

ACCESS TO INFORMATION - PROCEDURE RULES

1. SCOPE

EXECUTIVE ARRANGEMENTS

These rules apply to all meetings of the Council, all Committees and public meetings of the Executive (together called "meetings").

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 all meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

(1) The Council must give notice of the time and place of a public meeting by displaying it at its principal Office or publishing it on the Council's website.

- (a) This must be done at least five clear days before the meeting; or
- (b) Where the meeting is convened at shorter notice, at the time that the meeting is convened.

(2) An item of business may only be considered at a public meeting:-

- (a) Where a copy of the agenda or part of the agenda including the item has been available for inspection by the public as required for at least five clear days before the meeting; or
- (b) Where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports, if available and open to the public, available for inspection on its website and at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the agenda has been published, the designated Officer shall make each such report available to the public as soon as the report is completed), and such items 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 request and free of charge.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

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

- (a) the minutes of the meeting, records of decisions taken, together with reasons, for all meetings of the Executive, 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

8.1. List of background papers

The author of 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 10) and, in respect of Executive reports, the advice of a political advisor.

8.2. Public inspection of background papers

The Council will make available for public inspection for at least four years after the date of the meeting each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

These rules constitute a written summary of the public's rights to attend meetings and to inspect and copy documents, and are available on the Council's website and may be viewed at its customer contact centres

10. EXCLUSION OF ACCESS OF THE PUBLIC TO MEETINGS

10.1. 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.

10.2. 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 in Article 6.

10.2A Exclusion of Access of Non Committee Members to Meetings

Any decision to exclude the public from a meeting in accordance with Rule 10.1 or 10.2 applies to any Member present, who is not a Member of the Cabinet, Committee or Sub-Committee, unless the Chairman considers that the Member has a 'need to know'. The Chairman will have a discretion to allow any such Member present, who does not have a 'need to know', to remain. The relevant Portfolio Holder does have a 'need to know' in relation to items considered by Committees within their Portfolio and therefore may attend the relevant meetings.

10.3. 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.

10.4. Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to the conditions set out below:)

CATEGORY	CONDITION
1. Information relating to any individual	Information is only 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.
2. Information which is likely to reveal the identity of an individual	Information is only 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.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Paragraph 8 contains the following qualification to this exemption: Information falling within this paragraph is not exempt if it is required to be registered under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act

	<p>1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986, or (f) the Charities Act 1993</p> <p>Information is only 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.</p>
<p>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</p>	<p>Information is only 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.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information is only 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.</p>
<p>6. Information which reveals that the authority proposes—</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Information is only 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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Information is only 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.</p>

<p>Where a meeting of the Audit, Governance and Standards Committee, or a Sub-Committee of the Audit, Governance and Standards Committee, is convened to consider a matter under regulations 13 or 16 to 20 of the Audit, Governance and Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000, the descriptions and qualifications of exempt information set out in paragraphs 1 to 7 above shall apply with the addition of the following descriptions of exempt information after paragraph 7.</p>	
7A	Information which is subject to any obligation of confidentiality
7B.	Information which relates in any way to matters concerning national security
7C.	Information presented to a Audit, Governance and Standards Committee, or of a Sub-Committee of a Audit, Governance and Standards Committee, set up to consider any matter under regulations 13 or 16 to 20 of the Audit, Governance and Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

Information which falls within any of paragraphs 1 to 7 above is not exempt information by virtue of that paragraph 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 1992.11.

11. EXCLUSION OF ACCESS OF 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, 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 EXECUTIVE

Rules 13 – 24 apply to the Executive and its Committees. If the Executive 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 13.03](#) of this Constitution.

If the Executive 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 defined in [Article 13.03](#) of this Constitution. This requirement does not include meetings the sole purpose of which is for Officers to brief Members.

13. PROCEDURE BEFORE TAKING KEY AND PUBLIC EXCLUDED DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken, and subject to Rule 16 (special urgency) a public excluded decision of the Executive, unless:-

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

14. THE FORWARD PLAN

14.1. Period of Forward Plan

Forward Plans will be prepared by or on the direction of the Leader to include all reasonably foreseeable decisions referred to in rule 14.2 below. They will be prepared at least on a monthly basis but will be updated on an ongoing basis as such future decisions are identified.

14.2. Contents of Forward Plan

The Forward Plan will contain information about the decisions to be taken by the Executive, a Committee of the Executive, individual Members of the Executive, or under joint arrangements in the course of the discharge of an Executive Function and, of key decisions to be taken by Officers 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 before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) 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
- (g) a link to the background documents considered by the decision taker in relation to the matter.
- (h) The reason why a meeting is to be held in private (if relevant)

15. **GENERAL EXCEPTION**

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan;
- (b) the Head of Paid Service has informed the Chair of the relevant Scrutiny Committee, or if there is no such person, each Member of that Committee in writing, by notice, of the matter to which the decision is to be made including the reason why it was impracticable to include the decision on the forward plan;
- (c) the Head of Paid Service has made copies of that notice available to the public at the offices of the Council and on its website; and
- (d) at least 5 clear days have elapsed since the Head of Paid Service complied with (a) and (b).

16. **SPECIAL URGENCY**

- (a) If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the relevant Scrutiny Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.
- (b) The Head of Paid Service has prepared a notice, setting out the reasons that the meeting is urgent and cannot reasonably be deferred. This notice shall be made available to the public at the offices of the Council and on its website.

17. **REPORT TO COUNCIL**

17.1. **When a Scrutiny Committee can require a report**

If a Scrutiny Committee thinks that a Key Decision within the area of its terms of reference has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the relevant Scrutiny Committee Chair, or the Mayor/Deputy Mayor of the Council under Rule 16;

the Committee may require the Executive 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 5

members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

17.2. Executive's report to Council

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, or the resolution of the Committee, 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.

17.3. Annual report on special urgency decisions

In any event a report will be submitted to a meeting of the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding 12 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.

18. RECORD OF DECISIONS

After any meeting of the Executive 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 record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, and any interests declared by relevant Members and any dispensations granted by the Head of Paid Service. The statement may take the form of the minutes of the meeting.

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

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

20. NOTICE OF MEETING OF THE EXECUTIVE

Members of the Executive or its Committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. Details of the meeting will be posted on the Council's website and will be made available at its customer contact centres. The Council will similarly give 28 clear days notice of any private meeting of the Executive unless it is impractical to do so and the Head of Paid Service has obtained the agreement of the chairman of the relevant Scrutiny Committee. If there is no Chairman of the relevant Scrutiny Committee, or if the Chairman of the relevant Scrutiny Committee is unable to act, the agreement of the Mayor, or in his/her absence, the Deputy Mayor, will suffice.

21. ATTENDANCE AT MEETING OF THE EXECUTIVE

- 21.1. a) All members of the Executive will be served notice of all meetings of the Executive and Committees of the Executive, whether or not they are Members of that Committee.
- b) All Members of the Executive are entitled to attend a meeting of any Committee of the Executive and speak but not vote unless they are Members of that Executive Committee
- 21.2. a) Notice of meetings of the Executive and its Committees will be served on the Chair of each Scrutiny Committee, at the same time as notice is served on Members of the Executive. Where a Scrutiny Committee does not have a Chair, the notice will be served on all the Members of that Committee.
- b) Where a matter under consideration at a meeting of the Executive, or a Committee of it, is within the remit of a Scrutiny Committee, the Chair of the Committee or in his/her absence the Vice Chair may attend that meeting with the consent of the person presiding, and speak if those present agree.
- 21.3. a) The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Head of Paid Service has been given reasonable notice that a meeting is to take place.
- b) An Executive meeting may only take place in the presence of the Head of Paid Service or his/her nominee with responsibility for recording and publicising the decisions.
- 21.4. The provisions of Rule 18 (recording and publishing decisions) will apply to the recording of decisions at meetings of the Executive.

22. RECORD OF DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE OR OFFICERS

22.1. Committee

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive, or a Key Decision, or other significant decision that will affect local communities, has been taken by an Officer, he/she will prepare, or instruct the Head of Paid Service to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected, and any interests declared by relevant Members and any dispensations granted by the Head of Paid Service. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive or key or significant decisions that will affect the local community as taken by Officers. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

- 22.2 The Chief Executive, Directors and Assistant Directors shall maintain an up-to-date register of all authorisations of other Officers designated by them under paragraph 4.2 to take delegated decisions including all statutory functions (current and future).

23. **SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS**

23.1. **Rights to copies**

Subject to Rule 23.2 below, a Member of the relevant Scrutiny Committee 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 private meeting of a decision making body of the Council; or
- (b) any decision taken by an individual Member of the Executive in accordance with executive arrangements; or
- (c) any decision that has been made by an Officer of the Council in accordance with executive arrangements.

23.2. **Limit on Rights**

No Scrutiny Committee 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; or
- (c) the advice of a political adviser

23.3 Should the Council be aware that a confidential report has been leaked, then the Democratic Services Team will be requested to remove the report from publication as soon as possible.

24. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

24.1. **Material relating to previous business**

All Members will not be entitled to inspect any document which is in the possession or under the control of the Executive or its Committees or any Officer and contains material relating to any Executive business previously transacted at a private meeting or in relation to an Executive decision taken by a Portfolio Holder or an Officer unless (a) below applies.

- (a) it contains exempt information falling within the following paragraphs of the categories of exempt information; namely
 - 3 (information relating to the financial or business affairs of any particular person (including the authority holding that information)) - except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract, or
 - 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).
- (b) Members will not be entitled to a public excluded report where it contains the advice of a political adviser.

24.2. Nature of rights

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

Last updated 30 July 2018