

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, Scrutiny Committees, Area Forums and Regulatory Boards and public meetings of the Cabinet (together called meetings).

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. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Barnsley.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the Borough Secretary's Department, Town Hall, Barnsley at least five clear days before the meeting. Where time allows if an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda and Members informed.

6. 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 Borough Secretary 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.

7. 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, excluding any part of the minutes of proceedings when the meeting was not open to the public and 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. BACKGROUND PAPERS

8.1 List of Background Papers

The author of a report will set out in every report a list of those documents 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).

8.2 Public Inspection of Background Papers

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

9. SUMMARY OF PUBLIC'S RIGHTS

This document is the written summary of the public's rights to attend meetings and to inspect and copy documents relating to those meetings, copies of which must be kept at and be available to the public at the Borough Secretary's Office, Town Hall, Barnsley. This is in addition to the rights of the public to request specific information held by the Council as set out in the Freedom of Information Act 2000. Information on rights under the 2000 Act can be found on the Council's website or by contacting the Borough Secretary on Barnsley 773006.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information - Requirement to Exclude the 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.

10.2 Exempt Information - Discretion to Exclude the 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.

10.3 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.

10.4 Meaning of Exempt Information

Exempt information means information falling within the following 7 categories:

<u>Paragraph Number/ Information Type</u>	<u>Qualification</u>
Paragraph 1 Information relating to any individual.	Information falling within this Paragraph is subject to the public interest test referred to above. Exemption from publication will also generally be time limited, requiring report authors to consider the date on which the public interest will no longer be served by withholding publication. Information in this Paragraph is not exempt 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
Paragraph 2 Information which is likely to reveal the identity of an individual.	Information falling within this Paragraph is subject to the time-limited public interest test referred to above. Information in this Paragraph is not exempt 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
Paragraph 3 Information relating to the financial or business affairs of any particular person (including the Local Authority holding the information).	Information falling within this Paragraph is subject to the time-limited public interest test referred to above. Financial or business affairs includes contemplated, as well as past or current activities.

Paragraph 3 (cont/d...)

Qualification

Information falling within this Paragraph is not exempt information by virtue of that Paragraph if it is required to be registered under:

- a. The Companies Act 1985
- b. The Friendly Societies Act 1974
- c. The Friendly Societies Act 1992
- d. The Industrial & Provident Societies Acts 1965 to 1978
- e. The Building Societies Act 1986 or
- f. The Charities Act 1993

Information in this Paragraph is not exempt 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

Paragraph 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.

Information falling within this Paragraph is subject to the time-limited public interest test referred to above. Note that it is therefore likely that, once the consultations or negotiations are concluded, the information is no longer exempt from publication.

In this context, "Labour relations matters" means (a) any of the matters specified in Paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (ie matters which may be the matter of a trade dispute within the meaning of that Act) or (b) any dispute about a matter falling within Paragraph (a) above.

Information in this Paragraph is not exempt 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

Paragraph 5

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

Information falling within this Paragraph is subject to the time-limited public interest test referred to above.

Information in this Paragraph is not exempt 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

Paragraph 6

Information which, if disclosed to the public, would reveal that the authority proposes:

Information falling within this Paragraph is subject to the time-limited public interest test referred to above.

(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

Information in this Paragraph is not exempt 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

(b) to make an order or direction under any enactment

Paragraph 7

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime

Information falling within this Paragraph is subject to the time-limited public interest test referred to above.

Information in this Paragraph is not exempt 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 Borough Secretary thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate 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.

12. APPLICATION OF RULES TO THE EXECUTIVE (CABINET)

Rules 13 – 20 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Appendix 'P' to the Council's 'Terms of Reference' document.

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 notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the forward plan or a notice is issued to the effect that the matter is not in the forward plan as required by Regulation; and
- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. THE FORWARD PLAN OF KEY DECISIONS

14.1 Period of Forward Plan

Forward plans will be prepared by the Leader and Cabinet to cover a 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.

14.2 Contents of Forward Plan

The forward plan will contain matters which the Leader and Cabinet have reason to believe will be subject of a key decision to be taken by the executive, officers, or under joint arrangements 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 taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;

- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Borough Secretary will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

15. GENERAL EXCEPTION

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 still 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 until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chair of a relevant scrutiny commission, or if there is no such person, each member of that commission in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 3 clear days have elapsed since the proper officer complied with (a) and (b) where such a decision is taken collectively, it must be taken in public unless Rule 10 above applies.

16. SPECIAL URGENCY

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 chair of the body making the decision, obtains the agreement of the chair of a relevant scrutiny commission that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant scrutiny commission, or if the chair of each relevant scrutiny commission is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

17. REPORT TO COUNCIL

17.1 When a Scrutiny Commission Can Require a Report

If a scrutiny commission thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant scrutiny commission chair, or the Mayor/Deputy Mayor of the Council under Rule 16;

The commission may require the Cabinet to submit a report to the Council within such reasonable time as the commission specifies. The power to require a report rests with the commission, but is also delegated to the proper officer, who shall require such a report on behalf of the commission when so requested by the chairman. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny commission.

17.2 Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 14 days of receipt of the written notice, or the resolution of the commission, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, and if the Leader and Cabinet are 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 number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

After any meeting of the executive, 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.

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

In accordance with the Local Government Act 2000 the Cabinet is able to decide whether meetings relating to matters which are not key decisions will be held in public or private. The practice in Barnsley is for all such meetings to be held in public.

20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

20.1 Rights to Copies

Subject to Rule 20.2 below, a scrutiny commission (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet; or
- (b) any decision taken by an individual member of the Cabinet.

Copies of Cabinet reports will be available to scrutiny commission members upon request, from the date of the issue of the Cabinet agendas which shall be no later than the evening of the Tuesday in the week prior to the Wednesday Cabinet meeting. In respect of matters which are the subject of a recommendation by Cabinet to Council reports on these issues will automatically be supplied to all Members of the Council.

20.2 Limit on Rights

Scrutiny Commissions will be entitled to any part of a document that contains exempt or confidential information in order to undertake action to review or scrutinise a decision but not to any documents in a draft form or the advice of a political adviser.