

4. ACCESS TO INFORMATION PROCEDURE RULES

Scope of the Access to Information Procedure Rules

4.1 These Access to Information Procedure Rules apply to all meetings of Council, the Overview and Scrutiny Committees, Regulatory Committees, sub-committees and joint committees as applicable and to public meetings of the Cabinet and sub-committees of the Cabinet unless otherwise specified in these Rules. These rules are at times written in formal language because of the statutory basis for these arrangements. If you have specific questions our Democratic Services Team will be happy to help you.

Additional Rights to Information

4.2 These Rules do not affect any other public rights of access or to information provided for elsewhere in this Constitution or by law.

4.3 Councillors' rights set out in these Rules are additional to any other right(s) they have under the common law or statute.

Rights to Attend and Record Meetings

4.4 Members of the public and press are welcomed and encouraged to attend all meetings subject only to the exceptions set out in this Constitution.

4.5 Members of the public may record or film the proceedings of any meeting by any means subject to the rules of this Constitution.

4.6 The rights of Members of the public set out in Rule 4.4 and Rule 4.5 above are without prejudice to the Council's power to suppress or prevent disorderly conduct or other misbehaviour at any meeting.

Notices of Meeting

4.7 The Council will give at least five clear working days' notice of any meeting by publishing details of the meeting on the Council's website and at the Council's offices.

4.8 Where the meeting is convened at shorter notice, details of the meeting will be published on the Council's website and at the Council's offices at the time the meeting is convened.

Access to Agenda and Reports before the Meeting

4.9 The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and at the Council's offices at least five clear working days before the meeting unless the matter is urgent.

4.10 Where there are special circumstances requiring an item to be added to the agenda after its publication, as an item of urgent business at the direction of the Chair of the meeting, the Proper Officer will make each such report available to the public and

press and open for inspection as soon as the report is available to councillors attending the meeting.

- 4.11 The special circumstances requiring an item of urgent business to be added to the agenda and the Chair's direction to do so, will be recorded in the minutes of the meeting.

Supply of Copies of Agendas and Reports

- 4.12 The Council will supply copies of the following documents to any person on payment of a charge for postage, copying and any other necessary charge for transmission:

- (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 on the agenda;
- (c) Any written record of an executive decision;
- (d) Any reports considered by a decision maker which are open to public inspection;
- (e) A list of background information (and the information on request); and
- (f) If the Monitoring Officer thinks fit, any other documents supplied to councillors in connection with an agenda item;

- 4.13 The information will also be made available on the Council's website.

Access to Minutes and other Documents after the Meeting

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

- (a) The minutes of the meeting or records of decisions taken together with reasons for all meetings of the Cabinet, a sub-committee of the Cabinet, the Council and Council Committees which is to be published under this Constitution, excluding any part of the minutes of proceedings or decision record when the meeting was not open to the public, or which disclosed exempt or confidential information; and
- (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; and
- (c) The agenda and reports for the meeting relating to items when the meeting was open to the public.

Public Inspection of Minutes and Reports

- 4.15 The Council will make available for public inspection for six years after the date of a meeting a copy of the agendas, minutes and reports relating to the meeting.

Background Papers

- 4.16 The author of a report will set out at the end of every report a list of those documents (under the heading 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 these Rules and in respect of Cabinet reports, the advice of a political advisor, if any.
- 4.17 (Published works) includes previous Council, Cabinet or Committee reports relevant to the decision and do not need to be listed.

Public Inspection of Background Papers

- 4.18 The Council will make available for public inspection for four years after the date of the meeting a copy of each of the documents on the list of background papers except where in the opinion of the Proper Officer to do so would be likely to disclose confidential or exempt information or the advice of any political adviser or assistant.

Confidential Information – Requirement to Exclude Press and Public

- 4.19 The press and 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 in breach of the obligation of confidence.
- 4.20 Reports containing confidential information must not be published as part of the agenda of the meeting.
- 4.21 (Confidential information) means:
- (a) Information given to the Council by a government department on terms (however expressed) which forbid its public disclosure; or
 - (b) Information which cannot be publicly disclosed by an order of the court or in accordance with any enactment.

Exempt Information – Discretion to Exclude Press and Public

- 4.22 The Proper Officer may if they think fit exclude from public and press inspection in advance of a meeting, reports, or parts of reports, which are considered to contain exempt information and which a meeting where such reports are to be discussed is likely to exclude the press and public on the grounds that the report contains exempt information.
- 4.23 The press and 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 provided that the meeting resolves to exclude the press public and that resolution:

- (a) Identifies the proceedings or part of the proceedings to which the exclusion applies; and
- (b) States by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (see below) the description of the exempt information giving rise to the exclusion of the press and public; and
- (c) Considers, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

4.24 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.

4.25 (Exempt information) means information falling within the following categories defined by Schedule 12A of the Local Government Act 1972 as detailed in the table below:

SCHEDULE 12A PARAGRAPH NUMBER / CATEGORY OF INFORMATION	CONDITIONS
1. INFORMATION RELATING TO AN INDIVIDUAL	
2. INFORMATION WHICH IS LIKELY TO REVEAL THE IDENTITY OF AN INDIVIDUAL	
3. INFORMATION RELATING TO THE FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON (INCLUDING THE AUTHORITY HOLDING THE INFORMATION) AND INCLUDES CONTEMPLATED AS WELL AS PAST OR CURRENT ACTIVITIES	<p>INFORMATION IS NOT EXEMPT INFORMATION IF IT IS REQUIRED TO BE REGISTERED UNDER:</p> <ul style="list-style-type: none"> (a) The Companies Acts as defined by s2 of the Companies Act 2006; (b) The Friendly Societies Act 1974; (c) The Friendly Societies Act 1992; (d) The Co-Operative and Community Benefits Societies Act 2014; (e) The Building Societies Act 1986; or (f) The Charities Act 2011. <p>(REGISTERED) IN RELATION TO INFORMATION REQUIRED TO BE REGISTERED UNDER THE BUILDING SOCIETIES ACT 1986 MEANS RECORDED IN THE PUBLIC FILE OF ANY BUILDING SOCIETY (WITHIN THE MEANING OF THAT ACT).</p>

<p>4. INFORMATION RELATING TO ANY CONSULTATIONS OR NEGOTIATIONS, OR CONTEMPLATED CONSULTATIONS OR NEGOTIATIONS, IN CONNECTION WITH ANY LABOUR RELATIONS MATTERS ARISING BETWEEN THE AUTHORITY OR A MINISTER OF THE CROWN AND EMPLOYEES OF, OR OFFICE HOLDERS UNDER, THE AUTHORITY</p>	<p>(LABOUR RELATIONS MATTERS) MEANS:</p> <p>(a) Any of the matters specified in paragraphs (a) to (g) of section 218(1) of the trade union and labour relations (consolidation) act 1992 (matters which may be the subject of trade dispute within the meaning of that act); or</p> <p>(b) Any dispute about a matter falling within paragraph (a) above; and</p> <p>FOR THE PURPOSES OF THIS DEFINITION THE ENACTMENTS MENTIONED IN PARAGRAPH (A) ABOVE, WITH THE NECESSARY MODIFICATIONS, SHALL APPLY IN RELATION TO OFFICE HOLDERS UNDER THE AUTHORITY AS THEY APPLY IN RELATION TO EMPLOYEES OF THE AUTHORITY;</p> <p>(EMPLOYEE) MEANS A PERSON EMPLOYED UNDER A CONTACT OF SERVICE;</p> <p>(OFFICE HOLDER) IN RELATION TO THE AUTHORITY MEANS THE HOLDER OF ANY PAID OFFICE APPOINTMENTS TO WHICH ARE OR MAY BE MADE OR CONFIRMED BY THE AUTHORITY OR BY ANY JOINT BOARD ON WHICH THE AUTHORITY IS REPRESENTED OR BY ANY PERSON WHO HOLDS SUCH OFFICE OR IS AN EMPLOYEE OF THE AUTHORITY.</p>
<p>5. INFORMATION IN RESPECT OF WHICH A CLAIM TO LEGAL PROFESSIONAL PRIVILEGE COULD BE MAINTAINED IN LEGAL PROCEEDINGS</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>7. INFORMATION RELATING TO ANY ACTION TAKEN OR TO BE TAKEN IN CONNECTION WITH THE PREVENTION, INVESTIGATION OR PROSECUTION OF CRIME</p>	

Public Interest Test and Planning Applications by the Council

- 4.26 Information which falls within paragraphs 1 to 7 in the table above can only be exempt information if:
- (a) It does not relate 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; and / or
 - (b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Rules Applying to Executive (Cabinet) Decisions

- 4.27 The following rules apply to executive meetings where Key Decisions are made.
- 4.28 The Council shall set the financial threshold (the Key Decision Financial Threshold) at which executive decisions will be Key Decisions in accordance with the statutory definition and any statutory guidance.
- 4.29 The current Key Decision Threshold is detailed in Part 4.
- 4.30 Subject to the Rule 4.34 and Rule 4.35 below relating respectively to General Exceptions and Special Urgency, a Key Decision may not be taken unless a Forward Plan has been published at least twenty-eight days in advance containing the information set out below in respect of each Key Decision to be made:
- (a) The subject matter in respect of which the Key Decision is to be made;

- (b) The identity of the Key Decision maker (whether a body or individual);
 - (c) The date on which, or the period within which, the Key Decision is to be made;
 - (d) A list of documents submitted to the Key Decision maker for consideration in relation to the matter in respect of which the decision is to be made;
 - (e) The address from which any document listed is available;
 - (f) The fact that other documents relevant to those matters may be submitted to the Key Decision maker; and
 - (g) The procedure for requesting details of those documents (if any) as they become available.
- 4.31 The Forward Plan may not contain any confidential information or exempt information, or the particulars of the advice of a political assistant (if any).
- 4.32 The Forward Plan must be made available for inspection by the public on the Council's website and at the Council's offices.
- 4.33 The Forward Plan is published on the Council's website.

General Exception to Publication of Key Decisions on the Forward Plan (The General Exception Rule)

- 4.34 If it is impracticable to include a Key Decision on the Forward Plan, then subject to the Special Urgency Rule below (Rule 4.35) the decision may still be taken if:
- (a) The Monitoring Officer informs the Chair of the Overview and Scrutiny Committee by notice in writing of the proposed Key Decision; or, if there is no appointed Chair or the Chair is unavailable, each member of the Overview and Scrutiny Committee;
 - (b) The Monitoring Officer publishes a notice that the Key Decision will be taken and the reasons why it is impracticable to give the twenty-eight days' notice required by the Forward Plan before making the decision. The notice must be published on the Council's website and at the Council's offices; and
 - (c) There are at least five clear working days between the day the notice is published and the day the decision is made.

Special Urgency for Key Decisions (The Special Urgency Rule)

- 4.35 If by virtue of the date by which a Key Decision must be taken, the General Exception Rule (Rule 4.34 above) cannot be followed, then the Key Decision can only be taken:
- (a) If the Chair of the Overview and Scrutiny Committee agrees that the making of the Key Decision is urgent and cannot reasonably be deferred to a meeting where the General Exception Rule can be met;

- (b) If there is no Chair of the Overview and Scrutiny Committee or the Chair is not available, the Deputy Chair of the Overview and Scrutiny Committee's agreement must be obtained.

4.36 As soon as reasonably practicable after the decision maker has obtained agreement as above the Monitoring Officer must publish on the Council's website and make available at the Council offices a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

Reports on Special Urgency Key Decisions

4.37 The Leader will submit to the Council a report on any Key decision taken in accordance with the Special Urgency Rule (Rule 4.35) to the next ordinary meeting of the Council with the particulars of the Key Decision.

Procedure Prior to Private Meetings of the Cabinet

4.38 The Leader shall hold all Cabinet meetings in public (with discretion to hold matters in private if exempt information is being considered) but the Cabinet has the additional power to hold meetings in private which may occur where the only items on the agenda are likely to be exempt and it is not proportionate to hold the meeting in public for only the procedural items on the agenda.

4.39 If the Cabinet intends to hold all or any part of a meeting in private, it will:

- (a) Publish a notice of this intention on the Forward Plan; and
- (b) At least five clear working days before the meeting give a further notice of the private meeting and make this available for public inspection on the Council's website and at the Council's offices.

4.40 The notice will include:

- (a) A statement of the reasons for the meeting to be held in private;
- (b) Details of any representations received as to why the meeting should be open to the public; and
- (c) A statement of the response to any such representations.

4.41 Where the date by which a meeting must be held means that the notice requirements above are impracticable, the meeting will only be held in private if:

- (a) The Chair of the Overview and Scrutiny Committee agrees that the meeting is urgent and cannot reasonably be deferred;
- (b) If there is no Chair of the Overview and Scrutiny Committee or the Chair is not available, the Vice Chair of Overview and Scrutiny Committee's agreement must be obtained.

4.42 As soon as reasonably practicable after agreement is obtained, the Cabinet will make available for public inspection on the Council's website and the Council's offices a

notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

Record of Decisions

- 4.43 After any meeting of the Cabinet or a sub-committee of the Cabinet the Proper Officer will produce a written record of every decision taken at that meeting including:
- (a) A record of the decision and the date it was made;
 - (b) A statement of the reasons for each decision and any alternative options considered and rejected at that meeting; and
 - (c) A record of any declarations of interest made by any member of the decision-making body and a note of any dispensation granted in respect of any declaration.

Additional Rights of Access to Information for Scrutiny Committee Members

- 4.44 Subject to the Rules 4.48 to 4.49 below, a member of the Overview and Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Cabinet which contains material relating to:
- (a) Any business transacted at a Cabinet meeting or a meeting of a Cabinet sub-committee;
 - (b) Any decision taken by the Leader or the Cabinet;
- 4.45 Any documents requested must be provided as soon as is practicable and, in any case, no later than ten clear working days after receipt of the request.
- 4.46 A Scrutiny Committee member will not be entitled to:
- (a) 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
 - (b) A copy of a document or part of a document containing the advice of a political assistant (if any); or
 - (c) Any draft document that was considered prior to the final report.

Additional Rights of Access to Information for All Councillors

- 4.47 Any councillor will be entitled to inspect any document in the possession or under the control of the Council:
- (a) Which relates to any business to be transacted at a meeting of Council, a Council Committee or a sub-committee of a Council Committee;
 - (b) Except any part of a document that contains confidential or exempt information; or
 - (c) Any draft document that was considered prior to the final report.

- 4.48 Any councillor will be entitled to inspect any document in the possession or under the control of the Cabinet or a sub-committee of the Cabinet:
- (a) Which relates to any business to be transacted at a public meeting of the Cabinet or sub-committee of the Cabinet;
 - (b) Except any part of a document that contains confidential or exempt information or the advice of any political assistant (if any); or
 - (c) Any draft document that was considered prior to the final report.
- 4.49 Any councillor is entitled to inspect at the conclusion of a meeting of the Cabinet or a sub-committee of the Cabinet:
- (a) Any document which is in the possession, or under the control, of the Cabinet or a sub-committee of the Cabinet and which contains material relating to any business previously transacted at a private meeting; or
 - (b) any decision taken by the Leader or the Cabinet.
- 4.50 Councillors may not inspect any part of a document that contains confidential or exempt information or advice of a political assistant (if any) if it falls within:
- (a) Category 3 in the table at paragraph 4.25 above unless it contains information that relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
 - (b) Category 6 in the table at paragraph 4.25 above.

Operational Decisions

- 4.51 Decisions delegated to officers under the Scheme of Delegation to Officers set out under Part 7 of this Constitution are known as (Operational Decisions).
- 4.52 Operational Decisions are not required to be published unless:
- (a) The Operational Decision would otherwise have been taken by the Council, a Council Committee, Council Sub-Committee or a Joint Committee; and
 - (b) The decision is to:
 - (i) grant a permission or licence; or
 - (ii) affect the rights of an individual; or
 - (iii) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.
- 4.53 An officer making an Operational Decision must keep a clear written record of the decision which includes the following:
- (a) The delegating power (whether under the Constitution, the Scheme of Delegation to Officers or an express delegation in relation to the decision);
 - (b) A record of the Operational Decision taken and the reasons for the decision, including the date it was made;

- (c) Details of alternative options, if any considered and rejected;
 - (d) Details required to be recorded in accordance with any other Council Rules or procedures (eg the Contract Procedure Rules set out under Part 7 of this Constitution).
- 4.54 The requirement to maintain a written record of an Operational Decision will be satisfied if the officer has recorded the decision in accordance with any other statutory requirements.
- 4.55 Records of Operational Decisions which are required to be published must be retained for a minimum of six years. Operational Decisions which are not required to be published must be retained in accordance with the Council's Record Retention Policy.
- 4.56 Where an Operational Decision must be published, the written record of the Operational Decision and any background papers must be made available for public inspection on the Council's website and at the Council's offices as soon as reasonably practicable.