

CONSTITUTION 2021 – Version 2 (May 2022)
PART 6 – OTHER PROCEDURE RULES
SECTION 1 – ACCESS TO INFORMATION PROCEDURE RULES

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1.0 INTRODUCTION

1.1 The Council considers that local government derives an important part of its authority and influence from the trust and confidence of the individuals and communities it serves. Access to information on decision making is a necessary pre-requisite for generating that trust and confidence. Informed members of the local community are better able to contribute to, and take part in, the work of local authorities. Access to information is central to this process and requires the Council to establish the appropriate balance between:

- a) making information readily and openly available to the public; and
- b) ensuring that certain areas of personal/public life remain the legitimate subject of confidentiality.

2.0 SCOPE

2.1 These Rules apply to all meetings of the Council and its Committees.

2.2 These Rules will also apply to a Working Party that has agreed that its meetings should be held in public, as confirmed in Part 3 of this Constitution.

3.0 ADDITIONAL RIGHTS TO INFORMATION

3.1 These Rules do not affect any specific rights to information contained elsewhere in this Constitution or the law, such as under the Data Protection Act 2018 and Freedom of Information Act 2000.

4.0 RIGHTS TO ATTEND MEETINGS

4.1 Members of the public may attend meetings, record and report all meetings subject only to the exceptions in these Rules and the Filming and Photographic Protocol set out in Part 8 of this Constitution.

5.0 NOTICE OF MEETINGS

5.1 The Council will give at least five clear days' notice of meetings by posting details of the meeting on the Council's website and at the Arun Civic Centre, Littlehampton and Bognor Regis Town Hall.

5.2 Clear days means days on which the Council's offices are open for business and exclude the day on which the Notice is posted and the day of the meeting.

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6.0 ACCESS TO AGENDAS AND REPORTS BEFORE MEETINGS

- 6.1 The Council will make copies of agendas and accompanying reports that are open to the public available for inspection at the Arun Civic Centre, Littlehampton and Bognor Regis Town Hall at least five clear days before the meeting. If an item is added to the agenda after publication, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.
- 6.2 Where urgent business is added to the agenda prior to the meeting, the revised agenda will be open to inspection from the time it is published.
- 6.3 Where urgent business is added to the agenda at a meeting, any accompanying report will be made available at that time and published to the Council's website as soon as practicable.

7.0 SUPPLY OF COPIES

- 7.1 The Council will supply copies of:
- 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 on 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 reasonable charge for postage and any other costs.

8.0 ACCESS TO MINUTES AFTER THE MEETING

- 8.1 In addition to publishing information on its website, the Council will make available copies of the following for six years after a meeting:
- a) the minutes of the meeting (or records of decisions taken together with reasons), excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

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- 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 related to items when the meeting was open to the public.

9.0 BACKGROUND PAPERS

9.1 List of background papers

Every report shall list those documents (called background papers) relating to the subject matter of the report, except published works or exempt or confidential information as defined in Rule 12 (Exclusion of the Public from Meetings), which:

- 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.

9.2 Public inspection of background papers

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

10.0 SUMMARY OF PUBLIC RIGHTS

10.1 These Rules constitute a written summary of the public's rights to attend meetings and to inspect and copy documents. They are available for the public to inspect at the Arun Civic Centre, Littlehampton and the Bognor Regis Town Hall, and to view on the Council's website.

11.0 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.

11.2 Meaning of confidential information

Confidential information means information that has been given to the Council by a Government Department on terms which forbid the disclosure, or information which cannot be publicly disclosed by law.

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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.

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.

11.4 Meaning of exempt information

- a) Exempt information means information falling within the following seven categories, subject to the relevant condition:

Para	Category	Condition												
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 is not exempt information if it is required to be registered under: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px;">a)</td> <td>the Companies Acts (as defined in section 2 of the Companies Act 2006);</td> </tr> <tr> <td>b)</td> <td>the Friendly Societies Act 1974;</td> </tr> <tr> <td>c)</td> <td>the Friendly Societies Act 1992;</td> </tr> <tr> <td>d)</td> <td>The Co-operative and Community Benefit Societies Act 2014;</td> </tr> <tr> <td>e)</td> <td>the Building Societies Act 1986; or</td> </tr> <tr> <td>f)</td> <td>the Charities Act 2011</td> </tr> </table>	a)	the Companies Acts (as defined in section 2 of the Companies Act 2006);	b)	the Friendly Societies Act 1974;	c)	the Friendly Societies Act 1992;	d)	The Co-operative and Community Benefit Societies Act 2014;	e)	the Building Societies Act 1986; or	f)	the Charities Act 2011
a)	the Companies Acts (as defined in section 2 of the Companies Act 2006);													
b)	the Friendly Societies Act 1974;													
c)	the Friendly Societies Act 1992;													
d)	The Co-operative and Community Benefit Societies Act 2014;													
e)	the Building Societies Act 1986; or													
f)	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.													

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5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6	Information which reveals that the authority 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.	
7	Information relating to any action taken or to be taken in connection with the prevention or investigation or prosecution of crime.	

- b) Information 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.
- c) Information which:
 - (i) falls within any of the paragraphs 1 to 7 above; and
 - (ii) is not prevented from being exempt by virtue of the condition paragraph 3 or b) 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.

12.0 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

12.1 If the Chief Executive, or their nominee, thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 12 (Exclusion of the public from meetings), the meeting is likely not to be open to the public. Such reports will be endorsed “*The Information in this report is of a confidential or exempt nature*” together with the category of information likely to be disclosed.

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13.0 ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

13.1 Material relating to any business to be transacted at a public meeting

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a public meeting, unless it appears to the Monitoring Officer to disclose exempt information as defined in paragraphs 1, 2, 4, 5 and 7 of Rule 12.4 (Meaning of exempt information).

A document will remain open for inspection if the information it contains discloses exempt information as defined in categories 3 and 6 at Rule 12.4 (Meaning of exempt information) with the exception of information relating to any terms proposed, or to be proposed by or to the authority, in the course of negotiations for a contract.

13.2 Attendance at meetings of Committees and Sub-Committees during confidential or exempt business

Where a Councillor is not a member of a Committee or Sub-Committee considering business where the public have been excluded for confidential or exempt information, they shall be allowed to remain in the meeting unless the Chair (or whoever is presiding at the meeting) rules that they be excluded.

Where a Councillor identifies that they have a specific need to know of the business under consideration in order to discharge their duties as a Councillor, they may not be excluded unless:

- a) in the opinion of the Chair, the procedural propriety of the meeting would be compromised; and
- b) reasons for the decision to exclude are given to the Councillor concerned.

Legal advice upon this issue may be taken by the Chair, where appropriate.

13.3 Attendance at meetings of the Standards Committee during confidential or exempt business

Where a Councillor is not a member of the Standards Committee considering business where the public have been excluded for confidential or exempt information, they shall be allowed to remain in the meeting unless the members of the Committee rule that they should be excluded.

Where a Councillor identifies that they have a specific need to know of the business under consideration in order to discharge their duties as a Councillor, they may not be excluded unless:

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- a) in the opinion of the members of the Committee, the procedural propriety of the meeting would be compromised; and
- b) reasons for the decision to exclude are given to the Councillor concerned.

Legal advice upon this issue may be taken by the Committee, where appropriate.

13.4 Nature of rights

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

14.0 CONFIDENTIAL AND EXEMPT INFORMATION

14.1 Nothing in these Rules is to be taken to authorise or require the Council to disclose confidential information in breach of the obligation of confidence.

14.2 Nothing in these Rules:

- a) authorises or requires the Council to disclose to the public or make available for inspection any document or part of a document, if in the opinion of the Chief Executive, as Proper Officer, that document or part of a document contains or may contain confidential information; or
- b) requires the Council to disclose to the public or make available for public inspection any document or part of a document if, in the opinion of the Chief Executive, as Proper Officer, that document or part of a document contains or is likely to contain exempt information.