

Part Three
Section B
Access to Information Procedure
Rules

1. **Scope**

- 1.1 These rules cover all meetings of the **Full Council** and its committees, sub-committees, advisory panels, the **Cabinet** (together called meetings) and (where specified) **executive decisions** made by **Cabinet members** and **key decisions** made by officers.
- 1.2 These rules also cover **Councillors'** rights of access to information.
- 1.3 These Procedure Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

2. **Principles**

- 2.1 These rules will be interpreted, where possible, in accordance with the following guiding principles / presumptions:
 - 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. **Rights to Attend Meetings**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules

4. **Notices of Meetings**

- 4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting on its website and at its office.
- 4.2 Councillors entitled to attend a meeting, will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the Annual Meeting of the **Full Council**, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

5. **Public Access to Agenda and Reports before the Meeting**

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its web site at least five clear days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened. If an item is added to the agenda later, the revised

agenda will be open to inspection and published on the Council's web site from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Democratic Services Team Leader shall make each such report available to the public as soon as the report is completed and sent to Councillors.

- 5.2 An item may be added to an agenda after it has been published provided that the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency and the urgency reasons are recorded in the minutes.
- 5.3 Details of late items and associated report will be made available to Councillors and the public as soon as this is made available for inspection and published on the Council's web site.
- 5.4 This Procedure Rule does not require the publication of exempt or confidential information.

6. Supply of Copies

- 6.1 The Council will supply copies to any person of:
 - a. any agenda and reports which are open to public inspection;
 - b. any further statements or particulars, if any, as are necessary to indicate the nature of the items in the agenda; and
 - c. if the **Monitoring Officer** thinks fit, copies of any other documents supplied to Councillors in connection with an item.
- 6.2 Copies of the digital agendas of **Cabinet** meetings will be circulated to all Councillors.
- 6.3 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

7. Public Access to Minutes etc. After the Meeting

- 7.1 The Council will make available copies of the following for six years after a meeting:
 - a. the minutes of the meeting 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. Public Access to Background Papers

8.1 List of background papers

8.1.1 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 Procedure Rule 9) and in respect of Cabinet reports, the advice of a political advisor.

8.2 Public inspection of background papers

The Council will make available for public inspection for six 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 Press and Public to Meetings

9.1 Confidential information - requirement to exclude the press and public

The press and public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

9.2 Exempt information - discretion to exclude press and public

The press and public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, provided:

- a. the meeting resolves so to exclude the press and public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
- b. that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 9.4 below), the description of the exempt information giving rise to the exclusion of the public; and

- c. that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information,

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.

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 reason of a Court Standing Order or any enactment.

9.4 **Meaning of exempt information**

Exempt information means information falling within the following 7 descriptions (subject to any qualifications):

	Description	Qualification
1.	Information relating to any individual.	Information within paragraph 1 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.
2.	Information which is likely to reveal the identity of an individual.	Information within paragraph 2 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.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information within paragraph 3 is not exempt information if it is required to be registered under-</p> <ul style="list-style-type: none"> (a) the Companies Act 2006; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-operative and Community Benefit Societies Act 2014; (e) the Building Societies Act 1986; or (f) the Charities Act 2011. <p>Subject to the above, information within paragraph 3 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.</p>

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.	Information within paragraph 4 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.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information within paragraph 5 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.
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.	Information within paragraph 6 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.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information within paragraph 7 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.

Information is not exempt information 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.

10. Exclusion of Access by the Public to Reports

- 10.1 If the **Monitoring Officer** 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 Procedure Rule 9, 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.

11. Key Decisions

Certain executive decisions will be **key decisions**. Key decisions are defined in the Glossary.

12. Application of Procedure Rules to the Executive

12.1 The **Executive** has decided that all of its meetings and its committees are to be held in public whether or not a key decision is to be made and Council Standing Orders apply.

12.2 In addition, if a **key decision** is to be made Procedure Rules 13 – 24 also apply.

12.3 If the **Cabinet** or its committees meet to discuss a **key decision** that is due to be taken collectively and:

- a. an officer (other than a political adviser) is present at the discussion; and
- b. the discussion is within 28 days of the date by which, according to the Forward Plan, the decision is to be made,

then Procedure Rules 13- 24 must be complied with unless Procedure Rule 15 (General Exception), or Procedure Rule 16 (Special Urgency) apply.

13. The Forward Plan of Key Decisions

Period of Forward Plan

13.1 Forward plans will be prepared by the **Leader** to cover a minimum period of one calendar month (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous forward plan.

Content of Forward Plan

13.2 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 **Cabinet**, a **Cabinet member**, a committee of the Cabinet, officers or under joint arrangements in the course of the discharge of an **executive function** during the period covered by the plan. The Forward Plan must be published at least 28 clear days before the start of the period covered and made available to the Overview & Scrutiny Committee. 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 Cabinet 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;
- g. a list of the documents submitted to the decision taker for consideration in relation to the matter; and
- h. where the decision is to be taken in private the reasons for this and the process for making representations in accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

13.3 Exempt and confidential information (as defined in Procedure Rule 9) and the advice of political advisers will not be included in a forward plan but the Forward Plan should contain particulars of the matter.

14. Procedure Before Taking Key Decisions

14.1 Subject to Procedure Rule 15 (General Exception) and/or Procedure 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;
- 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 Procedure Rule 4; and
- d. where a decision is to be taken at a meeting of the Cabinet or its Committees, and the Cabinet believes that the matter will be considered in private, at least 28 clear days' notice has been given in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

15. General Exception

15.1 If a matter which is likely to be a **key decision** has not been included in the Forward Plan, then subject to Procedure Rule 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;

- b. the **Proper Officer** has informed the Chairman of a relevant Overview & Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of 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 offices of the Council; and
- d. at least 5 clear days have elapsed since the **Proper Officer** complied with paragraphs b and c).

15.2 Subject to Procedure Rule 10, where such a decision is taken collectively, it must be taken in public.

16. Special Urgency

- 16.1 If by virtue of the date by which a decision must be taken Procedure Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview & Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent.
- 16.2 If there is no Chairman of a relevant Overview & Scrutiny Committee, or if the Chairman of the relevant Overview & Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Vice Chairman will suffice.
- 16.3 As soon as reasonably practicable after agreement has been given the decision maker must make available a notice setting out the reasons for urgency and why the decision cannot be reasonably deferred and publish that notice on the website.

Private Meetings

- 16.4 Where the date by which a meeting must be held makes compliance with Rule 17 impracticable, the meeting may only be held where the decision-making body has obtained agreement from the Chairman of a relevant Overview & Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.
- 16.5 If there is no Chairman of a relevant Overview & Scrutiny Committee, or if the Chairman of each relevant Overview & Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Vice Chairman will suffice.
- 16.6 As soon as reasonably practicable after the decision-making body has obtained agreement under the Procedure Rule to hold a private meeting the Democratic Services Manager shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the designated office and on the website.

17. Procedure Prior To Private Meetings

17.1 Subject to Procedure Rule 16, a **private meeting** may not take place unless:

17.1.1 At least 28 clear days before the scheduled meeting a notice (the Forward Plan) has been made available for inspection by the public at the designated office and on the website;

17.1.2 At least 5 clear days before the scheduled meeting a further notice has been made available for inspection by the public at the designated office and on the website which shall include any representations made as to why any item specified in the notice given under paragraph a) above should be open to the public together with the Council's response.

17.2 Private meetings are defined in the Glossary.

18. Reports to Council

When the Overview & Scrutiny Committee can require a report

18.1 Where an **executive decision** has been made and was not treated as a **key decision** and the Overview & Scrutiny Committee thinks that it should have been treated as a **key decision** the Overview & Scrutiny Committee may require the **Cabinet** to submit a report to the Council within such reasonable time as the Overview & Scrutiny Committee specifies. The power to require a report rests with the Overview & Scrutiny Committee but is also delegated to the **Chief Executive** who shall require such a report on behalf of the Overview & Scrutiny Committee when so requested by the Chairman of the Overview & Scrutiny Committee or any 5 Councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview & Scrutiny Committee.

The Cabinet's report to Full Council

18.2 The **Cabinet** will prepare a report for submission to the next available meeting of the **Full Council**. However, if the next meeting of the Full Council is within 7 days of receipt of the resolution of the Overview & Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Full 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.

Quarterly reports on special urgency decisions

18.3 In any event the Leader will submit quarterly reports to the **Full Council** on the **executive decisions** taken in the circumstances set out in Procedure 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.

19. Record of Decisions

- 19.1 After an **executive decision** is taken 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 reasonably practicable and make it available for inspection by the public. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The minutes of the meeting will be regarded as the record of these decisions.

20. Reporting of Meetings by the Press and Public

- 20.1 Any member of the press or public attending a public meeting of the Council may now record the proceedings and report them to others. 'Reporting' means filming, photographing, making an audio recording or some other such method of recording proceedings and then reporting or providing a commentary on those proceedings, orally or in writing. A person attending the meeting may use any appropriate communication method, including the Internet, to publish or share the recorded material. This would include the use of social media.
- 20.2 Any person wishing to record a public meeting is not required to give the local authority prior notice although they are encouraged to do so in order that reasonable facilities can be provided.
- 20.3 No one is entitled to record or report the proceedings of a meeting if the meeting has moved into private session to consider confidential or exempt business. In such circumstances, the public and press would, as now, be required to leave the meeting and to deactivate and/or remove any recording or communications equipment.
- 20.4 Any person recording or reporting a meeting may not use flash photography or intrusive lighting, or move around the room, or ask any of the participants at the meeting to repeat something they have said. They may not cause excessive noise when installing or moving equipment. They may not give an oral commentary during the meeting. All of these activities would serve to disrupt proceedings and anyone acting in a disruptive manner may be excluded from the meeting.
- 20.5 Any person recording or reporting a meeting may not film any member of the public who remains in the public gallery.
- 20.6 Anyone wishing to record or report on meetings should be warned at the outset that the law of defamation will apply, as well as the law relating to public order offences. They should also be reminded that freedom of speech should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. The Chairman or person presiding at the meeting would be expected to give this advice with the support of officers.

21. Decisions by Individual Cabinet Members or Officers

- 21.1 Where an individual **Cabinet member** or officer receives a report which he/she intends to take into account in making any **key decision**, the requirements of Procedure Rules 13 – 24 shall apply.
- 21.2 As soon as reasonably practicable after any **executive decision** has been made by an individual **Cabinet member** 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. The provisions of Procedure Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of key decisions by officers. This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

22. Overview & Scrutiny Committee Access to Documents

- 22.1 Members of the Overview & Scrutiny Committee are entitled to receive documents or any part of a document that contains exempt or confidential information where that information is relevant to an action or decision they are scrutinising or intend to scrutinise.

23. Additional Rights of Access for Councillors

- 23.1 Members of a committee or decision-making body of the Council or of the **executive** are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.

24. Rights of Councillors – “Need to Know”

- 24.1 In addition, Councillors will be entitled to access to documents and to attend the confidential part of meetings of Committees and sub-committees and public meetings of the **Cabinet** (even though they are not a member of those bodies) where they can demonstrate a “need to know” in order to perform their duties as Councillors.
- 24.2 Subject to Procedure Rule 24.3 below, the circumstances where a “need to know” may be treated as arising will include:
- a. Where the matter relates to a sub-committee of a committee of which the Councillor is a member;
 - b. Where the matter relates to a committee of the **Cabinet** where the Councillor is a **Cabinet member**;
 - c. Where the matter is within the remit of the Audit or Overview & Scrutiny Committee of which the Councillor is a member;
 - d. Where the **Full Council** is required to approve the decisions or recommendations of committees, sub-committees or the Cabinet;

- e. Where the matter has been delegated to a committee or sub-committee, but significantly affects the reputation of the whole Council; and
- f. Where the matter relates specifically to a Councillor's own ward; and
- g. In relation to exempt material within a report on a decision that has been called in for consideration by Overview and Scrutiny Committee and a Councillor has signed a call-in notice and that Councillor has indicated that they wish to address the Overview and Scrutiny Committee as part of the call-in process.

- 24.3 There will not be a "need to know" if a Councillor is acting in bad faith or in pursuance of a personal pecuniary or non-pecuniary interest or merely out of curiosity.
- 24.4 A Councillor wishing to see confidential or exempt Council, committee, sub-committee or Cabinet documents or to attend the confidential part of a meeting should make written application to the **Monitoring Officer**, setting out the reasons and information in support of their claim to have a "need to know", and why the document and/or attendance at the meeting is necessary in order to enable the Councillor properly to perform his/her duties.
- 24.5 The determination as to whether or not a "need to know" has been demonstrated will be based on officer advice and will include legal advice.
- 24.6 Once a determination has been made, this will be communicated to the Councillor who has made the claim.