

## **APPENDIX 3**

### **Access to Information Procedure Rules**

#### **1. Scope**

These rules apply to all meetings of the South West Wales Corporate Joint Committee (including Sub-Committees) (“the CJC”)

Although the Freedom of Information Act 2000 presumes openness it recognises the need to protect sensitive information in certain circumstances and provides for exemptions. Some exemptions are absolute, where there is no right to the information; some exemptions are qualified, where even though information falls within the exemptions it may still have to be disclosed if it is in the public interest to do so.

Examples of exemptions include information that is commercially sensitive, confidential information, certain personal information, protection of national security, information where disclosure is prevented by other legislation, information intended for future publication, law enforcement matters and information that is accessible by other means.

In addition to the Freedom of Information Act, there are two other access to information regimes:

- (a) The Data Protection Act 2018, which enables individuals to access certain information on themselves; and
- (b) The Environmental Information Regulations 2004, which enables people to access environmental information.
- (c) The Data Protection Act and the Environmental Information Regulations are also subject to exemptions.

#### **2. Additional Rights to Information**

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

### **3. Rights to Attend Meetings**

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

### **4. Notices of Meeting**

The CJC will give at least three clear days' notice of any meeting by posting details of the meeting on the website of Neath Port Talbot County Borough Council and other constituent councils and national park authorities.

### **5. Access to the Agenda and Reports before the Meeting**

The CJC will make copies of the agenda and reports (except reports which are determined to be private "not for publication/exempt" reports) open to public during normal office hours and online at least three clear days before the meeting (or if a committee meeting is called at shorter notice, for urgent special reasons, that at the time it is convened). If an item is added to the agenda of any meeting, for urgent special reasons, copies of the item (or of the revised agenda) and copies of any public (not private) reports relating to the item will be open to inspection from the time the item was added to the agenda (where public reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to CJC members).

### **6. Supply of Copies**

The CJC 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 Chief Executive thinks fit, copies of any other documents supplied to members of the CJC 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 CJC will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting, or record of decisions taken by the CJC, excluding any part of the minutes, or record, of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
- (b) a summary of any proceedings not open to the public where the minutes, or record, 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 CJC will set out in every public report a list of those documents (called background papers) relating to the subject matter of the report which in their/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 CJC 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. Publication of Additional Information**

- (a) The CJC will maintain a register stating the name and address of every member of the CJC. The register is open to inspection by the public during normal office hours.
- (b) A copy of the details of any co-opted members and their co-option agreements
- (b) The CJC will maintain a list specifying powers delegated to its officers, and stating the title of the officer by whom each of those powers is exercisable. The list excludes short term delegations of less than six months duration.
- (c) Any local government elector for the area may inspect an Order for the payment of money made by the CJC during normal office hours.
- (d) Documents may be required to be deposited with an appointed officer either by an Act of Parliament or statutory instrument, or pursuant to the Standing Orders of either House of Parliament. A person interested in any such document may inspect it during normal office hours
- (e) A summary of other Rights of Inspection of Documents pursuant to the Local Government (Inspection of Documents) (Summary of Rights) Order 1986 – Statutory Instrument 1986 No. 854, is also open to inspection during normal office hours.

## **10. Exclusion of Access by the Public to Meetings**

### **10.1 Public and Private Meetings of the CJC**

The CJC may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting. This does not prevent the CJC from holding informal deliberations in private, with or without officers present, but these deliberations shall not take decisions, and neither do the provisions of these rules apply to such deliberations.

### **10.2 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.

### 10.3 Exempt Information – Direction 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 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 CJC by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### 10.5 Meaning of Exempt Information

10.5.1 Exempt information means those categories of exempt information which are contained in paragraphs 12 to 18 of Part 4 of Schedule 12A to the Local Government Act 1972 (as amended) set out in the left hand column below subject to the qualifications in respect thereof set out in the right hand column below:-

Exempt Information	Qualification
12. Information relating to a particular individual.	Public interest test applies (see below)
13. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
14. Information relating to the financial or business affairs of any particular person (including	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered

<p>the authority holding that information)</p>	<p>under –  The Companies Act 1985;  The Friendly Societies Act 1974;  The Friendly Societies Act 1992;  The Industrial and Provident Societies Act 1965 to 1978;  The Building Societies Act 1986; or  The Charities Act 1993.  Public interest test applies (see below)</p>
<p>15. 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>Public interest test applies (see below)</p>
<p>16. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Public Interest test does not apply</p>
<p>17. 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.</p>	<p>Public Interest test applies (see below)</p>
<p>18. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Public interest test applies (see below)</p>

NOTE: 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.

10.5.2 In relation to a meeting of a Standards Committee, or a sub-committee of Standards Committee, which is convened to consider a matter referred under the provisions of Section 70(4), 70(5) or 71(2) of the Local Government Act 2000, “Exempt Information” will also include those categories of exempt information which are contained in paragraphs 18A to 18C of Part 4 of Schedule 12A to the Local Government Act 1972 (as amended) set out in the left hand column below subject to the qualifications in respect thereof set out in the right hand column below:-

Exempt Information	Qualification
18A. Information which is subject to any obligations of confidentiality.	Public interest test applies (see below)
18B. Information which relates in any way to matters concerning national security.	Public interest test applies (see below)
18C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it”.	Public interest test applies (see below)

### 10.5.3 **Public Interest Test**

Information which –

- (a) falls within any of paragraphs 12 to 15, 17 and 18 above; and
- (b) is not prevented from being exempt by virtue of the ‘qualifications’ above,

is exempt information if and so long, as in all the

circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### 10.5.4 **Interpretation**

For the purposes of the interpretation of the categories of exempt information and qualifications set out in items 10.5.1 and 10.5.2 above the following applies:-

(1) in the left hand and right hand columns –

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“labour relations matters” means:-

(a) any of the matters specified in paragraphs (a) to (g) of sections 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office holder”, in relation to the authority, means the holder of any paid office appointments to 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;

“registered” in relation to information required to be



registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

- (2) Any reference to “the authority” is a reference to the CJC or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference:-
- (a) in the case of a principal CJC, to any committee or sub-committee of the CJC; and
  - (b) in the case of a committee to:-
    - (i) any constituent principal CJC;
    - (ii) any other principal CJC by which appointments are made to the committee or whose functions the committee discharges; and
    - (iii) any other committee or sub-committee of a principal CJC falling within sub-paragraph (i) or (ii) above; and
  - (c) in the case of a sub-committee, to:-
    - (i) the committee, or any of the committees, of which it is a sub-committee; and
    - (ii) any principal CJC which falls within paragraph (b) above in relation to that committee.

## **11. Exclusion of Access by the Public to Reports**

If the proper officer thinks fit, the CJC may exclude access by the public to 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. Consultation under the Forward Work Programme**

### **12.1 Period of Forward Work Programme**

A forward work programme will be published before the start of the period covered. The programme will cover a period of four months and will be updated at least quarterly.

### **12.2 Contents of Forward Work Programme**

The CJC forward work programme will contain matters which the CJC is likely to consider. It will contain information on:

#### **(i) Policy and Budget Framework**

The timetable for considering the budget and any plans forming part of the policy and budget framework which will require CJC approval, and which body within the CJC is to consider them.

#### **(ii) Other Plans/Matters**

The timetable for considering any plans which are the responsibility of the CJC and any other individual matters, on which the CJC intends to consult in advance of taking a decision.

The following are other requirements associated with the forward work programme under the constitution:-

- (a) the level of consultation will be appropriate to the matter under consideration; matters not required to be included under the constitution may however be included in the programme;
- (b) specific consultees may or may not be identified in the programme, but if there are any principal consultees these should be included;
- (c) anyone – besides any named consultees – who wishes to make representations to the CJC on any issues in the programme may do so by writing to the named contact;
- (d) notwithstanding the inclusion of matters in the forward work programme, no information which is confidential or exempt

need be disclosed as a result of the publication of that programme. A matter which is confidential or exempt need not automatically be included in the programme, notwithstanding the requirements above, this being at the discretion of the Chief Executive

- (e) the CJC forward work programme should also be provided to the members of Scrutiny Committees and other Members of CJC, to facilitate forthcoming pre-decision scrutiny/consultation where appropriate (Article 6 refers).
  - (f) where a matter may ordinarily be one for inclusion in a forward work programme, but was not included, whether unforeseen or otherwise, yet needs to be considered and determined by the CJC in the interests of the CJC and the public, the matter may be dealt with by the CJC without inclusion in a forward work programme – but in this respect, advance notice of the proposal will be given to the public and the relevant Scrutiny Committee members by way of the public notice and agenda for the relevant CJC meeting, (unless the item is deemed necessary to be dealt with outside of a meeting under the urgency and other Rules in the Constitution). The report to any CJC meeting will need to state, in cases where there is ordinarily a requirement for consultation, but where this has not been able to take place, the reasons why not. The aim, where practicable, in such cases would also be to ensure consultation with a Scrutiny Committee before implementation of any CJC decisions. The Scrutiny call-in powers may also be invoked in relation to the above if deemed appropriate (except for those cases not subject to call-in under the urgency and other Rules in this Constitution). A matter may not also have been included in the forward work programme because it has been the subject of a separate and specific consultation exercise, the outcome of which will be reported to the CJC, and hence there will have been no requirement under this Constitution for such a matter to have been included in the programme.
- (iii)** Forward work programmes should also be prepared for matters which the CJC and Scrutiny Committees are likely to consider.

Any non-compliance with paragraph 12 provisions shall not

invalidate any decisions otherwise properly taken under statutory provisions.

## **13. Record of Decisions of the CJC**

### **13.1 The Decisions Record**

- (a) A written statement (or decision record) will be made by the Chief Executive or their representative of every CJC decision made by the CJC and its committees, and any individual members (if authorised), and of joint committees and joint sub-committees whose members are all members of a local authority CJC.
- (b) This statement will include:-
- A record of the decision, including the date it was made;
  - A record of the reasons for the decision;
  - A record of any personal interest declared;
  - A note of any dispensation to speak granted by the Authority's Standards Committee;
  - Details of any consultation undertaken in accordance with the Constitution and where such consultation is required but has not taken place, the reason why that is the case.

The statement will also specify if a decision has been taken as an urgent one which is not subject to the call-in procedure.

### **13.2 Preparing the Decision Record**

- (a) The Chief Executive or their representative shall attend any meeting of the CJC, a committee of the CJC or a joint committee or joint sub-committee and shall as soon as reasonably practicable after the meeting produce a decision record.

- (b) Where an individual member has made any CJC decision (where the CJC has delegated functions):-
  - (i) that member shall as soon as reasonably practicable instruct the Chief Executive to produce a decision record; and
  - (ii) the decision shall not be implemented until that decision record has been produced, subject to (c) below.
- (c) where the date by which an CJC decision made by an individual member must be implemented makes compliance with (b)(ii) above impracticable, the decision may be implemented if the decision maker has the agreement of:
  - (i) the chairperson of the relevant Scrutiny Committee, or
  - (ii) if there is no such person or that person is unable to act, the chairperson of the local authority, or
  - (iii) if there is no chairperson of the relevant scrutiny committee or the local authority, the vice-chairperson of the local authority

that the making of the decision is urgent and cannot reasonably be deferred.
- (d) The Chief Executive will ensure that CJC decisions, together with the reasons for those decisions and relevant officer reports are made publicly available as soon as is reasonably practicable.

## **14. Decisions by an Individual Member of the CJC (where the CJC has Delegated Functions)**

### **14.1 Reports Intended to be Taken into Account**

Where an individual member of the CJC receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

### **14.2 Provision of Copies of Reports to the Overview and Scrutiny**

## **Committee**

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 the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time (other than if it contains confidential or exempt information).

### **14.3 Record of Individual Decision**

The decision recording rules in paragraph 13 will apply.

## **15. Scrutiny Committee Members' Access to Documents**

### **15.1 Rights of Access**

Subject to Rule 15.2 below, and the provisions of the Local Authorities (CJC Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 No. 2290, a Scrutiny Committee (including its sub-committees) will be entitled to access any document which is in the possession or control of the CJC or its committees and which contains material relating to:-

- (a) any business transacted at a formal meeting of the CJC or its committees; or
- (b) any decision taken by an individual member of the CJC

### **15.2 Limit on Rights**

A Scrutiny Committee or Sub-Committee will not be entitled to any part of a document that contains:

- Confidential or exempt information, or
- Advice provided by a political adviser or assistant

unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of that committee or sub-committee.

## **16. Additional Rights of Access for Members**

### **16.1 Rights of Access**

All elected members within constituent councils of the CJC will be entitled to inspect any document which is in the possession or under the control of the CJC or its committees and contains material relating to any business transacted at a formal meeting of a decision making body of that authority or by an individual member of the CJC.

## 16.2 **Limitation on Rights**

A member will not be entitled to any part of a document where it appears to the Chief Executive that:-

- (a) it would disclose exempt information of a description falling within Part 4 of Schedule 12A to the Local Government Act 1972 (Description of Exempt Information: Wales) – except that the document is to be available for inspection if the information is information of a description for the time being falling within:
  - (i) paragraph 14 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), or
  - (ii) paragraph 17 of Schedule 12A to the 1972 Act.
- (b) it would disclose advice of a political adviser or assistant.

## 16.3 **Nature of Rights**

These rights of a member are additional to any other right he/she may have (including under Section 100F (1) of the Local Government Act 1972 with regard to CJC and Committees/Sub Committee meetings, but subject to the provisions of sub section (2) thereof).