



DEMOCRATIC AND COMMITTEE ADMINISTRATION PROGRAMME 2023

PUBLIC ACCESS TO INFORMATION AND MEETINGS

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Meetings

All meetings of committees and sub-committees are open to the public, although the public may be excluded if an item contains confidential or exempt information.

Where the public are excluded under the terms of Schedule 12A, the resolution in the agenda must identify the proceedings to which it applies and refer to the appropriate paragraph of Schedule 12A.

There is no power otherwise to exclude members of the public whilst the meeting is open, except for disorderly conduct.

Public notice of the time and place of the meeting must be given by posting it at the Council offices (including the offices of every Council represented on a joint Committee and at the premises where the meeting is to be held if different from the Council's offices).

Agenda and reports

Agenda and reports must be available to the press and public at least five clear working days before the meeting or, where the meeting is convened at shorter notice because of urgency, from the time the meeting is convened.

Late items cannot be considered unless they are publicly available five days before the meeting or the Chair rules that they are urgent.

A reasonable number of copies of the agenda must be available for members of the press and public.

LOCAL GOVERNMENT ACT 2000

These rules also apply to meetings of the Executive (the Cabinet). However, additional requirements apply to executive decisions. These are outlined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

and summarised in the following paragraphs. (NB These rules only apply to Councils operating executive arrangements, and not to those operating a committee system.)

Executive Meetings and Decisions

The Executive has to give advance notice of, and consult on, its key decisions.

This means executive decisions which are likely:

- a) to result in the Council incurring expenditure or making savings which are significant; or
- b) to be significant in terms of their effect on an area comprising two or more wards.

Councils must give 28 clear day's notice of any intended key decision. The notice must be available not just for inspection but also published on the authority's website. An Executive cannot take a key decision unless it has given the required 28 day's notice, except in the circumstances outlined in paragraphs (a) or (b) below:

(a) General Exceptions

Where it is impracticable to give the full notice, the Executive can take a key decision without giving 28 day's notice provided that it gives at least five clear day's public notice of the decision to be taken at the Council's offices and on its website, and informs the Chair of the relevant Overview and Scrutiny Committee or, if there is no such person, all members of the Committee; or

(b) Cases of Special Urgency

Where compliance with the requirement to give five day's notice is impracticable, a key decision can only be made where the Executive has obtained agreement from the Chair of the relevant Overview and Scrutiny Committee, or if there is no Chair or the Chair is unable to act, the Chair or Vice-Chair of the local authority, that the key decision is urgent and cannot reasonably be deferred. Public notice to this effect must then be posted at the Council's offices and published on its website.

Private Executive Meetings (Exempt Business)

The Executive must publish 28 clear day's notice of its intention to hold a private meeting (or part of a meeting in private ie. where there is exempt business). Public notice to this effect must be posted at the Council's offices and published on its website stating the reasons for the meeting to be held in private. A further notice must be given five clear days before the meeting including a statement of the reasons for the meeting to be held in private, details of any representations received as to why the meeting should be open, and the Executive's response.

Once again, where compliance with this notice period is impracticable, the meeting may only be held in private where the Executive has obtained agreement from the Chair of the relevant Overview and Scrutiny Committee or, if there is no Chair or the Chair is unable to act, the

Chair or Vice-Chair of the local authority, that the meeting is urgent and cannot reasonably be deferred. The requirement only applies to “meetings” and does not apply where the Executive Leader or Executive Mayor is taking the decision in person without a meeting or delegating the decision to a Cabinet Member or an officer.

Records of Decisions

By Cabinet and Cabinet Members

Where an executive decision is taken by Cabinet or a Cabinet Member, a written statement of that decision should be made as soon as reasonably practicable including the date it was made and:

- a) the reasons for the decision.
- b) details of any alternative options considered and rejected.
- c) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision-making body which made the decision (or the officer or a cabinet member consulted about the decision).
- d) In respect of any declared conflict of interest in relation to the decision a note of any dispensation granted by the authority’s head of paid service.

By Officers

Regulations also require:

- (a) a written record to be made of any decision that has been delegated to an officer under a specific express authorisation, or under a general authorisation where the effect of the decision is to grant permissions or licences, affect the rights of individuals, award contracts or incur expenditure which materially affects the body’s financial position;
- (b) that the written records are made available to the public at the relevant body’s offices, on their website if they have one, by post if requested and on receipt of payment for copying and postage, and through any other means thought appropriate by the body;
- (c) the written record to be available for public inspection for at least six years, and any supporting documentation for at least four years.

SCHEDULE 12 A

A summary is set out below (note that some clauses are paraphrased)

PART 1 Descriptions of Exempt Information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.

[Note that this information will generally be protected under the Data Protection Act in any case.]

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—
 - (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 or to be taken in connection with the prevention, investigation or prosecution of crime.

PART 2 Qualifications

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
 - (a) the Companies Act 1985[3];
 - (b) the Friendly Societies Act 1974[4];
 - (c) the Friendly Societies Act 1992[5];
 - (d) the Industrial and Provident Societies Acts 1965 to 1978[6];
 - (e) the Building Societies Act 1986[7]; or
 - (f) the Charities Act 1993[8].
9. Information is not exempt information if it relates to 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[9].

10. Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above 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

Peter Edwards
31 January 2023