

ACCESS TO INFORMATION PROCEDURE RULES

INTRODUCTION

The Council is committed to striking the proper balance between openness and individual legal rights to privacy, and will:

- Promote transparency in its work
- Be proactive in making available information which is public in nature or interest
- Be open and accountable
- Maintain individual privacy and confidentiality in an appropriate manner
- Share information in accordance with information sharing protocols

1 SCOPE

- 1.1 These Rules apply to all meetings of the Cabinet Executive, committees of the Cabinet Executive and any joint committees/sub-committees of which all the members come from a local authority executive (collectively referred to as the 'decision-making body').
- 1.2 Rules 1, 3, 5, 6, 14, 15, 19 and 20 and apply to all meetings of the Council, Scrutiny Commission, Standards Committee and regulatory Committees (collectively referred to as the 'non-executive meetings').

2 MEETINGS OF THE CABINET EXECUTIVE AND ITS COMMITTEES TO BE HELD IN PUBLIC

- 2.1 Subject to Rule 3, a meeting of the decision making body must be held in public.

3 ADMISSION OF THE PUBLIC TO MEETINGS OF THE CABINET EXECUTIVE AND ITS COMMITTEES

- 3.1 A meeting of a decision-making body must be open to the public except where the following circumstances occur:
- (a) it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;
- (b) the decision-making body concerned passes a resolution to exclude the

public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them;

(c) a lawful power is used to exclude a member of members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

3.2 A resolution made under 3.1(b) must:

(a) identify the proceedings, or part of the proceedings to which it applies, and;

(b) state, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (access to information: exempt information), the description of exempt information giving rise to the exclusion of the public.

3.3 The public may only be excluded under paragraph 3.1 (a) or (b) for the part of parts of the meeting during which it is likely that confidential or exempt information would be disclosed.

3.4 Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at the meeting, the decision-making body is not to have the power to exclude members of the public from a meeting while it is open to the public.

3.5 While the meeting is open to the public, any person attending the meeting for the purposes of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

4 PROCEDURES PRIOR TO PRIVATE MEETINGS

4.1 A decision made by a decision-making body to hold a meeting in private is a prescribed decision for the purpose of section 9GA(5) of the Local Government Act 2000 (regulations requiring prescribed information about prescribed decisions).

4.2 At least 28 clear days before a private meeting, the decision-making body must:

(a) make available at the Council offices a notice of its intention to hold the meeting in private;

(b) publish that notice on the Council's website.

4.3 A notice under paragraph 4.2 must include a statement of the reasons for the meeting to be held in private.

4.4 At least 5 clear days before a private meeting, the decision-making body must:

(a) make available at the Council offices a further notice of its intention to hold the meeting in private; and

(b) publish that notice on the Council's website.

4.5 A notice under paragraph 4.4 must include:

(a) a statement of the reasons for the meeting to be held in private;

(b) details of any representations received by the decision-making body about why the meeting should be open to the public; and

(c) a statement of its response to any such representations.

4.6 Where the date by which a meeting must be held makes compliance with this procedure impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from:

(a) the Chairman of the Scrutiny Commission; or

(b) the Chairman of the Council (if the Chairman of the Scrutiny Commission is unavailable); or

(c) the Vice-Chairman of the Council (if the Chairman of the Council or Chairman of the Scrutiny Commission is unavailable).

that the meeting is urgent and cannot reasonably be deferred.

4.7 As soon as reasonably practicable after the decision making body has obtained agreement under paragraph 4.6 to hold a meeting in private, it must:

(a) make available at the Council Offices a notice setting out the reasons why the meeting is urgent and cannot be reasonably deferred; and

(b) publish that notice on the Council's website.

5 PROCEDURES PRIOR TO PUBLIC MEETINGS

5.1 The decision-making body must give notice of the time and place of a public meeting by displaying that notice at the Council offices and publishing it on the Council's website:

(a) at least 5 clear days before the meeting; or

(b) where the meeting is convened at shorter notice, at the time that the meeting is convened.

- 5.2 An item of business may only be considered at a public meeting:
- (a) where a copy of the agenda or part of the agenda including the item has been available for inspection by the public as required by Rule 6 for at least 5 clear days before the meeting; or
 - (b) where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened.

6 ACCESS TO AGENDA AND CONNECTED REPORTS FOR PUBLIC MEETINGS

- 6.1 Subject to paragraph 6.2, a copy of the agenda and every report for a meeting must be made available for inspection by the public at the Council offices and on the Council's website.
- 6.2 If the Proper Officer thinks fit, there may be excluded from the copy of any report provided under paragraph 6.1 the whole, or any part, of the report which relates only to matters during which, in the proper officer's opinion, the meeting is likely to be a private meeting.
- 6.3 Any document which is required under paragraph 6.1 to be available for inspection by the public must be available for at least 5 clear days before the meeting except that:
- (a) where the meeting is convened at shorter notice, a copy of the agenda and associated reports must be available for inspection when the meeting is convened and
 - (b) where an item which would be available for inspection by the public is added to the agenda, copies of the revised agenda and any report relating to the item for consideration at the meeting, must be available for inspection by the public when the item is added to the agenda.
- 6.4 Nothing in paragraph 6.3 requires a copy of the agenda, item or report to be available for inspection by the public until a copy is available to members of the decision-making body concerned.
- 6.5 Whereby virtue of paragraph 6.2 the whole or any part of a report for a public meeting is not available inspection by the public:
- (a) every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication"; and
 - (b) there must be stated on every copy of the whole or the part of the report -

(i) that it contains confidential information; or

(ii) by references to the descriptions in Rule 19, the description of exempt information by virtue of which the decision-making body discharging the executive function are likely to exclude the public during the item to which the report relates.

- 6.6 Except during any part of a meeting during which the public are excluded, the Council must make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.
- 6.7 Subject to Rule 19, following a request made by a member of the public or on behalf of a newspaper (and on payment of postage, copying or other necessary charge for transmission), the Council must supply that person or newspaper:
- (a) a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting;
 - (b) such further statements or particulars, as are necessary to indicate the nature of items contained in the agenda; and
 - (c) if the proper officer thinks fit in the case of any item, a copy of any other document supplied to members of the Cabinet in connection with the item.
- 6.8 Paragraph 6.2 applies in relation to copies of reports provided pursuant to paragraph 6.6 or 6.7 as it applies in relation to copies of reports made available for inspection pursuant to paragraph 6.1.

7 KEY DECISIONS

- 7.1 Under Rules 7 to 10, a “key decision” means an executive decision which:
- (a) is, in value, worth more than £50,000 of the annual revenue budget for the service or function or of the capital allocation to the scheme concerned, or
 - (b) has a significant impact because it either:
 - affects individuals or organisations outside the District;
 - affects individuals or organisations in more than one Ward; or
 - will have a long term (more than 5 year) or permanent effect on the Council or the District.
 - (c) Involves significant changes to the policy and budget framework (involves the adoption or amendment of a policy or strategy or to the budgets which

the Executive has the power to adopt).

- (d) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

8 PUBLICITY IN CONNECTION WITH KEY DECISIONS

8.1 Where a decision maker intends to make a key decision, that decision must not be made until a document has been published in accordance with paragraph 8.2 which states:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, and title (if any) and, where the decision maker is a decision-making body, its name and list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available.
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

8.2 At least 28 clear days before a key decision is made, the document referred to in paragraph 8.1 must be made available for inspection by the public at the Council's offices and on the Council's website.

8.3 Where in relation to any matter:

- (a) the public may be excluded under Rule 3.1 from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not be disclosed to the public because of Rule 19,.

the document referred to in paragraph 8.1 must contain particulars of the

matter but may not contain any confidential or exempt information.

9 GENERAL EXCEPTION (LATE ITEMS)

- 9.1 Subject to Rule 10, where the publication of the intention to make a key decision under Rule 8 is impracticable, that decision may only be made:
- (a) where the proper officer has informed the Chairman of the Scrutiny Commission, or if unavailable, all Members of the Scrutiny Commission, in notice by writing, of the matter about which the decision is to be made;
 - (b) where the proper officer has made available at the Council offices for inspection by the public and published on the Council's website, a copy of the notice given pursuant to paragraph 9.1(a); and
 - (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in paragraph 9.1(b).
- 9.2 Where paragraph 9.1 applies to any matter, Rule 8 need not be complied with in relation to that matter.
- 9.3 As soon as reasonably practicable after the proper officer has complied with paragraph 9.1, he or she must:
- (a) make available at the Council offices a notice setting out the reasons why compliance with Rule 8 is impracticable; and
 - (b) publish that notice on the Council's website.

10 CASES OF SPECIAL URGENCY

- 10.1 Where the date by which a key decision must be made, makes compliance with Rule 9 impracticable, the decision may only be made where the decision maker has obtained agreement from:
- (a) the Chairman of the Scrutiny Commission; or
 - (b) the Chairman of the Council (if the Chairman of the Scrutiny Commission is unavailable); or
 - (c) the Vice-Chairman of the Council (if the Chairman of the Council or Chairman of the Scrutiny Commission is unavailable).

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

10.2 As soon as reasonably practicable after the decision maker has obtained agreement under paragraph 10.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must:

- (a) make available at the Council Offices a notice setting out the reasons that the meeting is urgent and cannot be reasonably deferred; and
- (b) publish that notice on the Council's website.

11 RECORDING OF EXECUTIVE DECISIONS MADE AT MEETINGS

11.1 As soon as reasonably practical after any meeting of a decision-making body at which an executive decision was made, the proper officer (or if the proper officer was not present at the meeting, the person presiding) must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph 11.2.

11.2 The statement referred to in paragraph 11.1 must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

11.3 For the purposes of paragraph 11.1, "person presiding" means the person actually presiding or the person nominated to preside at that meeting.

11.4 Executive decisions made by decision-making bodies are prescribed decisions for the purposes of section 9G(3) of the Local Government Act 2000 (duty to keep written records of private meetings).

12 RECORDING OF EXECUTIVE DECISIONS MADE BY INDIVIDUALS

12.1 As soon as reasonably practical after an individual member has made an executive decision, that member must produce or instruct the proper officer to produce a written statement of that executive decision which includes the information specified in paragraph 12.2.

12.2 The statement referred to in paragraph 12.1 must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

12.3 Executive decisions made by individual members of the Cabinet Executive are prescribed decisions for the purposes of section 9G(4) of the Local Government Act 2000 (duty to keep a written record of decisions made by individual members of local authority executives).

12.4 As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer must produce a written statement which must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

13 INSPECTION OF DOCUMENTS FOLLOWING EXECUTIVE DECISIONS

13.1 Subject to Rule 19, after a meeting of a decision-making body at which an executive decision has been made, or after an individual member of officer has made an executive decision, the proper officer must ensure that a copy of:

- (a) any records prepared in accordance with Rules 11 and 12; and
- (b) any report considered at the meeting or, as the case may be, considered

by the individual member or officer and relevant to a decision recorded in accordance with Rules 11 and 12 or, where only part of the report is relevant to such a decision, that part

must be available for inspection by members of the public, as soon as is reasonably practicable, at the Council offices and on the Council's website.

- 13.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under paragraph 13.1, those documents must be supplied for the benefit of the newspaper by the Council, on payment by the newspaper to the Council, of postage, copying or other necessary charge for transmission.

14 INSPECTION OF BACKGROUND PAPERS

- 14.1 Subject to Rule 19, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rules 6 and 13, at the same time:

(a) a copy of a list compiled by the proper officer of the background papers to the report of part of the report, must be included in the report or, as the case may be, part of the report; and

(b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the Council offices and on the Council's website.

15 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE COUNCIL

- 15.1 Subject to paragraphs 15.5 and 15.6, any document which:

(a) is in the possession or under the control of the Cabinet Executive; and

(b) contains material relating to any business to be transacted at a public meeting,

must be available for inspection by any member of the Council.

- 15.2 Any document which is required by paragraph 15.1 to be available for inspection by any member of the Council must be available for inspection at least 5 clear working days before the meeting except that:

(a) where the meeting is convened at shorter notice, such a 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 under paragraph 15.1 in relation to that item, must be available for inspection when the item is added to the agenda.

15.3 Subject to paragraphs 15.5 and 15.6, any document which:

(a) is in the possession or under the control of the Cabinet Executive; and

(b) contains material relating to:

- i. any business transacted at private meeting;
- ii. any decision made by an individual member in accordance with executive arrangements; or
- iii. any decision made by an officer in accordance with executive arrangements

must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an individual member or an officer, immediately after the decision has been made.

15.4 Any document which is required by paragraph 15.3 to be available for inspection by any member of the Council, must be available for inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made.

15.5 Paragraphs 15.1 and 15.3 do not require a document to be available for inspection if it appears to the proper officer that the document discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 (descriptions of exempt information: England).

15.6 Notwithstanding paragraph 15.5, paragraphs 15.1 and 15.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:

(a) paragraph 3 of Schedule 12A to the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract); or

(b) paragraph 6 of Schedule 12A to the Local Government Act 1972.

15.7 The rights conferred by paragraphs 15.1 and 15.3 are in addition to any other rights that a member of the Council may have.

16 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF SCRUTINY COMMISSION

16.1 Subject to paragraph 16.3, a member of Scrutiny Commission is entitled a copy of any document which:

(a) is in the possession or under the control of the Cabinet Executive; and

(b) contains material relating to:

- i. any business that has been transacted at a meeting of the decision-making body.
- ii. any decision that has been made by an individual member of that body in accordance with executive arrangements; or
- iii. any decision that has been made by an officer in accordance with executive arrangements

16.2 Subject to paragraph 16.3, where a member of the Scrutiny Commission requests a document which falls within paragraph 16.1, the Cabinet Executive must provide that document as soon as reasonably practicable, and in any case, no later than 10 clear days after the Cabinet Executive receives the request.

16.3 No member of the Scrutiny Commission is entitled to a copy of any such document or part of a document which contains exempt or confidential information unless that information relates to:

(a) an action or decision that the member is reviewing or scrutinising; or

(b) any review contained in the Scrutiny Commission work programme.

16.4 Where the Cabinet Executive determines that a member of the Scrutiny Commission is not entitled to a copy of a document or part of any such document for a reason set out in paragraphs 16.1 or 16.3, it must provide the Scrutiny Commission with a written statement setting out its reasons for that decision.

17 REPORTS TO COUNCIL WHERE THE KEY DECISION PROCESS IS NOT FOLLOWED

17.1 Where an executive decision was made and:

(a) was not treated as being a key decision; and

(b) the Scrutiny Commission are of the opinion that the decision should have

been treated as a key decision,

the Scrutiny Commission may require the Cabinet Executive to submit a report to Council within such reasonable period as the Commission may specify.

17.2 A report under paragraph 17.1 must include details of:

- (a) the decision and the reasons for the decision;
- (b) the decision maker who made the decision; and
- (c) The reasons as to why the decision was not treated as a key decision.

18 CABINET EXECUTIVE REPORTS TO COUNCIL

18.1 The Leader of the Cabinet shall submit to Council on a quarterly basis a report containing details of each Cabinet Executive decision taking during the preceding 3 months where the making of that decision was agreed as urgent in accordance with Rule 10.

18.2 A report submitted for the purposes of paragraph 18.1 must include:

- (a) particulars of each decision made; and
- (b) a summary of the matters in respect of which each decision was made.

18.3 The Leader of the Cabinet must submit at least one report under paragraph 18.1 annually to a meeting of Council.

19 CONFIDENTIAL AND EXEMPT INFORMATION

19.1 Nothing under this Rule is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

19.2 Nothing under this Rule shall authorise or require the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information.

19.3 Where a Member of the Cabinet Executive or an officer makes an executive decision in accordance with executive arrangements, nothing in this Rule shall authorise or require documents relating to that decision to be disclosed to the public, or made available for public inspection where:

- (a) the documents contain confidential information; or

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- (b) in the opinion of the member or officer making the decision, disclosure of the documents would be likely to give rise to disclosure of exempt information.

19.4 **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.

19.5 **Meaning of exempt information**

Exempt information means information falling within the following categories (subject to any condition):

Schedule 12A

Access to Information: Exempt Information

Part 1

Descriptions of Exempt Information: England

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.

*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 the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

*[The above asterisked items apply to Standards Committees and their Sub-Committees only.]

Part 2

Qualifications: England

8. 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 Act 1985[3]
- (b) the Friendly Societies Act 1974[4];
- (c) the Friendly Societies Act 1992[5];
- (d) the Industrial and Provident Societies Acts 1965 to 1978[6];
- (e) the Building Societies Act 1986[7]; or
- (f) the Charities Act 1993[8];

9. 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[9].

10. Information which –

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 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.

20 INSPECTION AND SUPPLY OF DOCUMENTS

20.1 Any document required by these Rules to be open to inspection by members of the public must be available for inspection:

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- (a) at the Council Offices between the hours of 9:30am to 5pm, Monday to Friday;
- (b) on the Council's website; and
- (c) In the case of documents under Rule 14, on payment of a reasonable fee to the Council by the person wishing to inspect such documents.
- 20.2 Subject to paragraph 20.4, where a document is to be available for inspection by a person under any of these Rules, the person may:
- (a) make a copy of the whole or part of the document; or
- (b) require the person having custody of the document to supply them with the whole or part of the document.
- on payment to the Council, for charges related to postage, copying and transmission of the document.
- 20.3 Subject to paragraph 20.4, any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Rules.
- 20.4 Paragraphs 20.2 and 20.3 do not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the Council, nothing done pursuant to that paragraph constitutes an infringement of the copyright.
- 20.5 Where are document required by these Rules to be open to inspection by the public
- (a) is supplied to, or available for inspection by members of the public; or
- (b) is supplied for the benefit of any newspaper in pursuance of Rules 6.7 and 13.2,
- the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.
- 20.6 Any written record of an executive decision or any report required by Rule 13 to be available for public inspection must be retained by the Council and be made available for public inspection for at least 6 years from the date the decision was made.

- 20.7 Any background papers required by Rule 14 to be available for public inspection must be retained by the Council and be made available for public inspection for at least 4 years from the date the decision was made which the background papers relate to.
- 20.8 The rights conferred on any person by these Rules to inspect, copy or be supplied with documents are in addition to any such rights that person may have apart from those under these Rules.