

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committee, Area Committees (if any), and Regulatory Committees and public meetings of the Cabinet (together called meetings). The term 'five clear working days' in this section and any other section of the Constitution shall exclude the day of dispatch of agenda/supporting documents and the date of the meeting.

2. ADDITIONAL RIGHTS TO INFORMATION

These 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, record and report all meetings subject only to the exceptions in these rules. Members of the public who wish to report or record public meetings are required to comply with the Council's Protocol on Recording at Meetings and such reporting and recording must be conducted in such a manner as not to disrupt the conduct of the meeting's business. The authority 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.

4. NOTICES OF MEETING

The Council will give notice of any meeting by posting details of the meeting on the Council's website at least five clear working days' before the meeting or, where the meeting is convened at shorter notice, at the time that the meeting is convened.

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 the Council's website at least five clear working days 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 Head of Paid Service 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.

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 Head of Paid Service thinks fit, copies of any other documents supplied to Councillors in connection with an item.

To any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

- (a) the Minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the 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;
- (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.

8. BACKGROUND PAPERS

8.01 List of Background Papers

The author of each and every report where a decision is to be made will include in the report a list of those documents (called background papers) relating to the subject matter of the report which in the author's 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 10) and in respect of Executive reports, the advice of a political advisor.

8.02 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.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council offices and made available on request.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.01 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, subject to the public interest test set out in the Local Government (Access to Information) (Variation) Order 2006.

10.02 Exempt Information - Discretion to Exclude Public

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.

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.

10.03 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.

10.04 Meaning of Exempt Information

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

| | Category | Condition |
|---|---|--|
| 1 | Information relating to any individual. | Public Interest Test. |
| 2 | Information which is likely to reveal the identity of an individual. | Public Interest Test. |
| 3 | Information relating to the financial or business affairs of any particular person (including the authority holding that information). | Information falling within paragraph 10.03 above is not exempt information by virtue of that paragraph if it is required to be registered under - (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993. The category is also subject to the Public Interest Test. |
| 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. | Public Interest Test. |
| 5 | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. | Public Interest Test. |
| 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 | Public Interest Test. |
| 7 | Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. | Public Interest Test. |

Note relating to proposed development for which the local planning authority can grant itself planning permission

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.

Public Interest Test

Information which -

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or the note 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.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Head of Paid Service 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 10 above, 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.

12. APPLICATION OF RULES TO THE CABINET

Rules 13-23 of these Rules specifically apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a Key Decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined in Article 12.03 of this Constitution.

If the Cabinet or its Committees meet to discuss a Key Decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined in Article 12.03 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief Members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

- (a) a document (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. THE FORWARD PLAN

14.01 Period of Forward Plan

Forward Plans will be prepared to cover a period of twelve months. They will be prepared on at least a monthly basis.

14.02 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, officers, Area Committees or under joint arrangements in the course of the discharge of an Cabinet function during the period

covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) that a Key Decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and details of membership;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (f) the means by which any such consultation is proposed to be undertaken;
- (g) 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
- (h) a list of the documents submitted to the decision taker for consideration in relation to the matter.

In addition to Key Decisions, the Forward Plan will include Budget and Policy Framework decisions. Proposals relevant to the Budget and Policy Framework are subject to a period of consultation and the Overview and Scrutiny Committee has the opportunity to respond in relation to the consultation process. These arrangements are set out in the section headed Budget and Policy Framework Procedure Rules.

The Forward Plan must contain particulars of all matters, but may not contain any confidential, exempt information or particulars of the advice of a political advisor.

15. GENERAL EXCEPTION

Where the publication of the intention to make a Key Decision under Rule 13 above is impracticable, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) where the Head of Paid Service has informed the Chair of Overview and Scrutiny Committee, 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;
- (b) where the Head of Paid Service has made available at the offices of the Council for inspection by the public and published on the Council's website, a copy of that notice; and
- (c) after five clear days have elapsed since the Head of Paid Service made available the notice referred to in (b).

As soon as reasonably practicable after the Head of Paid Service has complied with (a), (b) and (c), he/she must:

- (a) make available at the offices of the Council a notice setting out the reasons why compliance with Rule 13 is impracticable; and
- (b) publish that notice on the Council's website.

16. SPECIAL URGENCY

Where the date by which a Key Decision must be made makes compliance with Rule 15 (general exception) impracticable, the decision may only be taken if the decision maker has obtained agreement from the Chair of the Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred. If there is no Chair of the Overview and Scrutiny Committee, or if the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

As soon as reasonably practicable after the decision maker has obtained the required agreement that the decision is urgent and cannot reasonably be deferred, the decision maker will:

- (a) make available at the offices of the Council a notice setting out the reasons why that decision is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

17. REPORT TO COUNCIL

17.01 When the Overview and Scrutiny Committee can Require a Report

If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not treated as being a Key Decision the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Head of Paid Service, who shall require such a report on behalf of the Committee when so requested by the Chair or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

17.02 Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out the decision and the reasons for the decision, the individual or body making the decision, and if the Cabinet is of the opinion that it was not a Key Decision the reasons for that opinion.

17.03 Reports on Special Urgency Decisions

The Leader will submit a report to the next possible meeting of the Council on Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency). The report will include the particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

As soon as reasonably practicable after any meeting of the Cabinet or any of its Committees, whether held in public or private, the Head of Paid Service or, where no officer was present, the person presiding at the meeting, will produce a written statement for every decision made including:

- (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 at that meeting;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council.

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will decide whether meetings relating to matters which are not Key Decisions will be held in public or private.

20. NOTICE OF AND PROCEDURES PRIOR TO PRIVATE MEETINGS OF THE CABINET

At least 28 clear days before a private meeting, including any part of a meeting to be held in private, the Cabinet will make available at the offices of the Council a notice of its intention to hold the meeting in private setting out the reasons for the meeting to be held in private and publish that notice on the Council's website.

At least five clear days before a private meeting, including any part of a meeting to be held in private, the Cabinet will make available at the offices of the Council a further notice of its intention to hold the meeting in private; and publish that notice on the Council's website. The notice will include:

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received by the Cabinet about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

Where the date by which a meeting must be held makes compliance with this rule impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred, or if there is no such person, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

As soon as reasonably practicable after the Cabinet has obtained the required agreement to hold a private meeting, it will:

- (a) make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

21. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND OFFICERS

21.1 Record of Individual Decision

As soon as reasonably practicable after a Cabinet decision has been taken by an individual Cabinet Member or an Executive decision has been taken by an officer, he/she will prepare, or instruct the Head of Paid Service to prepare, a written statement of the decision including:

- (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 at that meeting;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council.

21.2 Inspection of documents following individual decisions

The Council will make available copies of the following for six years after a meeting:

- (a) any records prepared in accordance with Rule 21.1 above; and
- (b) any report considered by the individual member or officer and relevant to a decision recorded in accordance with Rule 21.1 above.

This does not require the disclosure of exempt or confidential information or advice from a political assistant.

The provisions of Rule 8 will also apply to the making of decisions by individual Cabinet Members and Executive decisions by officers (background papers) and, furthermore, one copy of any background papers will be made available for inspection at the Council offices and on the Council's website.

22. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

22.1 Rights to Copies

Subject to Rule 22.2 below, a Member of the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of 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 Cabinet Member;
- (c) any Executive decision that has been made by an officer.

Documents requested will be provided within 10 clear days of the request except where the Cabinet or relevant officer determines that the Member is not entitled to a copy of the document. Where such a decision is made, the Cabinet or relevant officer must provide the Overview and Scrutiny Committee with a written statement of the reasons for that decision.

22.2 Limits on Rights

Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of the 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 advisor.

23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

23.1 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 Cabinet or its Committees and contains material relating to any business previously transacted at a private meeting, any decision made by an individual Cabinet Member, or any decision made by an officer within 24 hours unless either (a), (b) or (c) below applies.

- (a) it contains confidential information; or
- (b) it contains exempt information falling within paragraphs 1, 2, 4, 5, 7 of the categories of exempt information; or
- (c) it contains the advice of a political advisor or assistant.

23.2 Nature of Rights

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