

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, and all committees and sub-committees (together called 'relevant meetings'). They do not apply to meetings of panels or working parties.

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 relevant 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 relevant meeting by posting details of the relevant meeting at The Council House, Avenue Road, Malvern and on the Council's website.

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.

If an item is added to the agenda after the summons has been sent out, it will be made available to the public as soon as the report is completed and sent to councillors

Any item which needs to be tabled at a meeting for reasons of urgency (with the permission of the Chairman of the meeting), will also be made available for public inspection and will be circulated to the press and public present at that meeting.

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) any other documents supplied in connection with an item, if the Proper Officer thinks fit

to any person on payment of a charge for postage and any other costs. These documents will be available for downloading over the internet free of charge

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available copies of the following for six years after a relevant 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

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 below).

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.

9. SUMMARY OF THE RIGHTS OF MEMBERS OF THE PUBLIC

A written summary of the rights of members of the public to attend meetings and to inspect and copy documents will be kept and be available to the public at the Council's main offices.

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 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.

10.3 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.

10.4 Meaning of exempt information

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

All of these categories are subject to a 'public interest test' – information is only exempt if it comes within one of these categories and the public interest in favour of maintaining that exemption outweighs the public interest in disclosing the information. The decision on whether the public interest test is satisfied rests with:

- (a) in relation to reports and whether they should be treated as exempt in advance of the meeting, the 'proper officer'; and
- (b) the Committee itself when deciding whether to exclude the press and public from the meeting.

CATEGORY	CONDITION
1. Information relating to any individual.	Information is not exempt information unless it relates to and is recognisable as referring to a particular individual.
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it relates to and is recognisable as referring to a particular individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.

<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>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 29(1) of the Trade Unions and Labour Relations Act 1974, ie matters which may be the subject of a trade dispute.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</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 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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

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.

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 or her opinion relate to items during which, in accordance with Rule 10 of these Rules, 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.

June 2009