

Constitution



Part 4: Rules of Procedure

1. Access to Information Procedure Rules

1.1 Scope

These rules apply to all meetings of the Council, the Cabinet and all other committees.

1.2 Additional Rights to Information

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

1.3 Rights to Attend Meetings

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

To ensure responsibility and accountability for decision-taking is not compromised, where a decision is being taken by an individual cabinet member, access to the meeting is restricted to the decision-taker(s). No other elected member, member of the public or representative of any other organisation shall be present.

As set out in Schedule 1 of the Local Government Act 2000, a Councillor who is not a member of the Executive is entitled to attend and speak at a meeting of the executive or a sub group of the executive held in public or private only when invited to do so.

1.4 Notices of Meeting

The Council will give at least three clear day's notice of any meeting by posting details of the meeting at the Civic Centre and/or on the Council's website. This requirement does not apply to meetings where decisions are to be taken by individual cabinet members or an officer.

Working / clear days do not include the date of issue, the date of the meeting, Saturdays, Sundays, bank holidays or additional holidays following a bank holiday.

1.5 Access to Agenda and Reports before the Meeting

The Council will make copies of the agenda and reports for meetings of the Council; Cabinet; Scrutiny Committees; the Audit Committee; the Democratic Services Committee and regulatory committees available for inspection on the Council's website at least three clear days before the meeting. On request, the papers will also be made available at the designated office.

If an item is added to the agenda, the report will be made available as soon as possible.

1.6 Supply of Copies

Public documents considered by the Council; Cabinet; Scrutiny Committees; the Audit Committee; the Democratic Services Committee and regulatory committees will be available via the Council's website.

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; and
- if the Proper 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.

1.7 Access to Minutes, etc. after the Meeting

The Council will make available electronic or hard copies of the following for six years after a meeting:

- The minutes of the meeting or record of decisions taken by the Cabinet or cabinet member excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
- 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;
- Background papers will be available for inspection for four years following a decision.

1.8 List of Background Papers

The report author 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/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based, and
- 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 1.10.5).

1.9 Exclusion of Access by the Public to Meetings

1.9.1 Public and private meetings of the Cabinet

The Cabinet may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with the law and these Procedure Rules. Should the Cabinet hold informal deliberations in private, with or without officers present, these meetings shall not take decisions.

1.9.2 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. Confidential Information means (though not exclusively) information which is exempt under Part II of the Freedom of Information Act 2000, the Local Government Act 1972 or any other relevant legislation.

1.9.3 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.

1.9.4 Meaning of exempt information

Exempt information means information falling within the following 15 categories (subject to any condition):

Category	Condition
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a Magistrates' Court Committee or Probation Committee	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
6. Information relating to the adoption, care, fostering or education of any particular child	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of Section 31 Children Act 1989
7. Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the advantage would arise as against the authority or as against other such persons.

Category	Condition
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it)
10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services	For the purposes of this paragraph “tender” includes a DLO/DSO written bid
11. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority	Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter “Labour relations matters” are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute
12. Any Instructions to counsel and any opinion of Council (whether or not in connection with any proceedings), and any advice received, information obtained or action to be taken in connection with: (a) any legal proceedings by or against the authority; or (b) the determination of any matter affecting the authority; whether, in either case, proceedings have been commenced or are in contemplation.	
13. Information which, if disclosed to the public, 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	Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made
14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	
15. The identity of a protected informant	A “protected informant” means a person giving the authority information which tends to show that (a) a criminal offence; (b) a breach of statutory duty; (c) a breach of planning control; or (d) a nuisance, has been, or is being, or is about to be committed

Information falling within any of paragraphs 1-15 is not exempt by virtue of that paragraph if it relates to a 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.

1.10 Exclusion of Access by the Public to Reports

If the Monitoring Officer 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".

1.11 The Forward Work Programme

1.11.1 Period of forward work programme

A Forward Work Programme will be prepared by the Chief Executive.

The Work Programme may be added to as the programme progresses and the Council; Cabinet; Scrutiny Committees; the Audit Committee; the Democratic Services Committee and regulatory committees will consider other items not included in the Work Programme.

The Forward Work Programme will contain matters which the Executive, Overview & Scrutiny Committees and full Council are likely to consider.

The work programmes will be available to the public by way of the Council's website and from the designated office.

1.12 Consultation on Proposals to be considered by the Executive

The Cabinet or individual cabinet members acting under the Scheme of Delegation shall carry out proper consultation in relation to the exercise of their executive functions and have regard to the outcome of that consultation when reaching their decision. The record of the decision shall state the consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

The Cabinet and cabinet members shall, as a minimum requirement, have regard to and shall comply with all relevant statutory provisions or guidance governing consultation or other non-statutory guidance adopted by the Council. The Monitoring Officer and Chief Financial Officer must be consulted on all reports requiring a decision. Where staffing implications arise, the Head of HR and Policy must be consulted.

Where a decision affects up to two wards, the individual ward members must be specifically consulted.

The relevant Scrutiny Committee shall be consulted in relation to any item included in the Policy Framework. The Cabinet and cabinet members shall also carry out such other consultation, as they consider appropriate having regard to the nature and effect of the decision.

The cabinet member may also decide to consult all members of the Council prior to a decision if he or she thinks fit. He or she may respond to any written representations in writing or by way of a meeting, as determined by the Cabinet member. Any representations received in this manner will be referred to in the report or schedule of decisions.

Reports to cabinet or Cabinet members shall be prepared on the Council's agreed report template(s) with all sections completed prior to submission for decisions.

1.13 Urgent Decisions

A matter may be considered urgent where a decision is required which does not allow time for consultation as required and/or where time is not allowed for the 'Call-in' process.

A decision can only be treated as urgent if the decision-taker (if an individual) or the chair of the body making the decision reports the reason for urgency to the relevant Scrutiny Committee or the Audit Committee in accordance with Standing Orders and the taking of the decision cannot or could not

reasonably be deferred. The decision record must show that the decision has been taken urgently and has not been subject to consultation. The decision record should also show whether the decision is subject to the 'Call-in' process.

1.14 Record of Decisions of the Cabinet

1.14.1 The decision record

- a) A record will be made of every decision made by the Cabinet and its committees (if any) and individual cabinet members, and of joint committees and joint sub-committees whose members are all members of a local authority Executive. Records of decisions will be available on the Council's website and available for inspection at the Civic Centre.
- b) This decision record will include a statement, for each decision, of:
 - the decision made
 - the date the decision was made
 - the reasons for that decision;
 - any personal interest declared;
 - any dispensation to speak granted by the authority's Standards Committee;
 - the consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

1.14.2 Preparing the decision record

- a) The Democratic Services Manager or his or her representative shall attend any meeting of the Cabinet, any meeting of an individual cabinet member where the individual Cabinet Member intends to take any decisions, a committee of the Cabinet or a joint committee or joint sub-committee where all its members are members of a local authority Executive, and shall as soon as reasonably practicable after the meeting produce a decision record. Normally this will be within two working days of the decision being taken.
- b) Where an individual Cabinet Member makes a decision under delegated powers this shall be exercised in the presence of the Senior Democratic Services Officer or his/her representative. Signed copies of proposed decisions made at such meetings shall be retained and records of decisions shall be circulated and made available on the Council's website as soon as possible after the meeting, generally within two working days. The Decision Schedule shall clearly show the final date for Call-in and the date of implementation. This will allow for the Call-in mechanism under Standing Orders to be instigated. On the date indicated, any proposed decision not the subject of the Call-in procedure shall become operative.
- c) Where the date by which a Cabinet decision made by an individual member must be implemented makes compliance with the above procedure impracticable, the decision may be implemented immediately if the decision-maker reports the reasons to the relevant Scrutiny Committee, that the making of the decision is urgent and cannot reasonably be deferred in accordance with Standing Orders.
- d) A decision shall not be implemented until a decision record has been produced, unless a decision has been taken urgently in compliance with Standing Orders.

1.15 Scrutiny Committee Members' Access to Documents

1.15.1 Rights of access and limitations of access

Any Scrutiny Committee will be entitled to electronic access to any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- any business transacted at a meeting of the Cabinet or its committees or
- any decision taken by an individual member of the Cabinet;

Except where any part of a document contains:

- confidential or exempt information or
- advice provided by a political advisor or assistant;
- Unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of that Committee or sub-committee.

1.16 Additional Rights of Access for Members

1.16.1 Rights of access

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business transacted at a meeting of a decision-making body of that authority or by an individual member of the Cabinet, except where:

- it would disclose confidential or exempt information as described in these rules, or
- it would disclose advice of a political advisor or assistant.

1.16.2 Nature of rights

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