

## **Part D3: Access to Information Procedure Rules**

### **1.1 Scope**

These rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Committee, the Audit and Governance Committee, and the Planning and Licensing Committee; together with all meetings of any Joint Committee(s) and Area Committee(s) (together called 'meetings').

### **1.2 Additional Rights to Information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **1.3 Rights to attend meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **1.4 Notice of meetings**

The Council will give at least five clear days' notice of any meeting or such other period of notice required by law by posting details of the meeting at the Council's main offices. The period of notice shall exclude the day of the meeting and the day of the despatch of the agenda.

### **1.5 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 its main offices at least five days before the meeting or such other period required by law.

If an item is added to the agenda later, the revised agenda 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 shall make each such report available to the public as soon as the report has been completed and sent to Councillors.

Agendas, reports and minutes, other than those relating to Confidential or Exempt Information will also be published on the Council's website.

### **1.6 Supply of documents**

The Proper Officer 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) any other documents supplied to Councillors in connection with an item, if the

Proper Officer thinks fit;

to any person on payment of communication charges and any other reasonable costs.

### **1.7 Access to agenda, minutes and reports 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 decisions of the Cabinet, excluding any part of the minutes or 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.

### **1.8 Background Papers**

#### **1.8.1 List of Background Papers**

Every report will include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the author:

- 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 1.10) and/or, in respect of Cabinet reports, the advice of a political adviser.

#### **1.8.2 Public Inspection of Background Papers**

The Proper Officer 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.

### **1.9 Summary of the rights of the public**

This Part of the Constitution meets the requirement that a written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and made available to the public at the Council's main offices.

### **1.10 Exclusion of access by the public to meetings**

The following paragraphs set out circumstances in which the public must or may be excluded from meetings, as defined by the law. However, there is a general presumption that meetings will be open to the public to attend.

#### **1.10.1 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.

### **I.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.

### **I.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.

### **I.10.4 Meaning of Exempt Information**

“Exempt Information” means information falling within the following seven paragraphs detailed in Schedule 12A of the Local Government Act 1972, as set out in the following table. These paragraphs are subject to the qualifications and interpretations identified.

Paragraph
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 matters 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.

#### Qualifications:

- (i) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
  - a) the Companies Acts (as defined in section 2 of the Companies Act

- 2006);
- 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; or
- f) the Charities Act 2011.

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

(iii) Information which-

- a) falls within any of paragraphs 1 to 7 above; and
- b) is not prevented from being exempt by virtue of qualifications (i) or (ii) above,

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.

#### Interpretations

- (i) 'Financial or business affairs' includes contemplated, as well as past or current activities
- (ii) 'Labour relations matter' means
  - 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 a trade dispute, within the meaning of that Act); or
  - b) any dispute about a matter falling within paragraph (a) above;

and, 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.

- (iii) 'Employee' means a person employed under a contract of service.
- (iv) 'Officer-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 any such office or is an employee of the authority.
- (v) '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).
- (vi) Any reference to "the authority" is a reference to the principal council or, as the

case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference –

- a) in the case of a principal council, to any committee or sub-committee of the council; and
- b) in the case of a committee, to –
  - (i) any constituent principal council;
  - (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
  - (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
- c) in the of a sub-committee, to –
  - (i) the committee, or any of the committees, of which it is a sub-committee; and
  - (ii) any principal council which falls within paragraph (b) above in relation to that committee

#### **1.11 Exclusion of access by the public and press to reports**

The Council may exclude access by the public and press to reports which, in the opinion of the Proper Officer, 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.

#### **1.12 Application of rules to the Cabinet**

Rules 1.13 to 1.22 below apply to the Cabinet and to any Committees of the Cabinet. If the Cabinet or one of its Committees meets to take a key decision then it must also comply with

Rules 1 to 11 unless Rule 1.15 (general exception) or Rule 1.16 (special urgency) apply. A key decision is as defined in Article 13.8 of this Constitution.

If the Cabinet or one of its Committees meets 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 1.1 to 1.11 unless Rule 1.15 (general exception) or Rule 1.16 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief members.

#### **1.13 Procedure before taking Key Decisions**

Subject to Rule 1.15 (general exception) and Rule 1.16 (special urgency), Key Decision may not be taken unless:-

- a) it included in the Forward Plan;

- b) at least three 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 any of its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **1.14 The Forward Plan**

### **1.14.1 Period of Forward Plan**

Forward Plans will be prepared and published to cover a period of four months, beginning with the first day of any month. They will be prepared on a rolling monthly basis and subsequent plans will begin with the first day of the second month covered in the preceding plan.

### **1.14.2 Contents of Forward Plan**

The Forward Plan will contain matters which it is believed will be subject to a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, Officers, and Area Committees 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 insofar 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 maker is an individual, their name and title, if any, and where the decision maker 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 principal groups whom the decision maker 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 Cabinet or decision maker 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 documents submitted to the decision maker for consideration in relation to the matter.

### **1.14.3 Publication of the Forward Plan**

The Forward Plan must be published at least 14 days before the start of the period covered. The Proper Officer 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

- (e) charge at the Council's main offices;
- (e) that each Plan will contain a list of the documents submitted to the decision makers 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 makers;
- (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 Forward Plan will be published and available to the public at the Council's offices.

Exempt Information need not be included in a Forward Plan and Confidential Information cannot be included.

### **1.15 General Exception**

1.15.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 1.16 (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 near Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Proper Officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, to each member of that committee in writing, by notice, if the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the main offices of the Council; and
- (d) at least three clear days have elapsed since the Proper Officer complied with (b) and (c).

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

### **1.16 Cases of Special Urgency**

Where the date by which a Key Decision must be made makes compliance with Rule 15 (general exceptions) impracticable, the decision can only be made if the decision-maker has obtained agreement from:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Chair of the Council; or
- (c) in their absence, the Vice-Chair of the Council.

### **1.17 Reports to Council**

### **1.17.1 Overview and Scrutiny Committee Requirements**

If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure;
- (c) or the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Chair or Vice-Chair of Council under Rule 1.16;

the Overview and Scrutiny Committee may require the Cabinet or the Cabinet Member responsible for the decision to submit a report to Council within such reasonable period as the Committee may specify. Such a report must include:

- (i) the decision and the reasons for the decision;
- (ii) the decision making body or individual by whom the decision was made; and
- (iii) if the Cabinet or Cabinet Member is of the opinion that the decision was not a Key Decision, the reasons for that opinion.

### **1.17.2 Special Urgency Decisions**

The Council will be advised of any executive decisions taken in the circumstances set out in Rule 1.16 (special urgency), to include the number of decisions taken within a specified period and a summary of the matters in respect of which those decisions were taken.

### **1.18 Record of Decisions**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Proper Officer or, where no officer was present, the person presiding will produce a record of every decision taken at that meeting as soon as possible. The report will include a statement of the reason(s) for each decision, any consultation carried out and any alternative options considered and rejected.

### **1.19 Cabinet Meetings**

With the exception of matters falling within Rule 1.10, all meetings of the Cabinet will be held in public, whether or not the meetings relate to matters which are Key Decisions.

### **1.20 Notice of meetings of the Cabinet**

1.20.1 Members of the Cabinet or any Committee of the Cabinet 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.

1.20.2 The agenda and reports for any such meeting will also be circulated to all members of the Council, unless:



- (a) any individual member indicates that they do not wish to receive specified papers; or
- (b) in exceptional circumstances, the Chair, on the advice of at least two of the statutory officers agrees that the content of a report is of such a sensitive nature that it should be circulated only to members of the relevant decision making body; or
- (c) a report contains information or advice which the Council is unable to supply to Members not involved in the making of a decision because of any statutory provision or the terms of any agreement.

#### 1.21 Attendance at Cabinet Meetings

Members of the Council who are not members of the Cabinet may attend meetings of the Cabinet and any of its Committees.

Statutory Officers and their nominees are entitled to attend any meetings of the Cabinet.

#### 1.22 Decisions by Individual Cabinet Members

Where a Cabinet Member receives a report which they intend to take into account in making any decision, then they will not make the decision until at least five clear days of receipt of that report.

A copy of the report that is given to the individual Cabinet Member will be made available to all Members of the Council, subject to the exceptions referred to in Rule 1.20 above. The report will be made publicly available. Any meeting at which the Cabinet Member will take such decision will not be open to the public.

As soon as reasonably practicable after the executive decision has been taken by a Cabinet Member, they will prepare or instruct the Proper Officer to produce a record of every decision taken at that meeting as soon as possible. The report will include a statement of the reason(s) for each decision, any consultation carried out and any alternative options considered and rejected.

The provisions of Rules 1.7 and 1.8 (inspection of documents after meetings) will also apply to the decision making by Cabinet Members. This does not require the disclosure of Exempt Information or Confidential Information or advice from a political advisor.

Any executive decision made by the Leader and/or an individual Cabinet Member will be reported to the ensuing Cabinet Meeting.

#### 1.23 Key Decisions by Officers

Where a Key Decision is going to be made by an Officer and a report is to be taken into consideration by that Officer, the decision shall not be made until the report (unless it refers to confidential or exempt information) has been available for public inspection for at least five clear days. The report shall contain a list of background papers which will also be made available.

As soon as reasonably practicable after a Key Decision has been taken by an Officer, they will prepare a record of the decision, to include a statement of the reason(s) for such decision, any consultation carried out and any alternative options considered and rejected. The record will be made available for inspection by the public at the offices of the Council together with any report (unless it refers to confidential or exempt information) considered by the decision taker and its background papers.

## **1.24 Additional rights of access for Members**

- 1.24.1 In addition to the provisions of Article 2 (Part B of the Constitution), all Members shall be entitled to receive a copy of the notice and reports of all Cabinet and committee meetings. All members of a committee shall be entitled to receive a copy of the notice and reports of any sub-committee meeting. This right is subject to Rule 1.24.2, 1.24.3 and 1.24.4 below.
- 1.24.2 Members shall have the same rights as members of the public to attend a meeting of Cabinet or a committee of which they are not a member save that the Chair, having taken the advice of the Chief Executive or the Monitoring Officer and the Proper Officer, may invite a non-Cabinet or committee member to be present at a Cabinet or committee meeting or any part of it and may allow access to reports notwithstanding that the business to be transacted:
- a) relates to individual employees of the Council; or
  - b) is of such a personal or commercial nature that the interests of confidentiality attendance at the meeting shall be restricted; or
  - c) is of a quasi judicial nature and the interest of natural justice require Members to be excluded; or
  - d) is concerned with Confidential Information.
- 1.24.3 Without prejudice to a Member's right to receive a document at their request, the Proper Officer may, notwithstanding Rule 1.24.1 above, restrict circulation of any document where in their opinion this would be unduly costly or would cause unnecessary waste or delay.
- 1.24.4 The entitlement in Rule 1.24.1 above is met if Members are sent a paper copy of the summons and agenda of the meeting and the reports and other documents are posted on the Council's website and if Members are advised that any papers relating to Confidential or Exempt Information are available, subject to Rule 1.24.2 upon request.
- 1.24.5 Notwithstanding Rule 1.24.4 above, a Member may request that any reports or other Cabinet papers are sent to him/her/them in paper form.
- 1.24.5.1 Papers circulated at a meeting will be posted on the Council's website, as appropriate, as soon as possible after the meeting. All Members will be entitled to inspect any document which is in the possession of or under the control of the Cabinet, a Cabinet Member or an employee exercising delegated powers and contains material relating to any business previously

transacted at a private meeting unless either:

- a) it contains Confidential or Exempt Information as defined in these Rules; or
- b) it contains the advice of a political adviser.

I.24.6 All Members of the Council will be entitled to inspect any document (except those only in draft form) in the possession or under the control of the Cabinet, a Cabinet Member or an employee exercising delegated powers which relates to any Key Decisions.

I.24.7 The right of a Member is additional to any other right they may have - Members have a common law right of access to all written information in possession of the Council if a need to know can be demonstrated in order to perform their duties as a Member; and the Local Government Act 1972 and related Regulations stipulate the statutory rights of Members.

## **1.25 Overview and Scrutiny Committee/Audit and Governance Committee Access to Documents**

### **1.25.1 Rights of Copies**

Members of the Overview and Scrutiny Committee and the Audit and Governance 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 meeting of the Cabinet; or
- b) any decision taken by an individual Cabinet Member;

provided that such information is required to fulfil the role of member of that Committee.

### **1.25.2 Limit on Rights**

Members of the Overview and Scrutiny Committee and the Audit and Governance 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;
- c) the advice of a political adviser.