

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope**

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Committees, regulatory committees and public meetings of the Executive (together called meetings) and certain rules apply to the decisions of Individual Members and Officers.
- 1.2 These rules also cover public rights of access to information, in relation to Council and Executive functions, including those under the Freedom of Information Act 2000, and Councillors' rights of access to information

### **2. Additional rights to information**

- 2.1 These rules do not affect rights to information contained elsewhere in this Constitution or provided by statute or at common law.

### **3. Rights of the Public to attend meetings**

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

### **4. Notice of meeting**

- 4.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at its principal offices and on its website - [www.selby.gov.uk](http://www.selby.gov.uk)

### **5. Notice of Private Executive Meetings**

- 5.1 Where the Executive is likely to consider an item which contains exempt or confidential information and will require the public to be excluded from the meeting to prevent the disclosure of information, a notice must be published 28 clear days in advance of the meeting that includes a statement of the reasons for the meeting being held in private for that item. The notice should include details of how representations can be made.
- 5.2 Where the report contains confidential information as defined below the public must be excluded.
- 5.3 At least five clear days before the meeting a further notice will be published setting out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.
- 5.4 If the date of the meeting and the urgency of the decision makes compliance with this requirement impractical, the meeting may only be held in private with the agreement of the Chair of the relevant scrutiny committee, or if there is no

such person the Chairman of the Council. As soon as reasonably practicable after this permission is obtained a notice will be published setting out the reasons why the matter is urgent and cannot be reasonably delayed.

## **6. Public access to agenda and reports before the meeting**

**6.1** The Council will make copies of the agenda and reports that are open to the public available for inspection at the designated office at least five clear working days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

**6.2** If an item is added to the agenda and the report is open to the public, copies of the relevant report and the revised agenda will be open to inspection from the time the item was added to the agenda.

**6.3** Where copies of the agenda and reports open to the public are not made available for inspection in any of the above ways, an item of business will not be considered unless by reason of special circumstances, which shall be specified in the minutes and where the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

## **7. Supply of copies**

**7.1** The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public

**7.2** The Council will supply copies of the following to any person on payment of a charge for copying, postage and any other costs:

- (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 Monitoring 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 copying, postage and any other costs

**7.3** Copies of documents supplied to members of the public, where the Council is the copyright holder, may be reproduced in any publically available medium.

## **8. Records of Decisions Taken at Meetings**

**8.1** The Council will make available copies on payment of a charge for copying, postage and any other costs 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.

## **8.2 Records of Decisions Taken by Individual Executive Members**

As soon as reasonably practicable after an individual Member has made an executive decision, the member must produce or instruct the Proper Officer to produce a written record of that executive decision which includes the following information:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected by the member when making the decision;
- (d) A record of any interest declared by an executive member consulted by the member who made the decision together with a note of any dispensation granted in respect of that interest.

## **8.3 Records of Decisions Taken By Officers**

As soon as reasonably practicable after a significant operational decision taken by an officer in relation to a Council function, the officer will produce a written record of the decision and arrange for its publication on the Council's website together with the report (if any) in relation to the decision made. The record will include:

- (a) a record of the decision including the date it was made;
- (b) A statement of the reasons for it;
- (c) Details of any alternative options considered and rejected by the officer at the time of making the decision; and
- (d) A record of any interest declared by an executive member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

The Council will make available copies of the written record on payment of a charge for copying, postage and any other costs of the following for six years after the date of the decision to which it relates.

## **9. Background papers**

### **9.1 List of background papers**

The author of every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report.

This will exclude any published works or those which disclose exempt or confidential information (as defined in Rule 11) and in respect of executive reports, the advice of a political advisor, or any draft report or document.

### **9.2 Public inspection of background papers**

Copies of any background papers for meetings of the Executive will be made available for inspection at the Council offices and published on the Council's website.

The Council will make available for public inspection for 4 years after the date of other meetings one copy of each of the documents on the list of background papers.

## **10. Summary of public's rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents, as set out in these Rules, must be kept at and available to the public at the Council's principal offices. These Access to Information Procedure Rules constitute the written summary.

## **11. Exclusion of the Public from Meetings**

### **11.1 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. Likewise, public access to reports and background papers will also be excluded.

### **11.2 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 the disclosure of which to the public is prohibited by or under another Act or by Court Order.

### **11.3 Exempt information – discretion 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 provided:

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
- (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (as outlined in paragraph 11.8 below), the description of the exempt information giving rise to the exclusion of the public, and
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, public access to reports, background papers and minutes will also be excluded.

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.

## **11. Meaning of exempt information**

Exempt information means information falling within any of the categories set out in the following table, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 1972 (as amended).

Selby District Council Constitution - Part 4 - Rules of Procedure  
4.2 - Access to Information Procedure Rules

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	Information is exempt 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.
2. Information which is likely to reveal the identity of an individual.	Information is exempt 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.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information is exempt 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.</p> <p>Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts or the Charities Act 2011.</p> <p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p>
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 officer-holders under the authority.	<p>Information is exempt 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.</p> <p>“Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter.</p>
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 interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Condition
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is exempt 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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is exempt 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.</p>

Information falling within any of paragraphs 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

#### **11.5 Disorderly Conduct – discretion to exclude public**

The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting

#### **12. Record of decisions of meetings other than Executive meetings**

After any meeting of the Council or committees of the Council, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

#### **13. Records of decisions at Executive meetings**

After any meeting of the Executive the proper officer will, as soon as practicable, produce a written statement which must include:

- (a) the name of the decision-making body and a date of the decision;
- (b) A record of every decision taken and the reasons for those decisions;

- (c) Details of any alternative options;
- (d) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision making body;

## **14. Additional rights of access for councillors**

### **14.1 Material relating to forthcoming business**

- (a) All Councillors are 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 to be transacted at a public meeting unless
  - (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above; or
  - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above 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
  - (iii) it contains the advice of a political adviser or
  - (iv) it is a draft report or draft background paper
  - (v) it is not a report or a background paper as defined in these Rules
- (b) All Councillors are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or any of its committees or sub-committees unless
  - (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above or
  - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above 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.

### **14.2 Material relating to Key Decisions by Officers**

All Members of the Council will be entitled to inspect any document in the possession or under the control of the Executive or its committees which relates to any Key Decision made by an Officer unless any of the exceptions in these Rules apply.

### **14.3 Nature of rights**

These rights of a councillor are additional to any other right they may have.

## **15. Overview and Scrutiny Committee Councillors' access to documents**

### **15.1 Rights to copies**

Subject to Rule 14.2 (Material relating to key decisions), any Overview and Scrutiny Committee Councillors will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business transacted at a meeting of the Executive or its committees.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received.

### **15.2 Limit on rights**

Overview and Scrutiny Committee Councillors will not be entitled to:

- (a) any document that is in draft form; or
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.
- (c) the advice of a political adviser or assistant.

Where the Monitoring Officer determines that Overview and Scrutiny Committees are not entitled to a copy of a document that has been requested for the reasons set out above, the Executive must provide the relevant Scrutiny Committee with a written statement setting out the reasons for that decision.

## **16. COUNCILLORS ACCESS – NEED TO KNOW**

### **16.1 Meaning of the Need to Know**

Councillors have the right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the relevant Director.

### **16.2 The Nature of Requests**

Councillors should:

- (i) justify the request in specific terms, unless circumstances exist where a Councillor's need to know will be presumed – for example where a Councillor is on a committee and wants to inspect documents relating to that committee's business, or where the information requested is already in the public domain;
- (ii) only use the information for the purpose for which it was provided, and get the prior agreement of the relevant Director to any disclosures to the press or the public.

### **16.3 Limit on rights**

There are a number of factors which may limit or outweigh a Councillor's need to know, including:

- (i) the need to know does not extend to a 'roving commission' through Council documents;
- (ii) the need to know would only extend to personal information in exceptional cases;
- (iii) draft documents compiled in the context of emerging Council policies, and draft reports will not usually be disclosed;
- (iv) a Member of one party group will not have a need to know in relation to a document prepared for another party group;
- (v) documents prepared specifically for one Councillor will not, unless they agree, normally be provided to another Councillor;
- (vi) documents will not be disclosed where the relevant Director believes that use of those documents by a Councillor may prejudice the Council's or the public interest; and (vii) the level of resources required to deal with locating and supplying documents.

### **16.4 Procedure**

Whether a Councillor has a need to know will be determined initially by the Director who holds the document in question (with advice from the Monitoring Officer). The Director must not have regard to party political advantage, nor must the Director's determination have the effect of preventing the Councillor concerned from giving evidence in Court, or of penalising the Councillor for so doing.

All internal documents and copies produced to any Councillor for inspection in accordance with this Rule will be produced on the basis that, in the absence of malice, officers are expressly indemnified in respect of any claim in litigation that may result from such publication.

**17. DISCLOSURE OF CONFIDENTIAL INFORMATION BY COUNCILLORS**

**17.1** Where a decision has been made under these Rules to exclude public access on the basis that exempt information would otherwise be disclosed, the Council requires a Councillor who wishes to disclose that information to approach the relevant Director, for a decision whether that information should be disclosed. Disclosure by a Councillor will only be refused, if the Director decides that in the event the Council received an FOI request at that time, the Council would not be obliged to disclose that information. The Council also requires in every case, so far as reasonably practicable a Councillor must give the relevant Director reasonable notice of their intention to make such a disclosure.

**17.2** In deciding whether the Council would be obliged to disclose that information in response to an FOI request, the relevant Director will give particular consideration to the public interest reasons for disclosure proposed by the Councillor, and to the Councillor's right of freedom of expression and the particular importance of that right for elected representatives'

**18. PUBLIC ACCESS TO OTHER INFORMATION - FREEDOM OF INFORMATION**

**18.1** Where a member of the public makes a request for information under the Freedom of Information (FOI) Act 2000, they will be informed in writing by the Council whether it holds such information, and if that is the case, they will have that information communicated to them, unless an exemption applies.

**18.2** An FOI request must be in writing, state the name of the applicant and an address for correspondence, and describe the information requested. A request will be treated as made in writing where the text is transmitted by electronic means (e-mail), is received in legible form, and is capable of being used for subsequent reference.

**18.3** FOI requests will be dealt with by the Lead Officer for the relevant service area.

**18.4** FOI requests must generally be dealt with within 20 working days of receipt.

**18.5** The Council will not comply with FOI requests where one or other of the exemptions applies. These include:

- information which is otherwise reasonably accessible
- information intended for future publication
- information where disclosure would be likely to prejudice
- the national or local economy
- crime prevention/detection, prosecutions, and certain civil proceedings
- health and safety
- commercial interests

- information provided in confidence
- personal information.

**18.6** In relation to most of the exemptions, the Council must also apply the 'public interest test'. Even where the terms of an exemption seem to apply, the Council is still under a duty to disclose, unless the public interest in maintaining the exemption outweighs the public interest in disclosure.

## **19. RIGHTS OF APPEAL**

### **19.1 Appeals against refusals of FOI requests**

If an FOI request is refused by the Council, the applicant may request a review of that decision by the Solicitor to the Council. If the review does not result in the disclosure of the relevant information, an applicant may then apply to the Information Commissioner for a decision as to whether the Council has complied with the relevant provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations.

### **19.2 Appeals where Public Access is denied to a Report or Background Papers**

(a) If a member of the public is denied access to a report or background papers under these Rules, they may appeal at the relevant meeting by giving notice in writing to the Democratic Services Manager, such notice to be received not less than 24 hours before the relevant meeting is due to be held. Any such appeal will be considered as the first item on the agenda.

### **19.3 Appeals where a Councillor is denied inspection of a document**

If a Councillor is denied inspection of a document under their statutory rights or their need to know rights, they may appeal to the Chief Executive. A decision made by a Director to withhold the inspection of any internal document shall be valid and remain in force unless and until altered on an appeal.

## **20. Filming and Recording of Meetings**

Filming and recording at public meetings is permitted in accordance with the Openness of Local Government Bodies Regulations 2014.

The Council has adopted a protocol on Audio/Visual Recording and Photography at Meetings which is included in Part 5 of this Constitution.