 5 clear working days before the Private Meeting a further notice must be made available and be published on the County Council's website:

3.1.3.1 Confirming the intention to hold a Private Meeting in private;

3.1.3.2 Containing a statement of the reasons why the meeting or the part of the meeting should be held in private;

3.1.3.3 Containing details of any representations received about why the meeting or part of the meeting should be open to the public;

3.1.3.4 Containing a statement of response to any such representations

3.1.4 When the date by which a Private Meeting must be held make compliance with paragraphs 3.1.2 and 3.1.3 impracticable the meeting or part of the meeting can only be held in private if the decision making body has obtained agreement from the Chairman of the relevant Select (Overview and Scrutiny) Committee that the meeting is urgent and cannot reasonably be delayed.

3.1.5 As soon as reasonably practicable after compliance with paragraph 3.1.4 a notice must be made available and published on the County Council's website setting out the

reasons why the meeting is urgent and cannot reasonably be deferred

3.2 Meetings to be open to the public

Meetings of Cabinet, Committees of Cabinet and Individual Executive Member Decision Days will be open to the public (unless confidential or exempt items as referred to at Paragraph 2.6 of this Part are discussed)

3.3 Access to Agenda and Reports before Executive Meetings and Individual Executive Member Decision Days

Copies of the Agenda and any Reports to be considered at a public Meeting of Cabinet, Committees of Cabinet, and Individual Executive Member Decision Days (save for confidential and exempt items) will be open for inspection by the public at least five clear working days before any Meeting or Individual Executive Member Decision Day unless a non-Key Decision is to be considered as a matter of urgency, or in the case of a Key Decision where a Meeting or Individual Executive Member Decision Day is convened at shorter notice in accordance with Regulations 10 or 11 of the Access to Information Regulations (as referred to at Part 3, Chapter 2, Paragraph 3.3 or 3.4 of this Constitution from the time the Meeting is convened.

3.4 Access to Reports and Records relating to Executive Decisions made by Members

As soon as reasonably practicable after a Meeting of the Executive or after an Individual Executive Member Decision Day at which an Executive decision has been made, a written statement will be produced in respect of any Executive Decision taken. This statement will include the following:

- 3.4.1 A record of the decision including the date it was made;
- 3.4.2 A record of the reasons for the decision;
- 3.4.3 Details of any alternative options considered and rejected by the decision maker at the Meeting or Individual Executive Member Decision Day when the decision was made
- 3.4.4 A record of any conflict of interest in relation to the matter decided declared by the decision maker who made the decision.

- 3.4.5 in respect of any declared conflict of interest, a note of any dispensation granted by the Conduct Advisory Panel

3.5 Access to Reports and Records relating to Executive Decisions taken by Officers

As soon as reasonably practicable after an Officer has made an Executive Decision under delegated powers, the Officer must produce a written statement which must include:-

- 3.5.1 a record of the decision including the date it was made;
- 3.5.2 a record of the reasons for the decision;
- 3.5.3 details of any alternative options considered and rejected by the Officer when making the decision;
- 3.5.4 a record of any conflict of interest declared by any Executive Member who is consulted by the Officer which relates to the decision; and
- 3.5.5 in respect of any declared conflict or interest, a note of any dispensation granted by the Chief Executive.
- 3.5.6 The provision of paragraph 3.5 only applies where an Officer is discharging an Executive function delegated to them under the Constitution. This paragraph does not apply to delegated decisions taken by Officers pursuant to non-Executive functions or to administrative decisions made by Officers in the normal course of their employment by the County Council.

3.6 Records of Executive Decisions

- 3.6.1 A written record of any Executive decision and any Report considered when making the decision will be available for public inspection for six years after such Executive Decision has been made except any confidential or exempt information contained.
- 3.6.2 Such written statement, together with any reports considered when an Executive decision was taken will be made available for inspection and published on the County Council's website as soon as reasonably practicable after the Decision has been made.

3.7 Background Papers

A list of Background Papers (as referred to at Paragraph 2.5) will be included in any Report to be considered at any Executive Meeting or

Executive Member Decision Day. Such Background Papers (other than confidential or exempt items) will be available for inspection by the public from the time any Report to which such Background Papers relate to is available for inspection, and for at least four years beginning on the date of the Executive Meeting or Executive Member Decision Day at which the Report to which such Background Papers relate were considered, or date of the Executive Decision taken by an Officer as the case may be.