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## **ACCESS TO INFORMATION PROCEDURE RULES**

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### **1.0 SCOPE**

These Procedure Rules apply to all Meetings of the Council, its Committees and Sub-Committees and formal meetings of the Executive, (together called "Meetings").

### **2.0 PRINCIPLES**

#### **2.1 Interpretation**

These Rules will be interpreted, where possible, in accordance with the following guiding principles:

- (a) Openness: the right of the public to gain access to Meetings and documents;
- (b) Transparency: the provision of information so that the public know who is responsible for making a particular decision, when and where, and have an explanation or justification for a decision;
- (c) Accountability: the public can measure the actions taken against policies and plans on which those responsible were elected to office.

### **3.0 RIGHT OF THE PUBLIC TO ATTEND MEETINGS**

Members of the public may attend all Meetings subject only to the exceptions in these rules and in any statutory provisions.

Except where there is a Key Decision and/or Confidential/Exempt Decision, in which case the 28 day Notice provisions in Access to Procedure Rule 13 shall apply.

### **4.0 NOTICES OF MEETINGS**

The Council will give at least 5 clear days' notice of any Meeting by posting details of the Meeting at the designated office and on the website.

### **5.0 RIGHT OF THE PUBLIC TO DOCUMENTS**

The Council will make copies of the Agenda and Reports available to the public for inspection at the designated office and on the Council's website at least 5 clear days before any scheduled Meeting.

### **6.0 SUPPLY OF DOCUMENTS & CHARGING**

#### **6.1 Supply of Documents**

The Council will supply, usually in electronic form, copies of:

- (a) any Agenda or Report which is available for public inspection;

- (b) any further statements or particulars necessary to indicate the nature of the items in the Agenda; and
- (c) if the Director for Communities thinks fit, copies of any other non-exempt documents supplied to Councillors in readiness for a Meeting.

Such documents will be made available to the public by the Council publishing them on their website.

## **6.2 Charging**

The Council reserves the right to make a reasonable charge for postage and copying of hard copy documents to members of the public.

## **7.0 ACCESS TO DOCUMENTS FOLLOWING A MEETING**

### **7.1 Agendas, Reports and Minutes**

The Council will make available copies of the following for 6 years from the date of 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, unless the reason for the exemption or confidentiality has ceased to apply;
- (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;
- (d) the Agenda for the Meeting; and
- (e) Reports relating to items when the Meeting was open to the public but excluding any part of such a Report which disclosed exempt or confidential information, unless the reason for the exemption or confidentiality has ceased to apply.

### **7.2 Background Papers**

The Report Author 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 does not include published works or those which disclose exempt or confidential information (as defined in Access to Information Rule 9), unless the exemption no longer applies.

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.

## **8.0 SUMMARY OF THE PUBLIC’S RIGHTS**

These Access to Information Procedure Rules are a written summary of the public’s rights to attend Meetings and to inspect and obtain copy documents. These form part of the Council’s Constitution and are available at the Council’s designated offices and on the Councils’ website.

## **9.0 EXCLUSION OF THE PUBLIC FROM THE WHOLE OR PART OF A MEETING**

### **9.1 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.

The public must be excluded from Meetings or parts of 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. The Committee or Sub-Committee will be required to pass a resolution to exclude the public where confidential information will be disclosed.

### **9.2 Exempt information**

Exempt information means information falling within one or more of the following 7 categories (subject to any condition):

	<b>CATEGORY</b>	<b>CONDITION</b>
1.	Information relating to any individual.	In accordance with the Data Protection Act 1998.
2.	Information which is likely to reveal the identity of an individual.	In accordance with the Data Protection Act 1998.
3.	Information relating to the financial or business affairs of any particular person (including the Authority holding that information).	Includes information relating to the Authority’s own financial or business affairs. It does not include information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event.  The “financial affairs or business affairs” include past, present and contemplated activities.

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.	<p>“Employee” means a person employed under a contract of service with the Council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company. Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter.</p> <p>“Labour relations matter” means matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.</p>
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	<p>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>	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

The public may be excluded from Meetings or parts of 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 will be disclosed. The Committee or Sub-Committee will be required to determine whether or not to pass a resolution to exclude the public where exempt information will be disclosed.

### 9.2.1 Human Rights Act 1998

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 follows:

- (a) It is in the interests of morals, public order or national security in a democratic society, to hear the matter in private; or
- (b) Where the interests of juveniles or the protection of the private life of the parties requires that the matter should be heard in private; or
- (c) Where in the opinion of the Meeting, due to special circumstances, publicity would prejudice the interests of justice.

### **9.2.2 Town and Country Planning (General) Regulations 1992**

Information cannot be deemed exempt if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning (General) Regulations 1992.

### **9.2.3 Public Interest Test**

Paragraphs 1-7 of the exemptions (Access to Information Rule 9.2) are subject to the public interest test. In determining whether this information should remain exempt, the report writer and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In respect of all Council, Committee and Sub-Committee Reports, writers will, therefore, need to give consideration to exempt information and the public interest test, and if they determine that the document should not be published, they will need to explain why they consider the public interest test is best served by the information remaining exempt. The fact that a document is exempt, together with reasons, will appear in the Report and the Agenda relating to that item. The Monitoring Officer will ultimately determine whether Reports and related documents are exempt or not and his/her decision will be final.

Where the public may be excluded from a Meeting or part of a Meeting due to an exempt Report being considered, the Members of the Meeting will need to consider the public interest test, having given due consideration to any legal advice provided.

## **10.0 NON-DISCLOSURE OF REPORTS TO THE PUBLIC**

### **10.1 Reports containing Confidential Information**

Reports containing confidential information will not be disclosed to the public.

### **10.2 Reports containing Exempt Information**

If the Monitoring Officer determines that a Report contains exempt information in accordance with Access to Information Rule 9, having applied the public interest test, he/she may refuse to disclose to the public any Reports which in his/her opinion relate to items during which, in accordance with Rule 9, the Meeting is

likely to exclude the public. Such Reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **11.0 THE EXECUTIVE**

Access to Information Rules 12 to 22 inclusive apply to the Executive only.

If the Executive meets to take a Key Decision then it must also comply with Access to Information Rules 1 to 10 inclusive above, unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A Key Decision is as defined in Article 12.03 of Part 3 of the Council’s Constitution.

If the Executive, or any Member of the Executive, meets with an Officer, to determine a Key Decision, within 28 clear days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Access to Information Rules 1 to 10 inclusive above, unless Rule 14 (general exception) or Rule 15 (special urgency) apply. This requirement does not apply to Officer/Member briefings or any non-decision making meetings.

## **12.0 EXECUTIVE KEY DECISIONS**

Subject to Access to Information Rule 14 (general exception) and Access to Information Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) a Notice (known as the 28 Day Notice of Key and/or Confidential/Exempt Decisions which will be taken in private) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Notice in which the decision was first included; and
- (c) where the decision is to be taken at a Meeting of the Executive, notice of the Meeting has been given in accordance with Access to Information Rule 4.

## **13.0 THE 28 DAY NOTICE OF EXECUTIVE KEY AND/OR CONFIDENTIAL/ EXEMPT DECISIONS**

### **13.1 Period Covered**

A 28 Day Notice of Key and/or Confidential/Exempt Decisions (which will be taken in private) will be prepared by the Director for Communities and updated when a new Notice is made and published, which will be at least 28 clear days prior to any regular scheduled meeting of the Executive.

At least 5 clear working days prior to the day of any private Meeting of the Executive, the Director for Communities shall publish a further Notice on the Agenda for the Meeting and the Council’s website confirming the Executive’s intention to hold all or part of the Meeting in private, a statement of the reasons for privacy and details of any representations received by the Council as to why the Meeting should be held in public and the Executive’s response to those representations.

## **13.2 Notice**

The Notice will contain matters which the Director for Communities considers will be the subject of a Key Decision and/or a private decision (Confidential/Exempt) to be taken by the Executive, individual Members of the Executive, an Officer, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Notice. 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 Key Decision/private decision is to be made;
- (b) where the decision-maker is an individual, his/her name and title, 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) a list of the documents submitted to the decision-maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) the identity of the principal groups whom the decision-maker proposes to consult before taking the decision;
- (g) the means by which any such consultation is proposed to be undertaken;
- (h) the steps any person might take who wishes to make representations to the Executive 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
- (i) the reasons why the matter will be confidential/exempt.

The Notice must be produced and published at least 28 clear days before the day upon which the decision is to be taken, whether by a meeting or an individual Member of the Executive.

## **14.0 EXCEPTIONS**

If a matter which is likely to be a Key Decision/private decision has not been included in the 28 Day Notice of Key and/or Confidential/Exempt Decisions, then subject to Access to Information Rule 15 (special urgency), the decision may still be taken if:

- (a) the decision needs to be taken by such a date that it is impracticable to defer the decision until 28 clear days' notice has been given by Notice;
- (b) the Director for Communities has, in writing, informed the Chairman of the Overview and Scrutiny Committee (or both Chairmen where a matter is being dealt with under the Joint Committee Agreement), or if there is no such

person, each member of the Overview and Scrutiny Committee, by Notice, of the matter to which the decision is to be made;

- (c) the Director for Communities has made copies of that Notice available to the public, on the Councils' website or at the offices of the Council; and
- (d) at least 5 clear working days have elapsed since the Director for Communities complied with (b) and (c).

Where such a decision is taken by the Executive, it must be taken in public, subject to the provisions of Access to Information Rules 9 and 13.

## **15.0 URGENT ITEMS**

### **15.1 Executive Key and/or Confidential/Exempt Decisions which are urgent**

If by virtue of the urgency of a matter, Access to Information Rule 14 cannot be complied with, then the decision can only be taken if the Director for Communities, on behalf of the decision-maker, obtains the agreement, in writing, of the Chairman of the Overview and Scrutiny Committee (or both Chairmen where a matter is being dealt with under the Joint Committee Agreement), that the taking of the decision cannot be reasonably deferred. Electronic confirmation, via email, will suffice and will be sufficient authority for Democratic Services Officers to complete the signature requirement to the appropriate notice. If the Chairmen are unable to act, then in their absence, the agreement of the Vice-Chairmen of the Overview and Scrutiny Committee will be sought. If neither the Chairmen nor Vice-Chairmen are available, in their absence, the agreement of the Chairman of the Council will suffice (and if not available, the Deputy Chairman of the Council).

### **15.2 Other Decisions which are urgent**

Only items on an Agenda which has been published 5 clear days before the day of a Meeting can be considered at that Meeting. However, the Chairperson of the Meeting is able to add urgent items to the Agenda at the Meeting. Urgent items are narrowly defined as being those items that by reason of special circumstance have arisen since the despatch of the Agenda and which were not known of at the time the Agenda was published, provided that 15.1 above is complied with.

Urgent items cannot be dealt with as "any other business" or "matters arising" items.

## **16.0 REPORT TO FULL COUNCIL**

### **16.1 Joint Overview and Scrutiny Committee**

The Council's Joint Overview and Scrutiny Committee can require that the Executive submit a Report to Full Council, within such reasonable time period as the Committee specifies, if they consider that a Key Decision has been taken which was not:

- (a) included in the 28 Day Notice of Key and/or Confidential/Exempt Decisions; or
- (b) the subject of the general exception procedure; or



(c) the subject of an agreement under Access to Information Rule 15.

When directed to do so by either of the Chairmen of the Joint Overview and Scrutiny Committee, or by any 5 Members of that Committee, the Director for Communities will serve notice in writing upon the Leader requiring such a report, on behalf of the Joint Overview and Scrutiny Committee, or the Executive, to be submitted to Full Council. Alternatively, the Joint Overview and Scrutiny Committee may pass a resolution at their Meeting to require such a Report of the Executive to Full Council within a specified time period.

## **16.2 Executive's Report to Full Council**

The Executive will prepare a Report for submission to the next available Meeting of the Council, when required to do so in accordance with Access to Information Rule 16.1. However, if the next Meeting of the Council is within 7 days of receipt of the written Notice, or the resolution of the Committee, requiring the Report, 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.

## **16.3 Reports on Special Urgency Decisions**

The Leader shall include in his/her Report to Full Council, in accordance with Council Procedure Rule 13 a summary of any Executive decisions taken in the circumstances set out in Access to Information Rule 15 (special urgency) taken since the previous meeting of Full Council.

## **17.0 RECORD OF DECISIONS**

After any Meeting of the Executive, whether held in public or private, a record of every decision taken at that Meeting will be produced as soon as is practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that Meeting, in accordance with the Executive Procedure Rules.

## **18.0 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

All Members of the Executive will be served Notice of all private Meetings of the Executive, and all such Members are entitled to attend such a Meeting.

Members are entitled to attend Meetings in accordance with Council Procedure Rules.

The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their representatives are entitled to attend any Meeting of the Executive.

The Executive may not meet unless the Director for Communities has been given reasonable notice that a Meeting is to take place. A private Executive Meeting may

only take place in the presence of the Director for Communities or his/her representative with responsibility for recording and publishing the decisions.

## **19.0 DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### **19.1 Decision Reports**

Where an individual Member of the Executive receives a Report which he/she must consider prior to making any decision, then he/she will not make the decision until at least 5 working days after the day of receipt of that report.

Except that if the decision is a Key Decision and/or Confidential/Exempt Decision, the 28 day Notice provisions in Access to Information Rule 13 shall apply.

### **19.2 Provision of Copies of Reports to Overview and Scrutiny Committees**

When providing such a Report to an individual Member of the Executive, the Director for Communities will provide a copy of it to the Chairmen and Vice Chairmen of the Joint Overview and Scrutiny Committee as soon as reasonably practicable. At the same time the Director for Communities will make the Report publicly available, by publishing on the Councils' website, unless deemed confidential or exempt in accordance with Access to Information Rule 9 above.

### **19.3 Record of Individual Executive Member 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, the Director for Communities will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Access to Information Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive, subject to Access to Information Rule 9.

## **20.0 OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **20.1 Right to Documents**

Subject to Access to Information Rule 20.2, Joint Overview and Scrutiny Committee (and its Sub-Committees) 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 public or private Meeting of the Executive or its Committees; or
- (b) any decision taken by an individual Member of the Executive; or
- (c) any decision taken by an Officer of the Authority exercising an Executive function.

Copies of documents requested under this Rule must be supplied within 10 working days of receipt of the request.

## **20.2 Limitation**

Subject to Access to Information Rule 21, the Joint Overview and 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, or is accessible in accordance with Access to Information Rule 21.4 below.

## **21.0 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS BY MEMBERS**

### **21.1 Documents Relating to Business to be Transacted at a Public Meeting**

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 contains material relating to any business to be transacted at a public Meeting. Any document must be available for inspection at least 5 clear days before the day of the Meeting except:

- (a) where the Meeting is convened at shorter notice, the document must be available for inspection when the Meeting is convened; and
- (b) where an item is added to the Agenda at shorter notice, a document that would be required to be available must be available for inspection when the item is added on the Agenda.

All such documents will be made available by publishing on the Councils' website.

### **21.2 Documents Relating to Business to be Transacted at a Private Meeting**

Any document which is in the possession or under control of the Executive and contains material relating to any business transacted at a private Meeting will be available for Members to inspect at the offices of the Democratic Services section, subject to Access to Information Rule 21.4 below. This Rule does not provide a right to copy such documents.

Where access is restricted to a document under this provision, the restriction is determined by the Director for Communities, having taken account of the advice of the Monitoring Officer.

### **21.3 Disclosure of Documents after the Decision**

Any document which is in the possession or under control of the Executive and contains material relating to:

- (a) any business transacted at a public Meeting;
- (b) any decision made by an individual Member of the Executive in accordance with Executive Arrangements;

(c) any decision made by an Officer in accordance with Executive Arrangements;

must be available for inspection by a Member immediately after the Meeting concludes, or where an Executive decision is made by an Officer, immediately after the decision has been made (and in any event, within 24 hours).

#### **21.4 Access to Confidential and Exempt Information**

The entitlement to access to, or inspection of, documents does not extend to a document that contains confidential or exempt information unless the exemption solely relates to paragraphs 3 or 6 of the exemptions in Access to Information Rule 9.2 (except where the information relates to any terms proposed by or to the Authority in the course of negotiations of contract).

Nothing in these Rules requires the disclosure of confidential information that breaches the obligation of confidence.

Nothing in these Rules requires the disclosure of a document, or part of a document where advice had been provided by a political adviser or assistant.

Members will therefore often be able to access Reports which are exempt, but there may be occasions when information:

- (a) is highly sensitive and involves complex negotiations;
- (b) relates to a significant litigation risk;
- (c) relates to sensitive personal information where the data subject would reasonably expect such information to be restricted only to decision-makers.

### **22.0 CONFIDENTIALITY OF COUNCIL BUSINESS**

#### **22.1 Confidential Information**

Any item of business at Full Council, a Committee or Sub-Committee which is deemed to be confidential shall require that the relevant body's discussion in relation to the item be kept confidential and may only be disclosed to, and discussed by, the following:

- (a) Elected Members of the Council;
- (b) other persons appointed under Section 102 of the 1972 Act as Members of Committees or Sub-Committees;
- (c) such Officers of the Council as are concerned with the matter in the course of their duties including the Monitoring Officer and the Chief Financial Officer;
- (d) such other persons to whom in the opinion of the Monitoring Officer, the item of business or Report ought to be disclosed in order to comply with the Human Rights Act 1998 or any rule of law or to avoid maladministration by the Council;

and there shall be no further disclosure of such Report, item of Council business or discussion thereof to any other person whatsoever.

The business referred to in this Rule consists of any item of Council business which has been agreed as being confidential by the Council, its Committees or Sub-Committees, or by the Monitoring Officer in accordance with the Local Government Act 1972.

Information which has been deemed to be confidential may at some point in the future cease to be confidential and may be disclosed. Advice should be sought from the Monitoring Officer in respect of confidential information.

## **22.2 Working Party**

Subject to the Council Procedure Rules, a member of a working party set up by the Council shall not disclose a matter dealt with by or brought before the working party, without its permission until the proceedings of that working party have been reported to the Council or to the Committee or Sub-Committee which set it up, or the working party shall otherwise have concluded action on that matter.

## **23.0 ADDITIONAL RIGHTS TO INFORMATION**

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