

Agenda Item 14b	Appendix
Members Access to Information	A

Access to Information Protocol

Scope

1. This protocol applies to all formal meetings of the Cambridgeshire and Peterborough Combined Authority. References to meetings of the Combined Authority include meetings of the Combined Authority Board, Business Board, any committee or sub-committee appointed by the Combined Authority. These provisions do not affect any other rights to information arising under any standing orders of the Combined Authority, or by law.

Summary

2. Generally, members will have a access information if it is required for them to fulfil their role or they are part of a committee or working group that is scrutinising a particular matter. Members will also have access to documents that are to be discussed at an impending meeting. However, members will have additional rights to access documents if it relates to any review contained in any programme of work of such a committee or sub-committee of such a committee. However, there will be instances where confidential and exempt documents cannot be provided to members as this may result in legal proceedings against the CPCA, if confidentiality is breached.

Members Rights to Information

3. Members are free to request from the Cambridgeshire and Peterborough Combined such information as they may reasonably need in order to assist them in discharging their role as members, having regard to any special responsibility, e.g. Lead member, chair of the Cambridgeshire and Peterborough Combined Board or committee.
4. The legal rights of members to inspect Cambridgeshire and Peterborough Combined Authority documents arise partly from statute and partly from the common law (judicial decisions).
5. Members have the ability to ask for information in accordance with their legal rights. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a member of the Cambridgeshire and Peterborough Combined Authority. This can range from a request for general information about some aspect of the Cambridgeshire and Peterborough Combined Authority's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Paid Service or the Monitoring Officer or Statutory Scrutiny Officer.
6. In cases of doubt, members should approach the Monitoring Officer for assistance.
7. As regards the legal rights of members to inspect Cambridgeshire and Peterborough Combined Authority documents, these are covered partly by statute and partly by the common law.
8. Members have a statutory right to inspect any Cambridgeshire and Peterborough Combined Authority document which contains material relating to any business which is to be transacted by the Cambridgeshire and Peterborough Combined Authority. This right applies irrespective of whether the member is a member of the Committee or Subcommittee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply

to documents relating to certain items which may appear as a confidential item on the agenda for a meeting.

9. The much broader common law rights of members remains intact and are based on the principle that any member has a right to inspect Cambridgeshire and Peterborough Combined Authority documents so far as his/her access to the document is reasonably necessary to enable the members properly to perform his/her duties as a member of the Cambridgeshire and Peterborough Combined Authority. This principle is commonly referred to as the 'need to know' principle.
10. The exercise of this common law right depends therefore, upon an individual member being able to demonstrate that she/he has the necessary 'need to know'. In this respect a member has no right to 'a roving commission' to go and examine documents of the Cambridgeshire and Peterborough Combined Authority. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the Head of Paid Service (with advice from the Monitoring Officer). In the event of dispute, the question falls to be determined by the Monitoring Officer in association with the Head of Paid Service.
11. Member's 'need to know' will normally be presumed where the information clearly relates to the discharge of a function of Cambridgeshire and Peterborough Combined Authority.
12. Whilst the term 'Cambridgeshire and Peterborough Combined Authority document' is very broad and includes for example, any document produced with Cambridgeshire and Peterborough Combined Authority resources, it is accepted by convention that a member of one party group will not have a 'need to know' and therefore, a right to inspect, a document which forms part of the internal workings of another party group.
13. Further and more detailed advice regarding members' rights to inspect Cambridgeshire and Peterborough Combined Authority documents may be obtained from the Monitoring Officer.
14. Finally, any Cambridgeshire and Peterborough Combined Authority information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member's duties as a member of the Cambridgeshire and Peterborough Combined Authority. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.

Correspondence

15. Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member without the consent of that member and vice versa. Correspondence includes both hard copy memoranda or letters and email.
16. Most official letters on behalf of the Cambridgeshire and Peterborough Combined Authority will normally be sent in the name of the appropriate officer rather in the name of a member, particularly when dealing with operational or service delivery matters. However, it will be appropriate in certain circumstances (e.g. representations to Government) for correspondence to be sent in the name of member(s) or the Mayor of Cambridgeshire and Peterborough Combined Authority. Letters which create legal obligations or give instructions on behalf of the Cambridgeshire and Peterborough Combined Authority and which are sent out in the name of a member should always be agreed in consultation with the Head of Paid Service, and on legal matters on advice from the Monitoring Officer.

Publicity and Press Release

17. Cambridgeshire and Peterborough Combined Authority is accountable to the residents of the Cambridgeshire and Peterborough area. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and ratepayers.
18. Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code requires that all local authorities shall have regard to its provisions in coming to any decision on publicity.
19. Officers and members of the Cambridgeshire and Peterborough Combined Authority will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or members should initially seek advice from the Corporate Communications Manager who will refer the matter to the Head of Paid Service. Particular care should be paid to any publicity used by the Cambridgeshire and Peterborough Combined Authority around the time of an election. Particular advice will be given on this by the Monitoring Officer as appropriate.
20. For the sake of clarity the Code does not apply to press releases and publicity that members may arrange and distribute in their individual political capacity rather than through the Cambridgeshire and Peterborough Combined. Members should not use Cambridgeshire and Peterborough Combined resources for party political purposes.

The Statutory Position

21. Section 100F of the Local Government Act 1972 (as amended) (the Act) provides that any document that is in the possession or under the control of a principal council(which includes a Combined Authority), and contains material relating to any business to be transacted at a meeting of the Council or a committee or sub-committee of the Council, shall be open to inspection by any member of the Council.
22. This does not require the document to be disclosed if it appears to the Proper Officer that it contains exempt information under Schedule 12A of the Act. However, under the Local Government (Access to Information) (Variation) Order 2006, the document will still be open to inspection by members if it contains the following:
 - (a) Information relating to the financial or business affairs of any particular person (including the Council holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
 - (b) Information which reveals that the Council proposes:
 - i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - ii) to make an order or direction under any enactment.

All agendas, reports and other documents and proceedings of committees and sub-committees shall be treated as confidential and shall not be disclosed unless and until they become public in the ordinary course of the Council's business.

The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017

23. Section 10 of the 2017 Order provides additional rights of access to documents for members of overview and scrutiny committees.
- (1) Subject to paragraph (3), a member of an overview and scrutiny committee or a sub-committee of such a committee is entitled to a copy of any document which—
 - (a) is in the possession or under the control of the combined authority or the mayor; and
 - (b) contains material relating to—
 - i) any business that has been transacted at a meeting of a decision-making body of that authority; or
 - ii) any decision that has been made by an individual member of that combined authority.
 - (2) Subject to paragraph (3), where a member of an overview and scrutiny committee or a sub-committee of such a committee requests a document which falls within paragraph (1), the combined authority or the mayor must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the combined authority receives the request.
 - (3) No member of an overview and scrutiny committee is entitled to a copy—
 - (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to—
 - i) an action or decision that that member is reviewing or scrutinising; or
 - ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
 - (b) of a document or part of a document containing advice provided by a political adviser.
 - (4) Where the combined authority or the mayor determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph (3), it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.
 - (5) In this article, references to an overview and scrutiny committee include references to a sub-committee of such a committee.
24. Where the Executive determines to refuse such a request it must provide the Overview & Scrutiny committee with a written statement setting out its reasons for that decision.

FOIA and EIR

25. Members can, like a member of the general public, also request information from the Cambridgeshire and Peterborough Combined Authority under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). The Information Commissioner's Office publishes guidance on access rights and the exemptions that may be applicable under FOIA and EIR.

Local authority accounts

26. The Local Audit and Accountability Act 2014, and the Accounts and Audit Regulations 2015 provide a right to inspect, question and make objections to the Cambridgeshire and Peterborough Combined Authority's auditor, take copies of statements of accounts and auditors' reports. These rights are explained fully in the National Audit Office guidance but are restricted to prevent access to documents containing personal information about staff.
27. In addition, s.228(3) of the Act provides that: "The accounts of a local authority and of any proper officer of a local authority shall be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts".

The common law 'need to know'

28. Under common law principles, all members have the right to access information held by their authority where it is reasonably necessary to enable them to properly perform their duties as a member.
29. **However, there will be instances in which members may not be allowed access to information if the information is not needed as part of fulfilling their role.,**
30. If a member is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the member would have to show good cause why sight of them is necessary to perform their duties.

Notice of Meetings

31. The Cambridgeshire and Peterborough Combined Authority will give at least five clear days' notice of any meeting by posting details of the meeting at offices and on its website. Where exceptionally this period of notice cannot be given, notice will be given as soon as the meeting is convened.

Access to agendas and reports before meetings

32. The Cambridgeshire and Peterborough Combined Authority will publish the agenda and reports (that are not exempt from publication) on its website at least five clear days before the meeting, or if a meeting is convened at less than five clear days' notice as soon as it is convened.

Papers

33. The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
 - (a) discloses any facts or matters on which the report or an important part of the report is based; and
 - (b) have been relied on to a material extent in preparing the report; and
 - (c) do not include:
 - i) published works or
 - ii) exempt or confidential information

34. Background papers are published on the Cambridgeshire and Peterborough Combined Authority's website and available for public inspection at Cambridgeshire and Peterborough Combined Authority offices.
35. The Cambridgeshire and Peterborough Combined Authority will make background papers available for public inspection for four years after the date of the meeting/decision.

Supply of copies

36. The Cambridgeshire and Peterborough Combined Authority will supply copies of any agenda, reports and background papers that are open to public inspection to any person, electronically (wherever possible) or, on payment of a charge for copying and postage, in hard copy.

Access to minutes etc after meetings

37. The Cambridgeshire and Peterborough Combined Authority will retain and make available copies of the following for six years after a meeting or the taking of a decision:
 - (a) the minutes of the meeting and/or records of decision taken, together with the reasons, excluding any part of the minutes that discloses exempt or confidential information and also excluding, if appropriate in the opinion of the Monitoring Officer any part of the minutes of proceedings when the meeting was not open to the public;
 - (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.