# **ACCESS TO INFORMATION PROCEDURE RULES**

**1 Introduction**

* 1. Since 1 January 2005, the public have a right of access to recorded information held by the Authority, subject to a number of exemptions. The Act is completely retrospective so that all recorded information held by Neath Port Talbot County Borough Council falls within the scope of the Act.
  2. These rules apply to all meetings of the Council, Scrutiny committees, the Standards Committee, Governance and Audit Committee, Democratic Services Committee and Regulatory Committees (including Planning Committee) and public meetings of the Cabinet (together called meetings), all of which are held in accordance with the remote attendance requirements, which allows meetings to be attended remotely by persons who are not all in the same physical place, using an online meeting platform.
  3. The Council wishes to be as open as possible in terms of sharing access to information both with Councillors and with the public, as permitted within the law and with respect to the rights of others. These rules seek to complement and supplement and not detract from any statutory rights to information (for example within the Data Protection Act and the Freedom of Information Act) which Councillors and the public are afforded from time to time. These rules do not affect any more specific rights to information contained elsewhere in this Constitution. In the case of any omission or conflict between these rules or the Constitution and statutory rights, statutory rights will always prevail.

**2. Provisions**

# Additional Rights to Information

* + 1. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. All councils are required to have a publications scheme and commit to making certain types of information available. The authority has adopted the Information Commissioners Model publications scheme.

# Right to Attend Meetings

* + 1. Members of the public may attend all meetings only to the exceptions in these rules.

# Notice of Meeting

* + 1. The council will give at least 5 clear working days’ notice unless to consider urgent items as defined of any meeting by posting details of the meeting on [www.npt.gov.uk](http://www.npt.gov.uk).

# Access to Agenda and Reports before the Meeting

* + 1. The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear working days before the meeting and on www.npt.gov.uk. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

# Supply of Copies

* + 1. The Council will supply copies of:
       1. any agenda and reports which are open to public inspection;
       2. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
       3. if the proper 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 postage and any other costs.

# Access to Minutes after the Meeting

* + 1. The Council will make available copies of the following for 6 years after a meeting:
       1. the minutes of the meeting or record of decisions taken by the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
       2. 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;
       3. the agenda for the meeting; and
       4. reports relating to items when the meeting was open to the public.

# Background Papers

* + 1. List of background papers. The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
       1. disclose any facts or matters on which the report or an important part of the report is based; and
       2. 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.

* + 1. Public inspection of background papers. The Council will make available for public inspection for 6 years after the date of the meeting one copy of each of the documents on the list of background papers.

# Summary of Public’s Rights

* + 1. 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 Civic Centre Port Talbot SA13 1PJ and made available on online at [www.npt.gov.uk](http://www.npt.gov.uk) Further information can also be found in the Participation Strategy.

# Exclusion of Access by the Public to Meetings

* + 1. The executive may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting or where so authorised under this Constitution to do so (i.e. single cabinet member decision). This does not prevent the executive from holding informal deliberations private, with or without officers present, but these meetings shall not take decisions.
    2. 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.
    3. 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.
    4. 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.
    5. Exempt information means information falling within the following categories (subject to any qualification):

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| **Category** | **Qualification** |
| Information relating to a particular individual. | Public interest test applies (see below) |
| Information which is likely to reveal the identity of an individual. | Public interest test applies (see below) |
| Information relating to the financial or business affairs of any particular person (including the authority holding that information). | Information is not exempt information by virtue of that paragraph if it is required to be registered under:  The Companies Act 1985  The Friendly Societies Act 1974 The Friendly Societies Act 1992  The Industrial and Provident Societies Acts 1965 to 1978  The Building Societies Act 1986 or  The Charities Act 1993.  Public interest test applies (see below) |
| 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. | Public interest test applies (see below) |
| Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. |  |
| Information which reveals that the authority proposes:   1. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or 2. to make an order or direction under any enactment. | Public interest test applies (see below) |
| Information relating to any action taken or to be taken in connection with the prevention, Investigation or prosecution of crime. | Public interest test applies (see below) |
| (In relation to a meeting of a standards C committee, or a sub-committee of a standards committee, which is convened to consider a matter  referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):   * Information which is subject to any obligations of confidentiality. * Information which relates in any way to matters concerning national security. * The deliberations of a standards committee or of a sub- committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it. | Public interest test applies (see below) |

# Public Interest Test

* + 1. Information which:
       1. falls into the relevant sections in the table above; and
       2. is not prevented from being exempt by virtue of the ‘qualifications’ above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

* + 1. Information falling within the table is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

# Disclosure by Members

* + 1. Members will not make public Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a member or officer entitled to know it unless otherwise authorised.

# Public Interest

* + 1. Information within 2.9 may only be treated as exempt if an assessment of the public interest has been made.
    2. Public interest should be assessed on a case by case basis having regard to all relevant factors, to ensure a proper balance is achieved between the right to know, the right to personal privacy and the delivery of effective government.
    3. In making such an assessment the proper officer should have regard to any relevant prejudice which may be caused to the Authority or any other party if the information were disclosed, having regard to the full context of any disclosure. Account may be taken of whether disclosure would breach any obligation of confidence or the rights of any individual under the Data Protection Act 2018 or the Human Rights Act 1998.
    4. Account will be taken of the fact that the public interest may be served by allowing access to information which would:
       1. further the understanding of and participation in debating issues of the day;
       2. facilitate transparency and accountability in and enhance scrutiny of decisions taken by the Authority;
       3. facilitate transparency and accountability in the spending of public money;
       4. help individuals understand the decisions made by the Authority affecting their lives;
       5. bring to light information affecting public safety or danger to the environment;
       6. contribute to the administration of justice and enforcement of the law or the prevention or detection of crime or the apprehension or prosecution of offenders;
       7. protect the public from unsafe products or rogue traders or practices;
    5. In making such an assessment the following factors should be regarded as irrelevant:
       1. possible embarrassment to the Authority or its Officers;
       2. possible loss of confidence in the Authority or other public body;
       3. the seniority of persons involved in the subject matter;
       4. the risk of the public misinterpreting the information.

# Exclusion of Access by the Public to Reports

* + 1. If the proper officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which 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.

# The Forward Work Programme

* + 1. Period of forward work programme. The forward work programme will be prepared by the Chief Executive to cover a period of 4 months. It will be updated on a rolling basis.
    2. Contents of forward work programme. The forward work programme will contain matters which the executive, Scrutiny committees and full Council are likely to consider. It will contain information on:
       1. the timetable for considering the budget and any plans forming part of the policy framework and requiring council approval, and which body is to consider them;
       2. the timetable for considering any plans which are the responsibility of the executive;
       3. any individual matters on which the executive intends to consult in advance of taking a decision, and the timetable for consultation and decision;
       4. the work programme of the Scrutiny committees, to the extent that it is known.

# Record of Decisions of the Executive

* + 1. The decision record:
       1. a written record will be made of every executive decision made by the executive and its committees (if any) and individual members, and to joint committees and joint sub-committees whose members are all members of a local authority executive;
       2. this decision record will include a statement, for each decision, of:
          1. the decision made;
          2. the date the decision was made;
          3. the reasons for that decision;
          4. any personal interest declared;
          5. any dispensation to speak granted by the authority’s standards committee;
          6. the consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.
    2. Preparing the decision record:
       1. the proper officer or their representative shall attend any meeting of the executive, a committee of the executive or a joint committee or joint sub-committee where all its members are members of a local authority executive, and shall as soon as reasonably practicable after the meeting produce a decision record;
       2. where an individual member has made any executive decision:
          1. that member shall as soon as reasonably practicable instruct the proper officer to produce a decision record; and
          2. the decision shall not be implemented until that decision record has been produced, subject to (c) below;
       3. where the date by which an executive decision made by an individual member must be implemented makes compliance with (b) ii above impracticable, the decision may be implemented if the decision maker has the agreement of the Chair (or in their absence, the vice-chair) of the relevant Scrutiny committee, that the making of the decision is urgent and cannot reasonably be deferred.

# Decisions by an Individual Member of the Executive

* + 1. Reports intended to be taken into account. Where an individual member of the executive receives a report which they intend to take into account in making any decision, then they will not make the decision until at least 5 clear days after receipt of that report.
    2. Provision of copies of reports to Scrutiny committees. On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant Scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.
    3. Record of individual decision. The decision recording rules above will apply.

# Scrutiny Committee Members’ Access to Documents

* + 1. Subject to 2.18.2 below, a Scrutiny committee (including its sub- committees) will be entitled to access to any document which is in the possession or control of the executive or its committees and which contains material relating to:
       1. any business transacted at a meeting of the executive or its committees; or
       2. any decision taken by an individual member of the executive.
    2. Exempt or confidential information supplied to a member in accordance remains exempt or confidential.

# Additional Rights of Access for Members

2.19.1 All members will be 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 transacted at a meeting of a decision making body of that authority or by an individual member of the executive.

* + 1. These rights of a member are additional to any other right they may have.
    2. Notwithstanding any restriction in the foregoing provisions, all reports (including those that are “exempt” or “confidential” by virtue of Schedule 12A Local Government Act 1972 as amended) to all decision making bodies are available to all members.
    3. A Member will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.