

## Appendix H

### Access to Information

#### 1. Scope

These rules apply to all meetings of the Full Council, all Committees of the Council including Overview and Scrutiny, and meetings of the Cabinet and its Committees, and also individual members of the Cabinet.

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

The County Council provides electronic access to the minutes, agendas and reports of its Council and Committee meetings, as well as records of Key Decisions. This can be accessed on [www.lancashire.gov.uk](http://www.lancashire.gov.uk).

#### 2. Meetings

The Council will give, wherever possible, at least five clear working days notice of any meeting by posting details of the meeting at County Hall, Preston and on its website.

Members of the public may attend all meetings subject only to the exceptions in these rules.

#### 3. Public Access to Agenda and Reports

Copies of agenda and reports to be considered at meetings or by individual Cabinet Members or authorised Officers (key decisions only) and which are open to the public will be made available for inspection at County Hall, Preston and on the Council's website and Intranet, wherever possible, at least five clear working days before the meeting or decision making session in the case of a Cabinet Member. If an item is subsequently added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda.

#### 4. Access to Minutes of meetings and Decisions taken by individual Cabinet Members and Authorised Officers

4.1 A record of each decision taken at meetings or by an individual member of the Cabinet or a key decision taken by an authorised Officer shall be made available for inspection as soon as reasonably practicable after the meeting or the decision has been taken. The record will be placed on deposit at County Hall, Preston, and on the Council's website and Intranet.

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**4.2** Copies of the following documents will be made available for six years after a meeting:

- (a) the minutes of the meeting, together with reasons for 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 which did not disclose exempt or confidential information

**4.3** Copies of the following documents will be made available for six years after a decision has been taken by an individual member of the Cabinet or a key decision taken by an authorised Officer:

- (a) the record of the decision taken including a summary of any report containing exempt or confidential information;
- (c) the agenda; and
- (d) reports relating to items which did not disclose exempt or confidential information.

## **5. Background Papers**

### **5.1 List of background papers**

Every report will list those documents (called background papers) which:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report

but may not include published works or those which disclose confidential or exempt or information as defined in paragraph 9 below.

### **5.2 Public inspection of background papers**

The Council will make available for public inspection five clear working days before the meeting or prior to a decision being taken by an individual member  
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of the Cabinet or key decision taken by an authorised Officer, and for four years after the date of the meeting or decision a copy of each of the documents on the list of background papers. The council may make a charge for processing requests for copies of these papers.

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

### **6.1 Confidential information – requirement to exclude public**

The public have to 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.

### **6.2 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 and as fully defined in Section 100A(3) of the Local Government Act 1972.

### **6.3 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.

### **6.4 Meaning of exempt information**

Exempt information means information falling within the following 7 categories (subject to the qualifications below):

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 -

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- (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.

### **Qualifications**

- (a) Information relating to the financial or business affairs of any particular person is not exempt if it is required to be registered under: the Companies Act 1985; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993.
- (b) Information relating to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992 is not exempt.
- (c) Information in one of the seven categories of exempt information which is not prevented from being exempt by either of the two points described above is exempt if the public interest in maintaining the exemption outweighs the public interest in disclosing it.

### **6.5 Procedures Prior to Private Meetings of Cabinet or a Cabinet Committee**

If Cabinet or a Cabinet Committee intends to hold a meeting in private in order to consider confidential or exempt information, it will give 28 clear days notice of its intention to do so, via a notice made available at County Hall, Preston and published on the council's website. The notice will include a statement of the reasons for the meeting to be held in private.

At least five clear working days before the private meeting, the cabinet or cabinet Committee will make available at County Hall, Preston and on the council's website, a further notice of the intention to hold a meeting in private. This notice will include a statement of the reasons for the meeting to be held in private; details of any representations received about why the meeting should be open to the public; and a statement of response to any representations.

If, for reasons of urgency, the above timescales cannot be met, the meeting shall only be held in private where the Cabinet or Cabinet committee has obtained agreement from the chair of the relevant Overview and Scrutiny committee; or, if there is no such person or the chair of the Scrutiny committee is unable to act, the Chairman of the County Council; or, where there is no Chairman either of the Overview and Scrutiny Committee or of the

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County Council, the Vice Chair of the County Council. In this case, a notice will be made available at County Hall, Preston and published on the council's website as soon as possible after that agreement is obtained.

## **7. Key decisions**

### **7.1 Definition of a Key Decision**

A key decision means an executive decision which is likely:

- (a) to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the council.

For the purposes of paragraph (1)(a), the threshold for "significant" is £1.5 million.

### **7.2 Publication of the Intention to make a Key Decision**

Where a decision maker intends to make a key decision, a notice will be made available at County Hall, Preston and published on the Council's website at least 28 clear days in advance of the date of the decision. That notice will state:

- (a) that a key decision is to be made;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

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- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

### **7.3 General Exception**

Where the publication of the intention to make a key decision in accordance with the above is impracticable and the matter would be a key decision, that decision shall only be made:

- (a) where the Chief Executive has informed the Chair of the relevant Overview and Scrutiny Committee or, if there is no such person, each member of the relevant Overview and Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;
- (b) where the Chief Executive has made available at County Hall, Preston for inspection by the public and published on the council's website a copy of the notice given under Standing Order 26(a); and
- (c) after five clear working days have elapsed following the day on which the Chief Executive made available the notice referred to in Standing Order 26(b).

As soon as reasonably practicable after the Chief Executive has informed the relevant person, he or she must make available at County Hall, Preston a notice setting out the reasons why giving 28 days notice is impracticable; and publish that notice on the council's website.

### **7.4 Urgent Key Decisions**

Where a key decision must be made urgently, making publication 28 days in advance impracticable, the decision shall only be made where the decision maker has via the Chief Executive obtained agreement from:

- (a) the Chair of the relevant Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, the Chair of the County Council; or
- (c) where there is no Chair of either the relevant Overview and Scrutiny Committee or of the County Council, the Deputy Chair of the County Council,

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that the making of the decision is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Chief Executive has obtained this agreement), he or she must make available at County Hall, Preston a notice setting out the reasons why this has had to be done and publish that notice on the council's website.

## **8. Additional Rights for Members**

### **8.1 Overview and Scrutiny Committees**

Subject to paragraph 8.1.1 below, a member of an Overview and Scrutiny Committee (including its Sub-Committees or Task Groups) will be entitled to a copy of any document which is in the possession or control of the executive and which contains material relating to:

(a) any business transacted at a private or public meeting of the Cabinet or a Cabinet Committee;

or

(b) any decision taken by an individual Member of the Cabinet in accordance with executive arrangements;

or

(c) any decision made by an officer in accordance with executive arrangements.

#### **8.1.1 Timescales**

Where a member of an Overview and Scrutiny Committee requests a document in accordance with 8.1 above, the Cabinet or Cabinet Committee must provide that document as soon as reasonably practicable and in any case no later than 10 clear working days after the executive receives the request.

#### **8.1.2 Limits on rights**

A member of an Overview and Scrutiny Committee will not be entitled to any document or part of a document:

(a) that is in draft form;

or

(b) that contains exempt or confidential information, unless that information is relevant to an action or decision they are

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reviewing or scrutinising or any review contained in any programme of work.

or

(c) containing advice provided by a political advisor or assistant.

Where the Cabinet or Cabinet Committee determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of a document for a reason set out above, it will provide the Overview and Scrutiny Committee with a written statement of its reasons for that decision.

## **8.2 Executive, Full Council and Committee Documents**

### **8.2.1 Public Meetings**

Subject to paragraph 8.2.3 below any document which is in the possession of or under the control of the Executive, the Full Council and its Committees and contains material relating to any business to be transacted at a public meeting must be available for inspection by any member of the Council.

### **8.2.2 Executive Decisions**

Subject to paragraph 8.2.3 below any document which is in the possession of or under the control of the Executive and contains material relating to any business transacted at a private meeting; any decision made by an individual member in accordance with executive arrangements, or any decision made by an officer in accordance with executive arrangements must be available for inspection by any member of the Council within 24 hours of the meeting or the decision being made..

### **8.2.3 Limits on Rights**

The rights at paragraph 8.2.1 and 8.2.2 do not apply to any document or part of a document that contains exempt information unless it is only exempt by virtue of paragraph 6.4(3) above (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the case of negotiations for a contract); or paragraph 6.4 (6) above.

## **8.3 Council Documents**

Councillors as elected representatives have a right to inspect documents in the Council's possession subject to such documents being necessary for the performance of their Council duties. A Councillor may be required to demonstrate why access to a particular document is required where the document in question is not already in the public domain.

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#### **8.4 Part II Reports and Confidential Information**

Councillors must only use confidential information (including information contained in Part II Reports) in accordance with the County Council's Protocol on the Disclosure of Confidential Information which is at Appendix Q of the Constitution.

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