

## 4.4 Access to Information Rules

### Rights to attend meetings, inspect documents and record proceedings

#### Part 1: Rights of the Public: Non-Mayoral and Mayoral General Functions

References to meetings of the Combined County Authority include meetings of any ordinary or statutory committee or sub-committee appointed by the Combined County Authority. These provisions do not affect any other rights to information arising under any standing orders of the Combined County Authority, or by law.

#### 1. Public Access to a Combined County Authority Meeting

1.1 Any meeting of the Combined County Authority shall be open to the public except where the public is excluded (during the whole or part of the proceedings) in accordance with the following:

##### A Confidential Information

1.2 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.

1.3 Confidential information means:

- information given to the Combined County Authority by a Government department on terms which forbid its public disclosure, or
- information the public disclosure of which is prohibited by or under an Act or Court Order.

##### B Exempt Information

1.4 The Combined County Authority may resolve to exclude the public from a meeting during an item 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 to the public if the public were present during the item.

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1.5 Exempt information means information falling within one of the following descriptions (as set out in Part 1 of Schedule 12A of the Local Government Act 1972):

Description	
Paragraph 1	Information relating to any <b>individual</b> .
Paragraph 2	Information which is likely to reveal the <b>identity of an individual</b> .
Paragraph 3	Information relating to the financial or <b>business affairs of any particular person</b> (including the Combined County Authority holding that information), except information which must be registered under various statutes, such as the Companies Acts or the Charities Act 2011. "Financial or business affairs" includes contemplated, as well as past or current, activities.
Paragraph 4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any <b>labour relations matter</b> arising between the Combined County Authority or a Minister of the Crown and employees of, or officer-holders under the Combined County Authority
Paragraph 5	Information in respect of which a claim to legal professional privilege could be maintained in <b>legal proceedings</b> .
Paragraph 6	Information which reveals that the Combined County Authority proposes: <p style="margin-left: 40px;">(a) to give under any enactment <b>a notice</b> under or by virtue of which requirements are imposed on a person, or to make an <b>order or direction</b> under any enactment.</p>
Paragraph 7	Information relating to any action taken or to be taken in connection with the prevention, investigation, or prosecution of <b>crime</b> .

1.6 Information falling within any of these descriptions is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

1.7 Information falling within any of these descriptions may only be exempt 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.

1.8 A resolution to exclude the public from a meeting must:

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- identify the proceedings, or the part of the proceedings, to which it applies,
- state the description of the exempt information giving rise to the exclusion of the public, and
- confirm (by referring to reasons in a relevant report or otherwise) that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **C General Disturbance**

- 1.9 Procedure Standing Order 21.7 in Part 4.1 of the Constitution provides for the public to be excluded from a meeting where general disturbance arises.

## **2. Public Access to Agenda and Reports of a Combined County Authority Meeting**

- 2.1 The Monitoring Officer shall make the following open to public inspection, at the offices of the Combined County Authority in accordance with the Combined County Authority's Procedure Standing Orders in Part 4 of the Constitution:
- copies of the agenda for a meeting of the Combined County Authority, and
  - copies of any report for the meeting open to the public

## **3. Public Access to copies at a Combined County Authority Meeting**

- 3.1 The Monitoring Officer will make available for the use of members of the public present at a meeting a reasonable number of copies of:
- the agenda, and
  - those reports open to the public

## **4. Public Access to documents at a Combined County Authority Meeting**

- 4.1 The Monitoring Officer will make available for inspection copies of the following for six years after a meeting:
- the minutes of the meeting (excluding any part of the minutes when the meeting was not open to the public or which disclose exempt or confidential information),
  - a written summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record,
  - the agenda for the meeting, and
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- reports relating to items when the meeting was open to the public.

## **5. Public Access to background papers at a Combined County Authority Meeting**

- 5.1 The author of any report will set out in the report a list of the background papers relating to the subject matter of the report which in the author's opinion:
- disclose any facts or matters on which the report or an important part of the report is based, and
  - have been relied on to a material extent in preparing the report.

This requirement does not extend to:

- published works, or
- papers which disclose exempt or confidential information.

- 5.2 The Monitoring Officer will:
- publish a list of each of the background documents listed on the Combined County Authority's website at the same time as the report is available for public inspection, and
  - make a copy of each available to the public at the offices of the Combined Authority, on payment of a reasonable fee

- 5.3 The Monitoring Officer will make available for public inspection one copy of each of the documents on the list of background papers, for four years after the date of the meeting.

## **6. Reporting and recording a Combined County Authority Meeting**

- 6.1 The Combined County Authority will provide so far as practicable, reasonable facilities to any person attending a meeting for the purpose of reporting on the meeting.
- 6.2 A person attending a meeting for the purpose of reporting on it may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.
- 6.3 Publication and dissemination may take place at the time of the meeting or occur after the meeting.
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- 6.4 Any person reporting on a meeting is expected to comply with the attached Code of Practice.
- 6.5 Meetings of the Combined County Authority may be recorded and made available for public viewing on the intranet. The Chair of a meeting may restrict the recording of meetings where an external participant in the meeting objects To being recorded and the Chair considers that the public interest in upholding their objection outweighs the public interest in allowing the recording to continue. The Chair will ask those reporting to respect the wishes of the external participant.

## **7. Forward Plan: Non-Mayoral and Mayoral General Functions**

### **A Definition of a Key Decision**

- 7.1 A Key Decision means a decision of a decision maker, which in the view of an overview and scrutiny committee of the Combined Authority is likely:
- i. to result in the Combined County Authority or the Mayor incurring significant expenditure, or the making of significant savings, having regard to the Combined County Authority's budget for the service or function to which the decision relates; or
  - ii. to be significant in terms of its effects on persons living or working in an area comprising two or more electoral divisions in the area of the Combined County Authority.
- 7.2 For the purposes of (i) above, this includes any decision likely to result in the Combined County Authority incurring expenditure or making savings (including the receipt or loss of income) of £500,000 or more in any financial year.
- 7.3 For the purposes of (i) and (ii) above, the following shall not be treated as a Key Decision:
- any decision which is a direct consequence of implementing a previous Key Decision,
  - any decision which is the result of varying a previous Key Decision in line with recommendations made by an overview and scrutiny committee following a call-in of that decision,
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- a Treasury Management decision in relation to the making, payment or borrowing of a loan,
- a decision by an officer under delegated authority to vary any document for updating or clarification purposes only, or
- the urgent settlement of proceedings to which the Combined County Authority is a party.
- any decision relating to the acceptance of funding

## **B Notice Provisions**

7.4 Except where impracticable, a Key Decision cannot be made unless until a notice has been published which states:

- that a Key Decision is to be made in relation to the discharge of functions which are the Combined County Authority's responsibility,
- the matter in respect of which the decision is to be made,
- the decision maker's name and title if any,
- the date on which, or the period within which, the decision is to be made,
- a list of documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made,
- the address from which, subject to any prohibition or restriction on their disclosure, copies of or extracts from, any document listed is available,
- that other documents relevant to those matters may be submitted to the decision maker, and
- the procedure for requesting details of those documents (if any) as they become available.

7.5 The Monitoring Officer will publish any such notice on the Forward Plan on the Combined County Authority's website at least 28 clear days before the Key Decision is made and make it available for public inspection at the Offices of the Combined County Authority (subject to C and D below).

7.6 Where in relation to any matter:

- the public may be excluded under section 100A of the Local Government Act 1972 from the meeting at which the matter is to be discussed, or
  - documents relating to the decision need not (because of confidential information) be disclosed to the public,
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- the notice must contain particulars of the matter but may not contain any confidential information or exempt information or particulars of the advice of a political adviser.

## **C General Exception**

7.7 Subject to cases of special urgency, where it is impracticable to publish a notice of a Key Decision at least 28 clear days before the Key Decision is to be made, the decision may only be made:

- where the Monitoring Officer has informed the Chair of any relevant overview and scrutiny committee by notice in writing of the matter about which the decision is to be made,
- where the Monitoring Officer has published the notice on the Combined County Authority's website and made the notice available for public inspection at the Combined County Authority's offices, and
- after 5 clear days have elapsed following the day on which the Monitoring Officer made the copy of the notice available.

7.8 As soon as reasonably practicable after the Monitoring Officer has served a notice on the Chair, published the notice and made it available to the public, the Monitoring Officer must make available to the public and publish a notice setting out the reasons why it was impracticable to publish the notice of a Key Decision at least 28 days before the Key Decision was to be made.

## **D Cases of Special Urgency**

7.9 Where the date by which a Key Decision must be made makes it impracticable to comply with the general exception provision above, the Key Decision may only be made where the decision maker has obtained agreement from the Chair of any relevant overview and scrutiny committee that the making of the Key Decision is urgent and cannot reasonably be deferred.

7.10 As soon as reasonably practicable after the decision maker has obtained the necessary agreement that the Key Decision is urgent and cannot reasonably be deferred, the decision maker must make available to the public at the Combined County Authority's offices a notice setting out the reasons why the Key Decision is urgent and cannot

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reasonably be deferred; and publish that notice on the Combined County Authority's website.

## **E Requests for Statutory Consents – Non-Mayoral and Mayoral General Functions**

7.11 The 2024 Order provides that the exercise of some Non-Mayoral and Mayoral General Concurrent Functions are subject to a consent provision, ("Statutory Consent"), to safeguard the Constituent Councils' role in local decision-making and delivery – see functions tables in **Part 3** of the constitution.

## **8. Public Access to Written Records of Decisions Made by Officers: Non-Mayoral and Mayoral General Functions**

8.1 A decision-making Officer is required to produce a written record of their decision through an Officer Decision Notice if the decision has been delegated:

- under a specific express authorisation, or
- under the Officer Delegation Scheme where the effect of the decision
- is to:
  - (a) grant a permission or license,
  - (b) affect the rights of an individual, or
  - (c) award a contract or incur expenditure which, in either case, materially affects the Combined County Authority's financial position.

8.2 For the purposes of c) above, any award of a contract or expenditure of £500,000 or over will be deemed to materially affect the Combined County Authority's financial position.

8.3 An Officer must also record and publish any Key Decision they make through an Officer Decision Notice, whether or not it is outside the criteria set out above.

8.4 An Officer must also record and publish any decision that incurs expenditure over £50,000 through an Officer Decision Notice

8.5 An Officer may also,

- (a) record, or
  - (b) record and publish, any other decision outside of 8.1, if they consider this to be in the public interest
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- 8.6 As soon as reasonably practicable after an officer has made a written record in accordance with 8.1 or 8.5 b, the Monitoring Officer shall make any written record and any background papers
- available for inspection by the public:
  - at all reasonable hours, at the offices of the Combined County Authority,
  - on the Combined County Authority’s website, and
  - by such other means that the Combined County Authority considers appropriate.
- 8.7 On request the Monitoring Officer will provide:
- a copy of the written record, and
  - a copy of any background papers.
- 8.8 The Combined County Authority will retain each written record and make it available for public inspection for 6 years beginning with the date on which the decision was made.
- 8.9 The Combined County Authority will retain any background papers and make them available for public inspection for 4 years beginning with the date on which the decision was made.

## **9. Public Access to Written Records of Decisions Made by the Mayor (Mayoral General Functions)**

- 9.1 Any decision taken at a meeting of the Combined County Authority will be recorded in the minutes of the meeting.
- 9.2 Where a decision has been taken outside of a Combined County Authority meeting:
- any Key Decision taken by the Mayor or a Combined County Authority Member acting on the Mayor’s behalf will be recorded and published on the Combined County Authority’s website, together with a copy of the written report considered in respect of the decision, and
  - any decision taken by an Officer will be recorded as a written record of their decision in accordance with the Access to Information Rule 8 above.

## **Part 2: Press Access to a Combined County Authority Meeting**

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- 10.1 The Monitoring Officer shall supply on request for any newspaper:
- a copy of the agenda and those reports open to the public,
  - any further statements necessary to indicate the nature of the items on the agenda, and
  - if the Monitoring Officer thinks fit, copies of any other documents supplied to Combined County Authority Members in connection with the item.
- 10.2 Procedure Standing Order 45 and rights relating to recording proceedings set out above apply to members of the press, in the same way as they apply to the public.

## Part 3: Freedom of Information (FOI) and the Local Government Transparency Code

- 11.1 The Freedom of Information Act 2000 and Environmental Information Regulations 2004 apply to the Combined County Authority, which therefore publishes information under a Publication Scheme. The Scheme specifies:
- the classes of information which the Combined County Authority publishes or intends to publish,
  - how information in each class is, or is intended to be, published, and
  - whether the material is, or is intended to be, available to the public free of charge or on payment.
- 11.2 The public also has a general right of access to information held by the Combined County Authority, but this is subject to exemptions
- 11.3 A request for information must be submitted to and dealt with by the Monitoring Officer.
- 11.4 A request for information under the FOIA must:
- be in writing
  - state the name of the applicant
  - state an address for correspondence, and
  - describe the information requested.
- 11.5 A request for information under the EIR must state a name and address for written correspondence, however the request can be made verbally or in writing.
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- 11.6 The Combined County Authority publishes information as required by the Local Government Transparency Code 2015, which includes but is not limited to the following:
- spending and expenditure including grants,
  - procurement information including contracts,
  - organisation chart detailing senior management personnel, and
  - land and assets

## Part 4: Members' Access

### 1. General

- 12.1 Any member of the Combined County Authority is entitled to inspect any document which:
- is in the possession of or under the control of the Combined County Authority, and
  - contains material relating to any business to be transacted at a meeting of the Combined County Authority.
- 12.2 Unless it appears to the Monitoring Officer that it discloses information falling within any of the descriptions of exempt information (set out in Part 1 of Schedule 12A of the Local Government Act 1972 as listed under section 1B above), other than the following (which will be open for inspection by members):
- (a) Information relating to the financial or business affairs of any particular person including the Combined County Authority (except to the extent that the information relates to any terms proposed or to be proposed by or to the Combined County Authority in the course of negotiations for a contract), or
  - (b) Information which reveals that the Combined County Authority proposes:
    - to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or
    - to make an order or direction under any enactment
- 12.3 These rights are in addition to any other rights the member may have (such as those arising from a member's need to know at common law).
- 12.4 The accounts of the Combined County Authority shall be open to the inspection of any member and any such member may make a copy of or extract from the accounts.
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## **2. Additional Rights of Access to Documents for Members of Any Overview and Scrutiny Committee or Sub-Committee**

- 13.1 Subject to the exceptions outlined below, a member of an overview and scrutiny committee or sub-committee is entitled to a copy of any document which is in the possession or under the control of the Combined County Authority and contains material relating to any business that has been transacted at a meeting of the Combined County Authority or at a decision-making committee of the Combined County Authority. The member must make any request for such a document in writing to the Monitoring Officer, who shall consider any such request on behalf of the Combined County Authority.
- 13.2 The document must be provided as soon as reasonably practicable and, in any case, no later than 10 clear days after the Monitoring Officer receives the request.
- 13.3 No member of an overview and scrutiny committee or sub-committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information, unless that information is relevant to:
- an action or decision that the member is reviewing or scrutinising, or
  - any review contained in any programme of work of the committee or sub-committee.
- 13.4 Where the Monitoring Officer determines that a member is not entitled to a copy of a document or part of any such document, they must provide the overview and scrutiny committee or sub-committee with a written statement setting out the reasons for that decision.

## **Part 5: List of Members**

- 1.1 The Monitoring Officer will publish a list stating:
- the name and address of all current members of the Combined County Authority and the constituent or non-constituent council they represent, and
  - the name and address of all current members of the other Committees and any sub-committees.
- 1.2 A member of the public may inspect the list.
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Document version control	
Version:	1.0
Date:	20 March 2024
Document approved by:	EMCCA Board
To be of effect from:	20 March 2024

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