

Access to Information Procedure Rules

1. Scope

Since 1 January 2005, the public have a right of access to recorded information held by the Authority, subject to a number of exemptions. The Act is completely retrospective so that all recorded information held by Neath Port Talbot County Borough Council falls within the scope of the Act.

These rules apply to all meetings of the Council, Scrutiny committees, the Standards Committee, Governance and Audit Committee, Democratic Services Committee and Regulatory Committees (including Planning Committee) and public meetings of the Cabinet/Cabinet Boards (together called meetings), all of which are held in accordance with the remote attendance requirements, which allows meetings to be attended remotely by persons who are not all in the same physical place, using an online meeting platform.

Although the Freedom of Information Act presumes openness it recognises the need to protect sensitive information in certain circumstances and provides for exemptions. Some exemptions are absolute, where there is no right to the information; some exemptions are qualified, where even though information falls within the exemptions it may still have to be disclosed if it is in the public interest to do so.

Examples of exemptions include information that is commercially sensitive, confidential information, certain personal information, protection of national security, information where disclosure is prevented by other legislation, information intended for future publication, law enforcement matters and information that is accessible by other means, such as via the Publication Scheme (which is available on the Authority's internet site at www.npt.gov.uk).

In addition to the Freedom of Information Act, there are two other access to information regimes:

- (a) The Data Protection Act 2018, which enables individuals to access certain information on themselves; and
- (b) The Environmental Information Regulations 2004, which enables people to access environmental information.
- (c) The Data Protection Act and the Environmental Information Regulations are also subject to exemptions.

Each Corporate Director shall be the Proper Officer for the purposes of all statutory and regulatory provisions relating to the identification listing and availability of background papers for any report where such report is within the scope of these Rules and that Corporate Director is the responsible or contributing author

Each Corporate Director shall be responsible for securing compliance with the requirements of the Data Protection Act 1998 and of the Freedom of Information Act 2000 in relation to the data and information within the purview of those Acts held in his or her Department and shall make all necessary arrangements within the Department for that purpose.

The Council wishes to be as open as possible in terms of sharing access to information both with Councillors and with the public, as permitted within the law and with respect to the rights of others. These rules seek to complement and supplement and not detract from any statutory rights to information (for example within the Data Protection Acts and the Freedom of Information Act) which Councillors and the public are afforded from time to time. These rules do not affect any more specific rights to information contained elsewhere in this Constitution. In the case of any omission or conflict between these rules or the Constitution and statutory rights, statutory rights will always prevail.

2. Additional Rights to Information

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

3. Rights to Attend Meetings

Members of the public may attend all meetings above, subject only to the exceptions in these rules. The right to attend meetings is subject to the Council's right to exclude persons if their conduct is

disorderly or if they misbehave at the meeting. The Press may attend that part of any meeting open to the public

4. Notices of Meeting

The Council will give at least three clear days' notice of any meeting by posting details of the meeting at the Civic Centre, Port Talbot (or if a committee meeting is called at shorter notice, for urgent special reasons, then at the time it is convened) and electronically on the Councils website (www.npt.gov.uk).

Where the meeting or part of the meeting is open to the public and is held wholly through remote means, the notice must include details of the time of the meeting, and how to access it.

Where the meeting or part of the meeting is open to the public and is held partly through remote means, the notice must include details of the time and place of the meeting and how to access it.

Where the meeting is not open to the public and is held partly through remote means or not held through remote means, the notice must include details of the time and place of the meeting and the fact that it is not open to the public.

Where the meeting is not open to the public and is held through remote means only, the notice must include details of the time of the meeting, the fact that it is being held through remote means only and the fact that it is not open to the public.

Meetings which are open to the public under these rules may be webcast or recorded by the Council.

Other filming, recording and use of social media is permitted during meetings which are open to the public under these rules, provided that: (i) The recording or transmission must create no disturbance disruption or distraction to the good order and conduct of the meeting; (ii) Notice has been given (on the meeting agenda and signage outside the meeting) so that everyone attending the meeting is made aware that they may be recorded and that by attending the meeting they are deemed to consent to this; (iii) Any recording must be overt, not covert; (iv) There is to be no recording or transmission of proceedings dealing with any exempt or confidential information; (v) The Chair shall have discretion, subject

to proper consideration of any relevant representations and legal advice, to prohibit a recording or exclude anyone reasonably considered to be in breach of these rules; and (vi) The person making the recording or transmission shall be solely responsible for complying with all applicable legal obligations arising from their actions.

5. Access to the Agenda and Reports before the Meeting

The Council will make copies of the agenda and reports (except reports which are determined to be private “not for publication/exempt” reports) open to public inspection at the Chief Executive’s Directorate, Port Talbot Civic Centre during normal office hours at least three clear days before the meeting (or if a committee meeting is called at shorter notice, for urgent special reasons, that at the time it is convened). If an item is added to the agenda of any meeting, for urgent special reasons, copies of the item (or of the revised agenda) and copies of any public (not private) reports relating to the item will be open to inspection from the time the item was added to the agenda (where public reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors).

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) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. Access to Minutes etc. after the Meeting

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

- (a) the minutes of the meeting, or record of decisions taken by the executive, excluding any part of the minutes, or record, of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
- (b) a summary of any proceedings not open to the public where the minutes, or record, open to inspection would not provide a reasonably fair and coherent record;
- (c) the number of members in attendance and any declarations of interest;
- (d) the agenda for the meeting; and
- (e) reports relating to items when the meeting was open to the public.

8. Background Papers

8.1 List of Background Papers

The Council will set out in every public report a list of those documents (called background papers) relating to the subject matter of the report which in their/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)

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. Publication of Additional Information

- (a) The Council will maintain a register stating the name and address of every member of the Council and the Electoral Division he/she represents, and the name, address and electronic address of every member of the Executive and each Committee or Sub Committee of the Council. The register is open to inspection by the public at the Chief Executive's Directorate in Port Talbot Civic Centre during normal office hours.
- (b) The Council will maintain a list specifying powers delegated to its officers, and stating the title of the officer by whom each of those powers is exercisable. The list excludes short term delegations of less than six months duration.
- (c) Any local government elector for the area may inspect an Order for the payment of money made by the Council at the offices of the Director of Finance and Corporate Services during normal office hours.
- (d) Documents may be required to be deposited with an appointed officer either by an Act of Parliament or statutory instrument, or pursuant to the Standing Orders of either House of Parliament. A person interested in any such document may inspect it. Requests should be made to the Chief Executive's Directorate.
- (e) A copy of any byelaws made by a local authority must be open to inspection by the public at its offices, and any person may purchase a copy. Requests should be made to the Head of Legal and Democratic Services.
- (f) A summary of other Rights of Inspection of Documents pursuant to the Local Government (Inspection of Documents) (Summary of Rights) Order 1986 – Statutory Instrument 1986 No. 854, is also open to inspection at the Chief Executive's Directorate, Port Talbot Civic Centre during normal office hours.

10. Exclusion of Access by the Public to Meetings

10.1 Public and Private Meetings of the Executive

The executive may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with Article 12 and these procedure rules. This does not prevent the executive from holding informal deliberations in private, with or without officers present, but these deliberations shall not take decisions, and neither do the provisions of these rules apply to such deliberations.

10.2 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.

10.3 Exempt Information – Direction 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 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.

10.5 Meaning of Exempt Information

- 10.5.1 Exempt information means those categories of exempt information which are contained in paragraphs 12 to 18 of Part 4 of Schedule 12A to the Local Government Act 1972 (as amended) set out in the left hand column below subject to the qualifications in respect thereof set out in the right hand column below:-

Exempt Information	Qualification
12. Information relating to a particular individual.	Public interest test applies (see below)
13. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
14. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information falling within paragraph 14 is not exempt information by virtue of that paragraph 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 Act 1965 to 1978; The Building Societies Act 1986; or The Charities Act 1993. Public interest test applies (see below)
15. 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, Welsh Ministers and employees of, or office holders under, the Authority	Public interest test applies (see below)
16. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Public Interest test does not apply
17. Information which reveals that the authority purposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed	Public Interest test applies (see below)

Exempt Information	Qualification
<p>on a person; or (b) to make an order or direction under any enactment.</p>	
<p>18. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Public interest test applies (see below)</p>

NOTE: 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.

10.5.2 In relation to a meeting of a Standards Committee, or a sub-committee of Standards Committee, which is convened to consider a matter referred under the provisions of Section 70(4), 70(5) or 71(2) of the Local Government Act 2000, "Exempt Information" will also include those categories of exempt information which are contained in paragraphs 18A to 18C of Part 4 of Schedule 12A to the Local Government Act 1972 (as amended) set out in the left hand column below subject to the qualifications in respect thereof set out in the right hand column below:-

Exempt Information	Qualification
<p>18A. Information which is subject to any obligations of confidentiality.</p>	<p>Public interest test applies (see below)</p>
<p>18B. Information which relates in any way to matters concerning national security.</p>	<p>Public interest test applies (see below)</p>
<p>18C. The deliberations of a standards committee or of a sub-committee of a standards committee established under</p>	<p>Public interest test applies (see below)</p>

Exempt Information	Qualification
the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it".	

10.5.3 Public Interest Test

Information which –

- (a) falls within any of paragraphs 12 to 15, 17 and 18 above; and
- (b) is not prevented from being exempt by virtue of the ‘qualifications’ 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.

10.5.4 Interpretation

For the purposes of the interpretation of the categories of exempt information and qualifications set out in items 10.5.1 and 10.5.2 above the following applies:-

- (1) in the left hand and right hand columns –

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“labour relations matters” means:-

- (a) any of the matters specified in paragraphs (a) to (g) of sections 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of trade dispute, within the meaning of that Act); or

- (b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

- (2) Any reference to “the authority” is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference:-
 - (a) in the case of a principal council, to any committee or sub-committee of the council; and
 - (b) in the case of a committee to:-
 - (i) any constituent principal council;
 - (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
 - (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and

- (c) in the case of a sub-committee, to:-
 - (i) the committee, or any of the committees, of which it is a sub-committee; and
 - (ii) any principal council which falls within paragraph (b) above in relation to that committee.

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 their or her opinion relate to items during which, in accordance with Rule 10, 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.

12. Consultation under the Forward Work Programme

12.1 Period of Forward Work Programme

A forward work programme will be published by the Chief Executive before the start of the period covered. The programme will cover a period of four months and will be updated at least quarterly.

12.2 Contents of Forward Work Programme

The executive forward work programme will contain matters which the executive is likely to consider. It will contain information on:

(i) Policy and Budget Framework

The timetable for considering the budget and any plans forming part of the policy and budget framework which will require Council approval, and which body within the executive is to consider them.

(ii) Other Plans/Matters

The timetable for considering any plans which are the responsibility of the executive and any other individual matters, on which the

executive intends to consult in advance of taking a decision. The issues here to be included in the programme are for each Corporate Director to determine having regard to the consequential impact, resources or otherwise, on people or organisations in one or more wards.

The following are other requirements associated with the forward work programme under the constitution:-

- (a) the level of consultation will be appropriate to the matter under consideration; matters not required to be included under the constitution may however be included in the programme;
- (b) specific consultees may or may not be identified in the programme, but if there are any principal consultees these should be included;
- (c) anyone – besides any named consultees – who wishes to make representations to the Executive on any issues in the programme may do so by writing to the named contact;
- (d) notwithstanding the inclusion of matters in the forward work programme, no information which is confidential or exempt need be disclosed as a result of the publication of that programme. A matter which is confidential or exempt need not automatically be included in the programme, notwithstanding the requirements above, this being at the discretion of the Chief Executive
- (e) the Executive forward work programme should also be provided to the members of Scrutiny Committees and other Members of Council, to facilitate forthcoming pre-decision scrutiny/consultation where appropriate (Article 6 refers).
- (f) where a matter may ordinarily be one for inclusion in a forward work programme, but was not included, whether unforeseen or otherwise, yet needs to be considered and determined by the Executive in the interests of the Council and the public, the matter may be dealt with by the Executive without inclusion in a forward work programme – but in this respect, advance notice of the proposal will be given to the public and the relevant Scrutiny Committee members by way

of the public notice and agenda for the relevant Executive meeting, (unless the item is deemed necessary to be dealt with outside of a meeting under the urgency and other Rules in the Constitution). The report to any executive meeting will need to state, in cases where there is ordinarily a requirement for consultation, but where this has not been able to take place, the reasons why not. The aim, where practicable, in such cases would also be to ensure consultation with a Scrutiny Committee before implementation of any executive decisions. The Scrutiny call-in powers may also be invoked in relation to the above if deemed appropriate (except for those cases not subject to call-in under the urgency and other Rules in this Constitution). A matter may not also have been included in the forward work programme because it has been the subject of a separate and specific consultation exercise, the outcome of which will be reported to the Executive, and hence there will have been no requirement under this Constitution for such a matter to have been included in the programme.

- (iii) Forward work programmes should also be prepared for matters which the Council and Scrutiny Committees are likely to consider.

Any non-compliance with paragraph 12 provisions shall not invalidate any decisions otherwise properly taken under statutory provisions.

13. Record of Decisions of the Executive

13.1 The Decisions Record

- (a) A written statement (or decision record) will be made by the Chief Executive or their representative of every executive decision made by the executive and its committees, and any individual members (if authorised), and of joint committees and joint sub-committees whose members are all members of a local authority executive.
- (b) This statement will include:-
 - A record of the decision, including the date it was made;

- A record of the reasons for the decision;
- A record of any personal interest declared;
- A note of any dispensation to speak granted by the Authority's Standards Committee;
- Details of any consultation undertaken in accordance with the Authority's Constitution and where such consultation is required but has not taken place, the reason why that is the case.

The statement will also specify if a decision has been taken as an urgent one under the provisions of this Constitution which is not subject to the call-in procedure.

13.2 Preparing the Decision Record

- (a) The Chief Executive or their representative shall attend any meeting of the executive, a committee of the executive or a joint committee or joint sub-committee where all its members are members of a local authority executive, and shall as soon as reasonably practicable after the meeting produce a decision record.
- (b) Where an individual member has made any executive decision (where the Council has delegated functions):-
 - (i) that member shall as soon as reasonably practicable instruct the Chief Executive to produce a decision record; and
 - (ii) the decision shall not be implemented until that decision record has been produced, subject to (c) below.
- (c) where the date by which an executive decision made by an individual member must be implemented makes compliance with (b)(ii) above impracticable, the decision may be implemented if the decision maker has the agreement of:
 - (i) the chairperson of the relevant Scrutiny Committee, or
 - (ii) if there is no such person or that person is unable to act, the chairperson of the local authority, or
 - (iii) if there is no chairperson of the relevant scrutiny

committee or the local authority, the vice-chairperson of the local authority

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

- (d) The Chief Executive will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports are made publicly available as soon as is reasonably practicable.

14. Decisions by an Individual Member of the Executive (where the Council has Delegated Functions)

14.1 Reports Intended to be Taken into Account

Where an individual member of the executive receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

14.2 Provision of Copies of Reports to Scrutiny Committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time (other than if it contains confidential or exempt information).

14.3 Record of Individual Decision

The decision recording rules in paragraph 13 will apply.

15. Scrutiny Committee Members' Access to Documents

15.1 Rights of Access

Subject to Rule 15.2 below, and the provisions of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 No. 2290, a Scrutiny Committee (including its sub-committees) will be entitled to access any document which is in the possession or control of the executive or its committees and which contains material relating to:-

- (a) any business transacted at a formal meeting of the executive or its committees; or
- (b) any decision taken by an individual member of the executive

15.2 Limit on Rights

A Scrutiny Committee or Sub-Committee will not be entitled to any part of a document that contains:

- Confidential or exempt information, or
- Advice provided by a political adviser or assistant

unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of that committee or sub-committee.

16. Additional Rights of Access for Members

16.1 Rights of Access

Subject to the provisions of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 No. 2290, all members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business transacted at a formal meeting of a decision making body of that authority or by an individual member of the executive.

16.2 Limitation on Rights

A member will not be entitled to any part of a document where it appears to the Proper Officer that:-

- (a) it would disclose exempt information of a description falling within Part 4 of Schedule 12A to the Local Government Act 1972 (Description of Exempt Information: Wales) – except that the document is to be available for inspection if the information is information of a description for the time being falling within:
 - (i) paragraph 14 of Schedule 12A to the 1972 Act (except

to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), or

(ii) paragraph 17 of Schedule 12A to the 1972 Act.

(b) it would disclose advice of a political adviser or assistant.

16.3 Nature of Rights

These rights of a member are additional to any other right he/she may have (including under Section 100F (1) of the Local Government Act 1972 with regard to Council and Committees/Sub Committee meetings, but subject to the provisions of sub section (2) thereof).