

PART 2

The rights of the public

A summary of the Council's commitments on involvement and participation, including steps that the Council makes to the public in respect decision-making and their involvement in it.

PART 2 – THE RIGHTS OF THE PUBLIC

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Section 1

1 GENERAL COMMITMENTS ON INVOLVEMENT AND PARTICIPATION

The Council is a democratic institution. As well as being represented by people elected as Members every four years, the Council commits to engage, and seek participation from, Members of the public between elections. This includes through formal consultation on major service changes, and through participation in investigations carried out by overview and scrutiny committees.

The Council, and Cabinet, may choose to adopt specific commitments and policies on public involvement, which may be included in a future version of the Constitution.

Members of the public have the right to:

- 1.1 Attend meetings of the Council, and its committees, and of Cabinet (other than where exempt, and/or confidential, information is being discussed or decided, as set out in **Part 2, section 6**). The Council will have regard to its obligations under equality law, which includes responding positively to requests to make reasonable adjustments to the organisation of meetings (within the law) to facilitate attendance and participation, as well as proactively keeping under review systems and processes for formal meetings so as to remove barriers to participation and involvement;
- 1.2 When attending such meetings, ask questions in accordance with the procedure rules;
- 1.3 Access the Forward Plan, which sets out what “key decisions” will be taken by Cabinet and when. More about the Forward Plan and “key decisions” can be found in **Article 13**.
- 1.4 Access reports and background papers, and records of decisions made by the Council, Cabinet, Committees (and under delegated power by officers), so long as they are not exempt from publication;
- 1.5 Inspect the Council’s accounts. This is a right set out in law, explained in more detail in the National Audit Office publication, “Local authority accounts: a guide to your rights” (2021), to which the Council will have regard in considering requests;
- 1.6 Contact their local Member about any matters of concern to them. The Council does reserve the right, where the conduct of a specific member of the public reasonably causes a specific Member fear or alarm, and/or where evidence of harassment exists, to restrict or block access of a specific member of the public to a specific Member;
- 1.7 Obtain information held by the Council using the Freedom of Information Act 2000, and the Environmental Information Regulations 2004. Detailed

arrangements for requests for information here can be found in **Part 2, section 5**.

- 1.8 Obtain any personal information held by the Council which relates to them, in accordance to data protection legislation;
- 1.9 Record and film public meetings of the Council, Cabinet or a committee meeting, subject to the terms set out in the procedure rules at **Part 9**.

Section 2

2 ELECTIONS AND ELECTORAL ARRANGEMENTS

The regular election of Members is held on the first Thursday in May every four years. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

The Council appoints a Returning Officer and an Electoral Registration Officer to undertake responsibility for electoral matters.

Section 3

3 LOCAL AREA COMMITTEES

The Council recognises the importance of a sense of connection and accountability between itself and the local community. This recognition underpins this Constitution; it has also informed the Council's decision to appoint a set of Local Area Committees (LAC).

An area committee is a committee of council that the law permits to undertake responsibility for functions, given to it by the Cabinet or Council, provided that it is made up of the entirety of Members for the electoral divisions within its area.

The terms of reference and make-up of each LAC is set out in [Part 4](#).

Section 4

4 PETITIONS AND THE PETITIONS COMMITTEE

4.1 Petitions generally

- 4.2** Petitions are a way for Members of the public to get their voice heard on issues of local interest and contention. People who live, work and study in the area may start, and sign, petitions to ask the Council to adopt new policies on given topics, or to otherwise take action to effect change.

The Council wants to take account of the public's views and welcomes petitions as a way to gauge the public's appetite for changes to policy and practice. Petitions form part of a wider range of evidence available to the Council, that it uses to take decisions. More information on decision-making and policy formulation can be found in **Part 5**.

There is a Petitions Protocol which sets out in more detail how petitions from the public will be dealt with by the Council. This can be found at an Appendix to this Part.

4.3 Petitions Committee

The Council has in place a Petitions Committee, tasked to consider those petitions of a corporate or county wide nature which do not fall within the remit of Local Area Committees, planning, licensing or other regulatory committees.

Petitions for changes to council governance will also be beyond the remit of the Petitions Committee.

4.4 Petitions for changes to council governance

Local residents on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for a different form of governance for the authority than the Leader and Cabinet model.

For a referendum to be triggered a petition presented for these purposes must have been signed by at least 5% of the registered electors for Northumberland County Council. On an annual basis the Council will publish on its website the number of electors to form this percentage (the "validation number").

Section 5

5 PUBLIC RIGHTS TO ACCESS INFORMATION

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Local Area Committees, the Standards Committee and regulatory committees and formal meetings of the Cabinet (together called meetings). They may also apply to the meetings of other bodies (including informal task groups) if the Council decides.

The public's rights to access information include:

- (a) The right for a member of the public to access personal information that the Council holds about them, by making a "subject access request";
- (b) The right to make a request to the Council to provide information under the Freedom of Information Act;
- (c) The right to access certain papers relating to the Council's formal business, which the Council is obliged to produce and publish.

This part of the Constitution forms the summary of the public's rights to attend meetings, and to inspect and copy documents, which the Council is obliged to make available to the public.

5.1 The different between "documents" and "information"

Information is contained in documents. In respect of certain matters the Council is obliged to produce information (for example, in response to valid requests under the Freedom of Information Act); in other circumstances the law requires that the Council follow rules around the publication of documents.

If a document contains exempt or confidential information (as described **in Part 9, section 2**) that does mean that all the information contained in that document is exempt or confidential. Officers will therefore draft documents in such a way that minimises the risk that non-exempt or non-confidential material is so classified, to ensure proper transparency and also to ensure that the Council is fulfilling its duties under the Freedom of Information Act 2000.

5.2 Subject access requests

Where necessary, the Council will hold personal information, which will include information about individual Members of the public. The Council's responsibilities in respect of this information are governed and protected by the General Data Protection Regulation 2018 (GDPR).

"Personal information" is any data that can be used to identify a living person, either on its own or when referenced with data held by an organisation. Under GDPR this includes "special category" data, which includes information about someone's ethnic origin, religious belief, political beliefs, their health data and

their gender and sexuality. This information is subject to additional rules and safeguards.

The Council will also keep such information where it is necessary to do so, and will do so safely and securely. Information is retained in line with the Council's retention schedule – where it is no longer required it will be destroyed.

This information is described as being “processed” when it is collected, stored, accessed, changed or destroyed. Information may be processed either by Council officers or by elected Members – but only for the purposes for which it is required. Information cannot be passed to third parties without the person involved being aware (unless there is a legal reason not to do so).

The GDPR provides the following rights for individuals:

- 5.2.1 The right of access. This is the right for an individual to know whether personal data about them is being processed, and if so, access to that information;
- 5.2.2 The right to rectification. This means that where personal data is accurate, a person has the right to have that information corrected;
- 5.2.3 The right to erasure. This is the right to have personal data erased – the “right to be forgotten”. This is not an absolute right – for example it does not apply if personal data is needed for the Council to carry out something it has to do by law;
- 5.2.4 The right to restrict processing. This is the right to limit the way that Council uses data. Like the right to erasure, it is not absolute;
- 5.2.5 The right to be informed. This is the right to be informed about the collection and use of personal data. This includes information about why information is being processed, how long that information will be retained, and who it will be shared with;
- 5.2.6 The right to data portability. This is the right for an individual to obtain and reuse their personal data for their own purposes across different services;
- 5.2.7 The right to object. Under certain circumstances, an individual can object to the processing of personal data.
- 5.2.8 A person can request to access their information at any time by completing a Subject Access Request form

A person making such a request will need to provide proof of their identity and any other information to assist the data controller to locate their personal data.

[More information about this process, and about data protection and information governance, can be found here.](#)

5.3 Freedom of Information requests

The Freedom of Information Act 2000 gives people the right to access a range of information held by the Council. (to insert hyperlink to FOI Act 2000)

There is certain information which the Council makes available of its own volition, and information which the Council is obliged to publish because of other laws. For example, information about the formal business of the Council (agendas, minutes, reports, and so on) must be published, unless exempt – this is explained in more detail in **Part 9, section 2**. Certain information on the environment is required to be published under the Environmental Information Regulations (EIR); information on what the Council spends its money on over the value of £500 is required to be published, and the Council's full accounts are required to be open to inspection at certain times as well.

All of this information is set out in the Council's "publication scheme", a document which dictates the information that the Council, as a public body, will routinely make available. The Council has committed to:

- 5.3.1 proactively publishing, or otherwise making available, information, including environmental information, as well as information routinely made available so that it can be easily accessed by Members of the public
- 5.3.2 specifying the information which falls into the classes below
- 5.3.3 reviewing and updating information on a regular basis
- 5.3.4 making the scheme available to the public

Information on the publication scheme should be readily and easily accessible through the Council's website. Where a person wants to access other information, which they think the Council holds, they can make a request to the Council to have it provided.

Freedom of Information requests made in this way need to be in writing, but they do not need to be made on a special form or in a particular way. The law requires the Council to produce information, not documents – this means that the Council may, following a request, need to either redact certain parts of a document or redraft that document in order to publish it, but that the Council may not refuse to publish certain information just because it happens to be in a document which contains other data which is exempt or confidential.

There are a number of exemptions to the rules around freedom of information – reasons why the Council can refuse to make information available. Some of these exemptions are "absolute" – which means that information does not have to be released. Some exemptions are "qualified" – which means that the Council is obliged to weigh the public interests in maintaining the exemption against the public interest in disclosure. The public interest here means the "public good".

When the Council receives a request it has 20 working days to respond. Where a person is unhappy about the response they receive they can request that the Council carries out an internal review of the decision. There is then an opportunity to appeal to the Information Commissioner's Office.

[More information is provided on the ICO's website](#)

[More information about the Council's own arrangements](#)

5.4 Accessing information relating to the Council's formal business

When the Council organises meetings of committees and other bodies on which Members sit, it has to meet certain requirements around the publication of information relating to those meetings. The person responsible for this is the Monitoring Officer.

This includes the duty to:

- 5.4.1 Publish notices of meetings. The Council will give at least five clear days' notice of any meeting by posting details of the meeting on its website and at County Hall, Morpeth. The only exception is where meetings are lawfully called with less than five clear days' notice. In order for this to happen certain rules have to be satisfied around the calling of urgent meetings;
- 5.4.2 Publish the agenda and reports in advance of the meeting. The Council will make copies of the agenda available for inspection, along with those reports which are required to be published, at County Hall, Morpeth, at least five clear days before the meeting. Identical information will be published on the Council's website. If an item is added to the agenda later, meaning that a report on that item can only be prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Members. Such late reports will be open to inspection from the time the item was added to the agenda;
- 5.4.3 Publish other information relating to meetings. The Council will make available, for a minimum of six years following the date of a meeting, copies of:
- 5.4.4 The minutes of the meeting or 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 disclose exempt or confidential information;
- 5.4.5 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;

- 5.4.6 The agenda and reports for the meeting, published in line with the rules above.
- 5.4.7 Publish a record of executive decisions made at meetings. As soon as practicable after any meeting of a decision-making body at which an executive decision is made, the Monitoring Officer (or the person presiding, if the Monitoring Officer was not present) must produce a written statement for every executive decision made which includes:
 - 5.4.8 A record of the decision, including the date it was made;
 - 5.4.9 A record of the reasons for the decision;
 - 5.4.10 Details of any alternative options considered and rejected by the decision-making body at the meeting in question;
 - 5.4.11 A record of any conflict of interest relating to the matter decided which is declared by a decision-maker;
 - 5.4.12 In respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.
- 5.4.13 Publish background papers relating to decisions. There are certain documents, in relation to reports submitted to Cabinet, Council or committees of the Council, which may:
 - 5.4.14 Disclose any facts or matters on which a report, or an important part of a report, is based;
 - 5.4.15 Have been relied on to a material extent in preparing the report.
- 5.4.16 Documents meeting these criteria are “background papers”. In preparing every report, the Monitoring Officer will set out a list of these documents, and make available for public inspection for four years after the date of the meeting one copy of each document. An exception will apply in the case of documents which contain exempt or confidential information.

5.5 Further duties relating to executive decisions and “key decisions”

More detail about notice and publication requirements in relation to Key Decisions, and the transaction of Cabinet meetings (where rights of access may be slightly different to access to ordinary Council meetings), can be found in **Part 5**.

5.6 Exceptions to the duties described above

On occasion, there may be exceptions to the Council’s obligation to publish information under this Part. There are three main reasons for this.

- 5.6.1** Because a decision is proposed to be made where the Chair of the meeting has determined (with the agreement of others, where

required) that reasons of urgency require notice provisions to be curtailed. There are three sets of circumstances – the “general exception”, special urgency, and emergency – to which this decision might apply. More detail is provided in [Part 9, section 2](#).

- 5.6.2 Because the information is confidential. 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 Court Order.
- 5.6.3 Because the information is ‘exempt’ from access to information by the public or press. There are a number of categories of “exempt information”. This is set out in more detail in the Access to Information Rules ([to insert hyperlinks to Schedule 12A](#))

When a committee whose meeting is otherwise held in public is to consider information that is either confidential or exempt, the Members of that committee:

- (a) Must resolve to exclude the public from the meeting where the information in question is confidential, and where it is likely in view of the nature of the business to be transacted or the nature of the proceedings that the information will be disclosed;
- (b) May resolve to exclude the public from the meeting where the information in question is exempt, and where it is likely in view of the nature of the business to be transacted or the nature of the proceedings that the information will be disclosed. Any resolution to exclude the public due to the disclosure of exempt information must identify the part of the proceedings to which it applies and the description of the exempt information to be used.

Where a meeting will involve a committee acting as a tribunal to determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention of Human Rights (incorporated into UK law by the Human Rights Act 1998) establishes a presumption that the meeting will be held in public, unless any of the exceptions in Article 6 apply, or the relevant party’s rights under Article 8 (“right to respect for private and family life”) or Article 13 (“right to an effective remedy”) otherwise require that the meeting be held in private.

Section 6

6 INTRODUCTION TO PUBLIC ACCESS AND SPEAKING RIGHTS IN MEETINGS

6.1 Access

The public have the right to access formal meetings of the Council unless those meetings are considering matters that are exempt or confidential.

Summonses for meetings (which are the formal documents produced alongside the meeting's agendas and reports) are issued five clear working days before the meeting is held and contain information as to the physical location at which the meeting is held.

All venues used by the Council for formal meetings will be accessible for those with physical disabilities. Reasonable adjustments will be made for those attending or wishing to attend whose circumstances make that attendance difficult; for the most part this is provided for by meetings being webcast.

As far as possible the Council will think proactively about the need to accommodate and support people who want to attend meetings especially where items on the agenda might attract interest from large numbers of people.

The public may be excluded from meetings where exempt information is due to be considered and must be excluded where confidential information is due to be considered. The Chair will make a ruling on exclusion on the advice of officers. There is no opportunity for the public to make representations.

6.2 Asking questions

Formal meetings of the Council (and meetings of Cabinet) are meetings held in public, not public meetings. This means that the primary purpose of meetings is for Members of Council committees and other bodies to discuss, debate and decide.

However, the Council recognises the need for public accountability and scrutiny as a core element of formal meetings and recognises that the public need to be seen as active participants in business being carried out on their behalf.

To this end the Council has put into place arrangements to provide for public questions to be posed to committees as a part of those committees' agendas. The full details of these rights can be found in the procedure rules in **Part 9**. In general:

6.2.1 For certain meetings (Council, for example) Members of the public wishing to ask questions must give notice. This is to ensure that a meaningful answer can be provided at the meeting by a relevant person;

- 6.2.2 The rights to ask questions are, by necessity, limited to one per person per meeting, both to allow other questions to be asked and to ensure that bodies' business can be effectively carried out. Public questions are not an invitation for lengthy debate on the topic in question;
- 6.2.3 Members of the public are likely to find the posing of questions more effective when they relate directly to an item already on the committee's agenda. The forward plan of agendas (and work programmes) of committees are published by the Council on its website.
- 6.2.4 In all cases, the determination of the Chair as to whether questions are or are not in order, supported by advice from officers, will be final.

6.3 Speaking more generally

From time to time committees may decide to organise their business in such a way as to allow a freer contribution from Members of the public, building in the time and opportunity for the public to be actively engaged in debate. This may particularly be the case for scrutiny meetings. Where committees determine to do this, it will be seen as a derogation from procedure rules as set out in section above on "suspension of rules in the constitution". The derogation will apply for only the part of the meeting where Members determine it should; it should not be seen as open-ended or applying to other meetings.

Section 7

7 COMPLAINTS

Members of the public have the right to complain to:

- 7.1** The Council, under the complaints procedure (which can be found at [insert link to complaints procedure](#))
- 7.2** The Local Government and Social Care Ombudsman, after using the Council's own complaints scheme;
- 7.3** The Council's Monitoring Officer about a breach of the Member Code of Conduct.