

4B. Access to Information Procedure Rules

CONTENTS

1.	Scope	4B - 3
2.	Additional Rights to Information	4B - 3
3.	Rights to Attend Meetings	4B - 3
4.	Notices of Meeting	4B - 3
5.	Access to Agenda and Reports before the Meeting	4B - 3
6.	Supply of Copies	4B - 3
7.	Access to Minutes etc. after the Meeting	4B - 4
8.	Background Papers	4B - 4
	8.1 List of Background Papers	4B - 4
	8.2 Public Inspection of Background Papers	4B - 4
9.	Summary of Public's Rights	4B - 5
10.	Exclusion of Access by the Public to Meetings	4B - 5
	10.1 Confidential Information – Requirement to exclude public	4B - 5
	10.2 Exempt Information – Discretion to exclude public	4B - 5
	10.3 Meaning of Confidential Information	4B - 5
	10.4 Meaning of Exempt Information	4B - 5
11.	Exclusion of Access by the Public to Reports	4B - 7
12.	Application of Rules to the Executive	4B - 7

13.	Procedure Before Taking Key Decisions	4B - 8
14.	Forward Plan	4B - 8
	14.1 Period of Forward Plan	4B - 8
	14.2 Contents of Forward Plan	4B - 9
15.	General Exception	4B - 10
16.	Special Urgency	4B - 10
17.	Report to Council	4B - 11
	17.1 When an Overview and Scrutiny Committee can require a report	4B - 11
	17.2 Executive's Report to Council	4B - 11
	17.3 Regular Reports on Special Urgency decisions	4B - 11
18.	Record of Decisions	4B - 11
19.	Executive Meetings relating to matters which are not Key Decisions	4B - 12
20.	Notice of Private Meeting of the Executive	4B - 12
21.	Attendance at Private Meetings of the Executive	4B - 12
22.	Overview and Scrutiny Committees' Access to Documents ..	4B - 12
	22.1 Rights	4B - 12
	22.2 Limit on Rights	4B - 13
23.	Additional Rights of Access for Members	4B - 13
	23.1 Material relating to Previous Business	4B - 13
	23.2 Material relating to Key Decisions	4B - 13
	23.3 Questions to the Executive	4B - 13
	23.3 Nature of Rights	4B - 13

1. **Scope**

These Rules apply to all Meetings of the Council, Committees established by the Council, Overview and Scrutiny Committees, Local Committees, the Standards Committee, and regulatory committees and public Meetings of the Executive.

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. Where the Executive meets to consider a key decision, the Meeting must be held in public, unless exempt or confidential information is to be discussed.

4. **Notices of Meeting**

The Council will give at least five clear days' notice of any Meeting by posting details of the Meeting at The Courts, Carlisle, at County Offices, Kendal, and at the venue for the Meeting (the designated offices). A notice of meetings will also be published at the Council's Internet, Libraries and District Council offices. The Council also publishes its Agenda for Meetings on the Internet, accessible via www.cumbria.gov.uk

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 offices 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 Head of Member Services and Scrutiny 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 from the time the item was added to the Agenda.

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 Legal 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 6 years after a Meeting:

- (a) the Minutes of the Meeting, or records of decisions taken, together with reasons, for all Meetings of the Executive, 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 relevant Corporate Director 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) and, in respect of Executive reports, the advice of a political adviser.

8.2 Public Inspection of Background Papers

The Council will make available for public inspection, for 4 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

A written summary of the public's rights to attend Meetings, and to inspect and copy documents, must be kept at, and be available to the public at the Member Services and Scrutiny Unit, The Courts, English Street, Carlisle.

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.

10.4 Meaning of Exempt Information

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

Category	Condition
<p><u>General Note</u></p> <p>In all categories information is not exempt if it relates to development for which the local planning authority may grant itself planning permission pursuant to reg 3 Town and Country Planning General Regs 1992.</p> <p>Subject to this, and the qualification in Category 3, Information in Categories 1 to 7 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 it.</p>	
1. Information relating to any individual.	<i>See General Note above.</i>
2. Information which is likely to reveal identity of an individual	<i>See General Note above.</i>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p><i>N.B. "Financial or business affairs" includes contemplated, as well as past or current, activities.</i></p>	<p>Information in Category 3 is not exempt if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the building Societies Act 1986, or the Charities Act 1993. <i>Also see General Note above.</i></p>
<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>"Labour relations matters" are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute. <i>Also see General Note above.</i></p>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	<i>See General Note above.</i>
<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>	<i>See General Note above.</i>

Category	Condition
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	<i>See General Note above.</i>
The following categories of Exempt Information apply to the Standards Committee or a Sub-Committee of the Standards Committee when it is convened to consider a matter referred to under Part 3 of the Local Government Act 2000.	
7A. Information which is subject to any obligation of confidentiality.	
7B. Information which relates in any way to matters concerning national security.	
7C. The deliberations of a Standards Committee or Sub-Committee in reaching any Finding on a matter referred to it under sections 60(2) or (3), 64(2), 70(4) or (5), or 71(2) of the Local Government Act 2000.	

11. Exclusion of Access by the Public to Reports

If the Corporate Director – Resources 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. Application of Rules to the Executive

Rules 13 – 24 apply to the Executive and its Committees, including Local Committees when they make executive decisions. If the Executive or its Committees, or a Local Committee, meet to take a key decision, then they must also comply with Rules 1 – 11, unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. A key decision is defined in Article 16 of the Articles of the Constitution and, is an Executive decision which is:

- (i) *Significant in terms of expenditure or savings if it relates to a matter which exceeds £250,000 in value, **except** those decisions taken by :*
 - 1. *the Corporate Director – Resources or Chief Finance Officer under delegated authority in connection with Treasury Management;*
 - 2. *the Corporate Director – Children’s Services or the Corporate Director – Adult and Cultural Services under*

delegated authority in relation to care plans for individual children and young people or adults;

3. *Corporate Directors generally under delegated powers in relation to the submission of or acceptance of tenders.*

OR

- (ii) *Significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions if it would change, or proposes changes to, the way in which services are used or provided. Significant in this context means important or far reaching. Examples would include proposals for changing the character of a school, closing down or opening Council services, and major changes in transport arrangements affecting an area. This is not an exhaustive list, and in considering whether a decision is a 'key decision' for the purposes of the Regulations the Council seeks to apply the principle that the public in the area affected should not be taken by surprise by the proposed decision.*

If the Executive or its Committees, or a Local Committee, meet to discuss a key decision to be taken collectively, with an Officer other than a Political Assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11, unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. This requirement does not include Meetings whose sole purpose is for Officers to brief Members.

13. Procedure Before Taking Key Decisions

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 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 Executive or its Committees, or a Local Committee, notice of the Meeting has been given in accordance with Rule 4 (Notice of Meetings).

14. Forward Plan

14.1 Period of Forward Plan

Forward Plans will be prepared by the Leader to cover a period of 4 months, beginning with the first 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 subject of a key decision to be taken by the Executive, a Committee of the Executive, individual Members of the Executive, Officers, Local Committees, or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars insofar 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) 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;
- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 14 days before the start of the period covered. The Corporate Director – Resources will publish, once a year, a notice in at least one newspaper circulating in the area, stating:

- (i) that key decisions are to be taken on behalf of the Council;
- (ii) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (iii) that the Plan will contain details of the key decisions to be made for the 4 month period following its publication;
- (iv) that each Plan will be available for inspection, at reasonable hours, free of charge, at the Council's Offices;
- (v) 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;

- (vi) 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;
- (vii) that other documents may be submitted to decision takers;
- (viii) the procedure for requesting details of documents (if any) as they become available; and
- (ix) 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

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 next Forward Plan and until the start of the first month to which the next Forward Plan relates; and
- (b) the Corporate Director – Resources has informed the Chair of a relevant Overview and Scrutiny Committee, or if there is no such person each Member of that Committee in writing, by notice, of the matter to which the decision which is to be made relates; and
- (c) the Corporate Director – Resources 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 Corporate Director – Resources complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public, unless the provisions relating to exempt or confidential information apply.

16. Special Urgency

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 taker (if an individual), or the Chair of the body making the decision, obtains the agreement of the Chair of a relevant Overview and Scrutiny Committee or Panel that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant Overview and Scrutiny Committee or Panel, or if the Chair of each relevant Overview and Scrutiny Committee or Panel is unable to act, then the agreement of the Chair of the Council, or, in his/her absence, the Vice-Chair, will suffice.

17. Report to Council

17.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee 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; or
- (c) the subject of an agreement with the relevant Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council under Rule 16;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any 5 Members. Alternatively, the requirement may be raised by resolution passed at a Meeting of the relevant Overview and Scrutiny Committee.

17.2 Executive's Report to Council

After receipt of such a requirement, the Executive will prepare a report for submission to the next available Meeting of the Council. However, if the next Meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the Meeting after that. 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 Regular Reports on Special Urgency decisions

In any event, the Leader will submit reports to each Ordinary Council Meeting on the Executive decisions taken in the circumstances set out in Rule 16 (Special Urgency) in the preceding 2 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

After any Meeting of the Executive or any of its Committees, whether held in public or private, the Corporate Director – Resources 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 and any alternative options considered and rejected at that Meeting.

19. Executive Meetings relating to matters which are not Key Decisions

The Executive will decide whether Meetings relating to matters which are not key decisions will be held in public or private.

20. Notice of Private Meeting of the Executive

Members of the Executive or its Committees will be entitled to receive five clear working 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 at Private Meetings of the Executive

- 21.1 All Members of the Executive will be served notice of all private Meetings of Committees of the Executive, whether or not they are Members of that Committee.
- 21.2 All Members of the Executive are entitled to attend a private Meeting of any Committee of the Executive.
- 21.3 Members other than Executive Members will not be entitled to attend private Meetings of the Executive and its Committees.
- 21.4 The Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer and their nominees, are entitled to attend any Meeting of the Executive and its Committees. The Executive may not meet unless the Corporate Director – Resources has been given reasonable notice that a Meeting is to take place.
- 21.5 A private Executive Meeting may only take place in the presence of the Corporate Director – Resources or his/her nominee with responsibility for recording and publicising the decisions.

22. Overview and Scrutiny Committees' Access to Documents

22.1 Rights

Subject to Rule 23.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

- (a) any business transacted at a public or private Meeting of the Executive or its Committees; or

22.2 **Limit on Rights**

An Overview and Scrutiny Committee 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 they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

23. **Additional Rights of Access for Members**

23.1 **Material relating to Previous Business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its Committees, and contains material relating to any business previously transacted at a private Meeting, unless either (a) or (b) below applies:

- (a) it contains exempt information falling within paragraphs 1, 2, 3 to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

23.2 **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 Executive or its Committees which relates to any key decision, unless paragraph (a) or (b) above applies.

23.3 **Questions to the Executive**

A member may submit a written question to the Executive at any time, and the Executive shall reply to the member within ten working days. Copies of the question and answer shall be deposited with the Head of Member Services and Scrutiny.

23.4 **Nature of Rights**

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

