

Chapter 8 – Access to Information Procedure Rules

Procedure Rules

1. Scope

- 1.1 These Rules apply to all meetings of the Council, Committees and Sub-Committees (including Overview and Scrutiny Committees, the Standards Committee, the Audit Committee and Sub-Committees, except as specifically stated), Area Committees and Joint Committees, public meetings of the Cabinet and Cabinet Committees, and meetings called for the purposes of individual Member decision-making (all referred to as "meetings" in these Rules).

2. Additional Rights to Information

- 2.1 These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, including the Data Protection Act, Freedom of Information Act or the Environmental Information Regulations.

3. Rights to Attend Meetings

- 3.1 Members of the public (including Members who are not members of the particular body) may attend all meetings subject only to the exceptions in these Rules.

4. Notice of Meetings

- 4.1 The Monitoring Officer will give at least five working days' notice of any meeting by posting details of the meeting at the Council Offices and on the Council website. For the purposes of calculating the notice period, the day on which notice is given and the day of the meeting shall be disregarded.

Notice of Key Decisions

- 4.2 Where the decision-maker intends to make a Key Decision, that decision must not be made until a document has been published which states:
- (a) that a key decision is to be made on behalf of the Council
 - (b) the matter in respect of which the decision is to be made
 - (c) where the decision-maker is an individual, that individual's name, and title if any and, where the decision-maker is a decision-making body, its name and a list of its members
 - (d) the date on which, or the period within which, the decision is to be made
 - (e) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the key decision is to be made

- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available
 - (g) that other documents relevant to those matters may be submitted to the decision-maker, and
 - (h) the procedure for requesting details of those documents (if any) as they become available.
- 4.3 At least 28 clear days before a key decision is made, the document referred to in Rule 4.2 above, known as the Forward Plan, must be made available for public inspection at the Civic Offices and on the Council's website.

Notice of private meetings of the Cabinet

- 4.4 Where the Cabinet is likely to consider an item that contains confidential or exempt information and will require the public to be excluded from the meeting to prevent the disclosure of this information, it must publish a notice 28 clear days in advance of the meeting that includes a statement of reasons for the meeting being held in private for that item (either for the whole item or for part of it). The notice should also include details of how representations can be made.
- 4.5 At least 5 clear days before the meeting, a further notice will be published setting out the reasons for holding any part of the meeting in private, together with the details of any representations received about why the meeting should be held in public and the response to those representations.
- 4.6 If the date of the meeting and the urgency of the decision makes compliance with the requirement of Rule 4.2, the meeting may only be held in private with the agreement of the Chair of the relevant Overview and Scrutiny Committee, or if there is no such person, the Mayor or Deputy Mayor. As soon as reasonably practicable after this permission has been obtained, a notice will be published setting out the reasons why the matter is urgent and cannot reasonably be obtained.

5. Access to Agenda and Reports before the Meeting

- 5.1 Subject to Rule 5.4 below, no decision shall be taken at a meeting unless it is included on the agenda for that meeting and is accompanied by a report from the appropriate Officer or, in the case of meetings of the Cabinet, a Cabinet Committee or a Cabinet Member, from either the appropriate Officer or Cabinet Member. Where the report is from a Cabinet Member, it must state any advice received from Officers.
- 5.2 All agendas and reports will be published at least five working days before the meeting.
- 5.3 Rule 5.2 above shall not apply to extraordinary meetings called at short notice outside the normal programme of meetings.
- 5.4 If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are 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.

- 5.5 If a report is not published five working days before a meeting in accordance with these requirements, the item to which it relates may not be considered at that meeting unless the Chair of meeting agrees that by reason of special circumstances the item should be considered as a matter of urgency. Where this is the case, the special circumstances requiring the item to be considered urgently shall be specified in the minutes.

6. Supply of Copies

- 6.1 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

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

- 6.3 Where copies of documents where the Council is copyright holder are supplied to members of the public, they may reproduce or provide commentary on any of these documents in any publicly available medium.

7. Access to Minutes and other documents after the Meeting

- 7.1 The authority will make available copies of the draft minute of a meeting of Council, a Committee, Sub-Committee, Area Committee or Joint Committee, once it has been cleared by the Monitoring Officer but before it has been approved by the body at its next meeting as a correct record, but on the clear understanding that it is not an approved record of the proceedings and decisions of the authority.

- 7.2 The authority will make available copies of the following for six years after a meeting:

- (a) The minutes of the meetings of Council, a Committee, Sub-Committee, Area Committee or Joint Committee, once approved as a correct record thereof, and 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) The minutes of any meeting of Cabinet or a Cabinet Committee, and the record of decisions of a Cabinet Member or key decisions of an Officer, once approved by the Monitoring Officer as a correct record thereof
- (c) A summary of any such proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (d) The agenda for the meeting, and
- (e) Reports relating to items when the meeting was open to the public

- 7.3 Any minute of a decision shall include:

- (a) the identity of the body or person taking the decision

- (b) the date, time and place at which the decision was taken
- (c) the names of all members of the decision-taking body present at the meeting, or of the decision-taker
- (d) the names of any other Members present at any part of the meeting
- (e) any apologies for absence from members of the decision-taking body
- (f) any declarations of interest from any Members present at any part of the meeting, together with any dispensations reported by such Members and any Member withdrawal for the meeting or any part thereof in consequence of such interests
- (g) any declarations of interest and withdrawals by Officers
- (h) a summary of any matters considered at the meeting, including any options considered, any motions or amendments put forward, and any decisions taken. For meetings of the Cabinet or any record of a decision taken by a Cabinet Member, the Minutes must also record details of any alternative options considered and rejected by the decision-taker, together with the reasons for their decision.
- (i) a summary of any advice provided by Officers, including any advice provided by a Statutory Chief Officer/Director
- (j) where the press and public were excluded for the consideration of any matter, and whether any Members who were not part of the decision-taker remained during the consideration of such matter

8. Background Papers

List of background papers

- 8.1 The Monitoring Officer will ensure that every report contains a list of those documents (called background papers) which:
- (a) disclose 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 but not including published works or those which disclose exempt or confidential information; or, in respect of Cabinet reports, the advice of a political adviser (if any)
- 8.2 Copies of background papers for meetings where executive decisions are made, or where they may be taken by individual Cabinet Members or officers will be made available on the Council's website when a copy of the report to which the decision relates is also made available.
- 8.3 Where such background documents are available on the Council's website, the report shall, where possible, state their locations on the Council's website.

Public inspection of background papers

- 8.4 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 Rights

- 9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and made available to the public at the Council's main offices and published on the Council's website.

10. Exclusion of Access by the Public to Meetings

Confidential information – requirement to exclude public

- 10.1 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. At meetings of the Cabinet and of Cabinet Committees and of individual Cabinet Members, Members other than the decision-takers shall only remain where the Monitoring Officer advises that this would be appropriate.

Exempt information – discretion to exclude public

- 10.2 The decision-taking body may by resolution exclude the press and public from any meeting or part of a meeting when they are of the opinion that 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, and that the public interest in maintaining confidentiality over-rides the public interest in disclosure of that information (see rule 10.4 for the application of this to meetings of the Cabinet). Any Member who is not a member of the decision-taking body may only remain by invitation of the decision-taking body and where the Monitoring Officer advises that this would be appropriate.

Application to meetings of the Cabinet

- 10.3 For meetings of the Cabinet, or where a such a decision is to be taken by an individual Cabinet Member, at least 28 clear days' notice must be given of the intention to exclude the public from a meeting when confidential or exempt information may be disclosed, as set out in Rule 4.4 above, unless where the date by which the 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:
- (a) the chairman of the relevant overview and scrutiny committee, or
 - (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the Mayor, or
 - (c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the Deputy Mayor, that the meeting is urgent and cannot reasonably be deferred
- 10.4 The public must be excluded from a meeting during an item of business whenever:

- (a) It is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligations of confidence.
- (b) The decision-making body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them.

Meaning of confidential information

10.5 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 or by law.

Meaning of exempt information

10.6 Exempt information means information falling within schedule 12A of the Local Government Act 1972 and which is summarised below.

| Category | Condition |
|---|--|
| Information relating to any individual | Information 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 the information |
| Information that is likely to reveal the identity of an individual | Information 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 the information |
| Information relating to the financial or business affairs of any particular person (including the authority holding that information) | <ol style="list-style-type: none"> 1. Information 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 the information 2. Information is not exempt if it is required to be registered under: <ul style="list-style-type: none"> • Companies Act 1985 • Friendly Societies Acts 1974 and 1992 • Industrial and Provident Societies Acts 1965 to 1978 • Building Societies Act 1986 • Charities Act 1993 3. The rights of access by Members are contained in section 100A to K of the 1972 Act |

| Category | Condition |
|--|--|
| 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 Officer-holders under the Authority | Information 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 the information |
| Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings | Information 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 the information |
| Information that 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 | Information 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 the information |
| Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime | Information 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 the information |

10.7 Information falling within the above paragraphs is not exempt by virtue of that paragraph if it relates to a proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.8 The words and expressions above have the meaning given to them by the Local Government (Access to Information) (Variation) Order 2006.

11. Exclusion of Access by the Public to Reports

11.1 If the Monitoring Officer thinks fit, he/she may exclude access by the public to reports which in his or her opinion relate to items during which 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. Procedure before taking Key Decisions

12.1 Subject as below, a key decision may not be taken by the Cabinet unless:

- (a) It has been published in the Forward Plan

- (b) At least 28 clear days' notice has been provided, or if this is impracticable, the decision has complied with the provisions set out in Rules 14 or 15 as they may apply, and
- (c) Notice of the meeting has been given in accordance with the Cabinet Procedure Rules in Chapter 3, Part 2 of this Constitution.

13. The Forward Plan

Period of Forward Plan

- 13.1 The Forward Plan will be prepared by the Leader in consultation with the Chief Executive and published by the Monitoring Officer to cover a period of four months, beginning with the first day of any month. It will be updated on a monthly basis, and shall be published at least 28 clear days before the date of the Cabinet meeting to which it refers.

Contents of Forward Plan

- 13.2 The Forward Plan will contain matters which the Cabinet has reason to believe will be the subject of a key decision to be taken by the Cabinet, a Cabinet Committee, a Cabinet Member, an Officer, an Area Committee or a Joint Committee when discharging Executive Functions 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) 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 formally or seek the views of before taking the decision
 - (e) The means by which any such consultation (both formal and informal) is proposed to be undertaken
 - (f) The steps any person might take who wishes to make representations to the Cabinet 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
 - (g) A list of the documents submitted to the decision taker for consideration in relation to the matter
 - (h) Whether the decision proposed to be taken will include confidential or exempt information and require the meeting to be private to consider the item, either in full or in part, and the relevant exemption category.
- 13.3 The Forward Plan will be published at least 28 clear days before the date of the Cabinet meeting to which it refers and will be published on the Council's website.
- 13.4 Where any matter involves the consideration of exempt information (as defined in Rule 10.2 above), confidential information (as defined by Rule 10.1 above) or the advice of a

political adviser or assistant, a summary of the matter shall be included in the Forward Plan but the exempt or confidential information or the advice, as the case may be, need not be included.

14. Urgent Decisions

- 14.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 13.2, the decision may still be taken if:
- (a) The decision is so urgent that it is impracticable to defer the decision to ensure that notice has been published (in the Forward Plan or any supplement to it) within 28 clear days of the proposed meeting, and
 - (b) The Monitoring Officer has given the Chair of the Overview and Scrutiny Committee (or if there is no such person, each Member of the Overview and Scrutiny Committee) written notice of the matter to which the decision is to be made, including reasons why compliance with the requirement to provide at least 28 clear days' notice was not practical in that case, and
 - (c) The Monitoring Officer has made copies of that notice available to the public at the offices of the Council, and
 - (d) At least five clear days have elapsed since the Monitoring Officer complied with sub-Rules (b) and (c) above.
- 14.2 Any such decision taken by the Cabinet must be taken in public unless it relates to a matter which is confidential or exempt.

15. Very Urgent Decisions

- 15.1 If by virtue of the date by which a decision must be taken Rule 14 cannot be followed, then the decision can only be taken if the Chair of the relevant Overview and Scrutiny Committee has given his/her agreement that the taking of the decision is very urgent and cannot be reasonably deferred. If there is no such person or the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor shall be obtained. If there is no Mayor, or the Mayor is unable to act, the agreement of the Deputy Mayor will suffice.
- 15.2 As soon as reasonably practicable after agreement has been obtained, a notice must be published, available to the public at the Civic Offices and on the Council's website, setting out the reasons for urgency and why the decision could not reasonably be deferred.

16. Report to Council

- 16.1 The Overview and Scrutiny Committee can require a report:
- (a) If the Overview and Scrutiny Committee thinks that a Key Decision has been taken by the Cabinet or a Key Decision has been taken by an Officer which was not:
 - (i) included in the Forward Plan and subject to the requirement to provide at least 28 clear days' notice

- (ii) the subject of the general exception procedure under Rule 14
 - (iii) the subject of prior agreement of the Chair of the relevant Overview and Scrutiny Committee, or the Mayor or Deputy Mayor as required
- (b) The Committee may require the decision-taker to submit a report to the Council within such reasonable time as the Committee specifies.

Decision-taker report to Council

- 16.2 The decision-taker will then 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 resolution of the Committee, then the report may be submitted to the meeting after that.
- 16.3 The report to Council will set out:
- (a) particulars of the decision (including the reasons for it)
 - (b) the identity of the decision taker, and
 - (c) if the decision-taker is of the opinion that it was not a key decision the reasons for that opinion

17. Record of Decisions

- 17.1 After any meeting of the Cabinet or any of its Committees at which decisions are taken, the Monitoring Officer will produce a record of every decision taken at that meeting as soon as practicable. This shall include:
- (a) The name of the decision-making body and a date of the decision
 - (b) A record of every decision taken and the reasons for those decisions
 - (c) Details of any alternative options considered and rejected
 - (d) A record of any conflict of interest or Disclosable Pecuniary Interest declared by any member of the decision-making body
 - (e) In respect of any declared conflict of interest or Disclosable Pecuniary Interest, a note of any dispensation granted by the Standards Committee.
- 17.2 After any executive decision taken by an individual member of the Cabinet, the Monitoring Officer will produce a record of each decision as soon as practicable. This shall include:
- (a) The title of the individual member and a date of the decision
 - (b) A record of the decision and the reasons for it
 - (c) Details of any alternative options considered and rejected
 - (d) A record of any conflict of interest declared by any executive member who is consulted by the member who made the decision, and any dispensations granted to the member being consulted

- (e) In respect of any declared conflict of interest, a note of the dispensation granted by the Standards Committee.

18. Access to Documents for Overview and Scrutiny Committees

Rights to copies

18.1 Subject to Rule 18.2 below, Members of any Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet which contains material relating to:

- (a) Any business which has been transacted at a meeting of the Cabinet or a Cabinet Committee
- (b) Any decision which has been taken by an individual Member of the Cabinet
- (c) Any key decision which has been made by an Officer.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received.

Limit on rights

18.2 No Member will 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
- (c) The advice of a political adviser, if any

18.3 With regard to sub-Rule 18.2(b) above, the Member will need to demonstrate to the Monitoring Officer that the information requested is relevant and the Monitoring Officer shall take a decision as to whether the information should be made available, supplying reasons as appropriate.

18.4 Where the Executive determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in Rule 18.2 above, it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

19. Additional Rights of Access to Documents for Members

Material relating to business at public meetings

19.1 All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business to be transacted at a public meeting of the Cabinet or a Cabinet Committee unless:

- (a) It contains exempt information falling within these Rules (to the extent that the information relates to terms proposed or to be proposed by or to the Council in

the course of negotiations for a contract) of the categories of exempt information at Rule 10.5

- (b) It contains the advice of a political adviser, if any, or
- (c) The document is in draft form.

Material relating to private meetings

19.2 Subject to 19.4 below all Members will be entitled to inspect any document in the possession or under the control of the Cabinet which contains material relating to:

- (a) any business which has been transacted at a private meeting of the Cabinet or a Cabinet Committee
- (b) any decision which has been made by an individual Member
- (c) any key decision which has been made by an Officer

19.3 The right contained in Rule 19.2 arises when the decision-taker takes or proposes to take a decision within 28 days of the meeting.

19.4 Members will not be entitled under this Rule to:

- (a) Any document that is in draft form
- (b) Any part of a document that contains exempt information falling within paragraphs 1, 2, 4, 5, 7 or 3 (in the latter case, to the extent that the information relates to terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) of Rule 10.6, setting out certain categories of exempt information
- (c) The advice of a political adviser or any person acting in that capacity, if any.

Nature of rights

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