

Part 4E

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, Scrutiny and Overview Committees, area committees (if any), the Standards Committee and regulatory committees and public meetings of the Executive (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

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

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

(b) A private Executive meeting may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.

4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at offices of the Council.

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 designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the 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 will supply copies of:

- (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; and
- (c) 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.

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, for all meetings of the Executive, 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; 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 will set out in every report 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) 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) and in respect of Executive reports, the advice of a political advisor.

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.

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 at and available to the public at and copy documents must be kept at and available to the public at the Council's main offices.

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.

Where the meeting will determine any person's civil rights or obligations, or adversely affect his or her 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 Article 6.

10.3 Meaning of confidential information

Confidential information" means—

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

and, in either case, the reference to the obligation of confidence is to be construed accordingly..



10.4 Meaning of exempt information

Exempt information means information falling within the following:

PART 1

DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 7A¹**. 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

PART 2

QUALIFICATIONS: ENGLAND

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10. Information which—

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

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Note 1 paragraphs 7A-7C apply only to standards committees



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 THE EXECUTIVE

Rules 13 – 21 apply only to the Executive and its committees. If the Executive 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 Article 14.3 of this Constitution.

If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant 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 Article 14.3 of this Constitution. Nothing in these Rules shall apply to briefing meetings of the Executive pursuant to the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

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

14. THE FORWARD PLAN

14.1 Period of Forward Plan

Forward plans will be prepared by the Executive to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis 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 Executive has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It 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-maker is an individual, his or 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 identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive 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
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 14 days before the start of the period covered. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;



- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

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 Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that 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 informed the chairman of a relevant Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear days have elapsed since the Chief Executive complied with (a) and (b).

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 decision taker (if an individual) or the chairman of the body making the



decision, obtains the agreement of the chairman of a relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant Scrutiny Committee, or if the chairman of each relevant Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.

17. REPORT TO COUNCIL

17.1 Report of the Leader

The Leader shall report to each ordinary meeting of the Council on the work undertaken by the Executive including key decisions taken.

17.2 When a scrutiny committee can require a report

If a 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; or
- (c) the subject of an agreement with a relevant Scrutiny Committee chairman, or the Chairman/Vice Chairman of the Council under Rule 16;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested by (the chairman or any seven members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

17.3 Executive's report to Council

Following receipt of a requisition under Rule 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 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 or that opinion.



17.4 Reports on special urgency decisions

In any event the Leader will submit reports to each ordinary meeting of the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) since the last occasion when a report was made. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

After any meeting of the Executive 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. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

19.1 Reports intended to be taken into account

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

19.2 Provision of copies of reports to Scrutiny Committees

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 chairman of every relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

19.3 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive 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 the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.



20. SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

20.1 Rights to copies

A Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relevant to its area of work relating to

- (a) any business which will be or was transacted at a meeting of the Executive or its committees; or
- (b) any decision taken by an individual member of the Executive.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

21.1 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 or its committees and contains material relating to any business previously transacted at a meeting.

21.2 Material relating to key decisions

All members of the Council will be entitled for their work as a councillor to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any key decision.

21.3 Nature of rights

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

