

Council Constitution, Part 4.2 - Rules of Procedure (Access To Information Procedure Rules)

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1 Scope

These rules apply to all meetings of the Council, the Cabinet, Overview/Scrutiny Boards, Planning Committee, the Standards Committee, Regulatory Committees, and any other constitutional bodies established by the Council. All meetings are held in accordance with the Multi-Location Meetings Policy which allows meetings to be attended remotely by persons who are not all in the same physical place.



2 Additional Rights to Information

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



3 Freedom of Information Act

- 1 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 the City and County of Swansea falls within the scope of the Act.
- 2 Although the Freedom of Information Act presumes openness it recognises the need to protect sensitive information in certain circumstances and provides for exemptions. Some exemptions are absolute, where there is no right to the information; some exemptions are qualified, where even though information falls within the exemptions it may still have to be disclosed if it is in the public interest to do so.

- 3 Examples of exemptions include information that is commercially sensitive, confidential information, certain personal information, protection of national security, information where disclosure is prevented by other legislation, information intended for future publication, law enforcement matters and information that is accessible by other means, such as via the Publication Scheme (which is available on the Authority's internet site at www.swansea.gov.uk).
- 4 In addition to the Freedom of Information Act, there are two other access to information regimes:
 - a) The Data Protection Act 2018, which enables individuals to access certain information on themselves; and
 - b) The Environmental Information Regulations 2004, which enables people to access environmental information.
- 5 The Data Protection Act and the Environmental Information Regulations are also subject to exemptions and exceptions.



4 Rights to Attend Meetings

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



5 Notices of Meeting

- 1 The Council will give at least 3 clear working days' notice of any meeting posting details of the meeting on the Council's website (Swansea.gov.uk) and at the Guildhall, Swansea. With regard to meeting of Council and Cabinet, where possible at least 5 clear working days' notice shall be given.
- 2 Where the meeting or part of the meeting is open to the public and is held wholly through remote means, the notice must include details of the time of the meeting, and how to access it.
- 3 Where the meeting or part of the meeting is open to the public and is held partly through remote means, the notice must include details of the time and place of the meeting and how to access it.
- 4 Where the meeting is not open to the public and is held partly through remote means or not held through remote means, the notice must include details of the time and place of the meeting and the fact that it is not open to the public.
- 5 Where the meeting is not open to the public and is held through remote means only, the notice must include details of the time of the meeting, the fact that it is being held through remote means only and the fact that it is not open to the public.



6 Access to Agenda and Reports before the Meeting

- 1 The Council will make copies of the Council Summons and Cabinet Agenda open to the public and available for inspection on the Council's website (swansea.gov.uk/democracy) and at the designated office at least 5 clear working days before the meeting. However in exceptional circumstances the 5 clear working day notice period may be waived providing prior written agreement (via e-mail) is received from the Presiding Member / Leader of the Council, Monitoring Officer and / or Head of Democratic Services or their respective Deputies.

Note: This provision does not allow the Authority to waive its legislative duty to meet the 3 clear working day requirement'. If an item is added to the Council Summons or Cabinet Agenda later, the revised Council Summons / Cabinet Agenda will be open to inspection for the time the item was added to the Council Summons / Cabinet Agenda. Where reports are prepared after the Council Summons / Cabinet Agenda 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.

- 2 The Council will make copies of the all other Committee Agendas open to the public and available for inspection on the Council's website (swansea.gov.uk/democracy) and at the designated office at least 3 clear working days before the meeting. If an item is added to the Agenda later, the revised Agenda will be open to inspection for the time the item was added to the Agenda. Where reports are prepared after the Agenda 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.
3. Where a meeting is open to the public and is not held through remote means only, the Council will make available for use by members of the public present a reasonable number of copies of the agenda and reports for the meeting.



7 Supply of Copies

The Council will publish on the Council website www.swansea.gov.uk/democracy:

- a) Any agenda and reports which are open to public inspection;
- b) If the proper Office thinks fit, copies of any other documents supplied to Councillors in connection with an item;
- c) Where a member of the public is not able to access documents published on the website, those documents will be available for inspection or copies provided upon payment of a charge for postage/photocopying and admin costs;

Where a meeting of the council is open to the public and is not held through remote means only, a reasonable number of copies of the Agenda and reports will be made available for the members of the public present at the meeting.



8 Access to Minutes etc after the Meeting

- 1 The Council will publish on the Council's website and make available electronic and hard copies of the following for six years after a meeting:
 - a) The minutes of the meeting 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;
 - 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.
- 2 The Council will within 7 working days (beginning on the day the meeting is held) publish on the Council's website a note setting out:
 - a) the names of the members who attended the meeting and any apologies for absence;
 - b) any declarations of interest
 - c) any decision taken at the meeting, including the outcome of any votes but excluding anything relating to any decision taken when the meeting was not open to the public as discloses exempt information.



9 Background Papers

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 his/her 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 but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).



10 Public Inspection of Background Papers

The Council will publish background papers on the Council website, unless it is not reasonably practicable to do so. Background papers shall remain accessible for members of the public for six years after the date of the meeting.



11 Exclusion of Access by the Public to Meetings

1 Public and Private Meetings of the Cabinet

The Cabinet may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with Article 13 and these Procedure rules. This does not prevent the Cabinet from holding informal deliberations in private, with or without officers present, but these meetings shall not take decisions.

2 **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.

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.

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 **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.

5 **Meaning of Exempt Information**

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

| | Category of Exempt Information | Condition (Qualification) |
|----|--|--|
| 12 | Information relating to a particular individual. | Public interest test applies (below) |
| 13 | Information which is likely to reveal the identity of an individual. | Public interest test applies (below) |
| 14 | Information relating to the financial or business affairs of any particular person (including the authority holding that information). | Information falling within paragraph 14 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 (below) |
| 15 | Information relating to any | Public interest test applies (below) |

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| | consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Welsh Minister of the Crown and employees of, or office holders under, the authority. | |
| 16 | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. | |
| 17 | Information which reveals that the authority proposes: | Public interest test applies (below) |
| 17a | To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or | Public Interest test applies (below) |
| 17b | To make an order or direction under any enactment. | Public Interest test applies (below) |
| 18 | Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. | Public Interest test applies (below) |
| | A meeting of a Standards Committee, or a Sub-Committee of a Standards Committee 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) the following descriptions of exempt information are inserted | |
| 18a | Information which is subject to any obligations of confidentiality. | Public Interest test applies (below) |
| 18b | Information which relates in any way to matters concerning national security. | Public Interest test applies (below) |
| 18c | The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part of the Local Government Act 2000 in reaching any finding on a matter referred to it. | Public Interest test applies (below) |

Note:

Information falling within paragraphs 12 to 18 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.

Public Interest Test:

Information which:

- falls within any of paragraphs 12 to 15, 17 and 18 above; and
- 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.



12 Exclusion of Access by the Public to Reports

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion related 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.



13 The Forward Work Programme

- 1 The Forward Work Programme will be prepared by the Proper Officer to cover a period of four months. It will be updated quarterly.
- 2 The Forward Work Programme will contain matters which the Cabinet, Overview/Scrutiny Boards and the Council Meeting are likely to consider. It will contain information on:
 - a) The timetable for considering the budget and any plans forming part of the Policies and requiring Council approval, and which body is to consider them;
 - b) The timetable for considering any plans which are the responsibility of the Cabinet;
 - c) Any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
 - d) The work programme of the Overview/Scrutiny Boards to the extent that it is known (it may not be possible to provide full details since Overview/Scrutiny Boards will be determining their own work programme);
 - e) The Forward Work Programme will be published at least 14 days before the start of the period covered. The Proper Officer will publish once a year a notice in the Swansea Leader, stating that a forward work programme will be published and giving the publication dates for that year.



14 Record of Decisions of the Cabinet

A record will be made of all Cabinet decisions, whether taken at a meeting of the Cabinet or its Committees (whether in public or private) or by an individual Member of the Cabinet. The Proper Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement, for each decision of:

- a) The reason for that decision;
- b) Any dispensation to speak granted by the authority's Standards Committee;
- c) The consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.



15 Overview / Scrutiny Boards Access to Documents

1 Rights to Copies

Subject to Rule 2.15 below, an Overview & Scrutiny Board will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- a) Any business transacted at a meeting of the Cabinet [or its Committees] or;
- b) Any decision taken by an individual member of the Cabinet.

2 Limit on rights

An Overview & Scrutiny Board will not be entitled to:

- a) Any document that is in draft form;
- 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.



16 Additional Rights of Access for Members

1 Rights of Access

- a) All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business transacted at a decision making meeting of that authority.
- b) All members shall be entitled to submit written questions to any cabinet member about a matter within their portfolio. These questions will receive responses in writing within 10 working days, which will be posted to the Member's intranet site, subject to paragraph 10 above.

2 Limitation on Rights

A member will not be entitled to any part of a document where:

- a) It would disclose exempt information falling within paragraphs 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972, or
- b) It would disclose exempt information relating to the business of the Standards Committee and falling within sections 18A-18C of paragraph 4 Local Authority (Executive Arrangements)(Decisions, Documents and Meetings) and the Standards Committees (Wales)(Amendment) Regulations 2007.
- c) It would disclose the advice of a political advisor or assistant.

3 **Nature of Rights**

These rights of a Member are additional to any other right he/she may have.

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