



<b>Title:</b>	<b>Constitution of the Council (Part 4A: Access to Information Procedures)</b>
<b>Owner:</b>	<b>John Teasdale</b>
<b>Date of version:</b>	<b>11<sup>th</sup> December 2023</b>
<b>Review due:</b>	<b>Annually as required</b>
<b>Approved by Monitoring Officer:</b>	<b>John Teasdale</b>

**Adopted by Full Council on 11th December 2023**



# ACCESS TO INFORMATION PROCEDURES

## CONTENTS

1	Introduction .....	3
2	Freedom of Information Act 2000 .....	3
3	General Data Protection Regulations .....	3
4	Private meetings of the Executive .....	3
	Notice of private meetings of the Executive .....	3
	Urgent Private Meetings of the Executive .....	4
5	Notice of other meetings .....	4
6	Access to agenda and reports before a meeting .....	5
7	Definitions .....	7
	Definition of “Executive Decision” .....	7
	Definition of “Key Decisions” .....	7
	Definition of “Delegated Decision by an officer” .....	7
	Publicity in connection with Key Decisions.....	8
	General exception .....	9
	Cases of special urgency .....	10
8	Admission of the public to meetings .....	10
9	Recording of executive decisions made at meetings .....	11
10	Recording of executive decisions made by Councillors.....	12
11	Recording of executive decisions made by Officers .....	12
12	Access to documents after a meeting or decision.....	13
13	Background papers .....	13

Constitution: Part 4A

Background papers .....	13
Inspection of background papers .....	14
14 Additional rights of access to documents for Councillors .....	14
15 Additional rights of access to documents for members of overview and scrutiny committees .....	16
16 Reports to the Council where the key decision procedure is not followed .....	17
17 Executive reports to the Council.....	17
18 Confidential Information, Exempt Information and advice of a political adviser or assistant .....	17
19 Inspection and supply of documents.....	18
Confidential Information .....	20
Exempt Information.....	20

## 1 INTRODUCTION

- 1.1 These procedures set out the ways in which members of the public and Councillors can access information held by the Council. In addition to these procedures, the Council routinely makes information available via its website ([www.eaststaffsbc.gov.uk](http://www.eaststaffsbc.gov.uk)) and other sources.
- 1.2 The Council offers advice and assistance to any person wishing to access information.

## 2 FREEDOM OF INFORMATION ACT 2000

- 2.1 As a public authority, the Council is bound by the provisions of the Freedom of Information Act 2000. This means that the Council will often disclose information which it holds upon request in writing. The Council's Freedom of Information Policy is set out in Part 4Aa of this Constitution.

## 3 GENERAL DATA PROTECTION REGULATION

- 3.1 As a data controller, the Council is bound by the provisions of the General Data Protection Regulations. This means that the Council cannot always disclose information about individual people. The Council's Data Protection Policy is set out in Part 4Ab of this Constitution.

## 4 PRIVATE MEETINGS OF THE EXECUTIVE

### NOTICE OF PRIVATE MEETINGS OF THE EXECUTIVE

- 4.1 Subject to paragraph 0, at least 28 clear days before a private meeting of the Executive (excluding the day of the notice and the day of the meeting but including weekends and public holidays), the Council will:
  - 4.1.1 make available at the offices of the Council a notice of its intention to hold the meeting in private; and
  - 4.1.2 publish that notice on the Council's website.
- 4.2 A notice under paragraph 4.1 will include a statement of the reasons for the meeting to be held in private.

- 4.3 At least five clear days before a private meeting of the Executive (excluding the day of the notice and the day of the meeting and weekends and public holidays), the Council will:
- 4.3.1 make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
  - 4.3.2 publish that notice on the Council's website.
- 4.4 A notice under paragraph 4.3 must include:
- 4.4.1 a statement of the reasons for the meeting to be held in private;
  - 4.4.2 details of any representations received by the Executive about why the meeting should be open to the public; and
  - 4.4.3 a statement of its response to any such representations.

## URGENT PRIVATE MEETINGS OF THE EXECUTIVE

- 4.5 Where the date by which a meeting must be held makes compliance with paragraphs 4.1 to 4.4 impracticable, the meeting may only be held in private where the Executive has obtained agreement from:
- 4.5.1 the chairman of the relevant overview and scrutiny committee; or
  - 4.5.2 if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the Mayor; or
  - 4.5.3 where there is no chairman of the relevant overview and scrutiny committee or Mayor available to act, the Deputy Mayor,
- that the meeting is urgent and cannot reasonably be deferred.
- 4.6 As soon as reasonably practicable after the Executive has obtained agreement under paragraph 4.5 to hold a private meeting, it will:
- 4.6.1 make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
  - 4.6.2 publish that notice on the Council's website.

## 5 NOTICE OF OTHER MEETINGS

- 5.1 The Council will give notice of the time and place of other meetings by displaying it at the offices of the Council and publishing it on the Council's website:

- 5.1.1 at least five clear days before the meeting (excluding the day of the notice and the day of the meeting and weekends and public holidays); or
- 5.1.2 where the meeting is convened at shorter notice, at the time that the meeting is convened.
- 5.2 An item of business may only be considered at a public meeting:
- 5.3 where a copy of the agenda or part of the agenda including the item has been available for inspection by the public as required by paragraph **Error! Reference source not found.** for at least five clear days before the meeting (excluding the day of the notice and the day of the meeting and weekends and public holidays); or
- 5.4 where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened.

## 6 ACCESS TO AGENDA AND REPORTS BEFORE A MEETING

- 6.1 Subject to paragraph 6.2, a copy of the agenda and every report for a meeting will be made available for inspection by the public:
  - 6.1.1 at the offices of the Council; and
  - 6.1.2 on the Council's website.
- 6.2 If the proper officer thinks fit, there may be excluded from the copy of any report provided pursuant to paragraph 6.1 the whole, or any part, of the report which relates only to matters during which, in the proper officer's opinion, the meeting is likely to be a private meeting.
- 6.3 Any document which is required by paragraph 6.1 to be available for inspection by the public will be available for such inspection for at least five clear days before the meeting (excluding the day of the notice and the day of the meeting and weekends and public holidays) except that:
  - 6.3.1 where the meeting is convened at shorter notice, a copy of the agenda and associated reports will be available for inspection when the meeting is convened; and
  - 6.3.2 where an item which would be available for inspection by the public is added to the agenda, copies of the revised agenda and any report relating to the item for consideration at the meeting, will be available for inspection by the public when the item is added to the agenda.

- 6.4 Nothing in paragraph 6.3 requires a copy of the agenda, item or report to be available for inspection by the public until a copy is available to members of the body concerned.
- 6.5 Where by virtue of paragraph 6.2 the whole or any part of a report for a public meeting is not available for inspection by the public:
- 6.5.1 every copy of the whole report or of the part of the report, as the case may be, will be marked “not for publication”; and
  - 6.5.2 there will be stated on every copy of the whole or the part of the report:
    - 6.5.2.1 that it contains confidential information; or
    - 6.5.2.2 by reference to the descriptions in Schedule 12A to the Local Government Act 1972 Act (‘the 1972 Act’), the description of exempt information by virtue of which the public are likely to be excluded during the item to which the report relates.
- 6.6 Except during any part of a meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.
- 6.7 Subject to paragraph 18, following a request made by a member of the public or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, the Council will supply to that person or newspaper:
- 6.7.1 a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting;
  - 6.7.2 such further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and
  - 6.7.3 if the proper officer thinks fit in the case of any item, a copy of any other document supplied to Councillors in connection with the item.
- 6.8 Paragraph 6.2 applies in relation to copies of reports provided pursuant to paragraph 6.6 or 6.7 as it applies in relation to copies of reports made available for inspection pursuant to paragraph 6.1.

## 7 DEFINITIONS

### DEFINITION OF “EXECUTIVE DECISION”

- 7.1 An “Executive Decision” is any decision made or to be made in connection with the discharge of a function which is the responsibility of the executive of the Council but does not include purely administrative decisions (such as purchasing stationery for use in connection with the discharge of an executive function).

### DEFINITION OF “KEY DECISIONS”

- 7.2 A “Key Decision” is an Executive Decision which is likely:
- 7.2.1 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 to which the decision relates; or
  - 7.2.2 to be significant in terms of its effects on communities living or working in an area comprising two or more Council wards.
- 7.3 For the purposes of paragraph 7.2, the Council interprets “significant” as:
- 7.3.1 any revenue expenditure or income proposal with an annual cost, saving or increase in income estimated to be over £100,000 and any capital project with an estimated value of over £150,000. A series of inter-related contracts, projects or proposals will be treated as one for this purpose.
  - 7.3.2 including, amongst other things, any proposal which will make a substantial physical alteration to the appearance of the area of two or more wards, or any proposal which will substantially alter the level of a Council service given to people who live or work in two or more wards.

### DEFINITION OF “DELEGATED DECISION BY AN OFFICER”

- 7.4 For the purposes of these procedures, a “Delegated Decision by an Officer” is a decision which would otherwise have been taken by the Council, or a committee, sub-committee or joint committee of the Council, but it has been delegated to an officer of the Council either:
- 7.4.1 under a specific express authorisation; or
  - 7.4.2 under a general authorisation to officers to take such decisions and, the effect of the decision is to:

- 7.4.2.1 grant a permission or licence;
- 7.4.2.2 affect the rights of an individual; or
- 7.4.2.3 award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

7.5 For the purposes of paragraph 7.4, the Council interprets "materially affects the Council's financial position" as an annual cost, saving or increase in income estimated to be over £100,000 and any capital project with an estimated value of over £150,000. A series of inter-related contracts, projects or proposals will be treated as one for this purpose.

## PUBLICITY IN CONNECTION WITH KEY DECISIONS

7.6 Where a decision maker intends to make a Key Decision, that decision will not be made until a document has been published in accordance with paragraph 7.7, which states:

- 7.6.1 that a Key Decision is to be made on behalf of the Council;
- 7.6.2 the matter in respect of which the decision is to be made;
- 7.6.3 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;
- 7.6.4 the date on which, or the period within which, the decision is to be made;
- 7.6.5 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;
- 7.6.6 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- 7.6.7 that other documents relevant to those matters may be submitted to the decision maker; and
- 7.6.8 the procedure for requesting details of those documents (if any) as they become available.

7.7 At least 28 clear days before a key decision is made (excluding the day of the notice and the day of the meeting but including weekends and public holidays), the document referred to in paragraph 7.6 will be made available for inspection by the public:

- 7.7.1 at the offices of the Council; and

7.7.2 on the Council's website.

7.8 Where, in relation to any matter:

7.8.1 the public may be excluded under paragraph 8.2 from the meeting at which the matter is to be discussed; or

7.8.2 documents relating to the decision need not, because of paragraph 18.4, be disclosed to the public,

the document referred to in paragraph 7.6 must contain particulars of the matter but may not contain any Confidential or Exempt Information or particulars of the advice of a political adviser or assistant.

## GENERAL EXCEPTION

7.9 Subject to paragraph 7.12, where the publication of the intention to make a Key Decision under paragraphs 7.6 to 7.8 is impracticable, that decision may only be made:

7.9.1 where the proper officer has informed the chairman 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;

7.9.2 where the proper officer has made available at the offices of the Council for inspection by the public and published on the Council's website, a copy of the notice given pursuant to paragraph 7.9.1; and

7.9.3 after five clear days have elapsed following the day on which the proper officer made available the notice referred to in paragraph 7.9.2 (excluding the day of the notice and the day of the meeting and weekends and public holidays).

7.10 Where paragraph 7.9 applies to any matter, paragraphs 7.6 to 7.8 need not be complied with in relation to that matter.

7.11 As soon as reasonably practicable after the proper officer has complied with paragraph 7.9, he or she will:

7.11.1 make available at the offices of the Council a notice setting out the reasons why compliance with paragraphs 7.6 to 7.8 is impracticable; and

7.11.2 publish that notice on the Council's website.

## CASES OF SPECIAL URGENCY

- 7.12 Where the date by which a Key Decision must be made, makes compliance with paragraphs 7.9 to 7.11 impracticable, the decision may only be made where the decision maker has obtained agreement from:
- 7.12.1 the chairman of the relevant overview and scrutiny committee; or
  - 7.12.2 if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the Mayor; or
  - 7.12.3 where there is no chairman of the relevant overview and scrutiny committee or Mayor available to act, the Deputy Mayor,
- that the making of the decision is urgent and cannot reasonably be deferred.
- 7.13 As soon as reasonably practicable after the decision maker has obtained agreement under paragraph 7.12 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker will:
- 7.13.1 make available at the offices of the Council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
  - 7.13.2 publish that notice on the Council's website.

## 8 ADMISSION OF THE PUBLIC TO MEETINGS

- 8.1 All meetings of the Council and its Committees will be open to the public except to the extent that the public are excluded under paragraph 8.2.
- 8.2 The public will be excluded from a meeting during an item of business whenever:
- 8.2.1 it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, Confidential Information (see the Appendix) would be disclosed to them in breach of the obligation of confidence;
  - 8.2.2 the body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, Exempt Information (see the Appendix) would be disclosed to them; or
  - 8.2.3 a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

- 8.3 A resolution under paragraph 8.2.2 will:
- 8.3.1 identify the proceedings, or the part of the proceedings to which it applies, and
  - 8.3.2 state, by reference to the descriptions in Schedule 12A to the 1972 Act, the description of Exempt Information giving rise to the exclusion of the public.
- 8.4 The public may only be excluded under paragraph 8.2.1 or 8.2.2 for the part or parts of the meeting during which it is likely that Confidential Information or Exempt Information would be disclosed.
- 8.5 Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the body is not to have the power to exclude members of the public from a meeting while it is open to the public.
- 8.6 While the meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings will, so far as practicable, be afforded reasonable facilities for taking their report. However nothing in these Procedures requires the Council to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.

## 9 RECORDING OF EXECUTIVE DECISIONS MADE AT MEETINGS

- 9.1 As soon as reasonably practicable after any meeting of the Cabinet, or its Committees or Joint Committees, at which an Executive Decision was made, the proper officer, or if the proper officer was not present at the meeting, the person presiding, will ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph 9.2.
- 9.2 The statement referred to in paragraph 9.1 will include:
- 9.2.1 a record of the decision including the date it was made;
  - 9.2.2 a record of the reasons for the decision;
  - 9.2.3 details of any alternative options considered and rejected at the meeting at which the decision was made;
  - 9.2.4 a record of any conflict of interest relating to the matter decided which is declared by any member of the body which made the decision; and

- 9.2.5 in respect of any declared conflict of interest, a note of dispensation granted by the Council's head of paid service.
- 9.3 For the purposes of paragraph 9.1 “person presiding” means the person actually presiding or the person nominated to preside at that meeting.
- 9.4 Executive decisions made by the Cabinet and its Committees or Joint Committees are prescribed decisions for the purposes of section 9G(3) of the Local Government Act 2000 (duty to keep written records of private meetings).

## 10 RECORDING OF EXECUTIVE DECISIONS MADE BY COUNCILLORS

- 10.1 As soon as reasonably practicable after an individual Councillor has made an Executive Decision, that Councillor will produce or instruct the proper officer to produce a written statement of that executive decision which includes the information specified in paragraph 10.2.
- 10.2 The statement referred to in paragraph 10.1 will include:
- 10.2.1 a record of the decision including the date it was made;
  - 10.2.2 a record of the reasons for the decision;
  - 10.2.3 details of any alternative options considered and rejected by the Councillor when making the decision;
  - 10.2.4 a record of any conflict of interest declared by any executive Councillor who is consulted by the Councillor which relates to the decision; and
  - 10.2.5 in respect of any declared conflict of interest, a note of dispensation granted by the Council's head of paid service.
- 10.3 Executive decisions made by individual members of local authority executives are prescribed decisions for the purposes of section 9G(4) of the Local Government Act 2000 (duty to keep a written record of decisions made by individual members of local authority executives).

## 11 RECORDING OF EXECUTIVE DECISIONS MADE BY OFFICERS

- 11.1 As soon as reasonably practicable after an officer has made a decision which is an Executive Decision &/or a Delegated Decision by an Officer, the officer will produce a written statement which must include:

- 11.1.1 the date it was taken;
- 11.1.2 a record of the decision taken along with reasons for the decision;
- 11.1.3 details of any alternative options considered and rejected by the officer when making the decision;
- 11.1.4 a record of any conflict of interest declared by any executive Councillor who is consulted by the officer which relates to the decision or of any member of any body granting an express authorisation for the decision, as the case may be; and
- 11.1.5 in respect of any declared conflict of interest, a note of any dispensation granted by the Council's head of paid service.

## 12 ACCESS TO DOCUMENTS AFTER A MEETING OR DECISION

- 12.1 Subject to paragraph 18, after a meeting at which a decision has been made, or after an individual Councillor or an officer has made an Executive Decision the proper officer will ensure that a copy of:
  - 12.1.1 any records prepared in accordance with paragraphs 9, 10 and 11; and
  - 12.1.2 any report considered at the meeting or, as the case may be, considered by the individual Councillor or officer and relevant to a decision recorded in accordance with paragraphs 9, 10 and 11 or, where only part of the report is relevant to such a decision, that part,are available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council, and on that Council's website, if it has one.
- 12.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under paragraph 12.1, those documents will be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

## 13 BACKGROUND PAPERS

### BACKGROUND PAPERS

- 13.1 Background papers means, in relation to a report or part of a report, those documents other than published works that:

13.1.1 Relate to the subject matter of the report or, as the case may be, the part of the report; and

13.1.2 In the opinion of the proper officer:

13.1.2.1 disclose any facts or matters on which the report or an important part of the report is based; and

13.1.2.2 were relied on to a material extent in preparing the report.

## INSPECTION OF BACKGROUND PAPERS

13.2 Subject to paragraph 18, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with paragraph **Error! Reference source not found.** or **Error! Reference source not found.**, at the same time:

13.3 a copy of a list compiled by the proper officer of the background papers to the report or part of the report, will be included in the report or, as the case may be, part of the report; and

13.4 at least one copy of each of the documents included in that list, will be available for inspection by the public at the offices of the Council and on the Council's website.

## 14 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR COUNCILLORS

14.1 Subject to paragraphs 14.5 to 14.6, any document which:

14.1.1 is in the possession or under the control of the Executive; and

14.1.2 contains material relating to any business to be transacted at a public meeting,

14.1.3 will be available for inspection by any Councillor.

14.2 Any document which is required by paragraph 14.1 to be available for inspection by any Councillor will be available for such inspection for at least five clear days before the meeting (excluding the day of the notice and the day of the meeting and weekends and public holidays) except that:

14.2.1 where the meeting is convened at shorter notice, such a document will be available for inspection when the meeting is convened; and

- 14.2.2 where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 14.1 in relation to that item, will be available for inspection when the item is added to the agenda.
- 14.3 Subject to paragraphs 14.5 to 14.6, any document which:
- 14.3.1 is in the possession or under the control of the Executive; and
- 14.3.2 contains material relating to:
- 14.3.2.1 any business transacted at a private meeting;
- 14.3.2.2 any decision made by an individual Councillor in accordance with executive arrangements; or
- 14.3.2.3 any decision made by an officer in accordance with executive arrangements,
- will be available for inspection by any Councillor when the meeting concludes or, where an Executive Decision is made by an individual Councillor or an officer, immediately after the decision has been made.
- 14.4 Any document which is required by paragraph 14.3 to be available for inspection by any Councillor must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.
- 14.5 Paragraphs 14.1 and 14.3 do not require a document to be available for inspection if it appears to the proper officer that it discloses Exempt Information of a description falling within Part 1 of Schedule 12A to the 1972 Act (descriptions of exempt information: England).
- 14.6 Notwithstanding paragraph 14.5, paragraphs 14.1 and 14.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:
- 14.6.1 paragraph 3 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 Council in the course of negotiations for a contract); or
- 14.6.2 paragraph 6 of Schedule 12A to the 1972 Act.
- 14.7 Where it appears to the proper officer that compliance with paragraph 14.1 or 14.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph will not apply to that document or part.
- 14.8 The rights conferred by paragraphs 14.1 or 14.3 are in addition to any other rights that a Councillor may have.

## 15 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES

- 15.1 Subject to paragraph 15.3 a member of an overview and scrutiny committee of the Council is entitled to a copy of any document which:
- 15.1.1 is in the possession or under the control of the Executive; and
  - 15.1.2 contains material relating to:
    - 15.1.2.1 any business that has been transacted at a meeting of the Executive or its Committees or Joint Committees;
    - 15.1.2.2 any decision that has been made by an individual member of the Executive in accordance with executive arrangements; or
    - 15.1.2.3 any decision that has been made by an officer of the Council in accordance with executive arrangements.
- 15.2 Subject to paragraph 15.3, where a member of an overview and scrutiny committee requests a document which falls within paragraph 15.1, the Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request (excluding the day of the notice and the day of the meeting but including weekends and public holidays).
- 15.3 No member of an overview and scrutiny committee is entitled to a copy:
- 15.3.1 of any such document or part of a document as contains Exempt or Confidential information unless that information is relevant to:
    - 15.3.1.1 an action or decision that that Councillor is reviewing or scrutinising; or
    - 15.3.1.2 any review contained in any programme of work of such a committee or sub-committee of such a committee; or
  - 15.3.2 of a document or part of a document containing advice provided by a political adviser or assistant.
- 15.4 Where the Executive determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 15.1 or 15.3, it will provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

## 16 REPORTS TO THE COUNCIL WHERE THE KEY DECISION PROCEDURE IS NOT FOLLOWED

- 16.1 Where an Executive Decision has been made and:
- 16.1.1 was not treated as being a Key Decision; and
  - 16.1.2 a relevant overview and scrutiny committee are of the opinion that the decision should have been treated as a Key Decision,
- that overview and scrutiny committee may require the Executive which is responsible for the decision to submit a report to the Council within such reasonable period as the committee may specify.
- 16.2 A report under paragraph 16.1 will include details of:
- 16.2.1 the decision and the reasons for the decision;
  - 16.2.2 the decision maker by which the decision was made; and
  - 16.2.3 if the Executive of the opinion that the decision was not a Key Decision, the reasons for that opinion.

## 17 EXECUTIVE REPORTS TO THE COUNCIL

- 17.1 The Leader of the Council will submit to the next ordinary Council meeting a report containing details of any Executive Decision taken during the period since the last report was submitted to the Council where the making of the decision was agreed as urgent in accordance with paragraph 7.12
- 17.2 A report submitted for the purposes of paragraph 17.1 will include:
- 17.2.1 particulars of each decision made; and
  - 17.2.2 a summary of the matters in respect of which each decision was made.
- 17.3 The Leader of the Council must submit at least one report under paragraph 17.1 annually.

## 18 CONFIDENTIAL INFORMATION, EXEMPT INFORMATION AND ADVICE OF A POLITICAL ADVISER OR ASSISTANT

- 18.1 “Confidential Information” and “Exempt Information” are defined in the Appendix to these procedures.

- 18.2 Nothing in these Procedures is to be taken to authorise or require the disclosure of Confidential Information in breach of the obligation of confidence.
- 18.3 Nothing in these Procedures:
- 18.3.1 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 proper officer, that document or part of a document contains or may contain Confidential Information; or
  - 18.3.2 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 or the advice of a political adviser or assistant.
- 18.4 Where a Councillor or an officer makes an Executive Decision in accordance with executive arrangements, nothing in these Procedures:
- 18.4.1 authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain Confidential Information; or
  - 18.4.2 requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the Councillor or officer making the decision, give rise to the disclosure of Exempt Information or the advice of a political adviser or assistant.

## 19 INSPECTION AND SUPPLY OF DOCUMENTS

- 19.1 Any document required by any provision of these Procedures to be open to inspection by members of the public will be available for inspection:
- 19.1.1 at all reasonable hours at the Town Hall, Burton upon Trent;
  - 19.1.2 on the Council's website; and
  - 19.1.3 in the case of documents to be available for inspection pursuant to paragraph **Error! Reference source not found.**, on payment of a reasonable fee required by the council by the person seeking to inspect the documents at the offices of the Council.
- 19.2 Subject to paragraph 19.4, where a document is to be available for inspection by a person under any provision in these Procedures, the person may:

- 19.2.1 make a copy of the whole or part of the document; or
  - 19.2.2 require the person having custody of the document to supply the person requiring inspection a copy of the whole or part of the document,
  - 19.2.3 on payment by the person requiring the copy to the Council of postage, copying or other necessary charge for transmission.
- 19.3 Subject to paragraph 19.4, any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Procedures.
- 19.4 Paragraphs 19.2 and 19.3 do not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the Council, nothing done pursuant to that paragraph constitutes an infringement of the copyright.
- 19.5 Where any document required by these Procedures to be open to inspection by the public:
- 19.5.1 is supplied to or available for inspection by members of the public; or
  - 19.5.2 is supplied for the benefit of any newspaper in pursuance of paragraph 6.7 or 12.2,
- the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.
- 19.6 Any written record of an Executive Decision or any report required by paragraph **Error! Reference source not found.** to be available for inspection by members of the public, will be retained by the Council and made available for inspection by the public for a period of at least six years beginning on the date on which the decision, to which the report or record relates, was made.
- 19.7 Any background papers required by paragraph **Error! Reference source not found.** to be available for inspection by members of the public must be retained by the Council and be available for inspection by the public for a period of at least four years beginning on the date on which the decision, to which the background papers relate, was made.
- 19.8 The rights conferred on any person by these Procedures to inspect, copy or be supplied with documents are in addition to any such rights that person may have apart from those under these Procedures.



Appendix: Definition of Confidential Information and Exempt Information**CONFIDENTIAL INFORMATION**

This is 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.

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.

**EXEMPT INFORMATION**

Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial), 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.

The full rules are set out in Part V and Schedule 12A Local Government Act 1972 (as amended) and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Exempt Information is information falling within the following categories (subject to any condition):

<b>No.</b>	<b>Category</b>	<b>Condition</b>
1.	Information relating to any individual	1. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
2.	Information that is likely to reveal the identity of an individual.	1. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	1. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests. 2. Information is not exempt if it is required to be registered under: - Companies Act 1985 and 2006;

		<ul style="list-style-type: none"> <li>- Friendly Societies Acts 1974 and 1992;</li> <li>- Co-operative and Community Benefit Societies Act 2014</li> <li>- Building Societies Act 1986;</li> <li>- Charities Act 2011 (as amended or subsequently re-enacted)</li> </ul> <p>3. The rights of access by Councillors are contained in Section 100F of the 1972 Act.</p>
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office-holders under the Council.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
6.	Information that reveals that the Council 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.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

8.	Information which is subject to any obligation of confidentiality.	In relation to a meeting of the Standards Committee, this information is exempt only where it is convened to consider a matter referred to that committee.
9.	Information which relates in any way to matter concerning national security.	In relation to a meeting of the Standards Committee, this information is exempt only where it is convened to consider a matter referred to that committee.
10.	The deliberations of the Standards Committee or a sub-Committee of the Standards Committee in reaching any finding on a matter referred to those committees.	

Information falling within the above table is not Exempt Information if it relates to proposed development for which the Council can grant itself planning approval.