

APPENDIX 3 – PART B PROPOSED VERSION

Part B – Public Participation

Section 1 Public Participation

Section 2 Access to Information Procedure Rules

Section 3 Petition Scheme

Section 4 Citizens' Responsibilities and Obligations

1. Public Participation with Somerset Council

- 1.1 Somerset Council encourages and actively supports people getting involved in the Council's work to the area of Somerset. The Council wants to make it easy for people to get involved and give their views to help influence and develop what the Council does and the decisions it takes.
- 1.2 The Council welcomes suggestions which will help improve the way it works and how it involves the public. You can make suggestions on the Council's website.
- 1.3 There are lots of ways you can get involved with the work the Council does and find out about the decisions it makes.

Attendance at Meetings of Council, Executive and Committee Meetings

- 1.4 The public are encouraged to attend meetings of the Council to hear debates and are able to speak at certain meetings.
- 1.5 You can find out when and where the Council has its meetings on the website. You can also see what will be covered in the meetings by looking at the agenda and reports for each meeting. These are published on the Council's website at least five days ahead of the date of the meeting.
- 1.6 There are limited occasions when the Council needs to discuss confidential issues and information. When this happens press and public can be excluded from the meeting while confidential issues and information are discussed. This is sometimes called a private session. Private sessions will only be held when absolutely necessary and when it is legally justified; and are carried out in accordance with the requirements of local government legislation with regard to notice of what will be discussed.

Public Speaking at Council meetings

- 1.7 The Council welcomes public involvement and participation in its public committee meetings. Any public representations for Full Council, Executive or committee meetings (questions, statements or a petition) must be received in

APPENDIX 3 – PART B PROPOSED VERSION

writing by the Monitoring Officer by 5pm on the day that provides 3 clear working days' notice to the meeting (for Wednesday Council meetings, this means the Thursday prior to the meeting). Any questions, statements or petitions received after the deadline will only be considered with the discretion of the Chair of the relevant meeting. The questioner will need to set out reasons for their late submission to be considered at the meeting. If the Chair rejects the late question or statement, then a written reply will be provided by the council within 20 working days of the meeting.

- 1.8 Public representations can either be a statement or a maximum of two questions. If a person submits more than two questions (including any subdivision or component questions ie. Question 1a or 1b would mean two questions the same as Question 1 or 2) then only the first two questions shall be accepted for a meeting (subject to those questions not duplicating or being similar to other questions received from other persons for the meeting). The Chair of the relevant meeting has discretion to vary the time and number of speakers allowed for public speaking.
- 1.9 Where there is duplication, or the question or statement is similar to others being considered at the relevant meetings then it is proposed that those will be rejected. The Monitoring Officer shall adjudicate on the application of this in consultation with the Chair of the relevant meeting.
- 1.10 The Chair's Schedule for the meeting includes details of public representations. They are also detailed in the Minutes together with the responses (given at the meeting or provided following the meeting). Up to 30 minutes is allowed for public question time, which allows for a maximum of 8 speakers.
- 1.11 Members of the public have up to 3 minutes to introduce and present their representations. If a member of the public is unable to attend a meeting in person, they can either attend the meeting virtually or they will be allowed to arrange for someone to ask the question on their behalf. If no person is able to put the question to the meeting, then either the Chair or the Monitoring Officer shall present their question to the meeting.
- 1.12A Member (usually the relevant Lead Member at Full Council, Executive or Scrutiny meetings) will normally provide a brief verbal response to public representations at the meeting. There will be no member debate. If a full response cannot be given at the meeting, then a written response will be provided within 20 working days of the meeting.
- 1.13 Public representations will be rejected by the Chair of the Council, following consultation with the Monitoring Officer, if they:

APPENDIX 3 – PART B PROPOSED VERSION

- a) Do not relate to a matter for which the council has a responsibility or which affects the County;
- b) Are defamatory, frivolous, offensive, vexatious or unlawful;
- c) Are substantially the same as a public representation which has been put at a meeting of the Council, Executive or a Committee in the past six months;
- d) Require or request the disclosure of confidential or exempt information in any response;
- e) Relate to any planning application or town and village green application;
- f) Name or identify individual service users, members of staff or members of staff of partner agencies;
- g) Are considered to be inappropriate for the particular meeting. If the submission is better dealt with by another committee, that it should be taken there instead of the proposed meeting.

If the representation is rejected, then the member of the public can ask for assistance in rewording the submission.

Planning, Licensing and Regulatory Committees

Special rules apply to the public speaking at other meetings such as at the Planning Committees and Licensing and Regulatory Committees. Further details can be found on the sections covering these Committees at Part D.

Petitions

1.14 The Council is pleased to accept petitions dealing with something for which the Council is responsible. There are rules which set out how to make a petition to the Council, what happens when a petition is received and how the Council will respond. The Council's Petition Scheme is detailed at Section 3 below and on the Council's website.

1.15 Petitions need to clearly show what they are about. Names of everyone who supports the petition must be set out in an identifiable way. Some petitions, for example, those asking for the Council to have a different form of governance, must follow special rules as are set out in the law.

Consultation

1.16 The Council makes every effort to consult as widely and as fairly as possible on the decisions to it intends to make and the action it intends to take.

APPENDIX 3 – PART B PROPOSED VERSION

Sometimes, with matters such as planning and licensing applications, there are specific statutory consultation processes which the Council must follow. Outside of the requirements of statutory consultations the Council will try to consult on important decisions as widely as possible and give consideration to the results of the consultations.

Councillors

1.17 The area of Somerset Council is divided into administrative areas, called Divisions. Each Division is represented by two elected Councillors as detailed on the Council's website. If you are registered and eligible to vote you can vote for the people that you want to represent your Division at Somerset Council during local elections which are normally held every four years unless there is a vacancy, or the Government has set a different time for an election. You can find out more about elections and how to register to vote on the Council's website. Although they have responsibility for the whole of the Somerset Council area, your local Division Councillors also have a particular responsibility to the residents of their Division.

1.18 You can find out who your local Councillor is, and how to get in touch with them on the Council's website.

1.19 Your local Councillors may hold scheduled sessions where you can meet them face to face to talk about issues which concern you, or where you need advice about Council matters. You can find out how to contact your local Councillor using the contact details available on the Council's website.

Webcasting and Social Media

1.20 Members of the public are welcome to come and watch meetings of Somerset Council in person. Many meetings are also available to view online using the webcast service.

1.21 Updates from Somerset Council can also be found on social media:

- Facebook
- Twitter
- YouTube
- Linked In – Somerset Council

1.22 Many local Councillors also have their own private (not provided by the Council) social media accounts.

Budget and Policy Development

APPENDIX 3 – PART B PROPOSED VERSION

1.23 Somerset Council wants to include and involve local people when Councillors come to set the budget and other key policies so that residents can influence the decisions the Council make.

1.24 When appropriate the Council runs consultations inviting people to have their say. Focus groups and residents or user panels may also be arranged as a way of seeking out views. In addition, LCNs will publicise proposed changes or consultations with a view to encouraging members of the community to have their say.

2. Access to Information Procedure Rules

Introduction

2.1 The Council is committed to the principles of transparency laid down in the “Access to Information Legislation” (including the Freedom of Information Act 2000 and Environmental Information Regulations 2004). In accordance with the legislation, the Council maintains a Publication Scheme approved by the Information Commissioner which is available on the Council’s website. The Council is committed to:

- 2.1.1 promoting a positive attitude to dealing with requests for information;
- 2.1.2 maintaining information in an orderly and efficient fashion and disposing of information that is no longer required;
- 2.1.3 increasing awareness and understanding of the implications of the legislation, both amongst its employees and amongst members of the public.

These Access to Information Procedure Rules make provision for access to information to relevant matters set out in this Constitution. They do not affect any additional rights to information contained elsewhere in this Constitution or the law.

Scope

2.2 Unless otherwise stated these Rules apply to all meetings of the Council, Scrutiny Committees, Joint Committees, and other Council Committees including the Health and Wellbeing Board and public meetings of the Executive (together called “meetings”).

Rights to Attend Meetings

APPENDIX 3 – PART B PROPOSED VERSION

- 2.3 Members of the public may attend, record, photograph, film and report on all meetings in accordance with the Openness of Local Government Bodies Regulations 2014 subject only to the exceptions in these Rules.
- 2.4 Members of the public who wish to report or record public meetings are required to comply with any Council guidance on the reporting and recording of meetings which may be issued on practical arrangements. The Council will not permit the recording or reporting of proceedings where the public are not allowed to attend the meeting, or that part of the meeting, by reason of the likely disclosure of exempt or confidential information.
- 2.5 It is recommended that members of the public who wish to record, photograph, film and report on public meetings advise Council Officers in advance of the meeting so that all necessary practical arrangement can be made.

Notices of Meeting

- 2.6 The Council normally gives at least 5 clear days' notice of public meetings by posting details of the meeting on the Council's website and at the Council's principal offices. If the meeting is convened at shorter notice than 5 days, then public notice is given at the time the meeting is convened.
- 2.7 Meetings will normally be held in public unless the confidential content of the meeting requires it to be heard in the absence of the public and press in a private session.
- 2.8 If the Executive wishes to consider an item in private it will give 28 clear Days' notice of its intention to do so on the Forward Plan unless there are exceptional circumstances.
- 2.9 After having given 28 clear days' notice of its intention to consider an item in private, a further notice at least 5 clear working days before the meeting that the meeting will proceed in private will be given. This Notice will be given by the Monitoring Officer (the Proper Officer) and will give the Executive's reasons for meeting in private, details of the representations received that a private meeting should not take place and contain a statement of the Council's response.
- 2.10 If it is proposed that the Executive consider an item in private and 28 clear days' notice of such a meeting has not been given on the Forward Plan, the agreement of the Chair of the appropriate Scrutiny Committee is required if the public are to be so excluded.

Access to Agenda and Reports Before the Meeting

APPENDIX 3 – PART B PROPOSED VERSION

2.11 The Council will make copies of the agenda and reports of meetings open to the public available on the Council’s website and available for inspection at its main office at least five clear days before the meeting. Where an urgent item is added after this time, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors, and will ensure that the report is open to public inspection from the time the item was added to the supplementary agenda.

Supply of Copies

2.12 The Council will make available to any person:-

- 2.12.1 any agenda and reports which are open to public inspection;
- 2.12.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 2.12.3 If the Monitoring Officer considers it appropriate, copies of any other documents supplied to Councillors in connection with an item;

2.13 The Council may charge to supply this information where permitted to do so under its “Charging Policy”

Access to Minutes etc. After the Meeting

2.14 Draft minutes of a decision are only confirmed as a correct record of a decision when:

- 2.14.1 approved as a correct record of the decision at the next convenient meeting of the body which made the decision (Council, Committees and Sub-Committees);
- 2.14.2 signed as a correct record of the decision by the Proper Officer (Executive and Executive Committees);
- 2.14.3 Signed by the Lead Member who has taken the decision or by an Officer alone.

Where appropriate, the Council will prepare and make available on request a draft decision notice as soon as practicable after the decision has been made, but any such draft should not be relied on as a correct record until it has been confirmed as such.

2.15 The Council will make available access to copies of the following after a meeting in accordance with its “Retention Schedule”:

APPENDIX 3 – PART B PROPOSED VERSION

- 2.15.1 the minutes of the meeting, or, where appropriate, records of decisions taken, together with reasons, for all meetings of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public and which disclose exempt or confidential information;
- 2.15.2 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;
- 2.15.3 the agenda for the meeting; and
- 2.15.4 reports relating to items when the meeting was open to the public provided that such reports do not contain confidential or exempt information or, if they do, the information disclosed is no longer confidential or exempt.

Background Papers

- 2.16 The author of a report for a meeting will set out list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
- 2.16.1 disclose any facts or matters on which the report or an important part of the report is based; and
 - 2.16.2 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 Rules 2.20 and 2.22.

If there are no relevant background papers then the report should state none.

- 2.17 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, except in so far as they disclose exempt or confidential information.

Summary of the Public's Rights

- 2.18 A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at the Council's principal offices and is available on the Council's website here.

Confidential Information – Exclusion of the Public and Press

APPENDIX 3 – PART B PROPOSED VERSION

2.19 The public and the press must be excluded from an item at a meeting 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.

Meaning of Confidential Information

2.20 For the purposes of access to reports, 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 reason of a court order or any enactment.

Exempt Information – Discretion to Exclude Public

2.21 The public may be excluded from an item at a meeting 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.

2.22 Where a decision on an item at a meeting will determine any person's rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights establishes a presumption that the discussion of the item will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of Exempt Information

2.23 Subject to paragraph 2.25 below, and to the test of the Public Interest set out in paragraph 2.25 below, information is exempt information where it falls within any of the following categories:

- a) information relating to an individual;
- b) information which is likely to reveal the identity of an individual;
- c) information relating to the financial or business affairs of any particular person (including the public authority holding the information), except where the information is required to be registered under certain prescribed statutes detailed in Part 2 of Schedule 12A Local Government Act 1972 from time to time which include the Companies Acts (as defined by s.2 of the Companies Act 2006) and the Charities Act 2011.
- d) "financial or business affairs" includes contemplated, as well as past or current activities;
- e) 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

APPENDIX 3 – PART B PROPOSED VERSION

employees of, or office holders under, the Authority. “Labour relations matter” means any matter which may be the subject of a trade dispute, or any dispute about any such matter (i.e. a matter specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992;

- f) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- g) information which reveals that the Authority proposes:
 - a) to give under any enactment a notice, under or by virtue of which requirements are to be imposed on a person; or
 - b) to make an order or direction under any enactment.
- h) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information pertaining to planning permission falling within any of the categories in paragraph 2.24 above is not thereby exempt 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.

Public Interest Test

2.24 Information falling within any of categories in Rule 2.24 which is prevented from being exempt because either:

- 2.24.1 it falls within category c., and is required to be registered under the prescribed enactments; or
- 2.24.2 rule 2.24 applies; it 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.

Freedom of Information Act 2000 and Environmental Information Regulations 2004

2.25 In compliance with the Freedom of Information Act 2000, the Council will respond to any requests for information. There is no charge for responding to requests for information other than ‘disbursement’ costs; however, a charge may be made if it exceeds the Government’s advisory fee level or if the request is one which comes under the Environmental Information Regulations 2004.

Exclusion of Public Access to Reports

APPENDIX 3 – PART B PROPOSED VERSION

2.26 The Monitoring Officer may exclude access by the public and the press to a report which, in his or her opinion, relates to an item during which, in accordance with Rule 2.20 or 2.22, the meeting is likely not to be open to the public; or, as the case may be, was not open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed. Before the public and the press are excluded in accordance with this provision, the Council must have complied with the notice provisions in Rule 2.7 and notice of the proposal to meet in private will have been given by the Council’s Proper Officer.

Rights of Access to Information by Councillors

2.27 Where a Committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, a Councillor may attend the meeting and/or inspect any exempt or confidential documents relating to the business of the Committee if they can demonstrate a “need to know”.

2.28 A Councillor’s “need to know” arises when they requires the information in order to carry out properly their duties as a Councillor. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which they belong. It does not arise where a Councillor would simply like to know what is in a document or what may be said at a meeting. It also does not enable a Councillor to “trawl” through a large number of files in search of information (sometimes known as “fishing for information”). Whether a need to know arises in a particular case will be a matter of fact and degree to be decided in the light of all the circumstances of the request.

2.29 It is a general presumption that all reports, including those containing confidential or exempt information, will be available to Scrutiny Committees where they are relevant to that business to be conducted by that Scrutiny Committee. This presumption may be dis-applied in exceptional circumstances.

2.30 In the event of a dispute, the Monitoring Officer will determine whether a Councillor has demonstrated a “need to know”. The test applied is whether it is reasonable to refuse the Councillor access to the information given all the circumstances. For example, if a Councillor is motivated by improper or ulterior reasons, it would be appropriate to refuse access.

APPENDIX 3 – PART B PROPOSED VERSION

3. The Council's Petition Scheme

3.1 Somerset Council welcomes petitions and recognises that they are one way in which people can let us know their concerns. Councils have discretion on how petitions are approached locally. This is Somerset Council's Petition Scheme.

What is a Petition?

3.2 The Council treats as a petition any communication which is identified as being a petition or if it seems to us that it is intended to be a petition and has a minimum of 50 signatories of people who live, work or study in the Somerset Council area.

3.3 Petitions of 5000 signatures (individually or collectively) will be treated as Large Petitions.

The Role of Councillors.

3.4 Before considering whether or not to submit a petition to the Council the petition organiser may want to discuss their issue with one of their local councillors. Their Local Councillor will be able to advise whether the matter is one for the Council and also whether a petition is the best form of engagement with the Council on the matter which has been raised.

3.5 When a petition is received by the Council which relates to a local matter (particularly affecting a specific ward), the Council will notify each relevant local Councillor.

How Do I Submit a Petition?

3.6 You can submit a petition by post, by hand or e-mail.

3.7 Petitions can be sent to: Monitoring Officer, Somerset Council, or emailed to democratic services or by hand at any of our offices E-petitions must follow the same guidelines as paper petitions. All e-petitions will run for 28 days (unless the Monitoring Officer agrees an alternative timescale) to ensure that the Council's decision-making process is not delayed. The petition will need to be checked before it is published online and if the Council is unable to publish it, an officer will contact the Petition Organiser to explain why.

3.8 Petitions can be presented at Council meetings by placing the petition on the front table.

How We Will Deal with a Petition

APPENDIX 3 – PART B PROPOSED VERSION

3.9 All petitions submitted to Somerset Council will receive an acknowledgement from the Council within 3 clear working days of receipt.

3.10 If the petition is not valid it will be returned to the Petition Organiser with an explanation within 10 clear working days of receipt.

3.11 If the petition is valid the Petition Organiser will then be informed of how the petition will be handled within 20 clear working days of acknowledgement

3.12 If the Petition Organiser is submitting the petition in response to a Council consultation or on a specific matter, it is important to identify the matter which it relates to, so that the Council can ensure that the petition is considered along with the original matter. See below for further guidance.

3.13 Please be aware any petition submitted to the Council will be publicly available and may form part of an agenda and published on the Council's website.

3.14 A petition must include:-

- a) what it is about – it must relate to a responsibility of the Council (this must be on each page of the petition)
- b) What the petitioner wants the Council to do (this must be on each page of the petition).
- c) name of everyone who supports the petition must be set out in an identifiable way.
- d) For paper petitions the signature of each petitioner.
- e) The name and contact details of the “petition organiser” or someone the petition organiser would like any correspondence about the petition to be sent. This can be either a postal or an email address The Petition Organiser may include the addresses of petitioners, which may be useful to the Council, for example, in assessing the degree of local support or opposition to a particular matter, but this is not essential.

3.15 The Monitoring Officer may reject a petition if in their view:

- f) It is not relevant to Council functions;
- g) It does not qualify under the scheme or does not comply with the above rules;
- h) It is vexatious, abusive or otherwise inappropriate;
- i) It is a duplicate or repeat petition;
- j) It is a petition qualifying under another enactment;
- k) It is excluded because for example:
 - l) It relates to a planning decision and/or ancillary applications and decisions and/or follow on decisions;
 - m) It relates to a licensing decision;

APPENDIX 3 – PART B PROPOSED VERSION

n) It relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

3.16 In the period immediately before an election or referendum the Council may need to deal with the petition differently – if this is the case the Monitoring Officer will explain the reasons and discuss the revised timescale which will apply. Political impartiality must be maintained during the pre-election period. If the petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In this case, the Monitoring Officer will write to the Petition Organiser to explain the reasons.

3.17 Different Types of Petitions

3.18 There are different types of petitions which are submitted for various reasons:-

- a) **Consultation** - Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal. The petition will be taken into account either by the appropriate body, officer, or the Executive Lead Member taking the decision.
- b) **Council-wide** - the Petition will be presented at full Council.

The Council will not debate the petition unless it is a Large Petition. The relevant Petition Organiser/or the Local Councillor will be allowed 3 minutes to present the petition at the meeting. Except with the consent of the Chairman only one person may speak to present a petition.

If the petition is a Large Petition there will be a debate at a Full Council meeting of a maximum of 15 minutes

At any one meeting, no-one may present more than two petitions unless approved at the time of receipt by the Monitoring Officer in consultation with the Chairman.

The full Council may refer the petition to the relevant Executive Lead Member for consideration. The Executive Lead Member may provide an immediate verbal response to the petition, or refer it to a relevant Committee, Community Board or the Executive for further consideration.

Presentations at Committees may be made by the relevant councillor or the petition organiser. The relevant councillor or the petition organiser will

APPENDIX 3 – PART B PROPOSED VERSION

be allowed 3 minutes to present the petition unless otherwise agreed by the Chairman.

- c) Petitions on **Local issues** will normally be presented to and dealt with by the LCN.

A report will be written giving an officer response to the petition which will be considered by the LCN. (If there is a deadline to respond to the petition before the meeting the petition could be considered by the officer, Local councillor and Executive Lead Member). If the LCN does not agree with the officer response they can decide to refer the issue to the relevant Executive Lead Member for reconsideration with an explanation of their reasoning. If there is a petition relating to a local issue which is currently being consulted upon the Monitoring Officer may consider that the best route for this petition is via the Council or Consultation route as explained above to be taken into account by the decision taker rather than being submitted to the LCN.

4. Citizens' Responsibilities and Obligations

4.1 Citizens must not be abusive, threatening or violent (verbally, physically or in writing) towards Councillors or Officers.

4.2 Citizens must not wilfully damage any property owned by the Council, its Councillors or Officers.

4.3 Citizens must not misuse any information (for example, for financial gain or commercial benefit) obtained during the course of their contact with the Council.

4.4 Citizens must disclose any confidential information obtained during the course of their contact with the Council (unless required to do so by law).

4.5 The Council will not tolerate abusive, threatening or violent conduct towards its Councillors or Officers or damage to their or the Council's property and will report such instances to the police.

4.6 The Council takes complaints submitted by citizens very seriously but has in place a procedure for dealing with habitual and / or vexatious complainants which it will use if necessary.