

**1. SECTION 5 – ACCESS TO INFORMATION PROCEDURE RULES**

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**1.1 Scope**

- 1.1.1 Subject to paragraph 1.1.2 below, these rules apply to all meetings of the Council, its Committees and Sub-Committees.
- 1.1.2 Where the Policy, Finance and Development Committee is convened to consider or review, as the case may be, an allegation that a member has contravened the Council’s Code of Conduct for Members, the provisions set out in the Policy, Finance and Development Committee’s Procedure for Local Assessment of Complaints shall apply and the meeting and papers will not be open to the public.

**1.2 Additional Rights to Information**

- 1.2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, nor do these rules limit or diminish the Council’s duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

**1.3 Rights to Attend Meetings**

- 1.3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 1.3.2 If a member of the public or press interrupts the proceedings at any meeting the Mayor may issue a warning. If the interruption continues after a warning has been given, the Mayor may order their removal from the meeting place.
- 1.3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Mayor may order that part to be cleared.
- 1.3.4 If the Mayor considers the orderly dispatch of business impossible, he may without question adjourn the meeting.
- 1.3.5 The above powers of the Mayor are in addition to any other power vested in him/her.

**1.4 Notices of Meeting**

- 1.4.1 The Council will give at least five clear days’ notice of any meeting by posting

- 1.4.2 details of the meeting at Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR and on its website.

## **1.5 Access to Agenda and Reports Before the Meeting**

- 1.5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the website (if any) at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the Head of Law and Democracy shall make each such report available to the public as soon as the report is completed and sent to Councillors).

## **1.6 Supply of Copies**

- 1.6.1 The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded).
- 1.6.2 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 Head of Law and Democracy 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.

## **1.7 Access to Minutes etc. after the Meeting**

- 1.7.1 The Council will make available copies of the following for six years after a meeting:
- (a) The minutes of the meeting or records of decisions taken, 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.

## **1.8 Background Papers**

1.8.1 The Officer preparing a report will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in his 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.

1.8.2 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.

## **1.9 Summary of the Public's Rights**

1.9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR.

## **1.10 Exclusion of Access of the Public to Meetings**

1.10.1 **Extent of Exclusion** – the public may only be excluded under 1.10.2 or 1.10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

1.10.2 **Confidential Information (Requirement to Exclude the 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.

1.10.3 **Exempt Information (Discretion to Exclude the 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. Such a decision to exclude the public is to be made by resolution of the relevant decision making body. 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

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one of the reasons specified in Article 6.

- 1.10.4 **Meaning of Confidential Information** – Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.
- 1.10.5 **Meaning of Exempt Information** – Exempt information means information falling within the following categories (subject to any qualification).
- 1.10.6 **Extent of Exclusion** – The public may only be excluded under 1.10.1 or 1.10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

[NOTE: Information falling within any of paragraphs 1.1 – 1.7 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.]

Category	Qualification	Interpretation
Information relating to any individual	The exemption applies 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 (see note on public interest at the end of the table).	
Information which is likely to reveal the identity of an individual	The Public Interest Test Qualification applies, as in 1 above.	
Information relating to the financial or business affairs of any particular person (including the authority holding that information).	The Public Interest Test Qualification applies, as in 1 above. "Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under: <ul style="list-style-type: none"> <li>• the Companies Act 2006;</li> <li>• the Friendly Societies Act</li> </ul>	Any reference to "the authority" is a reference to the 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. "person" includes any public authority, company, or other legally constituted organisations and the partners in a partnership or

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Category	Qualification	Interpretation
	<p>1974;</p> <ul style="list-style-type: none"> <li>• the Friendly Societies Act 1992;</li> <li>• the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>• the Building Societies Act 1986 ["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).]; or</li> <li>• the Charities Act 2011.</li> </ul>	<p>firm.</p>
<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the Committee or Sub-Committee in relation to whose proceedings or document the question whether information is exempt or not falls to be determined. "labour relations matter" means:</p> <ul style="list-style-type: none"> <li>• any of the matters specified in paragraphs (a) to (g) of section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</li> <li>• 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</li> </ul>

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Category	Qualification	Interpretation
		<p>authority as they apply in relation to employees of the authority;                      "employee" means a person employed under a contract of service;                      "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;</p>
<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	
<p>Information which reveals that the authority proposes:</p> <ul style="list-style-type: none"> <li>• to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>• to make an order or direction under any enactment.</li> </ul>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	<p>Any reference to "the authority" is a reference to the 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.                      "person" includes any public authority, company, or other legally constituted organizations and the partners in a partnership or firm.</p>
<p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	

**Note – The Public Interest Test**

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined –

The Authority must release the information unless *"in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information"*.

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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.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

### **1.11 Exclusion of Access by the Public to Reports**

1.11.1 If the Head of Law and Democracy thinks fit, the Council may exclude access by the public to reports which in his 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. If the information is exempt information, the category of the exempt information must also be marked on the report.

1.11.2 The relevant body is requested in the agenda to confirm the action set out by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.

1.11.3 If the matter is considered in public, any related report will also become available to the public.

### **1.12 Additional Rights of Access for Members**

1.12.1 Material Relating to Business to be Transacted at a Public Meeting

- (a) 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 its Committees which contain material relating to any business to be transacted at a public meeting unless the following applies:

- (i) It contains exempt information falling within paragraphs 1.1, 1.2, 1.4, 1.5 or 1.7 of the categories of exempt information; or
  - (ii) It contains exempt information falling within paragraph 1.3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (b) Any document which is required by Rule 1.12.1(a) to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that:
- (i) Where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
  - (ii) Where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 1.12.1(a) in relation to that time, must be available for inspection when the item is added to the agenda.

**1.12.2 Material Relating to Previous Business**

- (a) All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the Executive or its Committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member or Officer in accordance with executive arrangements unless 1.12.1(a)(i), 1.12.1(a)(ii) or 1.12.1(a)(iii) applies.
- (b) Any document required to be made available for inspection under 1.12.2 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

**1.13 Procedure For Ward Members To Be Notified Of Sensitive Issues In Their Wards**



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- 1.13.1 Local ward members to be invited to public meetings on local issues
- 1.13.2 Local ward members to be notified at the outset of a local consultation exercise eg parks and open spaces
- 1.13.3 Officers to notify a local ward member of potentially controversial local issues within a report to Council or a committee and if requested, to supply a copy of the final report to the ward member, where they do not sit on the committee receiving the report. (other ward issues, the member may request a copy of the report after having seen a copy of the agenda)
- 1.13.4 Local ward members to be notified of press releases relating to a specific ward issue. Unless considered urgent, when verbal notification will be given, members will be notified by email.

### **1.14 Members Other Rights to Information**

- 1.14.1 A Member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a Committee or the Council including background papers. Applications should be made to the Head of Law and Democracy and, if available, copies will be supplied upon request.
- 1.14.2 A member shall not knowingly inspect or request a copy of any document relating to a matter in which he:
  - (a) Is professionally interested; or
  - (b) Has a registerable or non-registerable personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.
- 1.14.3 This shall not preclude the Head of Law and Democracy from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.
- 1.14.4 All reports, background papers to reports and minutes kept by any Committee shall be open for the inspection of any member of the Council, as soon as the Committee has concluded action on the matter to which such reports or minutes relate.

**1.15 Confidential and Exempt Information**

1.15.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

1.15.2 Nothing in these Rules:

- (a) Authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Head of Law and Democracy, that document or part of a document contains or may contain confidential information; or
- (b) Requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information.