

Mae'r ddogfen hon ar gael yn Gymraeg hefyd



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SECTION 15 – ACCESS TO INFORMATION RULES

15.1 Scope

These rules apply to all meetings of the Council, the Cabinet, Overview and Scrutiny Committees, the Standards Committee, Standing Regulatory Committees, the Democratic Services Committee and all other committees.

15.2 Additional Rights to Information

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

15.3 Right to attend meetings

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

15.4 Notice of Meetings

15.4.1 Unless a meeting is convened at short notice, the Council will give at least three clear days' notice of any meeting by posting details of the meeting at the Council's Office at Bodlondeb, Conwy and on its website.

15.4.2 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.

15.4.3 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.

15.4.4 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.

15.4.5 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.

15.5 Access to Agenda and Reports before the meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated offices and on its website at least three clear days before the meeting. If an item is added to the agenda later, the revised 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 reports is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

15.6 Supply of copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statement 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 either electronically or on payment of a charge for postage and any other printing and handling costs.

15.7 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 taken by the Cabinet excluding any part of the minutes 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 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.

15.8 Background Papers

- (a) List of background papers
The Officer 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:
 - (i) disclose any facts or matters on which the report or an important part of the report is based; and
 - (ii) which have been relied on to a material extent in preparing the reportbut does not include published works or those which disclose exempt or confidential information (as defined in Rule 15.10).
- (b) 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.

15.9 Summary of the Public's rights

A written summary of the public's rights to attend meetings and to inspect and copy documents are kept at, and available to the public at the Council's Offices at Bodlondeb, Conwy and published on the Council's website

15.10 Exclusion of Access by the Public to Meetings

15.10.1 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.

15.10.2 Exempt Information – Discretion to Exclude Public

- (a) 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.
- (b) 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. –

15.10.3 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.

15.10.4 Meaning of exempt information

Exempt information means information falling within the categories (subject to any condition) found in the Schedule below.

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.

The numbering starts at 12 to mirror the numbering in Schedule 12A to the Local Government Act 1972 (numbers 1 to 11 apply to England only).

Paragraph Number	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	Information falling within paragraph 14 is not exempt information by virtue of that

Paragraph Number	EXEMPT INFORMATION	QUALIFICATION
	the authority holding that information).	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 Acts 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 Welsh Minister or a Minister of the Crown 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.	
17.	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 .	Public interest test applies (see below)
18.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Public interest test applies (see below)

Paragraph Number	EXEMPT INFORMATION	QUALIFICATION
	<p><i>(In relation to a meeting of a standards committee, or a sub-committee of a standards committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):</i></p> <p>18A. Information which is subject to any obligations of confidentiality.</p> <p>18B. Information which relates in any way to matters concerning national security.</p> <p>18C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.</p>	Public interest test applies (see below)
		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

15.11 Public Interest Test:

- 15.11.1 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.
- 15.11.2 The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

- 15.11.3 There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:
- (a) There is a distinction between public interest and what merely interests the public.
 - (b) Does it further the understanding of and participation in the public debate of issues of the day?
 - (c) Does it promote accessibility and transparency by public authorities for decisions taken by them or in the spending of public money?
 - (d) Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
 - (e) Does it bring to light information affecting public health and public safety?

15.12 Exclusion of access by the public to reports

If the Proper Officer thinks fit, the Council may exclude access to the public to reports which in his/her opinion relate to items during which, in accordance with Rule 15.10, 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 and an explanation of the consideration applied in relation to the public interest test.

15.13 The forward work programme

- 15.13.1 Period of forward work programme
The forward work programme will be prepared by the Proper Officer to cover a period of at least four months. It will be updated on a monthly basis.
- 15.13.2 Contents of forward work programme
- (a) The forward work programme will contain matters which the Cabinet and Overview and Scrutiny Committees and full Council are likely to consider. It will contain information on:
 - (i) the timetable for considering the budget and any plans forming part of the framework and requiring council approval, and which body is to consider them;
 - (ii) the timetable for considering any plans which are the responsibility of the Cabinet;
 - (iii) any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
 - (iv) the work programme of the Overview and Scrutiny Committees, to the extent that it is known.

- (b) The forward work programme will be published on the Council's website and paper copies made available from Democratic Services.

15.14 Consultation on Proposals to be Considered by the Cabinet

- 6.14.1 At least four weeks should be permitted in the Forward Work Programme for consultation with the Overview and Scrutiny Committee and Electoral Division Members where a matter is to be considered by the Cabinet and is not urgent (as defined below) or confidential or exempt (as defined in paragraph **Error! Reference source not found.**).
- 6.14.2 A matter may be considered urgent where the events to which it is addressed were unforeseen at the time that the last Forward Work Programme was produced and a decision is required within four weeks.
- 6.14.3 A decision can only be treated as urgent if the decision taker (if an individual) or the Chair of the body making the decision obtains the agreement of the Chair of the relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

If there is no Chair of the relevant Overview and Scrutiny Committee , or if the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of the Council or, in his/her absence, the Vice Chair will suffice. Any decisions taken under this urgency procedure will be recorded as having been taken in the absence of consultation in the decision record.

15.15 Record of Decision of the Cabinet

15.15.1 The decision record

- (a) A written record will be made of every Cabinet decision made by the Cabinet and its sub-committees (if any) and individual members, and joint committees and joint sub-committees whose members are all members of the Cabinet.
- (b) This decision record will include a statement, for each decision, of:
 - i. the Members present;
 - ii. any apologies for absence received
 - iii. the decision made;
 - iv. the date the decision was made;
 - v. the reasons for that decision;
 - vi. any personal interest declared;
 - vii. any dispensation to speak granted by the Standards Committee;
 - viii. any consultation undertaken prior to the decision.

15.15.2 Preparing the decision record

- (a) The Proper Officer or his/her representative shall attend any meeting of the Cabinet, a sub-committee of the Cabinet or a joint committee or joint sub-committee where all its members are members of a local authority Cabinet and shall as soon as

reasonably practicable after the meeting produce a decision record.

- (b) Where an individual member has made a Cabinet decision,
 - (i) that member shall as soon as reasonably practicable inform the Proper Officer or his/her representative of the decision made and provide the information set out in paragraph 14.15.1 (b) above and instruct him/her to produce a decision record;
 - (ii) if the individual member has a personal and prejudicial interest in the potential decision, the matter shall stand referred to the Cabinet.
 - (iii) the decision shall not be implemented until that decision record has been produced, subject to the Scrutiny call in procedure.

15.15.3 Publishing a note of all meetings of the Cabinet and its Committees

- (a) The Head of Law and Governance shall arrange for note to be published on the Council's website of every meeting of the Cabinet and its Committees (if any) as soon as reasonably practicable and in any event within seven days of the date of the meeting of the Cabinet or its Committees (if any).
- (b) The note shall record:
 - (i) the Members present at the meeting;
 - (ii) any apologies for absence received;
 - (iii) any personal interests declared;
 - (iv) all decisions made at the meeting (excluding any decisions made when the meeting was not open to the public because exempt or confidential information was being considered); and
 - (v) the outcome of any votes taken at the meeting (excluding any votes taken when the meeting was not open to the public because exempt or confidential information was being considered).

15.16 Decisions by an Individual Member of the Cabinet

15.16.1 Reports Must Be Taken Into Account

Where an individual Member of the Cabinet intends to make any decision, then he/she will not make the decision until taking into account the contents of an Officer report.

15.16.2 Provision of Copies of Reports to Overview and Scrutiny Committee

On giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

15.16.3 Record of Individual Decision

The decision recording rules in paragraph **Error! Reference source not found.** will apply.

15.17 Overview and Scrutiny Committee Members Access to Documents

15.17.1 Right of access

Subject to 15.17.2 below, an Overview and Scrutiny Committee (including its sub-committees) will be entitled to access to any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (i) any business transacted at a meeting of the Cabinet or its committees; or
- (ii) any decision taken by an individual member of the Cabinet.

15.17.2 Limit on rights

An Overview and Scrutiny Committee or sub-committee will not be entitled to any part of a document that contains confidential or exempt information 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.

15.18 Additional rights of access for members

15.18.1 Rights of Access

All Members will be entitled (except where a Member has a prejudicial interest in any matter) 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 transacted at a meeting of a decision making body of the Council or by an individual Member of the Cabinet.

15.18.2 Limitation on Rights

A Member will not be entitled to any part of a document where:

- (a) it would disclose exempt information falling within paragraphs 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972; or
- (b) it would disclose advice of a political advisor or assistant.

15.18.3 Nature of Rights

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

15.18.1 Rights of Chairs and Vice Chairs to address Cabinet

When reports from an Overview and Scrutiny Committee are being presented to a meeting of the Cabinet, the Chair (or Vice Chair in absence of the Chair) of the Overview and Scrutiny Committee concerned is entitled to address the Cabinet and is given a reasonable time to do so. It is a matter for the Chair of the Cabinet to determine the reasonableness of the time allowed, taking into account the importance and/or complexity of the issues as well as the need to effectively manage the agenda of the Cabinet meeting.

15.19 Audio/Video recording or transmission

No person other than the Council shall be entitled to make a video or audio recording or transmission of a meeting of the Council or its Committees, without express permission of the Council.