

PART 3.2 – ACCESS TO INFORMATION PROCEDURE RULES

3.2.1 Scope

These rules apply to all meetings of the Council, Committees, Forums and Panels but do not apply to Working Groups. The rules for Working Groups will be determined by the Committee which creates such Groups.

3.2.2 Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or by the law.

3.2.3 Rights to Attend Meetings

Members of the Public may attend meetings, subject to the exceptions outlined in these rules. There is public seating for 36 people in the Council Chamber and 22 people in the Committee Room. For numbers exceeding this it may be necessary to wait in the foyer/adjoining room.

3.2.4 Notice of Meetings

The Council will give at least five clear days' notice by posting details of the meeting at the Council's Offices in Sittingbourne, at the District Offices in Faversham and the Gateway at Sheerness. Clear days are defined as working days excluding the day of publication of the agenda and the day of the meeting, weekends and bank holidays. Details will also be posted on the website <http://services.swale.gov.uk/meetings/uucoverpage.aspx?bcr=1> If the meeting is called at shorter notice then details will be made available at the time the meeting is convened.

3.2.5 Access to Agenda and Reports before Meetings

The Council will make copies of the agenda and reports available (except where they contain confidential or exempt information) for inspection at least five clear days before the meeting, and on the website <http://services.swale.gov.uk/meetings/uucoverpage.aspx?bcr=1> Where a meeting is called at shorter notice, this information will be made available for inspection from the time the meeting is convened. Where reports are prepared after the summons has been sent out, the designated officer shall make the report available to the public as soon as it is completed and sent to Members.

3.2.6 Supply of Copies

The Council will supply copies of any agenda, reports (unless they contain confidential or exempt information), any further statements of particulars necessary to indicate the nature of the items in the agenda, and if the Proper Officer thinks fit, copies of any other documents

supplied to Members in connection with an item. This will be subject to payment of a charge for postage and any other costs. The agenda and reports can be viewed online:

<http://services.swale.gov.uk/meetings/uucoverpage.aspx?bcr=1> A reasonable number of copies of agenda, reports and minutes will be made available at meetings (free of charge).

3.2.7 Access to Minutes etc. after the meeting

The Council will make available copies of the following, for six years after the meeting:

- (a) The minutes of the meeting or records of decisions taken, excluding any part of the meeting which was not open to the public or which disclosed confidential or exempt information.
- (b) A summary of the 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.
- (d) Reports relating to items when the meeting was open to the public.

3.2.8 Background Papers

3.2.8.1 List of background papers

The author of each report will include a list of documents (called background papers) in their report, relating to the subject matter of the report, and where they can be inspected, which in his/her opinion:

- (a) Disclose any facts or matters on which the report, or an important part of the report, is based;
- (b) Were relied on to a material extent in preparing the report;

but does not include published works or those that contain exempt or confidential information (as defined in Rule 3.2.10 of these rules).

3.2.8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting a copy of each of the documents on the list of background papers. The background papers can be viewed at the Council offices during normal business hours for printing by members of the public or for supply by post as requested on payment of copying and postage.

3.2.9 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 and be made available to the public, at the Council's offices. As this Constitution must be made available to the public, these rules constitute that written summary.

3.2.10 Exclusion of Access by the Public to Meetings

3.2.10.1 Confidential Information - Requirement to Exclude the 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.

3.2.10.2 Meaning of Confidential Information

Confidential information means:

- (i) information given to the Council by a Government department on terms (however expressed) which forbid the disclosure of the information to the public; or
- (ii) information, the disclosure of which, to the public is prohibited by or under any enactment or by the order of a Court, and in either case, a reference to the obligations of confidence to be construed accordingly.

3.2.10.3 Exempt Information - Discretion to Exclude the Public

Schedule 12A of the Local Government Act 1972 provides that a meeting may only exclude press and public by reason of exempt information where it is of the opinion that the public interest in maintaining confidentiality over-rides the public interest in disclosure.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their positions, Article 6 of the Human Rights Act 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.

3.2.10.4 Meaning of Exempt Information

Exempt information means information falling within the following categories:

Category
1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). See note below.
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 any employees of, or office holders under, the authority.
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.
7. Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.

Relevant to No. 3 - Information falling within No. 3 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
- (d) the Industrial and Provident Societies Acts 1965 - 1978
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

Information is not exempt if it relates to a 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.

Relevant to all: Information is 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.

3.2.11 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 above, 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 which is likely to be disclosed.

3.2.12 Member and Officer Access to Exempt Reports

All Members will be served notice of all meetings of the Council and other committees and will therefore generally be in receipt of exempt reports. In exceptional circumstances, to be decided by the Monitoring Officer in consultation with the Council Leader and the Chair of the relevant Committee, the exempt report will not be published as part of the full agenda and will instead be tabled at the meeting whereby members and officers will have to sign for a numbered copy of the report which is to be returned at the end of the meeting before leaving the meeting room.

Exceptional circumstances are defined as, and limited to:

- (i) Where the business to be conducted involves commercially sensitive information, the disclosure of which could prejudice the Council's negotiating position; or
- (ii) Where there is a need to preserve legal professional privilege, the disclosure of which could prejudice any action contemplated by the Council.

3.2.13 Freedom of Information Act 2000

Members also share the same rights of access to information as members of the public under the Freedom of Information Act 2000. A request for information under the Act must:

- Be in writing (electronic requests are acceptable);
- Contain a name and address for correspondence;
- Describe the information requested.

The Council will comply with all requests for information under the Act, unless one or more of the statutory exemptions apply.