

4C. ACCESS TO INFORMATION PROCEDURE RULES APPENDIX B

1. Scope

These rules apply to all meetings of the Council, the Scrutiny Committee, the Governance committee, the Standards Committee, regulatory committees, quasi-judicial committees and meetings of the Cabinet (together called “meetings”).

These rules do not apply to My Neighbourhood meetings.

2. Additional Rights to Information

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

3. Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. Notices of Meeting

The Council shall give at least five clear working days’ notice of any meeting by posting details of the meeting at the Civic Centre. (This excludes date of posting and delivery (and a Sunday) before the meeting to which it relates. (Schedule 12 Paragraph 4 of the Local Government Act 1972).

5. Access to Agenda and Reports Before the Meeting

The Council shall make copies of the agenda and reports open to the public available for inspection at the Civic Centre at least five clear working days before the meeting. (This excludes date of posting and delivery (and a Sunday) before the meeting to which it relates. (Schedule 12 Paragraph 4 of the Local Government Act 1972). If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Chief Executive [or other designated officer] shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6. Supply of Copies

The Council shall supply to Councillors copies of:

- (a) any agenda and reports which are open to public inspection, and
- (b) if the Chief Executive (or other designated officer) 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.

7. Access to Minutes etc After the Meeting

The Council shall make the following available for six years after a meeting:

- (a) the minutes of the meeting, or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings 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. Background Papers

8.1 List of Background Papers

The Chief Executive (or other designated officer) shall 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 do not include published works or those which disclose exempt or confidential information (as defined in 10 of these Procedural Rules) and in respect of Cabinet reports, the advice of a political advisor.

8.2 Public Inspection of Background Papers

The Council shall make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. Summary of The Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Centre.

10. Exclusion Of Access By The Public To Meetings

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, confidential information would be disclosed. However the public interest in maintaining the exemption must outweigh the public interest in disclosing it and the reason for its exemption will be included on the agenda for the meeting.

10.2 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.

10.3 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, exempt information would be disclosed. However the public interest in maintaining the exemption must outweigh the public interest in disclosing it and the reason for its exemption will be included on the agenda for the meeting.

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 10.4.6 below.

10.4 Meaning of exempt information

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

EXEMPT INFORMATION AS DEFINED IN SCHEDULE 12A OF PART I OF THE LOCAL GOVERNMENT ACT 1972 (AS AMENDED WEF 1 MARCH 2006)

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.

Additional descriptions relating to standards committees:-

- Information which is subject to any obligation of confidentiality;
- Information which relates in any way to matters concerning national security;
- The deliberations of a standards committee or a sub-committee of a standards committee (hearing panel) considering a complaint under the provisions of the Localism Act 2011.

Qualifications:-

- Information relating to the financial or business affairs of any particular person is not exempt if it is required to be registered under: the Companies Act 1985; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993.

- Information relating to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992 is not exempt.
- Information in one of the seven categories of exempt information which is not prevented from being exempt by either of the two points described above is exempt if the public interest in maintaining the exemption outweighs the public interest in disclosing it.

11. Exclusion of Access by the Public to Reports

If the Chief Executive (or other designated 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 Rule 10 of these Procedure Rules, 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.

Reports containing exempt information will not remain exempt longer than is necessary and will be made public six months after the date of meeting or sooner unless the Chief Executive (or other designated officer) is of the opinion that there are overriding reasons for the information to remain exempt.

12. Application of Rules to the Cabinet

Rules 13 – 28 of these Procedure Rules apply to the Cabinet.

13. Cabinet and its Committee Meetings and Decisions

A meeting of the Cabinet must be held in public.

14. Key Decisions.

- A key decision is defined as any decision in relation to a Cabinet function which is likely
 - To result in the Council incurring expenditure which is, or the making of savings which are, significant. (The financial threshold above which expenditure/savings become significant is set at £100,000. This financial threshold is applicable to both the revenue and capital budgets.) or
 - To be significant in terms of its effect on the communities living in an area comprising two or more Council wards.

15. The Forward Plan - Notice of Key Decisions and other Decisions of the Cabinet

Where it is intended to make a decision, that decision must not be made until a document, "The Forward Plan", has been published at the Council's offices and on the Council's website for a period of 28 clear days. This document includes:

- The nature of the decision;
- Who is making the decision;
- The date on which, or the period within which, the decision is to be made;

- A list of any documents available or which become available relating to the decision and from where they can be obtained.

16. Procedures prior to meetings of the Cabinet and access to agenda and connected reports for public meetings

(1) The Cabinet must give notice of the time and place of a meeting at the Council's offices and publish it on the Council's website. Any item of business may only be considered where a copy of the agenda or part of the agenda including the item and every report has been available for inspection by the public and on the Council's website for at least five clear working days before the meeting; or 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.

(2) However nothing in paragraph (1) 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 Cabinet.

(3) Following a request made by a member of the public, or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, the Council must supply to that person or newspaper a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting and, if the proper officer thinks fit in the case of any item, a copy of any other document supplied to Cabinet in connection with the item.

(4) Any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking a report.

17. Meetings of Cabinet and its committees from which the Public is excluded

(1) The public may be excluded from a meeting of the Cabinet during an item of business whenever it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidentiality or the Cabinet passes a resolution to exclude the public during that item where it is likely that, in view of the nature of the item of business, if members of the public were present during that item, exempt information would be disclosed to them; or a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

(2) A resolution to exclude the public must identify the proceedings, or the part of the proceedings to which it applies, and state, by reference to the descriptions in Schedule 12A to the 1972 Act (access to information: exempt information), the description of exempt information giving rise to the exclusion of the public.

(3) The public may only be excluded for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.

18. Procedures prior to private meetings

(1) At least 28 clear calendar days before a private meeting, the Cabinet must include in its "Forward Plan" its intention to hold the meeting in private and the reasons for the meeting to be held in private.

(2) At least five clear working days before a private meeting, the Cabinet must make available at the offices of the Council a further notice of its intention to hold the meeting in private and publish that notice on the Council's website.

(3) The notice must include the reasons for the meeting to be held in private, details of any representations received by the Cabinet about why the meeting should be open to the public and its response to any such representations.

(4) Where the date by which a meeting must be held makes compliance with this Rule impracticable, the meeting may only be held in private where the Cabinet has obtained agreement that the meeting is urgent and cannot reasonably be deferred from the chairman of the Scrutiny Committee or, if the chairman of the Scrutiny Committee is unable to act, from the Mayor or, in the absence of both the chairman of the Scrutiny Committee and the Mayor, from the Deputy Mayor of the Council.

(5) As soon as reasonably practicable after the Cabinet has obtained agreement to hold a private meeting, it must make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred, and publish that notice on the Council's website.

19. General exception and Cases of special urgency

(1) Where the inclusion of the intention to make a key decision in the Forward Plan is impracticable, that decision may only be made five clear working days after the chairman of the Scrutiny Committee has been informed by notice in writing, setting out the nature of the decision and the reasons why compliance is impracticable.

(2) The notice must also be made available at the Council's offices for inspection by the public and published on the Council's website.

(3) Where the date by which a key decision must be made is less than 5 clear working days, the decision may only be made where agreement has been obtained from the chairman of the Scrutiny Committee; or if the chairman of the Scrutiny Committee is unable to act, from the Mayor; or in the absence of both the chairman of the Scrutiny Committee and the Mayor, from the Deputy Mayor of the Council that the making of the decision is urgent and cannot reasonably be deferred.

(4) As soon as reasonably practicable after agreement that the making of the decision is urgent and cannot reasonably be deferred, a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred, must be made available at the offices of the Council and published on the Council's website.

20. Recording of executive decisions made at meetings

(1) As soon as reasonably practicable after any meeting of the Cabinet at which an executive decision was made, the proper officer must ensure that a written statement is produced for every executive decision made which includes:

- A record of the decision, including the date it was made;
- A record of the reasons for the decision;
- Details of any alternative options considered and rejected by the Cabinet at the meeting at which the decision was made;
- A record of any conflict of interest relating to the decision which is declared by any member of the Cabinet which made the decision; and

- In respect of any declared conflict of interest, a note of dispensation granted by the Council's Standards Committee.

21. Inspection of documents following executive decisions

(1) After a meeting of the Cabinet at which an executive decision has been made, or after an individual member or an officer has made an executive decision, the proper officer must ensure that a copy of any records prepared and any report considered 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.

(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 (1), those documents must be supplied to the newspaper on payment by the newspaper of postage, copying or other necessary charge for transmission.

22. Inspection of background papers

When a copy of the report for a meeting is made available for inspection by members of the public, a list of the background papers to the report must be included at the same time, and at least one copy of each of the documents included in that list must be available for inspection by the public at the offices of the Council and on the authority's website.

23. Additional rights of access to documents for members of local authorities

(1) Any document which is in the possession or under the control of the Cabinet, and contains material relating to any business to be transacted at a public meeting, must be available for inspection by any member of the Council for at least five clear working days before the meeting. Where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; where an item is added to the agenda at shorter notice, it must be available for inspection when the item is added to the agenda.

(2) (i) Any document which is in the possession or under the control of the Cabinet and contains material relating to any business transacted at a 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.

(3) Any document which is required to be available for inspection by any member of the Council must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

(4) Nothing requires a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description within paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or paragraph 6 of Schedule 12A to the 1972 Act.

(5) The rights conferred by paragraphs (1) and (3) are in addition to any other rights that a member of a local authority may have.

24. Additional rights of access to documents for members of scrutiny committees

(1) A member of a scrutiny committee of the Council is entitled to:

- (i) a copy of any document which is in the possession or under the control of the Cabinet and contains material relating to any business that has been transacted at a meeting of the Cabinet of that authority;
- (ii) any decision that has been made by an individual member of that Cabinet in accordance with executive arrangements; or
- (iii) any decision that has been made by an officer of the authority in accordance with executive arrangements.

(2) Where a member of a scrutiny committee requests a document which falls within paragraph (1), the executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear working days after the executive receives the request.

(3) No member of a scrutiny committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:

- (i) an action or decision that that member is reviewing or scrutinising; or
- (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee.

(4) Where the Cabinet determines that a member of a scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph (1) or (3), it must provide the scrutiny committee with a written statement setting out its reasons for that decision.

25. Reports to the local authority where the key decision procedure is not followed

(1) Where an executive decision has been made and was not treated as being a key decision and a scrutiny committee is of the opinion that the decision should have been treated as a key decision, that scrutiny committee may require the executive which is responsible for the decision to submit a report to the Council within such reasonable period as the committee may specify.

(2) A report under paragraph (1) must include details of the decision and the reasons for the decision; and if the executive of the Council is of the opinion that the decision was not a key decision, the reasons for that opinion.

26. Executive reports to Council

(1) The Leader must submit to the Council, at such intervals as may be determined by the Council, a report containing details of each executive decision taken during the period since the last report was submitted where the making of the decision was taken without the full 28 day notice period.

(2) A report submitted for this purpose must include particulars of each decision made.

(3) The Leader must submit at least one report annually to the Council.

27. Confidential information, exempt information.

(1) Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidentiality.

(2) Nothing in these Rules authorises or requires a local authority to disclose to the public or make available for public inspection any document or part of any document if, in the opinion of the proper officer, that document contains confidential or exempt information.

(3) Nothing in these Rules requires the Cabinet to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.

28. Inspection and supply of documents

(1) Any document required by any provision of these Rules to be open to inspection by members of the public must be available for inspection at all reasonable hours at the Council's offices and on the Council's website.

(2) Subject to paragraph (4), where a document is to be available for inspection by a person under any provision in these Rules, the person may make a copy of the whole or part of the document; or be supplied with a copy of the whole or part of the document, on payment to the Council of postage, copying or other necessary charges.

(3) Subject to paragraph (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.

(4) Where any document required by these Rules to be open to inspection by the public is supplied to or available for inspection by members of the public, or is supplied for the benefit of any newspaper, the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.

(5) Any written record and report of an executive decision or any report must be retained by the Council and, where appropriate, made available for inspection by the public for a period of at least six years from the date on which the decision was made.

(6) Any background papers must be retained by the Council and, where appropriate, be available for inspection by the public for a period of at least four years from the date on which the decision was made.

(7) 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.

