

## Access to Information Procedure Rules

### 1. **Scope**

Unless specifically stated, these Rules apply to all meetings of the full Council, any Committees appointed by the Council, including the Overview and Scrutiny Committee, the Standards Committee, the Audit Committee, the Planning Committee, the Licensing Committee (including licensing hearings but excluding deliberations), the Employment and Appeals Committee and all meetings of the Cabinet (together called 'meetings').

They do not apply to meetings of Task and Finish Groups appointed by the Overview and Scrutiny Committee, or to the Management Board.

### 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.

### 4. **Notice of Meeting**

The Council will give at least 28 calendar days notice of Cabinet meetings. (See also paragraph 15 of these Procedure Rules.)

The Council will give at least five clear working days notice of any other meetings.

Details of each meeting will be published on the Council's website and posted at the Civic Centre, Breck Road, Poulton-le-Fylde.

### 5. **Access to Agendas and Reports before Meetings**

The Council will publish on its website copies of all Agendas to which these Rules apply and all reports open to the public at least five clear working days before the meeting. Copies will also be made available for inspection at the Civic Centre within the same timescale. If an item is added to the Agenda later, the revised Agenda will be published on the website and open to inspection from the time the item is added to the 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.

## **6. Background Papers**

### **6.1 List of Background Papers**

Report authors 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

Published works or those which disclose exempt or confidential information (as defined in Rule 11) are expressly excluded from the definition of Background Papers.

### **6.2 Inspection and Publication Background Papers**

The Council will make available for public inspection and publish on the Council’s website for a minimum period of 4 years from the date of the meeting to which the report is submitted, each of the documents on the list of background papers.

## **7. Record of decisions made at Meetings**

Records of all decisions taken will be published as soon as possible after each meeting. The Council will make available copies of the following for at least six years after a meeting:

- (a) the Minutes of the meeting or records of decisions taken (including 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.

All these documents are published on the Council’s website.

## **8. Records of Executive Decisions Taken by individual Members of the Cabinet**

A report will be published on the Council’s website and made available for inspection at the Civic Centre at least five clear working days before a decision is to be made by an individual member of the Cabinet setting out the issues to be considered.

As soon as reasonably practicable after such an executive decision has been made by an individual member of the Cabinet, a Decision Notice will be published on the Council's website. The decision notice will include:

- a record of the decision taken;
- the title of the decision maker;
- the date on which the decision was taken;
- a statement of the reasons for the decision;
- any alternative options considered and rejected.
- a record of any conflict of interest relating to the matter decided which is declared by any member who made the decision; and;
- in respect of any declared conflict of interest, a note of any dispensation granted.

This does not require the disclosure of exempt or confidential information.

## **9. Records of Officer decisions**

A record of decisions made by the Council's officers under powers delegated to them by the Cabinet, the Council or any of its Committees to which either the Local Authorities (Executive Regulations) (Meetings and Access to Information) (England) Regulations 2012 or the Openness of Local Government Bodies Regulations 2014 apply will be published as soon as practicable on the Council's website. Copies will be available, on request, for a period of up to six years after the record is made. Copies of any background papers referred to in a record of such a decision made by an officer will be made available, on request, for a period of four years after the record is made.

## **10. Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents, as set out in these Procedure Rules, will be kept at and available to the public at the Civic Centre, Breck Road, Poulton-le-Fylde.

## **11. Exclusion of Access by the Public to Meetings**

### **11.1 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.

### **11.2 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.

**11.3** 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.

**11.4** Meaning of Exempt Information

Exempt information means information falling within the following 7 categories subject to any qualifications set out in Paragraph B below.

<b>A.</b>	<b>Categories</b>
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).
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.
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: <ul style="list-style-type: none"> <li data-bbox="512 1442 1485 1509">a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li data-bbox="512 1514 1337 1547">b) to make an order or direction under any enactment.</li> </ul>
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

<b>B. Qualifications</b>	
1.	<p>Information relating to the financial or business affairs of any particular person or the Council (category 3) is not exempt if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>a) the Companies Act 1985, as defined in Section 2 of the Companies Act 2006;</li> <li>b) the Friendly Societies Act 1974;</li> <li>c) the Friendly Societies Act 1992;</li> <li>d) the Co-operative and Community Benefit Societies and Credit Union Acts 1965 to 1978;</li> <li>e) the Building Societies Act 1986; or</li> <li>f) the Charities Act 2011.</li> </ul>
2.	<p>Information is not exempt information:</p> <ul style="list-style-type: none"> <li>• if it relates to a proposed development for which the Council as local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and County Planning General Regulations 1992.</li> </ul>
3.	<p>Information which falls within any of the 7 categories listed above (and is not prevented from being exempt by virtue of the qualifications in paragraphs (1) and (2) above) is exempt information only 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.</p>

**NOTE:** These categories and exemptions are set out in Schedule 12A of the Local Government Act, 1972.

## **12. Exclusion of Access by the Public to Reports**

If the Chief Executive thinks fit, the Council may exclude access by the public and media representatives to reports which in his or her opinion relate to items during which, in accordance with Rule 11, 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.

## **13. Application of Rules to the Cabinet and Portfolio Holders**

Rules 14-22 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1-12 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is as defined in Article 17.03 of this Constitution.

**14. Procedure Before Taking Key Decisions**

Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless notice of the intention to make a decision has been given in the Schedule of Executive Decisions at least 28 calendar days prior to the decision being made.

**15. Schedule of Executive Decisions**

The “Schedule of Executive Decisions” will contain a list of all known forthcoming key decisions (as defined in Article 17.03 (b) of this Constitution) to be taken by Cabinet or individual Portfolio Holders.

It will also include any items which are likely to involve the consideration of “confidential” or “exempt” information as defined in paragraph 11.4 of these Procedure Rules and for which the public and press are likely to be excluded from the meeting, together with the reasons for their exclusion. Details of how to make representations to request that an item is considered in public will also be made available.

The Schedule of Executive Decisions will be published as the Council’s website, will cover a minimum period of 28 calendar days and will fulfil the required minimum 28 calendar days’ notice of the intention to make a key decision as set out in Rule 14 above. The Schedule will be updated and republished whenever new information becomes available.

Providing that full details are available, the Schedule of Executive Decisions will contain the following information:

- (a) the subject or matter in respect of which a decision is to be made;
- (b) the name and title, if any, of the decision taker (if he/she is an individual), and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, it is expected that the decision will be taken.
- (d) Where any matter involves the consideration of exempt information (as defined in paragraph 11.4 above), confidential information (as defined by paragraph 11.3 above) a summary of the matter shall be included in the notice but the exempt or confidential information or the advice, as the case may be, need not be included.

**16. General Exception**

If a matter which is likely to be a key decision has not been included in the Schedule of Executive Decisions, then, subject to Rule 17 (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 for 28 calendar days ;

- (b) the Chief Executive has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each Member of that Committee in writing of the matter on which the decision is to be made, including reasons why compliance with the requirement to provide at least 28 calendar days notice was not practicable;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least three clear working days have elapsed since the Chief Executive complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

The decision will still be subject to a call in period unless by virtue of Paragraph 14 of Part 4.05 (Overview and Scrutiny Procedure Rules) the Mayor agrees to the decision being treated as a matter of urgency.

## **17. Special Urgency**

If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor, will suffice. A report will be submitted at least annually to the Council listing any Cabinet decisions taken in the circumstances set out in Rule 17 (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.

## **18. Key Decisions – Contraventions**

### **18.1 When the Overview and Scrutiny Committee Can Require a Report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- a) included in the Schedule of Executive Decisions; or
- b) the subject of a general exception procedure; or
- c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Mayor/Deputy Mayor under Rule 17;

the Committee may require the Cabinet to 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 Proper Officer, who shall require such a report on behalf of the Committee when so requested (by the Chairman or any five Members). Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

**18.2 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 seven calendar 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.

**19. Notice of Private Meeting of the Cabinet**

Where the Cabinet is likely to consider an item that contains exempt or confidential information and will require the public to be excluded from the meeting to prevent disclosure of that information, it must include that item in the Schedule of Executive Decisions at least 28 calendar days prior to the meeting, together with the reasons for considering it in private and how representations can be made requesting that it be considered in public.

If any such representations are received they will be published on the Council's web site, together with the response of the Executive, 5 clear working days before the meeting. If the item is still to be considered in private, the reasons for excluding the press and public will be re-stated on the agenda.

**20. Overview and Scrutiny Committees Access to Documents****20.1 Rights to Copies**

Subject to Rule 20.2 below, the Overview and Scrutiny Committee (including its Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Cabinet 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).
- (b) any decision taken by an individual Member of the Cabinet.

Such documents must be provided as soon as practicable but no later than 10 working days after the request is received.

**20.2 Limit on Rights**

The 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.

If the Executive determines that a member of a scrutiny committee is not entitled to a copy of a document or part of a document it must provide the scrutiny committee with a written statement setting out its reasons for that decision.

## **21. Additional Rights of Access for Members**

### **21.1 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 Cabinet 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 to 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

### **21.2 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 Cabinet or its Committees which relates to any key decision unless paragraph (a) or (b) above applies.

### **21.3 Nature of Rights**

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

## **22. Filming, recording and commentating on Meetings.**

**22.1** Members of the public and media representatives are able to film, photograph, audio record (for either live or subsequent broadcast) and report by means of social media (such as Twitter, Facebook and blogs) on any meetings which are open to the public. So far as is reasonably practicable, facilities, will be provided for them to do so. However, to avoid any disruption to the meeting and to respect the wishes of other people attending the protocols set out will be followed.

**22.2** Whilst there is no requirement to give advance notice of the intention to film, audio record or photograph all or part of a meeting, as a matter of courtesy, members of the public and media are requested to do so to enable practical arrangements to be made and to enable the chairman to inform everyone present that it is taking place.

**22.3** Any filming or recording must be overt, i.e. clearly visible to anyone at the meeting.

- 22.4** The right to film and record is limited to the duration of the meeting. Recording must not start until the meeting is called to order, and must cease when the Chairman closes the meeting.
- 22.5** Filming or recording equipment cannot be left running in the meeting room at times when the public is excluded (for example because confidential or exempt information is being discussed).
- 22.6** Intrusive filming of a specific individual or individuals will not be permitted.
- 22.7** Some members of the public attending the meeting may object to be being filmed, photographed or recorded. The Council will ask those filming, photographing or recording the meeting to respect their wishes, and will expect these to be complied with. People sitting in the public gallery will not be filmed except when they are actively participating in the meeting.
- 22.8** The Council expects that film or audio recordings will not be edited before transmission in a way that misrepresents what occurred.
- 22.9** Filming or recording is not permitted if the effect would be to interrupt or disturb the proceedings. This means that, for example:
- (a) Oral commentary is not permitted.
  - (b) Equipment which needs setting up must be in place when the meeting starts.
  - (c) Excessive noise, intrusive lighting, and extensive use of flash photography are not permitted.
  - (d) Speakers must not be asked to repeat statements for the purpose of recording.
- 22.10** The chairman of the meeting has discretion to terminate or suspend any filming, recording or commentating activities if in his/her opinion continuing to do so would prejudice proceedings at the meeting. The circumstances in which termination or suspension might occur, could include:
- public disturbance or suspension of the meeting;
  - the meeting agreeing to formally exclude the press and public from the meeting due to the confidential nature of the business being discussed;
  - where it is considered that continued recording/photography/filming/webcasting might infringe the rights of any individual; and
  - when the Chair considers that a defamatory statement has been made.