

11. ACCESS TO INFORMATION RULES

SCOPE

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

1. ADDITIONAL RIGHTS TO INFORMATION

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

2. RIGHTS TO ATTEND AND RECORD MEETINGS

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

Members of the public may record any part of a meeting, unless excluded by these rules, by filming, photographing or making an audio recording of proceedings or by using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later. Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. It is not permitted for oral commentary to be provided during a meeting as this would be disruptive to the good order of the meeting. Further information is available in the Council's protocol "Guidance for the recording of public Council meetings".

3. NOTICE OF MEETINGS

The Council will give at least five clear days notice of any meetings by publishing a notice on the Council's website and by making this available at the Council's Offices at Municipal Buildings, Glossop and the Town Hall, Buxton.

4. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council's normal method of communication will be via its website.

The Council will make copies of the agenda and reports open to the public available for inspection on its website and at its designated offices at least five clear 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 report available to the public as soon as the report is completed and sent to councillors).

5. **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 Monitoring 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 copying.

6. **ACCESS TO MINUTES ETC AFTER THE MEETING**

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

- (a) Decision Notices, together with reasons, for all meetings of the Executive, excluding any part of the decision 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 Decision Notice 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.

7. **BACKGROUND PAPERS**

7.1 **List of background papers**

The Executive Directors will ensure that each report sets out 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)..

7.2 **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 the background papers.

8. **SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents is contained in the Guide to the Constitution which is available from the Monitoring Officer at the Council Offices, Municipal Buildings, Glossop SK13 8AF and The Town Hall, Buxton, SK17 6EL.

9. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

9.1 **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.

9.2 **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 persons' 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 confidential hearing is necessary for one of the reasons specified in Article 6.

9.3 **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.

9.4 **Meaning of exempt information**

See attached Appendix.

10. **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, relate to items during the discussion of which 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.

11. APPLICATION OF RULES TO THE EXECUTIVE

- 11.1 Rules 13 – 24 apply to the Executive and its sub-groups. If the Executive or any of its sub-groups 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 defined in Article 12.4 of this Constitution.
- 11.2 The Council will give at least 28 clear days notice of any confidential meeting of the Executive by publishing a notice (called here a Forward Plan) on the Council's website and by making this available at its offices at Municipal Buildings, Glossop SK13 8AF and The Town Hall, Buxton, SK17 6EL (designated offices). The Forward Plan must include a statement of the reasons for the meeting to be held in confidential session.
- 11.3 At least five clear days before a confidential meeting the Executive must make available at the Council's designated offices and on the Council's website a further notice of its intention to hold a confidential meeting. This notice must include:-
- (a) a statement of the reasons for the confidential meeting;
 - (b) details of any representations received by the Executive about why the meeting should be open to the public; and
 - (c) a statement of its response to any such representations.
- 11.4 Where the date by which a confidential meeting must be held makes compliance with this rule impracticable, the confidential meeting may only be held where the Executive has obtained agreement, that the meeting is urgent and cannot be reasonably deferred, from:-
- (a) the Chair of the relevant Select Committee; or
 - (b) if there is no such person, or if the Chair of the relevant Select Committee is unable to act, the Mayor of the Council, or in his/her absence the Deputy Mayor of the Council.
- 11.5 As soon as reasonably practicable after the Executive has obtained agreement under rule 11.4 to hold a confidential meeting it must make available at the Council's designated offices and on its website a

notice setting out the reasons why the meeting is urgent and cannot be reasonably be deferred.

12. 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 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 sub-groups, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

13. THE FORWARD PLAN

13.1 Period of Forward Plan

Forward plans will be prepared by the Leader of the Council and be issued at least 28 days prior to each meeting of the Executive.

13.2 Contents of Forward Plan

The forward plan will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Executive, a sub-group of the executive, individual members of the Executive, officers, area committees 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) That a key decision is to be made on behalf of the Council;

- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made.
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available.
- (g) that other documents relevant to those matters may be submitted to the decision maker and
- (h) the procedure for requesting details of those documents (if any) as they become available.

The Forward Plan will also state which decisions will be made during a confidential meeting of the Executive and include a statement of the reasons for the confidential meeting to be held.

14 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 15 (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.
- (b) The Monitoring Officer has informed the Chair of the relevant select committee, or if there is no such person, each member of that committee by notice in writing of the subject matter about which the decision is to be made;
- (c) The Monitoring Officer has made copies of that notice available to the public at the offices of the Council and published the notice on the Council's website; and
- (d) At least 5 clear days have elapsed since the Monitoring Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public unless Rule 9.1 or 9.2 (Exclusion of the Public) applies.

15. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker, whether an individual, the Executive or one

of its sub-groups, obtains the agreement of the Chair of the relevant select committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant select committee, or if the Chair of each relevant select committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence Deputy Mayor will suffice.

As soon as reasonably practical after the decision maker has obtained agreement under rule 15 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred at the offices of the Council and on the Council's website.

16. REPORT TO COUNCIL

16.1 When a Select Committee can require a report

If a Select Committee 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 select committee Chair, or the Mayor/Deputy Mayor of the Council under Rule 15:

The committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the Chair or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant select committee.

16.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the identity of the decision taker, and, if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

16.3 Reports on special urgency decisions

In any event, the Leader will submit a report to the Council, at least on an annual basis on any Executive decisions taken in the circumstances set out in Rule 15 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17. RECORD OF EXECUTIVE DECISIONS

After any meeting of the Executive or any of its sub-groups, whether held in public or confidential session, the Monitoring Officer 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) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected at the Executive meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Executive which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

As soon as practicable after an individual member/officer has made an executive decision, normally within 5 clear days, that member/officer must produce a record of that executive decision which will include:-

- (a) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member/officer when making the decision;
- (d) a record of any conflict of interest declared by any member of the Executive who is consulted by the member/officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

18. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Executive will not normally hold confidential meetings when decisions which are not key decisions are taken, except in accordance with the provisions of Rule 9 but may hold confidential briefing meetings with or without Officers, or forward planning sessions.

19. NOTICE OF A CONFIDENTIAL MEETING OF THE EXECUTIVE (IF ANY)

Members of the Executive or its sub-groups 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.

20. ATTENDANCE AT CONFIDENTIAL MEETINGS OF THE EXECUTIVE

Attendance at any confidential meetings of the Executive will be at the discretion of the Leader of the Council.

21. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

21.1 Reports intended to be taken into account

Where an individual member of the Executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

21.2 Provision of copies of reports to Select Committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of every relevant select committee as soon as reasonably practicable, and make it publicly available at the same time except in accordance with the provisions of Rule 9.

22. SELECT COMMITTEES' ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 22.2 below, a Select 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 sub-groups and which contains material relating to:

- (a) Any business transacted at a public or confidential meeting of the Executive or its sub-groups; or

- (b) Any decision taken by an individual member of the Executive; or
- (c) Any decision taken by an officer of the authority in accordance with executive arrangements.

The Executive must provide a document that falls under Rule 21.1 as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

22.2 Limit on rights

A Select Committee 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;

Where the Executive determines that a member of a select committee is not entitled to a copy of a document or part of any such document it must provide the select committee with a written statement setting out its reasons for that decision.

23. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS

23.1 Material relating to business to be transacted

All members will be entitled to inspect any document which is in the possession or under the control of the Executive or its sub-groups and contains material relating to any business to be transacted at a public meeting, in accordance with Rule 4, unless either it contains exempt information in accordance with Rule 9.

23.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under control of the Executive or its sub-groups which relates to any key decision unless paragraph (a) or (b) above applies.

23.3 Nature of rights

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

24. CONFIDENTIALITY

No member of the Council, nor any co-opted member of any committee or sub-committee shall, without the permission of the Council or the Executive (in respect of executive functions) or the appropriate committee or sub-committee (in respect of functions which are not executive functions) disclose any exempt or confidential matter unless that matter has been placed in the public domain by the Council, the Executive or the appropriate committee or sub-committee.

25. OFFENCES

25.1 A person who has custody of a document that relates to a meeting of the Executive (agenda, reports, background papers or decisions) which is required to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person:-

- (a) intentionally obstructs any person exercising a right conferred under these rules to inspect, or to make a copy of the whole or part of the document; or
- (b) refuses to supply a copy of the whole or part of the document in accordance with these rules.

25.2 A person who commits an offence under Rule 23 is liable on summary conviction to a fine not exceeding [level 1 on the standard scale](#).

**Access to Information Rules
Appendix**

Description of exempt information	Qualification	Notes
	Information is not exempt information if it relates to any proposed development for which the council may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992	Applies to all categories of otherwise exempt information
1. Information relating to any individual	Exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities.
2. Information which is likely to reveal the identity of an individual	Exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table Information falling within paragraph 3 is not exempt 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 and Provident Societies Acts 1965	The authority means High Peak Borough Council, the Executive or a committee or subcommittee Financial or business affairs includes contemplated, as well as past or current activities In relation to information required to be registered under the Building Societies Act 1986, this means recorded in the public file of any building society

Description of exempt information	Qualification	Notes
	<p>to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993</p>	
<p>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</p>	<p>Exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table</p>	<p>The authority means the Council, the Executive, committee or subcommittee</p> <p>Employee means a person employed under a contract of service</p> <p>Labour relations matter means :-</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>(applies to trade disputes relating to office holders as well as employees)</p> <p>Office holder in relation to the authority, means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>

Description of exempt information	Qualification	Notes
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	Privilege lies with the “client” which broadly is the council. Seek the view of the Chief Executive or Executive Director (as appropriate) as to whether they wish to waive privilege.
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 the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	The authority is a reference to the council, executive, committee or subcommittee
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	

Public interest

There is no legal definition of what the public interest is but the following are some of the relevant considerations.

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to current national debate
- The issue has generated public or parliamentary debate
- Proper debate cannot take place without wide availability of all the relevant information
- The issue affects a wide range of individuals or companies
- The public interest in a local interest group having sufficient information to represent effectively local interests on an issue
- Facts and analysis behind major policy decisions
- Knowing reasons for decisions

- Accountability for proceeds of sale of assets in public ownership
- Openness and accountability for tender processes and prices
- Public interest in public bodies obtaining value for money
- Public health
- Contingency plans in an emergency
- Damage to the environment

When applying the public interest test, ask yourself the following questions:

- Is it in the public interest or merely of interest to the public?
- Is it the public interest that needs protecting or merely the Council's own confidential interest?
- Will disclosure ensure greater competition? If so, the public interest may better be served by disclosure.
- Would disclosure adversely affect law enforcement? If so you would need to explain how.

There will be difficult decisions where you will need to decide where the balance lies.

Who Decides?

The report writer initially and they need to be clear about their reasons and include these in the body of the report. It will then be up to whoever considers the report to decide whether they agree. This could be the Executive, a member of the Executive, a committee, sub-committee or panel.

Good Practice

Openness is in the public interest. There is a presumption that all information will be public.

It is not often that the whole of a report is exempt. Where there is exempt information it should be put in a separate schedule to the report so that if a Freedom of Information request is received, the exempt material can be easily identified.

Guidance for the recording of public Council meetings

1. Introduction

The aim of this guidance is to help any members of the press and public who wish to film, audio-record, take photographs, and use social media such as tweeting and blogging, to report the proceedings of all Council meetings that are open to the public.

2. Do people need to ask permission to record Council meetings?

There is no requirement to ask permission to record a Council meeting. However, the Council requests anyone intending to carry out this activity to let Democratic Services staff know in advance so that all the necessary arrangements can be made.

3. Can people tweet or blog about a Council meeting?

Yes, people may report meetings via social media of any kind. Therefore, bloggers, tweeters, Facebook and YouTube users, and individuals with their own website, are able to report meetings.

4. Commentary during the meeting

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting.

Oral commentary cannot be provided during a meeting as this would be disruptive to the good order of the meeting.

5. Can people be asked to leave a meeting and stop recording?

The majority of the Council's meetings are open to members of the public. However, meetings cannot be recorded when it is agreed to formally exclude the press and public from the meeting due to the confidential nature of the business to be discussed.

People will also be asked to leave a meeting if their activities are disrupting it.. Examples can include:

- Moving to areas outside the areas designated for the public without the consent of the Chair,
- Excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
- Intrusive lighting and use of flash photography; and
- Asking for people to repeat statements for the purposes of recording.

6. Are there any limits about recording a meeting or what people can say in a tweet or recording?

The Council requests that the public gallery is not filmed and that people respect the wishes of members of the public who have come to speak at a meeting but do not wish to be filmed. More generally the law of the land applies – including the law of defamation and the law on public order offences (see the Crown Prosecution Service guidance on social media). Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.

The Council asks those recording proceedings not to edit the recording in a way that could lead to misinterpretation of the proceedings, or infringe the core values of the Council. This includes refraining from editing an image or views expressed in a way that may distort what has taken place or present it unfairly.

7. Can people leave recording equipment in a public meeting room and record without being present?

This can take place, however, the Council will require any such recording to stop if at any stage the meeting considers confidential items. The Council, therefore, suggests that people remain in the meeting. The authority takes no responsibility for any unsupervised equipment.

8. Further questions

If you have any questions on the issue of filming/recording of meetings please contact Democratic and Community Services at www.highpeak.gov.uk or by calling: **01298 28400 Ext. 2139**.