

Access to Information Procedure Rules

1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Area Committees (if any), the Standards Committee (see also paragraph 10.5), other Committees and Sub-Committees and 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

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the offices of Council.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and, where possible, 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 (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and made available to Councillors) 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 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.

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 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 Proper Officer will have 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).

8.2 Public inspection of background papers

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'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and be available to the public at the Council's main offices.

10. EXCLUSION OF ACCESS BY 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.

As set out in Part 2 of Schedule 12A of The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006: "Information... 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."

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 seven categories (subject to any condition):

Category
1. Information relating to any 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 that information).
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.

In respect of all categories there is a public interest test asking whether it would benefit the public more to withhold the information than to release it. Every copy of a report of which the whole or part is not available for public inspection must be marked 'Not for Publication' and it must contain a description of the 'exempt' information in terms of Schedule 12A. There is an inherent public interest in access to information held by public bodies. Factors favouring disclosure include:

- (a) promoting accountability for public expenditure;
- (b) allowing individuals to understand decisions and being able to question those decisions;
- (c) promoting public order, health and safety;
- (d) enabling people to become informed and able to participate in public debate;
- (e) where the disclosure of information assists the applicant to enforce their rights under the European Convention on Human Rights.

The exemptions themselves provide the list of factors against disclosure. If disclosure would affect these matters adversely, then it is relevant to weigh the possible harm against the positive benefits of openness.

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.

In addition, information falling within paragraphs 1-7 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 1992
- (d) The Industrial and Provident Societies Acts 1965 to 1978
- (e) The Building Societies Act 1986
- (f) The Charities Act 1993.

10.5 Standards Committees

Where a meeting of the Standards Committee or of a sub-committee of the Standards Committee is convened to consider a matter referred under the provisions of section 60 (2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act, 2000, exempt information also means information falling within categories 7a – 7c below:

7a Information which is subject to any obligation of confidentiality

7b Information which relates in any way to matters concerning national security

7c The deliberations of a Standards Committee or of a sub-committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under provisions of Section 60 (2) or (3), 64 (2), 70 (4) or (5) or 71 (2) of the Local Government Act 2000.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive 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 one made in the course of developing proposals to amend the Policy Framework or one which is likely

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

The criteria adopted by the Council to be applied in identifying Key Decisions are set out at the end of these Rules.

If the Executive or its Committees meet to discuss a Key Decision to be taken collectively, with an officer 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 as defined above. This requirement does not include meetings whose sole purpose is for officers to brief Members.

No Key Decision or other decision taken by the Cabinet or an individual Member of the Executive shall be taken except upon a written report (which will include, as a minimum, the issue to be decided, the facts upon which any decision must be based, the options available to the decision-taker, the outcome of any consultation undertaken, the financial implications, the extent of compliance with the Policy Framework and other Council plans and strategies, and a recommendation (and the reasons supporting it) in respect of the proposed decision).

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (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;
- (b) at least 5 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 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 the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Executive, a Committee of the Executive, individual Members of the Executive, 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) 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 list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 14 days before the start of the period covered. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that Key Decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices and on the Council's Website.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

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) it 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 and until the start of the first month to which the next Forward Plan relates;

(b) the proper officer has informed Ward Councillors and the Chair of a relevant Overview and Scrutiny Committee or, if there is no such person, each member of that Committee, in writing or by email, of the matter in relation to which the decision is to be made;

(c) the proper 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 proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can be taken only if the decision taker (if an individual) or the Chair of the body making the decision informs Ward Councillors and obtains the agreement of the Chair of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

17. REPORT TO COUNCIL

17.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee thinks a Key Decision 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 a relevant Overview and Scrutiny Committee Chair, or the Mayor/Deputy Mayor 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 proper officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any three Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

17.2 Executive's report to Council

In accordance with 17.1, the Executive will prepare a report for submission to the next available meeting of the Council. 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.

17.3 Quarterly reports on special urgency decisions

In any event, the Leader will submit quarterly reports to the Council on the 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 Executive or any of its Committees, 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 and make it available to all Members via the Intranet. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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

Meetings relating to matters which are not Key Decisions will also be held in public.

20. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

20.1 Reports intended to be taken into account

Where an individual Member of the Executive 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.

20.2 Provision of copies of reports to Overview and Scrutiny Committees

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

20.3 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive or a Key Decision has been taken 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, which will be made available to all Members via the Intranet. 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. This does not require the disclosure of exempt or confidential information.

21. OVERVIEW AND SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS

21.1 Rights to copies

Subject to Rule 21.2 below, an Overview and Scrutiny Committee (including its Sub-Committees and Task Groups) 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 meeting of the Executive or its Committees; or
- (b) any decision taken by an individual Member of the Executive.

21.2 Limit on rights

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form (except for consultative drafts)
- (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.

22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

22.1 Material relating to Key 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 Executive or its Committees which relates to any Key Decision unless it contains exempt information falling within paragraphs outlined in Part 2 of Schedule 12A of The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 in paragraph 10.2 above.

22.2 Nature of rights

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

KEY DECISIONS - CRITERIA

Having regard to the underlying principle of accountable decision-making that there should be a presumption towards openness, Annual Council on 22 May 2001 and on 19 May 2009 adopted the following criteria to be applied in identifying Key Decisions:

“Test 1”

A Key Decision is one which is likely to result in significant expenditure or savings in excess of £200,000.

“Test 2”

A Key Decision is one which is likely to be significant in terms of its effects on communities living or working in one or more Wards.

Notes:

1. *Consideration should be given to the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity or well-being of the community or the quality of service provided by the authority to a significant number of people living or working in the locality affected (which will normally be at least 10% of them).*

2. *Effects may be direct or indirect and be of various kinds (e.g. social, economic, environmental).*
3. *In assessing the impact on a community, due regard will also be had to “communities of interest” who may be dispersed over a wide area geographically but be affected significantly by, for example, the closure of a facility.*

A Key Decision is also one

- which is made in the course of developing proposals to Council to amend the Policy Framework
- to amend the Policy Framework within the authority delegated to the Executive by the Council (as set out in Budget and Policy Framework Procedure Rule 6).