

## **ACCESS TO INFORMATION RULES**

### **1. SCOPE**

These rules allow the public rights of access to meetings and information to reflect the Council's commitment to its residents to be open and accountable. They apply to all meetings of the Council, Cabinet, Committees and Sub-Committees (together called meetings) unless otherwise specified in this Constitution or by legislation. The public now has the right to report on any meeting, which is not held in private, by means of any medium available to them, and to share the results of such reporting by any communication method at their disposal (The Openness of Local Government Bodies Regulations 2014).

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

These rules do not affect any more specific rights to information contained elsewhere in the Council's Constitution or the law, nor do these Rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

### **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**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Council Offices, and on the Council's website, with the exception of any Licensing Sub-Committee meeting called in accordance with Statutory Instrument 2502 of the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007.

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

The Council will make copies of the agenda and reports, open to the public, , available on its website and at the Council Offices, five clear working days before the meeting except:

- a) Those which contain exempt or confidential information, the meaning of which is explained later in these rules, or
- b) Those in relation to Licensing Sub-committees where a meeting is called in accordance with: -
  - i) section 105(2)(a) (counter notice following police objection to temporary event notice) of the Licensing Act 2003; or
  - ii) SI 2502 - Summary Review of Premises Licences.

If an item is added to the agenda later, the revised agenda will be open to inspection and on the website from the time the item was added to the agenda. Where reports are prepared after the summons to the meeting has been sent out, the Chief Executive will make a copy of the report available to the public as soon as it is completed and sent to councillors.

### **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 Chief Executive 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.

The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (except during any part of the meeting to which the public is excluded).

## **7. ACCESS TO MINUTES AND OTHER INFORMATION AFTER THE MEETING**

- 7.1 The Council will make available copies of the following for six years after a meeting:
- (a) the minutes of all Council and Committee meetings;
  - (b) 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;
  - (c) 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;
  - (d) the agendas for the meetings; and
  - (e) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **List of background papers**

- 8.1 If there are any background papers relating to the subject matter of a report, these will be listed at the end of that report.
- 8.2 Background papers are those documents which disclose any facts or matters on which a report, or an important part of a report, is based; and which have been relied on to a material extent in preparing the report but which have either not been published or which disclose exempt or confidential information as defined in rule 10 below.

### **Public inspection of background papers**

- 8.3 The Council will make available for public inspection at its offices and on its website for four years after the date of the meeting one copy of any background papers listed in a report.

## **9. SUMMARY OF PUBLIC RIGHTS**

- 9.1 A written summary of the rights of the public to attend meetings and to inspect and copy documents must be kept, and available to the public, at the Council Offices.

## **10. EXCLUSION OF PUBLIC ACCESS TO MEETINGS**

### **Confidential Information – requirement to exclude the 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.

### **Meaning of Confidential Information**

- 10.2 Confidential information means information given to the Council by a Government department, service or agency on terms which forbid its public disclosure, or information which cannot be publicly disclosed by any enactment or Court Order.

### **Confidential Information and Exempt Information**

Nothing in these Procedure Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

Nothing in these Procedure Rules:

(a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Executive Head of Governance, that document or part of a document contains or may contain confidential information; or

(b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information.

Where the Leader, a lead councillor or a staff member makes an executive decision in accordance with executive arrangements, nothing in these Procedure Rules:

(a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the documents contain confidential information; or

(b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the councillor or staff member making the decision, give rise to the disclosure of exempt information.

### **Exempt Information – Discretion to Exclude Public**

- 10.3 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.

- 10.4 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 of the Act.

## Meaning of Exempt Information

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

Category	Condition
1. Information relating to any individual	Information is exempt only if, in all the circumstances, 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 exempt only if, in all the circumstances, 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).	Information is not exempt information if it is required to be registered under <ol style="list-style-type: none"> <li>1. Section 2 of the Companies Act 2006</li> <li>2. the Friendly Societies Act 1974</li> <li>3. the Friendly Societies Act 1992</li> <li>4.</li> <li>5. the Co-operative and Community Benefit Societies Act 2014</li> <li>6. the Building Societies Act 1986</li> <li>7. the Charities Act 2011</li> </ol>
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.	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that the authority proposes, <ol style="list-style-type: none"> <li>1. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>2. to make an order or direction of any enactment.</li> </ol>	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention,	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the

investigation or prosecution of  
crime

public interest in disclosing the information

10.6 Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to 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.

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

11.1 The Proper Officer of the Council may exclude access by the public to reports which in his 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 '**Exempt**' on the agenda of that meeting, together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE CABINET**

12.1 Rules 13 – 22 apply to the Cabinet only. If the Cabinet meets to take a key decision, then it must also comply with rules 1 –11 unless Rule 15 (general exception) or Rule 16 (urgent action) applies. A key decision is defined in Article 13.3 of the Council's Constitution.

This requirement does not include meetings whose sole purpose is for staff to brief councillors.

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (urgent action) a key decision may not be taken unless:

- (a) Notice of the intention to make a decision has been published in the Key Decisions Forward Plan;
- (b) At least 28 days' clear days have elapsed since the publication of the Key Decisions Forward Plan and the date of the meeting at which the Key Decision is to be made, and
- (c) Notice of the meeting at which the decision will be taken has been given in accordance with Rule 4 (Notice of Meetings).

## **14. THE KEY DECISIONS FORWARD PLAN**

### **Contents of Key Decisions Forward Plan**

14.1 The Key Decisions Forward Plan will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet in the course of the discharge of an executive function during the period covered by the Plan. It will be made available on the Council's website at least 28 days before any Key Decision is due to be taken. 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 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 address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (e) that other documents relevant to those matters may be submitted to the decision maker; and
- (f) the procedure for requesting details of those documents (if any) as they become available, and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

## **15. GENERAL EXCEPTION**

15.1 If a matter which is likely to be a key decision has not been included in the Key Decisions Forward Plan in accordance with Rule 13, then subject to Rule 16 below 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 published in accordance with Rule 13;
- (b) the Chief Executive has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee by a notice in writing of the matter on which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the Council Offices and on the Council's website; and
- (d) at least 5 clear working days have elapsed since the Chief Executive complied with (b) and (c) above.

As soon as reasonably practical after compliance with Rule 15.1 above, the reason(s) why compliance with Rule 13 is impractical must be published on the Council's website.

## **16. URGENT ACTION**

16.1 If, by virtue of the date by which a Key Decision must be taken, Rule 15 above cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If there is no chairman of the Overview and Scrutiny Committee, or if the chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor or, in his absence, the Deputy Mayor will suffice.

16.2 As soon as reasonably practical after the decision-maker has obtained agreement under paragraph 16.1 above, he/she shall publish on the Council's website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

## **17. REPORT TO COUNCIL**

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

17.1 If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) published in accordance with Rule 13; or

- (b) the subject of the general exception procedure (Rule 15); or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman or the Mayor/Deputy Mayor (Rule 16),

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The report must include details of the decision and the reasons for the decision, the decision-maker, and the reasons, if any, for the Council to believe that the decision was not a Key Decision.

The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the proper officer who shall require such a report on behalf of the committee when so requested by the Chairman or any five members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### **Cabinet's report to Council**

- 17.2 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 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.

### **Annual Reports on Urgent Action Decisions**

- 17.3 In any event, the Leader will submit annual reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (urgent action) in the preceding twelve 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. EXECUTIVE DECISIONS BY INDIVIDUALS**

### **DECISIONS BY THE LEADER OR INDIVIDUAL CABINET MEMBERS**

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

- 18.1 Where an individual member of the Cabinet receives a report, which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 5 clear working days after receipt of that report.

#### **Provision of copies of reports to Overview and Scrutiny Committee**

- 18.2 On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### **EXECUTIVE DECISIONS BY STAFF**

- 18.3 Staff contemplating a decision in connection with an executive function shall have careful regard to the following principles in deciding how this should be taken:

- (a) whether the proposed decision is closely (as opposed to remotely) connected with the discharge of a function which is, as a matter of law, the responsibility of the authority's executive;
- (b) whether the proposed executive decision is merely administrative in nature with only a remote connection with an executive function;
- (c) whether a proposed executive decision is so minor or routine in nature or is otherwise one which would reasonably be considered to be of no interest to a reasonable member of the public;
- (d) whether the proposed executive decision is sufficiently important and/or sensitive so that a reasonable member of the public would reasonably expect it to be taken by the Executive;
- (e) whether the proposed executive decision is one which affects only particular individuals as opposed to the public generally;

18.4 Taking into account the above principles, the Council has agreed that these Procedure Rules shall apply to:

- (a) key decisions taken by staff; and
- (b) any executive decision taken by a staff member -
  - (i) under the scheme of delegation to staff referred to in Part 3 of this Constitution, or
  - (ii) which has been authorised specifically by the Leader/Executive
  - (iii) which requires prior consultation with the Leader or a portfolio holder.

## **19. RECORD OF EXECUTIVE DECISIONS**

19.1 After any meeting of the Cabinet, whether held in public or private, the Proper Officer, 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. It will also include a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body, and where a conflict of interest was declared, a note of any dispensation granted in respect of it.

## **20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **Rights to copies**

20.1 Subject to rule 20.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

- (a) Any business transacted at a public meeting of the Cabinet; or
- (b) Any decision taken by an individual member of the Cabinet.

### **Limits on rights**

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

- (a) Any document, or part of a 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 as part of that Committee's work programme.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS**

### **Material relating to previous business**

- 21.1 All councillors will be entitled to inspect any document which is in the possession of, or under the control of, the Cabinet and contains material relating to any business previously transacted at a meeting.

### **Material relating to key decisions**

- 21.2 All councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet, which relates to any key decision.

### **Nature of rights**

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