

CHAPTER 3 – 3 - ACCESS TO INFORMATION PROCEDURE RULES

The access to information rules which apply to Council Meetings and Committees of the Council are set out in sections 100A-H and schedule 12A of the Local Government Act 1972.

Slightly different access rules apply to Cabinet as set out in the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012.

These Rules constitute a written summary of the public's and Elected Members' rights to attend formally convened meetings of the Council, Committee and Sub Committees, inspect and copy documents related to those meetings.

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

1.0	Before a meeting of Council, Committee or Sub Committee	
	Access to Agendas and Reports	At least five days before a meeting agendas and reports shall be available for inspection at the Council Offices and on the Council's website.
		If an item is added to the agenda later, the revised agenda will be open to inspection as above from the time the item was added to the agenda.
		Where reports are prepared after the agenda has been published, the reports shall be made available as above to the public as soon as completed.
	Supply of Copies	<p>The Council shall supply copies of the following to any person on payment of a charge for postage and any other charges;</p> <ul style="list-style-type: none"> • Any agenda and reports which are open to public inspection • Any further statements or particulars which help to show the nature of the agenda item • Any other document provided to Members in connection with an item (if the Proper Officer thinks fit).

1.2

Background Papers	<p>All Cabinet reports shall include a list of non exempt or non confidential background papers which;</p> <ul style="list-style-type: none"> • Disclose any facts or matters on which the report or important part of the report are based; and • Which have been relied on to a material extent in preparing the report
<p>Attendance at meetings of Council, Committee or Sub Committee</p>	
Right to Attend Meetings	<p>Members of the public may attend all formally convened meetings subject only to the exceptions contained within these rules.</p> <p><i>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 above.</i></p>
Exclusion of Access by the Public to Meetings	<p>Confidential Information</p> <p>The public may be excluded from meetings where it is likely that the nature of the business or the nature of the proceedings will disclose Confidential Information.</p> <p><i>Definition- Information given to the public by a Government Department on terms which forbid its public disclosure or information which cannot be disclosed by Court Order.</i></p>
	<p>Exempt Information</p> <p>The public may be excluded from meetings where it is likely that the nature of the business or the nature of the proceedings will disclose Exempt Information.</p> <p><i>Definition- Information which falls into the categories shown in the Table below.</i></p> <p>In order to do so the meeting must resolve to exclude the public. The resolution must;</p> <ul style="list-style-type: none"> • Identify the proceedings or part of the proceedings to which the exclusion applies. • State which of the descriptions in Schedule 12A to the Local Government Act 1972 applies (shown in the Table below).

	<ul style="list-style-type: none"> • State and provide reasons why in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
Exempt Rules for Cabinet Meetings	<p>At least 28 days before a private meeting of the Cabinet;</p> <ul style="list-style-type: none"> • Notice of intention to hold the meeting must be made available at the Council's offices and on the Council's website. It must include a statement of the reasons for the meeting being held in private. • At least five clear days before a private meeting, a further notice of the intention to hold a meeting must be made available and published on the Council's website. It must include a statement of the reasons for the meeting being held in private; details of any representations received by the Council about why the meeting should be held in public; and a statement of the response to any such representations.
Disorderly Conduct	The public may be excluded from meetings, where the meeting resolves the need to maintain orderly conduct or to prevent misbehaviour at a meeting. This will be dealt with in accordance with the Meeting General Procedure Rules.
1.3 After a Meeting	
Access to Minutes, etc after the Meeting	<p>The Council will make available for six years after a meeting;</p> <ul style="list-style-type: none"> • The minutes of the meeting or records of decisions taken, together with reasons, • 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; • The agenda for the meeting; and • Reports relating to items when the meeting was open to the public.
Cabinet Decisions	After any meeting of the Cabinet the Proper Officer will produce a record of every decision taken at that meeting within two working days and make it available for inspection by the public. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.
Background Papers	One copy of the documents on the list of background papers shall be available for public inspection for four years after the date of the meeting.

Exclusion of Access to Reports, etc.	<p>The Proper Officer may exclude access by the public to reports which in that officer's opinion relate to items considered when the meeting was not open to the public. Such reports must be;</p> <ul style="list-style-type: none"> • marked "without prejudice" • State the category of information likely to be disclosed and • The reasons why the public interest in maintaining the exemption outweighs the public interest in disclosing the information. <p>Such reports shall be reviewed every 6 months to ensure that they should still be excluded. If they are no longer deemed to be exempt they shall be open to public inspection.</p>
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Exempt information means information falling within the following categories :-

1.4

Category	Condition
1. Information relating to any individual.	<i>Public interest test.</i>
2. Information which is likely to reveal the identity of an individual.	<i>Public interest test.</i>
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p><i>Public interest test.</i> <i>Information is not exempt if it is required to be registered under:</i></p> <ul style="list-style-type: none"> (a) <i>the Companies Act 1985</i> (b) <i>the Friendly Societies Act 1974</i> (c) <i>the Friendly Societies Act 1992</i> (d) <i>the Industrial and Provident Societies Acts 1965-1978</i> (e) <i>the Building Societies Act 1986</i> (f) <i>the Charities Act 1993</i>
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.	<i>Public interest test.</i>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	<i>Public interest test.</i>

<p>6. Information which reveals that the authority proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Public interest test.</p> <p>Public interest test.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Public interest test.</p>

2.0 Key Decisions

2.1 What are Key Decisions

A Key Decision is a Cabinet decision which is likely to result in the Council:

- Incurring expenditure of £50,000 or more, or;
- Making savings or generate income of £50,000 or more, and/or
- Has a significant impact on two or more wards in the Borough and on communities living or working in those areas.

2.2 The Forward Plan of Key Decisions

<p>Period of Forward Plan</p>	<p>Forward plans will be prepared by the Leader to cover a minimum period of one calendar month (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous Forward Plan.</p>
<p>Content of Forward Plan</p>	<p>The Forward Plan will contain matters which the Leader has reason to believe will be Key Decisions to be taken by the Cabinet, Cabinet Members, Officers or under joint arrangements in discharging a Cabinet function during the period covered by the plan.</p> <p>It will describe the following (unless the information is unavailable or cannot reasonably be obtained:</p> <ul style="list-style-type: none"> • Title of Decision • Description of who is taking decision (i.e. Officer, Portfolio Holder, Cabinet) • 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, and where the decision is to be taken in private the reasons for this and the process for making representations in accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Publication of Forward Plan	The Forward Plan shall be available to view at the Council Offices, on the Council's website and a copy can be provided for a fee. It shall also be sent to all Members on a monthly basis.
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2.3 Procedure to be followed in making Key Decisions

Open Key Decision	<p>The following steps must be taken before a Key Decision is made:</p> <ul style="list-style-type: none"> • It has been published in the Forward Plan at least 28 clear days before the decision is to be made • Where the decision is to be taken at a meeting of the Cabinet, proper notice of the meeting has been given.
Exempt Key Decision	<p>The following steps must be taken before a Key Decision is made:</p> <ul style="list-style-type: none"> • It has been published in the Forward Plan at least 28 clear days before the decision is to be made • Where the decision is to be taken at a meeting of the Cabinet, proper notice of the meeting has been given.

2.4 **Exceptions to when the Procedure above has not been followed**

General Exception	<p><i>Definition; the decision must be taken by such a date that it is impracticable to defer the decision</i></p> <p>To make a Key Decision the Proper Officer must;</p> <ul style="list-style-type: none"> • Provide notice in writing to the Chair of Scrutiny Committee, or in his/her absence the Vice Chair or if there is no such person, each member of that Committee of the decision which the decision taker is intending to make. • Make copies of that notice available to the public at the Council Offices and on the Council's website; and • Ensure that at least 5 clear days have elapsed since the above bullet points were complied with.
Special Urgency	<p>If the decision maker cannot comply with the General Exception procedure because the decision must be taken urgently then to make a Key Decision the Proper Officer must;</p> <ul style="list-style-type: none"> • Obtain the agreement of the Chair of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent. (If there is no Chair of the Scrutiny Committee or Vice Chair in his/her absence, or they are unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice).

	<ul style="list-style-type: none"> • As soon as reasonably practicable after agreement has been given the decision maker must make available a notice setting out the reasons for urgency and why the decision cannot be reasonably deferred and publish that notice on the website. • The decision shall be reported to the next Council meeting with an explanation as to why Special Urgency provisions were used.
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3.0 **What is a Cabinet Decision?**

3.1 Most matters are Cabinet functions unless legislation provides otherwise. The functions are identified in Cabinet Functions and Procedure Rules. The non-Cabinet functions are broadly planning, regulatory, licensing, employment, elections and constitutional matters.

3.2 Recording of Cabinet and Key Decisions by Individual Members of the Cabinet or Officers

3.3 Key Decisions and significant Cabinet Decisions made by a Member or Officer under delegated authority will be recorded as soon as reasonably practicable on Record of Decision Form. This shall include:

- details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest declared by any Cabinet member consulted in relation to the decision; and
- a note of dispensation granted in respect of any declared conflict of interest.

3.4 All Records of Decision shall be sent to all Members electronically, a record shall also be available at the Council Offices. This does not require the disclosure of exempt or confidential information.

3.5 Recording shall be in accordance with any guidance issued by the Monitoring Officer.

4.0 **Access to Information for Members**

4.1 All Members of the Council shall have access to all minutes and records of decisions unless they include Exempt or Confidential documents in which case they will have access in accordance with their “need to know” right.

4.2 Members, who are not members of a decision making body, may attend a formally convened meeting of that body and may speak with the Chair’s permission on an item but may not vote on the business at the meeting.

4.3 No Member of the Council shall attend a meeting of the Employment Committee or its Sub Committees if he/she is not a member.

4.4 In the event of any decision making body resolving to exclude the public whilst any Confidential or Exempt business is discussed, any Member of Council who is not a member of the body may remain in the meeting as an observer.

5.0 **Exempt or Confidential Documents (including agenda papers, background documents and minutes)**

5.1 Members are automatically provided with, and entitled to receive, copies of confidential or exempt reports of the decision making body they are a member of.

5.2 In addition, the following shall automatically receive copies of confidential or exempt Cabinet reports:

- Group Leaders
- Local Ward Members for the Ward affected
- Scrutiny Committee Chairman and Vice Chairman

5.3 Any Member of the Council may, upon request, receive a copy of a confidential or exempt report or agenda, or inspect an associated background document, on any matter in accordance with their “need to know” right.

5.4 Any Member wishing to receive or inspect a report or document containing information of the categories referred to above must demonstrate a “need to know”. If there is any dispute about the “need to know” the Monitoring Officer shall make a determination.