SECTION 15

15. ACCESS TO INFORMATION PROCEDURE RULES

15.1 Scope

These rules apply to all meetings of the Council, the Cabinet, Scrutiny Committees, the Standards Committee, and Regulatory (and other) Committees.

15.2 Additional Rights to Information

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

15.3 Rights to Attend Meetings

Members of the public may attend all meetings, subject only to the exceptions in these Rules. If during a meeting, it becomes likely that, in view of the nature of the business being transacted, or the nature of the proceedings, that "exempt" or "confidential" information would be disclosed, then the public would be excluded.

15.4 Notices of Meeting

15.4.1 Unless a meeting is convened at short notice, the Council will give at least five clear days' (which includes weekends) notice of any meeting by posting details of the meeting at the Civic Offices, Holton Road, Barry, CF63 4RU and on its website.

15.4.2 Where the meeting or part of the meeting is open to the public and is held wholly through remote means, the notice must include details of the time of the meeting, and how to access it.

15.4.3 Where the meeting or part of the meeting is open to the public and is held partly through remote means, the notice must include details of the time and place of the meeting and how to access it.

15.4.4 Where the meeting is not open to the public and is held through remote means or not held through remote means, the notice must include details of the time and place of the meeting and the fact that it is not open to the public.

15.4.5 Where the meeting is not open to the public and is held through remote means only, the notice must include details of the time of the meeting, the fact that it is being held through remote means only and the fact that it is not open to the public.

15.5 Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its website at least five clear days (which includes weekends) before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been

sent out, the Proper Officer (i.e. Monitoring Officer) shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

15.6 **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) if the Proper Officer (i.e. Monitoring Officer) thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person either electronically or on payment of a charge for postage and any other printing and handling costs.

15.7 **Access to Minutes etc. after the Meeting**

The Council will make available either electronic or hard copies of the following for a period of six years after the date of a meeting:

(a) the minutes of the meeting, broadcasts of the meeting or record of decisions taken by the Cabinet, Council or Committees, excluding any part of the minutes 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 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.

15.8 **Background Papers**

15.8.1 List of Background Papers

The Officer preparing the report will set out in every report a list of those documents (called 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 does not include published works or those which disclose exempt or confidential information as defined in **Rule 15.10.**

15.8.2 Public Inspection of Background Papers

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.

15.9 Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at, and made available to the public at the Civic Offices, Holton Road, Barry, CF63 4RU.

15.10 Exclusion of Access by the Public to Meetings

15.10.1 Public and Private Meetings of the Cabinet

The Cabinet may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with **Section 15** and these Procedure Rules. This does not prevent the Cabinet from holding informal deliberations in private, with or without officers present, but these meetings shall not take decisions.

15.10.2 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.

15.10.3 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 the proceedings, that exempt information would be disclosed.

(b) 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.

15.10.4 Meaning of Confidential Information

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.

15.10.5 Meaning of Exempt Information

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

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.

No.	Category of Exempt Information From 21st April 2007	Qualification
1.	Information relating to a particular individual.	Public interest test applies (see below).
2.	Information which is likely to reveal the identity of an individual.	Public interest test applies (see below).
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under: • The Companies Act 1985 (as defined in Section 2 of the Companies Act 2006); • The Friendly Societies Act 1974; • The Friendly Societies Act 1992; • The Industrial and Provident Societies Acts 1965 to 1978; • The Building Societies Act 1986; or • The Charities Act 1993. Public interest test applies (see below).
4.	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 Welsh Minister or a Minister of the Crown and employees of, or office holders under, the authority.	Public interest test applies (see below).
5.	Information in respect of which a claim to legal professional privilege	

No.	Category of Exempt Information From 21st April 2007	Qualification
	could be maintained in legal proceedings.	
6.	Information which reveals that the 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.	Public interest test applies (see below).
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. _____ *(In relation to a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):* 7A Information which is subject to any obligations of confidentiality. 7B Information which relates in any way to matters concerning national security. 7C 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	Public interest test applies (see below). _____ Public interest test applies (see below)

No.	Category of Exempt Information From 21st April 2007	Qualification
	matter referred to it.	

15.11 **Public Interest Test**

15.11.1 Information which:

(a) falls within any of paragraphs 1 to 4, 6 and 7 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.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

15.11.2 There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:

(a) There is a distinction between public interest and what merely interests the public.

(b) Does it further the understanding of, and participation in, the public debate of issues of the day?

(c) Does it promote accessibility and transparency by public authorities for decisions taken by them or in the spending of public money?

(d) Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?

(e) Does it bring to light information affecting public health and public safety?

15.12 **Exclusion of Access by the Public to Reports**

If the Proper Officer (i.e. Monitoring Officer) thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with **Rule 15.10**, 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 and, if applicable, why it is in the public interest it is considered that the information should not be disclosed.

(N.B. If any particular meeting determines that a Part II report should be moved into Part I the item to be deferred to the next meeting of the Committee in the interests of transparency (unless the Committee determines that the matter is urgent.))

15.13 **The Forward Work Programme**

15.13.1 Period of Forward Work Programme

Forward Work Programmes are a series of documents which list the subject matters of decisions that (a) the Council and (b) the Cabinet intend to take and (c) what business the Scrutiny Committees will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered. Each of those bodies will be responsible for their own Work Programmes. Annual Forward Work Programmes will be prepared by the Proper Officer from the beginning of the Municipal Year. They will be supplemented by quarterly updated Work Programmes.

15.13.2 Contents of Forward Work Programmes

(a) The Forward Work Programmes will contain matters which the Cabinet, Scrutiny Committees and Full Council are likely to consider. They will contain information on:

(i) the timetable for considering the budget and any plans forming part of the Policy Framework and requiring Council approval, and which body is to consider them;

(ii) the timetable for considering any plans which are the responsibility of the Cabinet;

(iii) any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;

(iv) the Work Programme of the Scrutiny Committees, to the extent that it is known"

(b) The Forward Work Programmes will then be published.

15.14 **Consultation on Proposals to be Considered by the Cabinet**

15.14.1 At least fourteen days should be permitted in the forward work programme timetable for consultation with relevant Scrutiny Committees and Ward Members where a matter is to be considered by the Cabinet and is not urgent (as defined below) or confidential or exempt (as defined in **paragraph 15.10**).

15.14.2 A decision may only be treated as urgent:

(i) if it is not practical to convene a meeting of the Full Council (for matters that contravene or amend the budget and policy framework); and

(ii) the body making the decision obtains the agreement of the Chair of the relevant Scrutiny Committee that the decision is a matter of urgency and cannot be reasonably deferred. If there is no Chair of a relevant Scrutiny Committee, or if the Chair of each relevant

Scrutiny Committee is unable to act, then the agreement of the Vice-Chair of the Scrutiny Committee or in his/her absence the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

Any decisions taken under this urgency procedure will be recorded as such in the decision record. The Chair of the relevant Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. The record of the decision should state if it is a Forward Work Programme item (re: an item on which the Cabinet intends to consult on) whether the decision has been taken in the absence of consultation if it is a Forward Work Programme. In the cases only of decisions that contravene or amend the Budget and Policy Framework, the reasons why it is not practical to convene a quorate meeting of Council should be recorded.

Where decisions contravene or amend the budget and policy framework the decision-taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency. All other instances will be reported to Cabinet.

When a decision is reported to the next available Council meeting, it is to be presented as for noting only by the Mayor and is not to be considered for debate by Members as the reporting relates to a decision that has already been made by the Executive (Cabinet).

Should a Member wish to debate an item whereby this function has been exercised, this should be outside of the Full Council meeting and with the relevant Cabinet Member if related to the decision, or with the Monitoring Officer or Proper Officer if they are seeking to discuss the usage of this function by the Executive (Cabinet).

This procedure is separate from the Chief Executive's powers set out in **Section 16.2** of the Financial Regulations.

15.15 **Record of Decisions of the Cabinet**

15.15.1 The Decision Record

(a) A written record will be made of every Cabinet Decision made by the Cabinet and its Committees (if any) and by individual Cabinet Members, and Joint Committees and Joint Sub-Committees whose Members are all Members of a Local Authority Executive.

(b) This decision record will include a statement, for each decision, of:

(i) the decision made;

(ii) the date the decision was made;

(iii) the reasons for that decision;

(iv) any personal interest declared;

(v) any dispensation to speak granted by the Authority's Standards Committee;

(vi) any consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

15.15.2 Preparing the Decision Record

(a) The Proper Officer or his or her representative shall attend any meeting of the Cabinet, a Committee of the Cabinet or a Joint Committee or joint Sub-Committee where all its members are Members of a Local Authority Executive, and shall, as soon as reasonably practicable after the meeting, produce a decision record.

(b) Where an individual Cabinet Member has made any Cabinet Decision:

(i) that Member shall as soon as reasonably practicable instruct the Proper Officer to produce a decision record; and

(ii) the decision shall not be implemented until that decision record has been produced, subject to paragraph (c) below.

(c) Where the date by which a Cabinet Decision made by an individual Cabinet 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 Chair of the relevant Scrutiny Committee; or

(ii) if there is no such person or that person is unable to act, the Chair of the Council; or

(iii) if there is none of the above, then the Vice-Chair of the Council,

that the making of the decision is urgent and cannot reasonably be deferred.

15.16 **Decisions by an Individual Member of the Cabinet**

15.16.1 Reports Must Be Taken Into Account

Where an individual Member of the Cabinet 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 three working days after receipt of that report.

15.16.2 Provision of Copies of Reports to Scrutiny Committees

On giving 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 relevant Scrutiny

Committee as soon as reasonably practicable, and make it publicly available at the same time.

15.16.3 Record of Individual Decision

The decision recording rules in paragraph 15.15 will apply.

15.17 Scrutiny Committees and Members' Access to Documents

15.17.1 Rights of Access

Subject to paragraph 15.17.2 below, Scrutiny Committees will be entitled to access to any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

(a) any business transacted at a meeting of the Cabinet or its Committees; or

(b) any decision taken by an individual Member of the Cabinet;

(c) any information will support them in discharging their duties whilst undertaking Task and Finish investigative scrutiny.

15.17.2 Limit on Rights

Scrutiny Committees will not be entitled to any part of a document that contains:

(a) confidential or exempt information; or

(b) advice provided by a political advisor 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 the Committee.

15.18 Additional Rights of Access for Members of Scrutiny Committees

15.18.1 Rights of Access

All Members will be entitled (except where a Member has a prejudicial interest in any matter) to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business transacted at a meeting of a decision-making body of the Council or by an individual Member of the Cabinet.

15.18.2 Limitation on Rights

A Member will not be entitled to any part of a document where:

(a) it would disclose exempt information falling within paragraphs 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972; or

(b) it would disclose advice of a political advisor or assistant.

15.18.3 Nature of Rights

These rights of a Member are additional to any other right he/she may have.