

## **Part 3 – procedure rules**

### **d. Access to information procedure rules**

#### **CONTENTS**

##### Paragraph

- 1 Scope
- 2 Additional rights to information
- 3 Rights to attend meetings
- 4 Notice of meeting
- 5 Access to agenda and reports before the meeting
- 6 Supply of copies
- 7 Access to records of decisions after the meeting
- 8 Background papers
- 9 Summary of public's rights
- 10 Exclusion of access by the public to meetings
- 11 Exclusion of access by the public to reports
- 12 Application of rules to the Executive
- 13 Procedure before taking key decisions
- 14 Notification of key decisions to be taken
- 15 General exception
- 16 Special urgency
- 17 Report to Council
- 18 Record of decisions
- 19 Inspection of documents after a key decision is taken by the Executive
- 20 Decisions by individual members of the Executive
- 21 Scrutiny Commission and Finance & Performance Scrutiny access to documents
- 22 Additional rights of access for members

1. Scope
  - 1.1 These rules apply to all formal business meetings of Council, committees and the Executive. They do not apply to council forum debates.
2. Additional rights to information
  - 2.1 These rules do not affect any more specific rights to information contained elsewhere in this constitution or the law.
3. Rights to attend meetings
  - 3.1 Members of the public may attend all statutory meetings subject only to the exceptions in these rules.
4. Notice of meeting
  - 4.1 The council will give five clear working days' notice of any meeting by informing relevant persons and publishing the date on the council's website.
5. Access to agenda and reports before the meeting
  - 5.1 The council will make copies of the public agenda and reports available for inspection at the Hub and on the council's website five 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 and any associated reports will be available as soon as they are complete.
  - 5.2 Any member of the council may have access to an agenda, report or background document which is available to the public.
  - 5.3 A member of the council may, for purposes only of his/her duty as such member, but not otherwise, on application to the Director (Corporate Services), inspect any other document which has been, or is to be, considered by a formal body. A member shall not knowingly inspect and shall not ask for a copy of any document relating to a matter in which he has professional interests or has a pecuniary interest. This rule shall not preclude the Legal Services Manager from declining to allow inspection of any document which is or, in the event of legal proceedings, would be protected by privilege arising from the relationship of solicitor and client.
6. Supply of copies
  - 6.1 The council will supply copies of:
    - Any agenda and reports which are open to public inspection
    - Any further statements or particulars necessary to indicate the nature of the items in the agenda
    - Any other documents supplied to councillors in connection with an item to any member of the public on payment of a charge for postage and any other costs, if the Director (Corporate Services) thinks fit.

7. Access to records of decisions after the meeting

7.1 The council will make available on its website or on request for six years after a meeting:

- The minutes of all formal meetings
- The agenda for the meeting
- Reports relating to items taken in public session
- Copies of background papers associated with the report
- Information relating to decisions taken under delegated powers, where appropriate.

8. Background papers

8.1 The report author will set out in their report background papers relating to the subject matter of the report which, in their opinion:

- Disclose any facts or matters on which the report or an important part of the report is based
- Have been relied upon to a material extent in preparing the report, not including published works or those which disclose exempt or confidential information.

8.2 The council will make available on the website or on request a copy of the documents on the list of background papers for four years after the date of the meeting.

9. Summary of public's rights

9.1 A copy of these rules, setting out a summary of the public's rights relating to meetings and information, will be available on the council's website or on request.

10. Exclusion of access by the public to meetings

10.1 Confidential information

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

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.

10.2 Exempt information

The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed in accordance with the provisions of schedule 12A of the Local Government Act 1972.

Exemption information means information falling within the following categories:

Category	Condition
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 is not exempt if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>• The Companies Act 2006</li> <li>• The Friendly Societies Act 1974</li> <li>• The Friendly Societies Act 1992</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978</li> <li>• The Building Societies Act 1986</li> <li>• The Charities Act 1993.</li> </ul> <p>‘Financial or business affairs’ includes contemplated, as well as past or current, activities.</p> <p>‘Registered’ in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).</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	<p>‘Employee’ means a person employed under a contract of service.</p> <p>‘Labour relations matter’ means:</p> <p>(a) Any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act)</p> <p>(b) Any dispute about a matter falling within paragraph (a) above.</p> <p>For the purposes of this definition, the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>‘Office holder’, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
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 (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.	

Any reference above to 'the authority' is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.

The above information is only 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 if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town & Country Planning General Regulations 1992.

#### 11. Exclusion of access by the public to reports

- 11.1 If the Director (Corporate Services) thinks fit, the council may exclude access by the public to reports which, in his or her opinion, relate to items during which 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 and will be printed on cream paper. A notice will be published on the council's website 28 days prior to a decision being taken by the Executive in private. If 28 days' notice cannot be given, the chairman of the Scrutiny Commission will be informed of this and the reasons.

#### 12. Application of rules to the Executive

- 12.1 The following rules 13 to 24 apply to the Executive. If the Executive meets to take a key decision then it must also comply with rules 1 to 11 unless rule 15 (general exception) or rule 16 (special urgency) apply. This requirement does not include briefings as these are informal, private meetings for officers to provide updates to members on a variety of matters.

#### 13. Procedure before taking key decisions

- 13.1 Subject to rule 15 (general exception) and rule 16 (special urgency), a key decision may not be taken unless:
- At least five clear working days have elapsed since the publication of the summons and associated reports (the report relating to the key decision having been listed on that agenda)
  - Where the decision is to be taken at a meeting of the Executive, notification has been published at least 28 clear days prior to the meeting stating the nature of the decision to

be taken, the decision maker and documents which will be provided to the decision maker

- Where the decision is to be taken at a meeting of the Executive, notice of the meeting has been given in accordance with rule 4 (notices of meeting).

#### 14. Notification of key decisions to be taken

##### 14.1 Period of the notice

Notice of forthcoming key decisions to be taken by the Executive will be published on the council's website and will give at least 28 days' notice of these decisions. Where this notice period is not possible, the reasons for this will be included in the notice.

##### 14.2 Contents of the notice

The notice will contain matters which there is reason to believe will be subject of a key decision to be taken by the Executive. The notice will also include any proposed changes in the budget & policy framework. It will describe the following particulars:

- The matter in respect of which a decision is to be made and whether the decision is likely to be taken in private in accordance with the relevant rules
- Details of the decision taker
- The date on which, or the period within which, the decision will be taken
- A list of the documents submitted to the decision taker for consideration in relation to the matter
- The procedure for requesting details of those documents.

#### 15. General exception

##### 15.1 If a matter which is likely to be a key decision has not been included in the abovementioned notice, then subject to rule 16 (special urgency), the decision may still be taken if:

- It is a decision which must be taken by such a date that it is impracticable to defer the decision until it has been included in the notice for the required 28 days
- The proper officer has informed the chairman of the Scrutiny Commission
- The proper officer has made copies of that notice available to the public via the council's website or on request
- At least five clear working days have elapsed since the proper officer complied with the first two requirements above.

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

#### 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 proper officer obtains the agreement of the chairman of the Scrutiny Commission (or in his/her absence, one of the vice-chairmen) that the taking of the decision cannot be reasonably deferred. Notification of this and reasons will be published on the council's website.

## 17. Report to Council

- 17.1 If the Scrutiny Commission thinks that a key decision has been taken which was not:
- included in the published notice
  - treated as a key decision
  - the subject of the general exception procedure or
  - the subject of an agreement with the chairman or vice-chairman of the Scrutiny Commission, under rule 16

the Commission may require the Executive to submit a report to Council within such reasonable time as the Commission specifies.

- 17.2 The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the resolution of the Scrutiny Commission, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision and the reasons, the decision maker, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.
- 17.3 The Leader will submit a report every six months to the Council on the Executive decisions taken in the circumstances set out in rule 16 (special urgency) in the preceding three months. The report will include the particulars of each decision made and a summary of the matters in respect of which each decision was made.

## 18. Record of decisions

- 18.1 After any meeting of the Executive or any of its committees, whether held in public or private, 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 is practicable. The record will include the particulars of the decision, a statement of the reasons for each decision, any alternative options considered and rejected at that meeting, a record of any conflict of interest declared by a member of the decision-making body or a note of dispensation granted.

## 19. Inspection of documents after a key decision is taken by the Executive

- 19.1 A copy of any report or part report relevant to a key decision and considered by the Executive will be available on the council's website for six years from the date the decision was made. Documents containing confidential or exempt information or the advice of a political adviser need not be disclosed. If a document is not disclosed because it contains exempt information, the Head of Paid Service will prepare a statement. The statement will describe the category of exempt information and reasons for exemption. The statement will be open to inspection for six years from the date of the meeting.

## 20. Decisions by individual members of the Executive

- 20.1 As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive or a delegated 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 rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## 21. Scrutiny Commission and Finance & Performance Scrutiny access to documents

### 21.1 Rights to copies

Subject to rule 22.2 below, a member of the Scrutiny Commission or Finance & Performance Scrutiny will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to

- any business transacted at a public or private meeting of the Executive
- any decision taken by an individual member of the Executive
- any decision taken by an officer under delegated powers.

This information will be provided within ten clear working days of the request.

### 21.2 Limit on rights

The Scrutiny Commission and Finance & Performance Scrutiny will not be entitled to:

- any document that is not in final draft form
- 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
- the advice of a political adviser.

Where the Executive determines that a member of the Scrutiny Commission or Finance & Performance Scrutiny is not entitled to a document for the reasons set out above, it must provide that body with a written statement setting out its reasons.

## 22. Additional rights of access for members

### 22.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a private meeting unless:

- it contains confidential or exempt information falling within those categories
- it contains the advice of a political adviser.

### 22.2 Material relating to key decisions

All members of the council will be entitled to inspect any document in the possession of or under the control of the Executive which relates to any key decision unless paragraph 22.1 applies.

### 22.3 Nature of rights

These rights of a member are additional to any other statutory right he/she may have.