

4B - ACCESS TO INFORMATION PROCEDURE RULES

RULE 1 - SCOPE

These Rules apply to all formally convened meetings of the Council, its Committees and their sub committees, Overview and Scrutiny Panels and sub bodies thereof, Area Committees and their sub committees (if any), the Standards Committee, the Cabinet and its committees (together called “meetings”). It does not apply to proposals and decisions of the Leader acting in their capacity as Shareholder of a Local Authority Company owned or operated by the Council.

RULE 2 – ADDITIONAL RIGHTS TO INFORMATION

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

RULE 3 – RIGHTS TO ATTEND MEETINGS

Members of the public may attend all of the formal meetings referred to in Rule 1 above, subject only to the exceptions in these rules.

RULE 4 – NOTICES OF MEETINGS

The Council will give at least five (5) working days’ public notice of any formal meeting referred to in Rule 1 above by posting details of the meeting at all main Council Offices, “Council Connect” sites, in public libraries and on the Council’s web site/Internet.

RULE 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 least five (5) clear working days before the meeting. 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 to a meeting has been sent out, the Chief Executive will make each such report available to the public as soon as the report is completed and sent to councillors.

The agenda papers for a meeting of the Cabinet will be made available to Chairs of Overview and Scrutiny Panels and to all other members of the Council.

The forward agenda plan for key and other executive decisions, covering a 4 month period, will be publicly accessible on the Council’s website. It will be updated on a daily basis.

RULE 6 – SUPPLY OF COPIES

The Council will supply copies of or make available access to:

- (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;
- (c) a list of questions asked by the public and councillors in accordance with this Constitution and answers given either at the meeting or in writing subsequently; and
- (d) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

All such documents will normally be published on the Council's web site / Internet as soon as possible after the meeting.

RULE 7 – ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting (or in the case of individual Cabinet member decisions, the record of the decision taken) excluding any part of the minutes of proceedings which disclose exempt or confidential information (as defined in Rule 10);
- (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 in so far as such a record can be written without disclosing the exempt or confidential information;
- (c) the agenda for the meeting;
- (d) reports relating to items when the meeting was open to the public.

After a meeting any person will be entitled to request access to any part of the minutes or proceedings which were not open to the public by virtue of being confidential or exempt information as defined in Rule 10. (Elected Members have some additional rights as defined in Rule 23.) All requests are to be made in line with Freedom of Information Act requirements, and will be assessed according to the Act and the Council's Freedom of Information policy and procedure.

RULE 8 – BACKGROUND PAPERS

The author of every report will identify in the report, those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but

does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents identified as a background paper.

RULE 9 – SUMMARY OF PUBLIC RIGHTS

A written summary of the public's rights to attend meetings, make submissions to meetings or Cabinet Members and to inspect and copy is available as part of this Constitution online.

RULE 10 – EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

(a) Confidential information: The meeting must resolve to exclude the public 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.

(b) Exempt information: The meeting may resolve to exclude the public 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 that Article.

Meaning of confidential information:

- (a) Information furnished to the Council by a Government department upon terms which forbid the disclosure of the information to the public;
- (b) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

Meaning of exempt information: Exempt information means information for the time being defined in the Local Authorities (Access to Information) (Variation) Order 2006 which amends previous provision made in Part 1 Schedule 12A of the Local Government Act 1972. The categories of exempt information and relevant qualifications are set out in the table below:

Category	Qualifications
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)	<p>Information falling within this paragraph is not exempt information by virtue of this paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Act 1965 to 1978 (e) the Building Societies Act 1986, or (f) the Charities Act 1993
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 for legal professional privilege could be maintained in legal proceedings	
<p>6. Information which reveals that the authority proposes –</p> <ul style="list-style-type: none"> (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 	

<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Where a meeting of a standards committee, or a sub-committee of a standards committee, is convened to consider a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act, the provisions of Parts 1 to 3 of Schedule 12A shall apply as if, after paragraph 7 of that Schedule, the following descriptions of exempt information were inserted: 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</p>
--	---

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.

Information which falls within any sections 1 to 7 above; and is not prevented from being exempt by virtue of the qualification in section 8 or the qualification to section 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.

RULE 11 – EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive thinks fit, the Council may exclude access by the public to exempt reports or papers which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with a description of the category of information likely to be disclosed. This shall also apply to reports being considered by Executive Members under their delegated executive responsibilities.

(Note: If a meeting agrees to take in open session an item that was included on the agenda as a possible exempt item, the document relating to that item in whole or in part may be made available to the public at the meeting and will be published.)

RULE 12 – APPLICATION OF RULES TO THE CABINET

Rules 13 – 24 below apply to the Cabinet and to any of its sub-committees . If the Cabinet or its committees meet formally to take a key decision then it must also comply with Rules 1 – 11 above unless Rule 15 (general exception) or Rule 16

(special urgency) apply. A key decision is as defined in [Article 13](#) of this Constitution (see earlier in this Constitution).

RULE 13 – PROCEDURE BEFORE TAKING “KEY” DECISION

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a “forward plan”) has been published in connection with the matter in question;
- (b) at least 28 calendar days have elapsed since the publication of the item in the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or at a meeting of one of its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

RULE 14 – THE FORWARD PLAN

A forward plan will be prepared on behalf of the Leader of the Council by the Council Solicitor.

Contents of forward plan: The forward plan will contain matters which the Chief Executive has reason to believe will be subject of a key executive decision to be taken by the Cabinet, a committee of the Cabinet, a Cabinet Member, an Officer, an Area Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan.

The forward plan will also include non-key executive decisions.

For all entries, the forward plan 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 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; and
- e) a list of the documents likely to be submitted to the decision taker for consideration in relation to the matter.

The forward plan must be made available for inspection by the public at the designated Council offices and on the website at least 28 clear days before the date that the first key decision shown on it is due to be made.

Exempt and confidential information: Exempt or confidential information will not be

included in a forward plan, but the forward plan will contain a summary of the nature of any private business to be considered.

The Forward Plan will include information 28 days before an exempt item is taken at the Cabinet about why the item will be discussed in private. It will also give details about how to make representations about why that part of the meeting should be open to the public. At least 5 days before the meeting, the Council should issue a notice including details of any representations received and the Council's response to them.

RULE 15 – GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the forward plan then, subject to the urgency provisions of Rule 16, the decision may still be taken if -

1. the decision must be taken by such a date that it is impracticable to defer the decision until it has been published in the forward plan for 28 days before the decision is required;
2. the Chief Executive has informed all members of the Council of the matter about which the decision is to be made;
3. the Chair of the relevant Overview and Scrutiny body has been informed;
4. the Chief Executive has made copies of that notice available to the public at the offices of the Council;
5. at least 5 working days have elapsed since the Chief Executive complied with (2) and (3); and
6. the advice of the Monitoring Officer and, if relevant, Chief Financial Officer has been sought on the issue and taken into account.

Where such a decision is taken collectively, it must be taken in public unless there are exempt or confidential matters to be considered at the meeting.

A decision taken under this Rule cannot be called in.

RULE 16 – SPECIAL URGENCY

If by virtue of the date by which a decision must be taken, Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision

- (i) obtains the comments of the Chief Executive, the Monitoring Officer or where appropriate the Chief Financial Officer

and

- (ii) obtains the agreement of the Chair of the relevant Overview and Scrutiny body that the taking of the decision cannot reasonably be deferred.

The Chair of the Overview and Scrutiny body will consider the advice of the Chief Executive, the Monitoring Officer and/or, where relevant, the Chief Financial Officer before giving agreement.

The request for special urgency, and the agreement of the Chair of the relevant Overview and Scrutiny body, including the advice of the Chief Executive, the Monitoring Officer or the Chief Financial Officer, will be recorded and made public without disclosing exempt or confidential information.

A decision taken under this Rule cannot be called in.

Reports on special urgency decisions: In any event the Cabinet will submit to Political Group Leaders, within 7 working days, details of any executive decisions taken in the circumstances set out in rule 16 (Special Urgency) .

The Leader will submit to Council annually a report containing details of all decisions taken under Special Urgency provisions.

RULE 17 – REPORT TO COUNCIL - KEY DECISIONS

When an Overview and Scrutiny Panel can require a report: If an Overview and Scrutiny Panel thinks that a key decision has been taken which was not:

- (a) treated as a key decision; or
- (b) the subject of the general exception procedure (Rule 15); or
- (c) the subject of an agreement with the Chair of the relevant Overview and Scrutiny Panel under the Special Urgency Rule 16; or
- (d) the subject of any emergency procedure

that body may require the Cabinet to submit a report to the Council within such reasonable time as it may specify.

The power to require a report rests with the Overview and Scrutiny Panel but it is also delegated to the Chief Executive, who shall require such a report on behalf of the Overview and Scrutiny Panel when so requested by any 10 members of the Council, other than members of the Cabinet.

The Cabinet will prepare a report for submission to the next ordinary meeting of the Council.

However, if the next ordinary meeting of the Council is within 10 working days of

- receipt of the written notice by 10 members, or
- the resolution of the relevant Overview and Scrutiny Panel,

then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the body making the decision, and if the body is of the opinion that it was not a key decision the reasons for that opinion. The report will contain the advice of the Monitoring Officer on whether the decision was or was not a key decision or whether the criteria set down in Rule 15 or 16 applied.

RULE 18 – RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Monitoring Officer will produce or require the production of a record of every decision taken at that meeting as soon as reasonably practicable (usually within 2 working days of the meeting). The record will include a statement of the

reasons for each decision and any alternative options considered and rejected at that meeting. The decision notice will also include a record of conflicts of interests declared by Cabinet Members, and any dispensations granted by the Monitoring Officer.¹

This record (ie the minutes of the meeting) will normally be published with the weekly schedule referred to in Access to Information Rule 21 below.

RULE 19 – EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

There will be no distinction made between the categories of business to be considered by the Cabinet, in terms of its relevance or not to “key” decisions. All formal meetings of the Cabinet will be held in public.

RULE 20 – DECISIONS BY INDIVIDUAL CABINET MEMBERS

Where an individual Cabinet Member receives a report which s/he intends to take into account in making any key or other decision, then s/he will not make the decision until at least 5 clear working days after the publication by the Chief Executive of that report and the proposed decision.

Information about such reports and proposed decisions shall be published within such a time table as will allow a period of 5 clear working days to elapse before the individual Cabinet Member makes her or his decision (see Rule 21 below).

As soon as reasonably practicable after an executive decision has been taken by an individual Cabinet Member, s/he will provide, or arrange to provide, full details to the Chief Executive who will publish a record of the decision, a statement of the reasons and rationale for the decision and any alternative options considered and rejected. The decision notice will also include a record of conflicts of interests declared by Cabinet Members, and any dispensations granted by the Monitoring Officer.²

This record will be published in accordance with the provisions of Rule 21.

The provisions of Rules 7 (Access to minutes) and 8 (Background Papers) will also apply to the making of decisions by individual Cabinet Members. This does not require the disclosure of exempt or confidential information.

RULE 21 – PUBLICATION RELATING TO EXECUTIVE DECISIONS

All proposed decisions, and actual decisions taken by individual Cabinet Members, by Officers (in respect of key decisions only) or decisions taken by the Cabinet itself, will be published by the Chief Executive. Publication will include details of the reasons and rationale for any decision, options considered and rejected, consultation undertaken and background papers open to inspection. This process is known as the “weekly list” process.

¹ The power to grant dispensations was delegated from the Head of Paid Service to the Monitoring Officer by resolution of Council on 8th November 2012

² As 1

Proposed decisions of individual Cabinet Members cannot be taken until a period of at least 5 working days has elapsed after the date of publication. This is to ensure an opportunity is given for views to be expressed by interested persons.

This publication period will also serve as a requisition period within which any individual Cabinet Member may give written notice requiring the Chief Executive to place a proposed decision by a Cabinet Member instead on the next available agenda for the full Cabinet. *(Such a notice will have the effect of cancelling the delegated power of the individual Cabinet Member to make the decision on that matter – See Executive Procedure Rules.)*

Decisions taken by the Cabinet or an individual Cabinet Member or an Officer (in the case of a “key” decision) cannot be implemented until a period of 5 clear working days has elapsed after the date of publication of the decision taken. This is to allow for the possibility of “call-in”. The call-in rules (and exemptions) are set out in Section 4 (D1) of the Constitution.

RULE 22 – OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

Subject to the limits set out below, an Overview and Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees or officers and which contains material relating to

- (a) any business transacted at a public meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual Cabinet Member

An Overview and Scrutiny Panel will not be entitled to

- (a) any document that is in draft form; or
- (b) any part of a document that contains exempt or confidential information within the meaning described at Rule 10 above, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to review or scrutinise.

RULE 23 – ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

Common Law Rights of Elected Members: Members of the Council have a common law right of access to all written information in the possession of the Council if a need to know can be demonstrated in order to perform their duties as a Member.

Where there is doubt as to whether or not it is reasonably necessary for a Member to have access to particular information, a statutory right of access must be identified for disclosure to occur.

Statutory Rights of Elected Members (Local Government Act 1972 and Related Regulations):

Access to information prior to Council/Committee meetings – under the Local Government Act 1972 and related regulations, any document which is either:

- (a) in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or a committee or sub committee of the Council, or
- (b) in the possession or under the control of the Cabinet and contains material relating to any business to be transacted at any public meeting,

shall be open to inspection by any Member of the Council, unless it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information listed in Rule 10. Such information can also be withheld from inspection by a Member to the extent that any it contains information about the financial or business affairs of any person which relates to any terms proposed or not be proposed by the authority in the course of negotiations for a contract.

Access to information following private Cabinet meetings or individual key decisions – also under the regulations any document which is in the possession or under the control of the Executive of a local authority; and contains material relating to:

- (i) any business transacted at a private meeting
- (ii) any decision made by an individual member in accordance with Executive arrangements or
- (iii) any key decision made by an officer in accordance with Executive arrangements

shall 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 a key decision made by an officer, immediately after the decision has been made, unless the material contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information listed in Rule 10. Such information can also be withheld from inspection by a Member to the extent that any it contains information about to the financial or business affairs of any person which relates to any terms proposed or to be proposed by the authority in the course of negotiations by a contract.

The Local Government Act 1972 and related regulations do not offer any additional statutory right of access for Members to documents which are in the possession or under the control of the Council and contain material relating to any business which has already been transacted at a meeting of the Council or a committee or sub-committee of the Council. Members will need to rely on the general public's right of access to such information or any right to request such information as they may have in terms of the Freedom of Information Act set out below.

Freedom of Information Act – Where the Local Government Act 1972 and related regulations do not identify a statutory route of access, an Elected Member may request access to Council information under the provisions of the Freedom of Information Act 2000. These requests will be accessed according to the Act and the Council's Freedom of Information policy and procedure.

RULE 24 – KEY DECISIONS BY INDIVIDUAL OFFICERS – RECORD OF DECISION

As soon as reasonably practicable after a key decision has been taken by an officer, usually within 2 working days of the decision, he/she will prepare a record of the decision, a statement of the reasons / rationale for it and any alternative options considered and rejected.

The publication referred to in Rule 21 shall include information about key decisions made by Officers.

The provisions of 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.

RULE 25 – DECISIONS BY INDIVIDUAL OFFICER DELEGATED FROM CABINET – RECORD OF DECISION

When Cabinet delegates a specific responsibility to an officer to undertake a course of action, the officer **must** record the date and details of the decision on the Officer delegated decision register.

RULE 26 – DECISIONS BY OFFICERS

Certain decisions by officers on matters that are not executive functions need to be recorded. These are decisions;

- a) that have been delegated to the officer under a specific express authorisation, and
- b) that have been delegated under a general authorisation and the effect of the decision is to grant a permission or licence, affect the rights of an individual or to award a contract or incur expenditure which materially affects the Council's financial position.
Administrative matters are not included.]

Record of decision - The record must include the following information;

- a) The date of the decision;
- b) The decision itself;
- c) The reasons for taking that decision
- d) Details of any alternative options considered and rejected;
- e) Details of any declarations of interest made by any Councillor consulted by the officer or declared when granting the specific authorisation to take the decision.

It is the duty of the officer taking the decision to make the record as soon as reasonably practicable after the decision has been taken. The record and any background papers must be made available to the public and must be put on the Council's website. The record must be kept for 6 years.

RULE 27 – ACCESSIBLE FORMATS

Any document required to be produced under the provisions of this Constitution, or any document produced in connection with this Constitution, will be produced in accessible formats where such a format is specifically requested or is considered reasonable by the Divisional Director, Legal and Democratic Services. In making such documents available, the Divisional Director, Legal and Democratic Services will have regard to corporate standards for the production of accessible material.