

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

- 1.1 These rules apply to all formal meetings of the Council and any Committee or Sub- Committee. For the avoidance of doubt, the Rules do not apply to informal meetings involving Councillors or to Working Groups.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the General Data Protection Regulations 2018.

3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 If a member of the public or press interrupts the proceedings at any meeting the Chair may warn him. If he/she continues the interruption and a warning has been given, the Chair may order his removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Chair may order that part to be cleared.
- 3.4 If the Chair considers the orderly dispatch of business impossible, he/she may without question adjourn the meeting.
- 3.5 The above powers of the Chair are in addition to any other power vested in him.

4. NOTICES OF MEETING

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Lynton House Commercial Road Barnstaple EX31 1DG and on its website at www.northdevon.gov.uk

NDDC CONSTITUTION

Part 4

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 All Members of the Council shall be provided with the front agenda pages of all Council and committee meetings and full copies of the agenda and reports including those containing exempt and/or confidential information can be requested and will be provided electronically.
- 5.2 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the website at least five clear working days before the meeting. 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 (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).

6. SUPPLY OF COPIES

6.1 Supply of Copies at the Meeting

The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded).

6.2 The Council will supply copies of:

6.2.1 any agenda and reports which are open to public inspection;

6.2.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and

6.2.3 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.

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting or a decision:

NDDC CONSTITUTION

Part 4

- 7.1 the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of Council and Committees or Sub committees, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 7.2 records of decisions taken by individual Members or officers,
- 7.3 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;
- 7.4 the agenda for the meeting; and
- 7.5 reports relating to items when the meeting was open to the public.

8. **BACKGROUND PAPERS**

8.1 **List of background papers**

The Officer preparing a report will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in his opinion:

8.1.1 disclose any facts or matters on which the report or an important part of the report is based; and

8.1.2 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 (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**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at Lynton House Barnstaple.

July 2022

10. **EXCLUSION OF ACCESS OF THE PUBLIC TO MEETINGS**

10.1 **Extent of Exclusion**

The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

10.2 **Confidential information – requirement to exclude public**

The public must be excluded from meetings and from access to reports 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.

10.3 **Exempt information – discretion to exclude public**

The public may be excluded from meetings and from access to reports 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. Such a decision to exclude the public is to be made by resolution of the relevant decision making body. 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.

10.4 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

10.5 **Meaning of exempt information**

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

Categories of Exempt Information

- 1. Information relating to any individual*

July 2022

NDDC CONSTITUTION

Part 4

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).*
4. *Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connect with any labour relating matter arising between the authority or a Minister of the Crown and 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.*
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, investigation or prosecution of crime.*

The above categories are subject to qualifications and to the public interest test. These are laid down in Schedule 12A to the Local Government Act 1972.

10.6 **Extent of Exclusion**

The public may only be excluded under 10.1 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

NOTE Information falling within any of paragraphs 1 – 7 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.

10.7 **Exclusion of Members**

Where a Sub-Committee of the Licensing Committee is held and the press and public are excluded under these provisions, any Members who are not members of that Sub Committee who are present shall also be excluded.

NDDC CONSTITUTION

Part 4

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his/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. If the information is exempt information, the category of the exempt information must also be marked on the report.
- 11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 11.3 If the matter is considered in public, any related report will also become available to the public.

12. RECORD OF DECISIONS

After any meeting of the Council or any of its Committees, whether held in public or in private, the Senior Solicitor and Monitoring Officer or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

- 12.1 a record of the decision including the date it was made;
- 12.2 a record of the reason for the decision;
- 12.3 details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- 12.4 a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- 12.5 in respect of any declared conflict of interest, a note of dispensation if granted by the relevant local authority's head of paid service.

NDDC CONSTITUTION

Part 4

12.6 Inspection of background papers

12.6.1 Subject to Rule 17, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5, at the same time-

(a) a copy of a list compiled by the Proper Officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and

(b) at least one copy of each of the documents included in that list,

and must be available for inspection by the public at the offices of the Council and on www.northdevon.gov.uk.

13. JOINT COMMITTEES

These Access to Information Rules apply to the Council's Joint Committees.

14. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

14.1 Material relating to business to be transacted at a Public Meeting

14.1.1 All Members of the Council will be entitled to inspect any document (except those available only in unpublished draft form) in the possession or under the control of the Council or its Committees which contains material relating to any business previously transacted at a private meeting unless (a) or (b) applies:

(a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or

(b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract.

NDDC CONSTITUTION

Part 4

14.2 Meetings of Committees sitting in a Quasi-Judicial role

Where a Committee or Sub-Committee is meeting in a quasi-judicial role and a resolution is passed to exclude the press and public under Rule 10 and Rule 11, any Member present who is not a member of the Committee or Sub Committee will also be excluded.

15. NATURE OF RIGHTS

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

16. MEMBERS' OTHER RIGHTS TO INFORMATION AND TO SPEAK AT COMMITTEES

16.1 A Member of the Council may, for the purposes of his duty as a Member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Senior Solicitor and Monitoring Officer and, if available, copies will be supplied upon request.

16.2 A member shall not knowingly inspect or request a copy of any document relating to a matter in which he/she:

16.2.1 is professionally interested; or

16.2.2 has a pecuniary, prejudicial or personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

16.3 This shall not preclude the Senior Solicitor and Monitoring Officer from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the General Data Protection Regulations 2018.

16.4 All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

NDDC CONSTITUTION

Part 4

- 16.5 A Councillor who is not a member of the Planning Committee may attend that Committee and speak on an item that affects their ward and in relation to all other Committees may attend and speak on a matter with the discretion of the Chair.

17. CONFIDENTIAL INFORMATION, EXEMPT INFORMATION

- 17.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

- 17.2 Nothing in these Rules:

17.2.1 authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Senior Solicitor and Monitoring Officer, that document or part of a document contains or may contain confidential information; or

17.2.2 requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Proper Officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political advisers or assistant.