

## **(2) Access to Information Procedure Rules**

### **PREAMBLE**

The following rules are based upon the provisions of the Local Government Act 1985 and the Code of Practice on Access to Government Information.

#### **1. INTRODUCTION**

Openness and transparency are part of effective and accountable governance. The public should have adequate access to the information and analysis on which the Council business is based. Members and officers have a duty to explain their policies, decisions and actions to the public.

The Council does, however, need to keep some information confidential, and it has a duty to protect the proper privacy of those with whom it deals.

#### **2. ADDITIONAL RIGHTS TO INFORMATION**

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

#### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public are not entitled as of right to attend meetings of the Council, however all meetings of full Council are open to the public except when items of a confidential or exempt nature are discussed, or as specified under standing orders.

#### **4. NOTICES OF MEETING**

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

#### **5. ACCESS TO AGENDA**

The Council will make copies of the agenda and reports open to the public available for inspection at the Town Hall.

#### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) any other documents supplied to Members in connection with an item, if the Chief Executive thinks fit; to any person on payment of any reasonable charge for copying and any other costs.

#### **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

The council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) the agenda for the meeting; and

- (c) reports relating to items when the meeting was open to the public, including reports by Officers where there is no specific reason for confidentiality.

## 8. **BACKGROUND PAPERS**

### 8.1 **List of Background Papers**

Report authors will set out in every report under paragraph 14 "Appendices" a list of those documents (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 this does not include published works or those which disclose exempt or confidential information (as defined Rule 10).

## 9. **SUMMARY OF PUBLIC'S RIGHTS**

A Written summary of the public's rights to attend meetings and to inspect documents must be kept at and available to the public at the Town Hall, Douglas.

*As the Constitution is available to the public and on the Council's website, these rules constitute that written summary.*

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

### 10.1 **Confidential Information- Requirement 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 confidential information would be disclosed.

### 10.2 **Exempt Information- Discretion to Exclude Public**

- (a) 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 proceedings that exempt information would be disclosed.
- (b) In deciding whether to exclude the public the Council will consider whether the public interest in applying the exemption outweighs the public interest in disclosure of the information.

### 10.3 **Meaning of Confidential Information**

Confidential information means information given to the Council by any other person (including a Government Department or any other public authority) on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### 10.4 **Meaning of Exempt Information**

Exempt information means information falling within the following categories (subject to any conditions):

<b>Description</b>	<b>Qualification</b>	<b>Notes</b>
<p>1. Information relating to any individual</p> <p>[Personal information]</p>	<p>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- see note on public interest at end of table.</p>	<p>Names, addresses or telephone numbers can identify individuals.</p> <p>Also consider the Council's Data Protection Act responsibilities.</p>
<p>2. Information which is likely to reveal the identity of an individual</p> <p>[Identification of an individual]</p>	<p>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- see note on public interest at end of table.</p>	<p>Names, addresses or telephone numbers can identify individuals.</p> <p>Also consider the Council's Data Protection Act responsibilities.</p>
<p>3. Information relating to the financial or business affairs of any particular person</p> <p>[Personal financial or business affairs]</p>	<p>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- see note on public interest at end of table.</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under company or charity law.</p>	<p>Financial or business affairs includes contemplated, as well as past or current activities.</p>
<p>4. Information relating to any consultations or negotiations or contemplated consultations or negotiations in connection with any industrial relations matter arising between the Council or the Government and employees of, or office holders within the Council</p>	<p>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- see note on public interest at end of table.</p>	<p>Employee means a person employed under a contract of service.</p> <p>Office holder in relation to the authority, means the holder of any paid</p>

<p>[Labour relations]</p>		<p>office appointments which are or may be made by the Council or by any person who holds such office or is an employee of the authority.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p> <p>[Legal professional privilege]</p>	<p>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- see note on public interest at end of table.</p>	
<p>6. Information which reveals that the council proposes:</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p> <p>[Statutory notice, direction or order]</p>	<p>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- see note on public interest at end of table.</p>	
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime</p> <p>[Crime related matters]</p>		
<p>8. Information which relates in any way to matters concerning national security</p>	<p>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- see note on public interest at end of table.</p>	

<p>9. Information presented to the Standards Committee set up to consider a breach of Members Code of Conduct</p>	<p>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- see note on public interest at end of table.</p>	
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## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive 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 the above paragraph, the meeting is likely not to be open to the public. Such reports will be marked "Private and Confidential".

### NOTE

#### Public Interest

In each case before information can be exempt the Council must be satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

There is no legal definition of what the public interest test is but the following identifies 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 Tynwald 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 interest 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 environment.