

ACCESS TO INFORMATION PROCEDURE RULES

1. Scope of Procedure Rules

- 1.1 These rules apply to all meetings of Full Council, Cabinet, Overview and Scrutiny Committees, Regulatory Committees and other Committees, Panels and Sub-Committees (known throughout these Procedure Rules as 'meetings'), other than Rules 13 to 25 which only apply to Cabinet or its Committees.

2. Additional Rights to Information

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or relevant legislation.

3. Rights to Attend Meetings

- 3.1 Members of the public may attend all meetings subject to the exceptions of these rules.

4. Notices of Meetings

- 4.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at its offices outside the Civic Suite at SK House, Grantham, NG31 6PZ and on its website.

5. Access to agenda and reports before the meeting

- 5.1 At least five clear working days before a meeting, the Council will make copies of the following documents available for inspection by members of the public at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and publish these documents on its website:
- (a) The agenda for the meeting
 - (b) Any reports which are to be made available to the public in accordance with these Procedure Rules
- 5.2 Where the meeting is convened at less than five clear working days' notice, a copy of the agenda and associated reports will be made available for inspection at the time the meeting is convened.
- 5.3 If an item is added to the agenda after it has been made publicly available, the revised agenda and any report relating to the item for consideration will be made available for inspection from the time the item was added to the agenda.

5.4 Where reports are prepared after the summons has been sent out, each such report will be made available to the public as soon as the report is completed and sent to Councillors.

6. Supply of Copies of Documents

6.1 The Council will supply copies of the following documents to any person on payment of a charge for postage and any other appropriate costs, or for free via the Council's website:

- (a) Any agenda and reports that are open to public inspection
- (b) Any further statements or particulars necessary to indicate the nature of the items in the agenda that are open to public inspection
- (c) Copies of any other documents supplied to Councillors in connection with an item, should the Monitoring Officer deem it appropriate

7. Access to Minutes and Documents After the Meeting

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

- (a) The minutes of the meeting and records of decisions taken, together with reasons, for all meetings of Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclosed 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
- (d) Reports relating to items when the meeting was open to the public

7.2 A copy of the minutes of the Council's meetings will be available for public inspection at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and will also be available on the Council's website.

8. Background papers

8.1 The Monitoring Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) Disclose any facts or matters on which the report or an important part of the report is based

- (b) 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 below) and in respect of Cabinet reports, the advice of the political advisor (if any)

8.2 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 at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and will also be available on the Council's website.

9. Summary of the Public's Rights

9.1 A written summary of the public's rights to attend meetings and inspect and copy documents will be kept at and be available to the public at the Council's Offices at St Peter's Hill, Grantham, Lincolnshire. NG31 6PZ.

10. Exclusion of Access by the Public to Meetings

Confidential information – requirement to exclude the public

10.1 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 Confidential information means information given to the Council by a Government Department on terms that forbid its public disclosure, or information that cannot be publicly disclosed by order of a Court.

Exempt information – discretion to exclude the public

10.3 The public may, by resolution of the meeting concerned, 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.

10.4 Any Councillor attending a meeting of a Committee or body may remain at the meeting even though the public has been excluded, unless the Committee or body, by resolution and specifying the reasons for doing so, requests them to leave.

10.4 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.

10.5 Exempt information means information falling within one or more of the categories specified in the left hand column on the table below, subject to any condition specified in respect of that category in the right hand column of the table.

Schedule 12A

Description of exempt information	Qualification
1. Information relating to any 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
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 the 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 this paragraph 3 is not exempt 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 Acts 1065 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 employees of, or officer holders under, the authority	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
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

<p>6. Information which reveals that the authority proposes:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person</p> <p>(b) To make an order or direction under any enactment</p>	<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>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<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>

10.6 Information falling within any of paragraphs one to seven is not exempt by virtue of that paragraph if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11. Exclusion of Access by the Public to Reports

If the Monitoring Officer thinks fit, the Council may exclude access by the public to the whole or any part of reports which in their 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 Access to Information Procedure Rules to Cabinet

12.1 Rules 13 to 25 apply to Cabinet and its Committees.

12.2 If Cabinet or its Committees meet to take a decision then it must also comply with Rules 1 to 11 unless Rule 17 (General Exception) or Rule 18 (Special Urgency) apply.

13. Procedure Prior to Private Meeting of Cabinet

13.1 Subject to Rule 13.2, before a decision is taken by Cabinet or its Committees to hold a meeting or part of a meeting in private:

- (a) A notice of intention to hold a private meeting including a statement of reasons for the meeting to be held in private will be made available at the Council's Offices at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and be published on the Council's website at least 28 clear days before the meeting.
- (b) A further notice of intention to hold a private meeting including a statement of reasons for the meeting to be held in private, details of any representations received by Cabinet, or its Committees, about why the meeting should be open to the public and a statement of response to any such representations must be made available at the Council's Offices at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and be published on the Council's website at least five clear working days before the meeting.

13.2 Where the date by which a meeting must be held makes compliance with Rule 13.1 impractical, then the decision to hold the meeting, or part of the meeting, in private may still be made. In such circumstances Cabinet or its Committees will obtain the agreement of the Chairman of the relevant Overview and Scrutiny Committee (or in their absence, the Chairman of the Council or in their absence the Vice-Chairman of the Council) that the item is urgent and cannot be reasonably deferred. As soon as reasonably practical after such consent is obtained, a notice setting out the reasons why the item is urgent and cannot reasonably be deferred must be made available at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and be published on the Council's website.

14. Key Decisions – Definition

- 14.1 A Key Decision is a decision taken under executive arrangements which is likely:
- (a) To result in the Council incurring expenditure which is, or the making of savings which are significant. For these purposes, South Kesteven District Council has agreed £200,000 as the threshold at which a decision will be considered significant. In respect of contracts, the £200,000 threshold for a Key Decision relates to the whole-life cost of the contract.
 - (b) To be significant as advised by the Chief Executive in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.
 - (c) In determining the meaning of significant for the purposes of paragraphs (a) and (b) above, the authority must have regard to any guidance issued by the Secretary of State in accordance with Section 9Q of the Local Government Act 2000.

14.2 A decision-maker will only make a Key Decision in accordance with the requirements below.

15. Procedure Before Taking Key Decisions

15.1 Subject to Rule 17 (General Exception) and Rule 18 (Special Urgency), a Key Decision may not be taken unless:

- (a) A notice of the Key Decision has been published on Cabinet's Forward Plan
- (b) The notice of the Key Decision referred to in paragraph (a) above has been made available for inspection at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and on the Council's website for at least 28 days, and
- (c) Where the decision is to be taken at a meeting of Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (Notices of Meetings)

16. The Forward Plan for Key Decisions

16.1 The Forward Plan will contain matters which will be the subject of a Key Decision to be taken by Cabinet, a Committee of Cabinet, individual Cabinet Members, Officers, or under joint arrangements in the course of the discharge of an executive function. It will state the following particulars:

- (a) That a key decision is to be made on behalf of the Council
- (b) The matter in respect of which the decision is to be made
- (c) Where the decision-maker is an individual, that individual's name and title and where the decision-maker is a body, its name and details of its membership
- (d) The date on which, or the period within which, the decision is to be made
- (e) A list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of the decision being made
- (f) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed are available

- (g) That other documents relevant to those matters may be submitted to the decision-maker
- (h) The procedure for requesting details of those documents (if any) as they become available

16.2 The Forward Plan of Key Decisions must be made available for inspection by the public at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and be published on the Council's website at least 28 days before a Key Decision is made.

16.3 Exempt information need not be included in the Forward Plan and confidential information cannot be included.

17. General Exception

17.1 Subject to Rule 18 (Special Urgency), where the publication of the intention to make a Key Decision under Rule 16 is impracticable, then the decision can only be made where:

- (a) The Chief Executive has informed the Chairman of the relevant Overview and Scrutiny Committee (or in their absence, the Chairman of the Council or in their absence the Vice-Chairman of the Council) of the matter about which the decision is to be made and the reasons why it is impracticable to comply with Rule 16.
- (b) The Chief Executive has made a copy of that notice available for inspection by the public at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and on the Council's website.
- (c) At least five clear days have elapsed since the Proper Officer complied with (b) above.

18. Special Urgency

18.1 Where the date by which a decision must be made makes compliance with Rule 17 (General Exception) impracticable, the decision may only be made where the decision-maker has obtained agreement from:

- (a) The Chairman of the relevant Overview and Scrutiny Committee
- (b) Or in their absence, the Chairman of the Council or in their absence the Vice-Chairman of the Council

that the making of the decision is urgent and cannot reasonably be referred.

18.2 The Chief Executive will determine which is the relevant Overview and Scrutiny Committee for this purpose.

18.3 As soon as reasonably practicable after the decision-maker has obtained agreement under Rule 18.1 that the making of the decision is urgent and cannot be reasonably deferred, the decision-maker must make available at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and on the Council's website a notice setting out the reasons that the making of the decision is urgent and cannot reasonably be deferred.

19. Reports to Council

19.1 If an Overview and Scrutiny Committee thinks that a Cabinet decision has been taken which was not treated as being a Key Decision and the Committee is of the opinion that the decision should have been treated as a Key Decision, the Committee may require Cabinet to submit a report to Full Council within such reasonable time as the Committee specifies.

19.2 The requirement will be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

19.3 The Leader will submit reports to the Council at least once a year on Cabinet decisions taken in the circumstances set out in Rule 18 (Special Urgency), if any such decisions have been taken.

20. Record of Decisions

As soon as reasonably practicable after any meeting of Cabinet, or any of its Committees, the Chief Executive will ensure a written statement is produced of every decision taken at that meeting. The statement will include:

- (a) A record of the decision including the date it was made
- (b) A record of the reasons for the decision
- (c) Details of any alternative options considered and rejected
- (d) A record of any conflict of interest in relation to the matter decided which is declared by any member of the decision-making body which made the decision
- (e) In respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer

21. Notice of Meetings of Cabinet

21.1 All Members of Cabinet 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.

22. Attendance at Meetings

- 22.1 Any Councillor may attend any meeting of Cabinet, its Committees or Sub-Committees and Sub-Committees as observers.
- 22.2 It will be at the discretion of the Leader of the Council, or the person presiding the meeting, as to whether any Councillor attending as an observer may speak on an item on the agenda for the meeting.
- 22.3 The Chief Executive, Section 151 Officer, Monitoring Officer and Chief Officers, and their nominees, are entitled to attend any meeting of Cabinet and its Committees.
- 22.4 A meeting of Cabinet to consider confidential or exempt items may only take place in the presence of the Chief Executive or their nominee with responsibility for recording and publishing the decisions.

23. Decisions by Individual Cabinet Members or Officers

- 23.1 Where an individual Cabinet Member or Officer receives a report which they intend to take into account in making a Key Decision or Non Key Decision, then they will not make the decision until at least five clear working days after that report was made publicly available under Rule 23.2 below, or would have been made publicly available but for the fact that it contains confidential or exempt information.
- 23.2 Unless it contains confidential or exempt information, the Cabinet Member or Officer making the decision referred to in Rule 23.1 will ensure that the Chief Executive makes the report available for inspection by the public as soon as is reasonably practicable after the Cabinet Member or Officer receives it at the Council's Offices at St Peter's Hill, Grantham, NG31 6PZ and on the Council's website.
- 23.3 On giving such a report to an individual decision-maker, the person who prepared the report will provide a copy to the Chairman of the relevant Overview and Scrutiny Committee as soon as reasonably practical.
- 23.4 As soon as reasonably practicable after a Cabinet decision has been taken, either by an individual Cabinet Member or by an Officer, they will arrange the preparation of a written statement of the decision which shall include a record of the decision to include:
 - (a) A record of the decision including the date it was made
 - (b) A record of the reasons for the decision
 - (c) Details of any alternative options considered and rejected

- (d) A record of any conflict of interest declared by a Cabinet Member who is consulted by the decision-maker
- (e) In respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer

23.5 The provisions of Rules 7 and 8, in respect of the inspection of documents, will also apply to the making of Cabinet decisions by individual Cabinet Members and Officers. This does not require the disclosure of exempt or confidential information or advice from a political assistant (if used).

24. Overview and Scrutiny Committees – Access to Documents

24.1 Subject to Rule 24.4 below, any member of an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of Cabinet or its Committees and which contains material relating to:

- (a) Any business that has been transacted at any meeting of Cabinet or its Committees.
- (b) Any decision taken by an individual Cabinet Member of any executive decision taken by an Officer.

24.2 Overview and Scrutiny Committees will be entitled to foresight of papers in relation to decisions of Cabinet before the decision is made.

24.3 Subject to Rule 24.4 below, where a member of an Overview and Scrutiny Committee requests a document which falls under Rules 24.1(a), 24.1(b) and 24.2, this must be provided by Cabinet as soon as reasonably practicable and in any case no later than ten days after Cabinet receives the request.

24.4 No member of an Overview and Scrutiny Committee will 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 any review contained in any programme of work of the relevant Overview and Scrutiny Committee
- (c) Any part of a document that contains the advice of a political adviser (if any)

25. Additional Rights of Access for Councillors

- 25.1 Subject to Rule 25.3 and Rule 25.4, any document which is in the possession of or under the control of Cabinet and contains material relating to any business transacted at a private meeting of Cabinet or its Committees, or any decision made by an individual Cabinet Member or an Officer in accordance with executive arrangements, must be available for inspection by any Councillor within 24 hours of the decision having been made.
- 25.2 Subject to Rule 25.3 and Rule 25.4, any document which is in the possession of or under the control of Cabinet and contains material relating to any business to be transacted at a public meeting of Cabinet or its Committees must be available for inspection by any member of the Council for at least five clear days before the meeting. Where the meeting is convened at shorter notice, any document must be available for inspection when the item is added to the agenda.
- 25.3 Rules 25.1 and 25.2 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information of a description falling within any of the categories outlined in Rule 10 above, unless:
- (a) The document contains exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act (as amended), except to the extent that the information relates to any terms proposed or to be proposed to the Council in the course of negotiations for a contract
 - (b) The document contains exempt information falling within paragraph 6 of Part 1 of Schedule 12A of the Local Government Act (as amended).
- 25.4 Rules 25.1 and 25.2 do not require any document to be made available for inspection if it appears to the Monitoring Officer that it discloses the advice of a political adviser, if any.

26. Nature of Rights

- 26.1 These rights of a Councillor are additional to any other right they may have whilst in office.