

Part 3D

Access to Information Standing Orders

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1. Scope

These rules apply to all meetings of the Council, Cabinet, Audit and Ethics Committee, Scrutiny Committee, area committees (if any) and other regulatory committees (together called 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 standing orders.

4. Notices of meeting

The council will give at least five clear working days' notice of any meeting by posting details of the meeting on the council's website.

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 the Town Hall and publish them on its website at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open for inspection from the time the item was added to the agenda. Where any public reports are prepared after the summons has been sent out, the Chief Executive shall make them available to the public immediately and send them to councillors.

6. Supply of copies

The council will supply copies of the following subject to a charge for postage and other costs:

- (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) Any other documents supplied to councillors in connection with an item, subject to the agreement of the Chief Executive.

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 records of decisions taken, together with reasons in the case of Cabinet or other executive decisions, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
- (b) A summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record.
- (c) The agenda for the meeting.
- (d) Reports relating to items when the meeting was open to the public.

8. Background papers

8.1 List of background papers

The officer originating the report, or in the case of a joint report the first named officer, shall ensure that every report includes a list of those documents (called background papers) relating to the subject matter of the report which in his or her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report except published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

The council will 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. Such copies will be kept by the council service which produced the report.

8.3 Publication on website

The officer originating a report shall arrange for its background papers to be published on the council's website and provide a hyperlink to them on the list referred to in paragraph 8.1.

9. Summary of public's rights

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

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, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

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 and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.3 Meaning of confidential information

Confidential information means information given to the council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

10.4 Meaning of exempt information

- (a) Exempt information means information falling within the seven categories (subject to any condition) set out in Section 23 of these Standing Orders.
- (b) Information falling within any of paragraphs 1-7 of Section 23 is not exempt by virtue of that paragraph if either of the following applies:
 - (i) It relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
 - (ii) It is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1999.
- (c) Information which falls within paragraphs 1-7 of Section 23 and is not prevented from being exempt by virtue of 10.4(b)(i) and (ii) above, is exempt information if and so long as, in all of the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. Exclusion of access by the public to reports

If the Chief Executive 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, 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.

12. Application of rules to Cabinet

- (a) Rules 13 – 22 apply to Cabinet and its committees. If Cabinet or its committees meet to take a key decision, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Part 1B Article 13.04 of this constitution.
- (b) If Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Part 1B 13.04 of this constitution. This requirement does not include meetings whose sole purpose is for officers to brief councillors.

13. Procedure before taking key decisions

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 three clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. Forward Plan

14.1 Period of Forward Plan

Forward Plans will be prepared by the council to cover a period of four months, beginning with the first day of any month. They will be prepared

monthly and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the council has reason to believe will be subject of a key decision to be taken by the Council, Cabinet, a committee of Cabinet, individual members of Cabinet, officers, 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 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, their 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) Whether the report relating to the decision is to be public or private.
- (e) The identity of the principal groups whom the decision taker proposes to consult before taking the decision.
- (f) The means by which any such consultation is proposed to be undertaken.
- (g) The steps any person might take who wishes to make representations to 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.
- (h) A list of the documents submitted to the decision taker for consideration in relation to the matter, and details of how to obtain details of such documents, subject to any prohibition or restriction on their disclosure.
- (i) That, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available from the Town Hall.
- (j) That other documents relevant to those matters may be submitted to the decision maker.
- (k) The procedure for requesting details of those documents (if any) as they become available.

14.3 Publication of Forward Plan

The Forward Plan must be published at least 28 clear days before the start of the period covered.

15. General exceptions

Where a matter which is likely to be a key decision has not been included in the Forward Plan, the decision may still be taken if all of the following conditions are met or the conditions for taking urgent decisions under Rule 16 are met:

- (a) It is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates.
- (b) The Chief Executive has given written notice to the chair of Scrutiny Committee or, if no chair is in office, each member of Scrutiny Committee, of the matter about which the decision is to be made.
- (c) Where a key decision is to be taken by an officer, the Chief Executive has given written notice to the appropriate portfolio holder.
- (d) The Chief Executive has made copies of that notice available to the public at the offices of the council.
- (e) At least three clear days have elapsed since the Chief Executive complied with (a) and (b).

Where such a decision is taken by a member body, it must be taken in public, unless it would involve the disclosure of confidential or exempt information.

16. Special urgency

- (a) Where a key decision is urgent and it is impracticable to comply with Standing Order 13 or 15, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If the chair is unable to act, the vice-chair may act in place of them. If no chair or vice-chair is able to act, then the agreement of the Mayor, or in their absence the Deputy Mayor, will suffice.
- (b) Where an urgent decision is being taken by an officer, as set out in paragraph (a) above, the decision-taker must, in addition to the requirements of paragraph (a), obtain the consent of the appropriate portfolio holder. If there is no appropriate portfolio holder, or he or she is unable to act, then the agreement of the Leader, or in the Leader's absence the Deputy Leader, will suffice.

17. Reports to Full Council

17.1 If Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure (Standing Order 15); or
- (c) the subject of an agreement (Standing Order 16);

the committee may require Cabinet to submit a report to the Council in accordance with Standing Order 17.2 below.

17.2 Cabinet's report to Full Council

When required under Standing Order 17.1, Cabinet 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 written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and, if the leader is of the opinion that it was not a key decision, the reasons for that opinion.

17.3 Reports on urgent decisions

The Chief Executive will report to the next available Council meeting on urgent decisions taken under Standing Order 16. The report will include the details of each key decision taken and the reason for the urgency.

18. Record of decisions

After any meeting of Cabinet or any of its committees, whether held in public or private, the Chief Executive 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 practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. Officers

- (a) The Head of Paid Service, the Chief Financial Officer, the Monitoring Officer and their nominees are entitled to attend any meeting of Cabinet and its committees. Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.

- (b) A private meeting of Cabinet may only take place in the presence of the proper officer or their nominee with responsibility for recording and publicising the decisions.

20. Decisions by individual members of Cabinet

20.1 Reports intended to be taken into account

Where an individual member of Cabinet receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least three clear days after receipt of that report.

20.2 Provision of copies of reports to Scrutiny Committee

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of Scrutiny Committee as soon as reasonably practicable and make it publicly available at the same time.

20.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of Cabinet or a key decision has been taken by an officer, he or she will prepare, or instruct the Chief Executive 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 Cabinet.

The officer shall forward a copy of that written statement and any reports considered immediately to the Chief Executive who shall make the written statement and any reports considered available for public inspection unless it would involve the disclosure of confidential or exempt information.

21. Scrutiny Committee's access to documents

21.1 Rights to copies

Subject to Standing Order 21.2 below, a member of Scrutiny Committee will be entitled to copies of any document which is in the possession or control of Cabinet or its committees or an officer and which contains material relating to any of the following:

- (a) Any business transacted at a public or private meeting of Cabinet or its committees.
- (b) Any decision taken by an individual member of Cabinet.
- (c) Any key decision that has been made by an officer.

21.2 Limit on rights

A member of Scrutiny Committee will not be entitled to the following:

- (a) Any document that is in draft form.
- (b) 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.

22. Additional rights of access for councillors

22.1 Material relating to previous business

All councillors will be entitled to inspect any document which is in the possession or under the control of Cabinet or its committees and contains material relating to any business previously transacted at a private meeting subject to the discretion of the Chief Executive in consultation with the Monitoring Officer or, in the case of financial or employment matters, the Chief Officer for Finance and Performance.

22.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of Cabinet or its committees which relates to any key decision subject, in relation to exempt information, subject to the discretion of the Chief Executive in consultation with the Monitoring Officer or, in the case of financial or employment matters, the Chief Officer for Finance and Performance.

22.3 Nature of rights

These rights of a councillor are additional to any other right they may have.

23. The categories of exempt information and their interpretation

The seven categories of exempt information are as follows:

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).

“Financial or business affairs” includes contemplated, as well as past or current, activities.

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 officer holders under the authority.

“Employee” means a person employed under a contract of service.

“Labour relations matter” means –

- (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); or
- (b) any dispute about a matter falling within paragraph (a) above;

and 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.

“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.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which would reveal 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.

Within this section, any reference 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 as to whether information is exempt or not falls to be determined and includes a reference –

- (a) to any committee or sub-committee of the council; and
- (b) in the case of a committee, to –
 - (i) any constituent principal council;

- (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
 - (iii) any other committee or sub-committee of a principal council falling within sub-paragraph i) or ii) above; and
- (c) in the case of a sub-committee, to –
 - (i) the committee, or any of the committees, of which it is a sub-committee; and
 - (ii) any principal council which falls within paragraph (b) above in relation to that committee.