

Gedling Borough Council Constitution

Section 18 – Access to Information Rules

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1 Scope

These rules apply to all meetings of the Council, committees, sub-committees and the Executive (together called meetings).

2 Proper Officer

The Proper Officer for the purposes of these rules is set out in the Proper Officer Provisions in Section 15. The Proper Officer is authorised to require the Executive or any officer to supply any document or information in whatever form or style the Proper Officer may specify which the Proper Officer believes may be relevant to the exercise of any of the functions set out in these rules.

3 Additional Rights to Information

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

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

The council will give at least five clear days' notice of any meeting by posting details of the meeting at the Civic Centre and on the Council's website unless the meeting is called at shorter notice, in which case the notice will be posted when the meeting is called.

6 Access to Agenda and Reports for Public Meetings

The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Centre and the Council's website at least five clear days before the meeting. If an item is authorised as urgent by the Committee Chair or Leader and is added to the agenda later, the revised agenda (where reports are

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prepared after the summons has been sent out, the Proper 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.

7 Supply of Copies

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 in the agenda; and
- (c) 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.

Copies will be freely available on the Council's website.

8 Access to Minutes etc after the Meeting

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, 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;
- (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.

9 Background Papers

9.1 List of background papers

The Proper Officer will ensure that officers with responsibility for writing reports set out in every report a list of those documents (called background papers) relating to the subject matter of the report which, in the opinion of the Proper Officer:

- (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 this list need not include published works or those documents which disclose exempt or confidential information (as defined in Rule 10) and, in respect of executive reports, the advice of a political advisor.

9.2 Public inspection of background papers

The Council will make available for public inspection at the Civic Centre and on the Council's website for four years after the date of the meeting one copy of each of the documents on the list of background papers.

10 Access to Meetings by the Public

Members of the public are entitled to attend meetings unless excluded under the following rules.

10.1 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 in breach of the obligation of confidence.

10.2 Exempt Information - Discretion to Exclude Public

- a) 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.
- b) 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.

10.3 Disorderly Conduct – Discretion to Exclude Public

The public may be excluded from a meeting if necessary to maintain orderly conduct or prevent misbehaviour at the meeting.

10.4 Meaning of Confidential Information

Confidential information means:

- information provided to the Council by a government department on terms which forbid the disclosure of the information to the public; or
- information which cannot be disclosed to the public as it is prohibited by legislation or by Court Order.

10.5 Meaning of Exempt Information

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

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Category	Qualification
1. Information relating to any individual	Exempt information if any so long, as in all 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	Exempt information if and so long, as in all 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>Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under -</p> <ul style="list-style-type: none"> (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Act 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993
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	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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Category	Qualification
employees of, or office holders under, the authority	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
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	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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.

11 Exclusion of Access by the Public to Reports

If the Proper Officer thinks fit, access by the public to reports which in the Proper Officer's opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public may be excluded. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12 Application of Rules to the Executive

Rules 1 – 11 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 13-23 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Section 16 of this Constitution.

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If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 10 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief members.

13 Procedure Before Taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- a) a document (called here a forward plan) has been made available for inspection at the Civic Centre and on the Council's website in connection with the matter in question;
- b) at least 28 clear days have elapsed since the publication of the forward plan; and
- c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14 The Forward Plan

14.1 Period of forward plan

Forward plans will be prepared to cover a minimum period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan. It will be available for inspection at the Civic Centre and on the Council's website.

14.2 Contents of forward plan

The forward plan will contain matters which will be the subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive or officers in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision maker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;

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- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter.
- (e) the address from which copies of, or extracts from, those documents are available
- (f) that other documents may be submitted to the decision maker;
- (g) the procedure for requesting those documents when they are available.

The forward plan will not contain any confidential information, exempt information or particulars of the advice of a political adviser.

15 General Exception

- 1) If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may only be taken if:
 - a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and at least 28 clear days have elapsed since the publication of that forward plan.
 - b) the Proper Officer has informed the chair of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee by notice in writing of the matter in respect of which the decision is to be made;
 - c) the Proper Officer has made a copy of that notice available for public inspection at the Civic Centre and published on the Council's website; and
 - d) at least 5 clear days have elapsed since the Proper Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

As soon as reasonably practicable after the Proper Officer has complied with Rule 15 (1) above, the Proper Officer must make available for inspection at the Civic Centre and publish on the Council's website a notice setting out why compliance with Rule 23 is impracticable.

16 Special Urgency

- 1) If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no chair of the Overview Scrutiny Committee, or if the chair of the Overview Scrutiny Committee is unable to act, then the agreement of the Mayor or in his/her absence the Deputy Mayor will suffice.
- 2) As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16(1), the decision maker must make available at the Civic Centre and publish on the Council's website a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

17 Report to Council

17.1 When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not treated as a key decision the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

17.2 Executive's report to Council

The Executive will prepare a report for submission to the next ordinary meeting of the Council, setting out the decision and reasons for the decision, the individual or body making the decision, and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the particulars of each decision taken and a summary of the matters in respect of which those decisions were taken.

The Leader will submit at least one report to Council each year.

18 Record of Decisions made at Executive Meetings

After any meeting of the Executive or any of its committees, whether held in public or private, the Proper Officer or, where the Proper Officer was not present, the person

presiding at the meeting, will produce a written statement of every decision taken at that meeting as soon as reasonably practicable. The statement will include:

- a record of the decision and date it was made
- reasons for the decision
- alternative options considered and rejected
- conflicts of interest declared and a note of dispensations granted by the Head of Paid Service

19 Executive Meetings Relating to Matters which are not Key Decisions

The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

20 Notice of Private Meeting of the Executive

Members of the Executive or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

21 Record of Decisions by Individual Members of the Executive and Officers

21.1 Record of individual decision by individual Members

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive, they will prepare, or instruct the Proper Officer, to prepare a written statement setting out :

- a record of the decision and the date it was made
- reasons for the decision
- alternative options considered and rejected
- conflicts of interest declared by any Executive member consulted and a note of dispensations granted by the Head of Paid Service

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.

21.2 Record of Decision by Officers

As soon as is reasonably practicable after an Officer has made an executive decision, he/she will prepare a written statement setting out:

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- a record of the decision and the date it was made
- reasons for the decision
- alternative options considered and rejected
- conflicts of interest declared by any Executive member consulted and a note of dispensations granted by the Head of Paid Service

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of executive decisions by Officers. This does not require the disclosure of exempt or confidential information.

22 Overview and Scrutiny Committee's Access to Documents

22.1 Subject to Rule 22.3 below, the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

- (a) any business that has been transacted at meetings of the Executive (or its committees, if any); or
- (b) any decision that has been taken by an individual member of the Executive or an officer in accordance with executive arrangements.

22.2 The Executive must provide such document as soon as reasonably practicable and in any case no later than 10 clear days after the request is received.

22.3 No member of an Overview and Scrutiny committee (including its sub-committees) is entitled to a copy:

- (a) of any such document or part of a document which contains exempt or confidential information unless that information is relevant to—
 - (i) an action or decision that that member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

22.4 Where the Executive determines that the member is not entitled to a copy of the document or part thereof under Rule 22.3, it must provide Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

23 Additional Rights of Access to Documents for Members

- 23.1 Any document which is in the possession or under the control of the Executive and contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member for a least five clear days before the meeting. Where the meeting is convened at shorter notice, such a document must be available when the meeting is convened and when an item is added to the agenda at shorter notice such a document must be available for inspection when the item is added to the agenda.
- 23.2 Any document which is in the possession or under the control of the Executive of a local authority and contains material relating to any business transacted at a private meeting or any decision made by an individual member or officer in accordance with executive arrangements must be available for inspection by any Member when the meeting concludes or immediately after the decision has been made and in any event within 24 hours of the conclusion of the meeting or the decision being made as the case may be.
- 23.3 The above does not require a document to be available for inspection if it appears to the Proper Officer that it discloses:
- (a) exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act unless it is information of a description falling within paragraph 3 of Schedule 12A (except to the extent that the information relates to any terms proposed or to be proposed by the Authority in the course of negotiations for a contract) or paragraph 6; or
 - (b) advice provided by a political adviser or assistant.