

## **ACCESS TO INFORMATION PROCEDURE RULES**

For the purposes of Article 3.01 of this Constitution these rules apply to all formal meetings of the Council, its Committees and Sub-Committees, public meetings of the Executive, and where appropriate individual executive decisions.

### **1. SUMMARY OF THE PUBLIC'S RIGHTS**

A copy of these Access to Information Procedure Rules which are 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 Council's offices.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These Access to Information Procedure Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all public meetings subject only to the exceptions in these Access to Information Procedure Rules.

### **4. NOTICES OF MEETING**

The Council will normally give at least five clear days' notice of any meeting by posting details of the meeting at the designated office and publishing on its website.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

5.1. The Council will normally make copies of the agenda and reports open to the public available for inspection at the designated office of the Council at least five clear days before the meeting.

5.2. If an item is added to the agenda later, the revised agenda (or where reports are prepared after the agenda has been sent out), the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Members.

5.3. Nothing in this requires a copy of the agenda, item or report to be available for inspection by the public until a copy is available to Members.

### **6. SUPPLY OF COPIES**

6.1 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection; and
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda

6.2 If the Proper Officer thinks fit, copies of any other documents supplied to Members in connection with an item may be supplied to any person on payment of a charge for postage and any other costs.

### **7. ACCESS TO DECISION MAKING PAPERS**

- 7.1. The Council will make available for inspection by members of the public copies of the following for six years after a meeting:
- (a) the minutes of the meeting, or records of decisions taken for all formal meetings of the Council and the Executive excluding any documents which disclose exempt or confidential information;
  - (b) the agenda for the meeting; and
  - (c) reports relating to items when the meeting was open to the public.
- 7.2 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 excluding any documents which disclose exempt or confidential information.

## 8. **BACKGROUND PAPERS**

### 8.1. **List of background papers**

The officer with responsibility for the report (usually 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 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 do not include published works or those which disclose exempt or confidential information (as defined in Access to Information Procedure Rule 9).

## 9. **EXCLUSION OF THE PUBLIC FROM MEETINGS**

### 9.1. **Confidential information – requirement to exclude public**

The public must be excluded from meetings if 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.

### 9.2. **Exempt information – discretion to exclude public**

The public may be excluded from meetings if 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. 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.

### 9.3. **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.

#### 9.4. Meaning of exempt information.

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

**General Note:** In all categories information is not exempt if it relates to development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Subject to this, and the qualification in Category 3, Information in Categories 1 to 7 is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing it.

Category	Condition
1. Information relating to any individual.	<i>See General Note above.</i>
2. Information which is likely to reveal identity of an individual.	<i>See General Note above</i>
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information in Category 3 is not exempt if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the building Societies Act 1986, or the Charities Act 1993. <i>Also see General Note above</i>
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 Minister of the Crown and employees of, or office holders under, the authority.	"Labour relations matters" are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute. <i>Also see General Note above</i>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	<i>See General Note above</i>
6. Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	<i>See General Note above</i>

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	<i>See General Note above</i>
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## 10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper 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 Access to Information Procedure Rule 9, 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.

## 11. PROCEDURE BEFORE TAKING KEY DECISIONS

11.1. A Key Decision is an executive decision, which is likely:

- (a) to result in the Council incurring expenditure which is, or the making savings which are, significant having regard to the council's budget for the service or function to which the decision relates, or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more one or two-member wards in the area of the Council or any one or more three-member wards.

For the purpose of this definition savings or expenditure will not normally be considered to be significant if less than £500,000

11.2 Subject to Access to Information Procedure Rules 13 and 14, a Key Decision may not normally be taken unless:

- (a) notice of the Key Decision has been included in the Forward Plan;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan in which the Key Decision was first included; and
- (c) where the Key Decision is to be taken at a meeting of the Executive or an Executive Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rule 4.

## 12. FORWARD PLAN

### 12.1. Advance notice of Key Decisions

Where the Executive, an Executive Committee, individual members of the Executive, Officers, or under joint arrangements intend to take a Key Decision, a Forward Plan or other document will be published at least 28 days before the Key Decisions referred to in it are to be made.

### 12.2. Contents of Forward Plan.

The Forward Plan or other document will normally contain matters which the Leader and/ or Head of Paid Service has reason to believe will be subject of a Key Decision

to be taken by the Executive, an Executive Committee, individual members of the Executive, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will usually include the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken; the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (f) a list of the documents submitted to the decision taker for consideration in relation to the matter.

### 13. **GENERAL EXCEPTION**

13.1. If it is impracticable to comply with the Forward Plan requirements of Access to Information Procedure Rule 12 above then, subject to Access to Information Procedure Rule 14, the decision may still be taken if the Proper Officer:

- (a) is satisfied that it is appropriate for the decision to be taken in any event;
- (b) has informed the Chair of the Scrutiny Committee that s/he considers most relevant to the Key Decision, or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
- (c) has made copies of that notice available to the public at the designated office of the Council and on the Council's website; and

at least 5 clear days have elapsed since the Proper Officer complied with (b) and (c).

13.2. As soon as reasonably practicable after the Proper Officer has complied with Access to Information Procedure Rule 13.1, s/he must make available at the Council's designated office a notice setting out the reasons why compliance with Access to Information Procedure Rule 12 is impracticable; and publish that notice on the Council's website.

13.3. Where this Rule applies, Access to Information Procedure Rule 12 need not be complied with.

### 14. **SPECIAL URGENCY**

- 14.1. Where the date by which a Key Decision must be made, makes compliance with Access to Information Procedure Rule 13 impracticable, the Key Decision may only be made where the decision-maker has obtained agreement from:
- (a) the Chair of the Scrutiny Committee that s/he considers relevant; or
  - (b) If there is no such person, or if the Chair of the relevant Scrutiny Committee is unable to act, the Chair of Council, or where there is no chair of the relevant Scrutiny Committee or Chair of the Council, the Vice Chair of Council,
- that the making of the decision is urgent and cannot reasonably be deferred.
- 14.2. As soon as reasonably practicable after the decision-maker has obtained agreement under Access to Information Procedure Rule 14.1, the decision-maker must make available at the Council's designated office a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred; and publish that notice on the Council's website.

## 15. **REPORT TO COUNCIL**

### 15.1 **When an Overview and Scrutiny Committee can require a report**

If a Scrutiny Committee thinks that a decision has been taken which:

- (a) was not treated as being a Key Decision; and
- (b) a relevant Overview and Scrutiny Committee are of the opinion that the decision was a Key Decision,

that Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time the Committee specifies.

### 15.2 **The Executive's report to Council**

For the purposes of Access to Information Procedure Rule 15.1 the Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

### 15.3 **Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Access to Information Procedure Rule 14 in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 16. **RECORD OF DECISIONS**

As soon as reasonably practicable after any meeting of the Executive or an Executive Committee, the Proper Officer or, if the Proper Officer was not present, the person presiding at the meeting, will produce a record of every decision taken at that meeting. The record will include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service

## **17. PROCEDURES PRIOR TO AN EXECUTIVE BRIEFING**

- 17.1. An Executive Briefing means any meeting or part of a meeting of the Executive or an Executive Committee at which members of the public are to be excluded in accordance with Access to Information Procedure Rule 9.
- 17.2. At least 28 clear days prior to any Executive Briefing, the Proper Officer shall publish Notice of the Executive's intention to hold an Executive Briefing, together with a statement of reasons why.
- 17.3. At least five clear days prior to any Executive Briefing, the Proper Officer shall publish a further Notice on the agenda for the meeting and the Council's website confirming the Executive's intention to hold an Executive Briefing, a statement of the reasons and details of any representations received by the Council as to why the meeting should be held in public and the Executive's response to those representations.
- 17.4. Where the date by which a meeting must be held makes compliance with Access to Information Procedure Rules 17.2 and 17.3 impracticable, the Executive Briefing may still be held where the Proper Officer has obtained the agreement from:
  - (a) the Chair of the relevant Scrutiny Committee; or
  - (b) If there is no such person, or if the Chair of the relevant Scrutiny Committee is unable to act, the Chair of Council, or where there is no chair of the relevant Scrutiny Committee or Chair of the Council, the Vice Chair,

## **18. NOTICE OF AN EXECUTIVE MEETING OR EXECUTIVE BRIEFING**

Members of the Executive or its committees will be entitled to receive five clear days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **19. ATTENDANCE AT AN EXECUTIVE COMMITTEE OR EXECUTIVE BRIEFING**

- 19.1. All Members of the Executive will be given notice of all meetings of an Executive Committee, whether or not they are Members of that committee.
- 19.2. All Members of the Executive are entitled to attend meeting of any Executive Committee.
- 19.3. Members other than Executive Members will not be entitled to attend an Executive Briefing.
- 19.4. The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive, any Executive Briefing and any Executive Committee.
- 19.5. The Executive may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- 19.6. An Executive Briefing meeting may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.

## 20. **DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### 20.1. **Reports intended to be taken into account.**

Where an individual Member of the Executive receives a report which s/he intends to take into account in making any Key Decision, then s/he will not normally make the decision until at least five clear days after receipt of that report.

### 20.2. **Record of individual decision.**

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive s/he will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

## 21. **OVERVIEW COMMITTEES' AND SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS**

### 21.1. **Rights to copies**

Subject to Access to Information Procedure Rule 21.3 below, Overview Committees and Scrutiny Committees (and their sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive (or its committees) and which contains material relating to:

- (a) any business transacted at a public or Executive Briefing or its committees; or
- (b) any decision taken by an individual Member of the Executive; or
- (c) any decision taken by an officer of the authority exercising an Executive function.



## 21.2. **Provision of copies**

Copies of documents requested under this Rule must be supplied within 10 clear days of receipt of the request.

## 21.3. **Limit on rights**

An Overview Committee and a Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

## 22. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### 22.1. **Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive; and: contains material relating to any business to be transacted at a public meeting or; contains material relating to any business transacted at an Executive Briefing, any decision made by an individual member in accordance with executive arrangements, or a decision made by an officer in accordance with executive arrangements, at the times and in accordance with the timescales set out in Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 except where it appears to the Proper Officer the document or part contains exempt information or advice provided by a political advisor or assistant.

### 22.2. **Nature of rights**

These rights of a member are additional to any other right a Member may have.

