

West Berkshire Council Constitution

Part 8

Access by the Public to Information Rules of Procedure

Document Control

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Change History

Version	Date	Description	Change ID
1	May 2011	Numbers realigned due to the removal of the previous section 8 of the Constitution.	
2	December 2011	Changes approved at Council meeting on 6 December 2011.	
3	April 2012	Changes to whole document as a consequence of the Senior Management Review	
4	July 2015	Amendment to 8.2 arising from the merge of the Governance and Audit and Standards Committees	8.2
5	July 2017	Updates to legislation	8.1; 8.10.4



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8.1 Terms of Rules

Terms used in these Rules have the meaning given to them in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

8.2 Application of Rules

These Rules apply to all meetings of the Council, its Committees, Sub-Committees, Commissions, the Governance and Ethics Committee, and public meetings of the Executive (together called “meetings”).

8.3 Additional Rights to Information

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

8.4 Rights to Attend Meetings

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

8.5 Notices of Meeting

The Council will normally give at least five clear working days notice of any ordinary meeting by posting details of the meeting at Council Offices, Market Street, Newbury, and on its website.

8.6 Access to Agenda and Reports before the Meeting

The Council will make copies of the agenda and those reports that are available open to the public for inspection at the designated office and on its website at least five clear working days before the meeting. ‘To follow’ reports will be open to inspection from the time the item is published.

8.7 Supply of Copies of Information

The Council will supply copies of:

- any agenda and reports which are open to public inspection on payment of a charge for postage and any other costs;
- any further statements or particulars necessary to indicate the nature of the items in the agenda on payment of a charge for postage and any other costs; and
- if the Head of Strategic Support 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.

8.8 Access to Agendas, Reports and Minutes after the Meeting

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

- the Minutes of the meeting or records of decisions taken, (together with reasons), for all meetings of the Executive – excluding any part

of the Minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

- 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;
- the agenda for the meeting; and
- reports relating to items when the meeting was open to the public.

8.9 Background Papers

8.9.1 List of Background Papers

The Head of Strategic Support 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:

- disclose any facts or matters on which the report or an important part of the report is based; and
- 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 Rules 8.10.1 (Requirement to Exclude Public) to 8.10.4 (Meaning of Exempt Information) and in respect of Executive reports and the advice of a political advisor.

8.9.2 Public Inspection of Background Papers

The Council will make available for inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

8.9.3 Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices at Market Street, Newbury.

8.10 Exclusion of Access by the Public to Meetings

8.10.1 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.

8.10.2 Meaning of Confidential Information

'Confidential information' means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

8.10.3 Exempt Information

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.

8.10.4 Meaning of Exempt Information

'Exempt information' means information for the time being defined in Section 100I of the Local Government Act 1972 and specified in Part 1 of Schedule 12A of the Local Government Act 1972 subject to any qualifications contained in Part 2 of the Schedule and as amended by the Local Government (Access to Information) (Variation) Order 2006. The categories of exempt information are set out in the table below:

	Category	Condition (Qualification) (if any)
1.	Information relating to any individual	
2.	Information which is likely to reveal the identity of an individual.	
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within Paragraph 3 is not exempt information by virtue of that Paragraph if it is required to be registered under: <ul style="list-style-type: none"> • the Companies Acts (as defined in section 2 of the Companies Act 2006) • the Friendly Societies Act 1974 • the Friendly Societies Act 1992 • the Co-operative and Community Benefit Societies Act 2014 • the Building Societies Act 1986 • the Charities Act 2011
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5.	Information in respect of which a claim to legal professional	

	Category	Condition (Qualification) (if any)
	privilege could be maintained in legal proceedings.	
6.	Information which reveals that the authority proposes – to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

Information falling within any of the above Rules is not exempt by virtue of that Rule if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

Information which:

- (a) falls within any of paragraphs 1 to 7; and
- (b) is not prevented from being exempt by virtue of Paragraph 8 or 9 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.

8.10.5 Exclusion of Access by the Public to Reports

If the Head of Strategic Support thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rules 8.10.1 (Requirement to Exclude Public) to 8.10.4 (Meaning of Exempt Information) 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.