

B. Access To Information Procedure Rules

1. Scope

These rules apply to all meetings of the Council, Scrutiny Committees, Area Fora, the Standards Committee and regulatory committees and public meetings of the Cabinet (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. Notice Of Meetings

The Council will give at least five clear days notice of any formal meeting (unless called as an urgent meeting) by posting details of the meeting on the Council's website (the designated office) and at the local authority offices.

5. Access To Agenda And Reports Before The Meeting

The Council will make copies of the agenda and reports available and open to the public for inspection at the designated office and on the Council's website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda and report 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 Proper Officer will make each such report available to the public as soon as the report is completed and sent to councillors.

Further provisions apply in the case of 'key decisions' - see paragraphs 13-17 (inclusive) below.

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 forming part of the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item;

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

7. Access To Minutes, Etc. After The Meeting

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

- (a) the minutes of the meeting or records of decisions taken - together with reasons -

for all meetings of the Cabinet, Executive Cabinet Member meetings and Officers (taking executive decisions), excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in Rule 10);

- (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 officer compiling 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 will not include published works or those documents which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public Inspection of Background Papers

The Council will make available for public inspection at the local authority offices and the Council's website for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

9. Exclusion Of Access By The Public To Meetings

9.1 Confidential Information – Requirement to Exclude the 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.

9.2 Exempt Information – Discretion to Exclude the 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 persons 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 that Act

9.3 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 or under any enactment.

9.4 Meaning of Exempt Information

Exempt information means information falling within any of the following 7 categories, subject to relevant condition(s):-

Category	Condition
1. Information relating to any individual.	
2. Information that 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 that information).	Information is not exempt information if it is required to be registered under:- (a) The Companies Act 1985 (b) The Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Act 1965 – 1978 (e) The Building Societies Act 1986; or (f) The Charities Act 1993
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.	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
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.	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

7A. Information which is subject to any obligation of confidentiality.	
7B. Information which relates in any way to matters concerning national security.	

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulations (3) of the Town and Country Planning General Regulations 1992.

Information which –

- (a) falls within any of paragraphs 1-7 above; and
- (b) is not prevented from being exempt by virtue of the conditions attached to paragraph 3 and to regulation 3 of the Town and Country Planning General Regulations 1992, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, the Borough Solicitor shall determine the “public interest case.”

10. Exclusion Of Access By The Public To Reports

If the Borough Solicitor 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 this rule, 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. In accordance with Regulation 5 of Part 2 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012, the Council will give 28 days’ notice of its intention to hold a meeting of the Cabinet in private and the reasons why. Representations can be made to the Monitoring Officer as to the meeting being in private which will be given due consideration and a further statement issued 5 days before the meeting detailing a statement of the Council’s response to such representations. Please see the Council’s Forward Plan on the Council’s website as to how representations may be made.

11. Application Of Rules To The Cabinet

The powers and duties relating to the Cabinet are set out in Part 7 of this Constitution.

Rules 12 – 23 apply to the Cabinet and its committees. If the Cabinet (or any of its committees) meets to take a key decision then it must also comply with Rules 1 – 10 unless Rule 14 (General Exception) or Rule 15 (Special Urgency) apply. A key decision is as defined in Article 12 of this Constitution.

12. Procedure Before Taking Key Decisions

Subject to Rule 14 (General Exception) and Rule 15 (Special Urgency), a key decision may not be taken unless:-

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question 28 days before the matter is considered;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan; and

- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

Procedure

1. The Chief Executive and the Monitoring Officer will compile a register of all key decisions which will be kept in the Democratic Services Unit of the Chief Executive's Department and published on the Council's website. Written statements will be completed and will be published 48 hours after the decision is taken on the Council's website.

The statement (minutes) will include:-

- (i) The decision;
 - (ii) Reason for the decision;
 - (iii) Relevant interests of members involved;
 - (iv) Any consultation undertaken, including named officers from whom advice was taken and the advice given;
 - (v) Dispensations granted;
 - (vi) The date the decision is to become effective (which will normally be 3 days after the meeting has taken place).
2. The statement will be publicly available.
 3. A notice of key decisions to be taken will include:-
 - (i) a short description of matters under consideration and when key decisions are expected to be taken;
 - (ii) who is responsible for taking the decision and how they can be contacted;
 - (iii) what relevant reports and background papers are available;
 - (iv) if the item is to be considered in the confidential part of the meeting (see para. 10 for procedure to make representations as to why an item is confidential).

13. The Notice of Key Decisions (The Council's Forward Plan)

The Notice will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a sub-committee of the Cabinet, Executive Cabinet Members, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:-

- (a) that a key decision is to be made on behalf of the relevant local authority;
- (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.

Exempt information need not be included in a forward plan and confidential information cannot be included.

14. General Exception

If a matter which is likely to be a key decision has not been included in the Notice of the intention to take key decisions (the Council's Forward Plan), then subject to Rule 15 (Special Urgency), the decision may only be made: -

- (1) Subject to 15 below, where the publication of the intention to make a key decision under Section 13 is impracticable, that decision may only be made –
 - (a) where the proper officer has informed the Chairman of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made;
 - (b) where the proper officer has made available at the offices of the local authority for inspection by the public and published on the local authority's website, a copy of the notice given pursuant to sub-paragraph (a); and
 - (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).
- (2) As soon as reasonably practicable after the proper officer has complied with the above, he or she must –
 - (a) make available at the offices of the local authority a notice setting out the reasons why compliance with Section 13 is impracticable; and
 - (b) publish that notice on the local authority's website.

15. Special Urgency

- (1) Where the date by which a key decision must be made, makes compliance with Section 14 impracticable, the decision may only be made where the decision maker has obtained agreement from –
 - (a) the Chairman of the relevant overview and scrutiny committee; or
 - (b) if the Chairman of the relevant overview and scrutiny committee is unable to act, the Mayor; or
 - (c) if the Mayor or the Chairman of the relevant scrutiny committee is unavailable then the Deputy Mayor,

that the making of the decision is urgent and cannot reasonably be deferred.

- (2) As soon as reasonably practicable after the decision maker has obtained agreement under paragraph (1) that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must –
 - (a) make available at the offices of the local authority a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
 - (b) publish that notice on the local authority's website.

16. Councillor Call for Action

The Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007 (and amended by the Localism Act 2011) introduced the Councillor Call for Action (CCfA) which enables any Councillor to refer matters of community concerns within their ward or a local crime and disorder matter of concern to the relevant Scrutiny Committee as long as not an excluded matter.

Excluded matters are issues relating to individuals concerning planning and licensing and issues which are defined as vexatious, discriminatory or not reasonable to be included in the agenda for, or discussed at an overview and scrutiny committee. It is intended that the CCfA will be a measure of 'last resort', with issues being raised at the relevant committee with overview and scrutiny powers, after other avenues have been exhausted. Matters raised as a possible CCfA will be determined by the Borough Solicitor.

17. Report To Council

17.1 When a Scrutiny Committee can require a report

If a Scrutiny Committee thinks that an executive decision has been taken and was not treated as being a key decision, the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee but is also delegated to the Proper Officer.

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

17.2 Executive report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council must include:-

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

The Leader will submit quarterly reports to the Council on executive decisions taken in the circumstances set out in Rule 16 (Special Urgency) in the preceding three 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 Cabinet or any of its committees, whether held in public or private, the Proper Officer 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.

19. Notice Of Meetings Of The Cabinet

Members of the Cabinet 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.

20. Attendance At Executive Cabinet Member Meetings

- (a) Executive Cabinet Member meetings will take place at a fixed time in the meeting cycle in the presence of such officers nominated by the relevant Director, the Monitoring Officer and the Chief Finance Officer.
- (b) The relevant opposition spokespersons have a right to attend and observe Executive Cabinet Member meetings (See Principle 2(H) for exceptions).

21. Decisions By Individual Members Of The Cabinet

The Powers and Duties relating to Executive Cabinet Member portfolios are set out in Part 7 of this Constitution.

21.1 Reports intended to be taken into account

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

21.2 Record of individual decision

As soon as reasonably practicable after an executive decision (including key decisions by individual members) has been taken by an individual member of the Cabinet or by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 (Access to Minutes etc. after the meeting) and 8 (Background Papers) will also apply to the making of decisions by individual members of the Cabinet.

22. Scrutiny Committees' Access To Documents

22.1 Rights to Copies

Subject to Rule 23.2 below, a Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees which contains material relating to:-

- (a) any business transacted at a public or private meeting of the Cabinet;
- (b) any decision taken by an individual member of the Cabinet; or
- (c) any decision that has been made by an officer of the authority in accordance with executive arrangements.

Any document requested under the above should be provided as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the report. Where the Cabinet determine that a member of a Scrutiny Committee is not entitled to the document (as it discloses exempt information as defined by Schedule 12A to the 1972 Act, subject to exceptions relating to paras. 3 and 6 of such Act) the Cabinet must provide the Committee with a written statement setting out its reasons for that decision.

22.2 Limit on Rights

A Scrutiny Committee will not 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 and is contained in any programme of work of the committee;
- (c) or any document containing advice by a political advisor or assistant.

23. Additional Rights Of Access For Members

23.1 Material Relating to Previous Business

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 meeting of the Cabinet or relates to any decision shall be open to inspection by any Member of the Council unless it appears to the Borough Solicitor that it discloses exempt information.

Notwithstanding paragraph 23.1, the document will remain open to inspection if the information it contains falls within paragraphs 3 or 6 of Schedule 12A to the Local Government Act 1972 (with the exception of information relating to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract).

23.2 Material Relating to Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph 23.1 above applies.

23.3 Nature of Rights

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