

Access to Information Procedure Rules

1.0 SCOPE

- 1.1 These rules apply to all meetings of the Council, scrutiny committees, area committees (if any), the Standards Committee and regulatory committees and public meetings of the executive (together called meetings).

2.0 ADDITIONAL RIGHTS TO INFORMATION

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

3.0 RIGHTS TO ATTEND MEETINGS

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

4.0 NOTICES OF MEETING

- 4.1 The Council will give at least five working days notice of any meeting by posting details of the meeting at Wallfields, Pegs Lane, Hertford, Hertfordshire SG13 8EQ, the designated office.

5.0 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and 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 from the time the item was added to the agenda.

6.0 **SUPPLY OF COPIES**

6.1 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.

7.0 **ACCESS TO MINUTES ETC AFTER THE MEETING**

7.1 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.

8.0 BACKGROUND PAPERS

8.1 List of background papers

The Director of Internal Services 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:

- (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 a copy of each of the documents on the list of background papers.

9.0 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 Wallfields, Pegs Lane, Hertford, Hertfordshire SG13 8EQ.

10.0 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 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 Article 6.

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

Descriptions of Exempt Information

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.

8. Qualifications

Information is not exempt information 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.

11. Interpretation

In Parts 1 and 2 and this Part of this Schedule:

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"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 acts 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;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

11.0 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 If the Director of Finance and Support Services 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.

12.0 APPLICATION OF RULES TO THE EXECUTIVE

- 12.1 Rules 13 – 28 apply to the Executive, its committees and Portfolio Holders.

13.0 PROCEDURES PRIOR TO PRIVATE MEETINGS

- 13.1 At least 28 clear days before a private meeting, the Executive will make available at its offices a notice of its intention to hold the meeting in private and publish that notice on the Council’s website.

The notice will include a statement of the reasons for the meeting to be held in private.

At least five clear days before a private meeting, the Executive will make available at its offices a further notice of its intention to hold the meeting in private and publish that notice on the Council’s website.

The notice will include-

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received by the Executive about why the meeting should be open to the public; and
- (c) a statement of its responses to any such representations.

- 13.2 Where the date by which a meeting must be held makes compliance with paragraph 13.1 impracticable. The meeting may

only be held in private where the Executive has obtained agreement from-

- (a) the Chairman of the relevant Overview and Scrutiny Committee; or
- (b) if the Chairman of the relevant Overview and Scrutiny Committee is unable to act, the Chairman of the Council
- (c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or of the Council, the Vice-Chairman of the Council, that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Executive has obtained agreement under paragraph 13.2 to hold a private meeting, it must-

- (a) make available at the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

14.0 PROCEDURES PRIOR TO PUBLIC MEETINGS

The Council will give notice of the time and place of a public meeting by displaying it at the Council's offices and publishing it on the Council's website,

- (a) at least five clear days before the meeting; or
- (b) where the meeting is convened at short notice, at the time that the meeting is convened.

An item of business may only be considered at a public meeting-

- (a) where a copy of the agenda or part of the agenda including the item has been available for inspection by the public for at least five clear days before the meeting; or
- (b) 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 time that the meeting was convened.

15.0 ACCESS TO AGENDA AND CONNECTED REPORT FOR PUBLIC MEETINGS

A copy of the agenda and every report for a meeting will be made available for inspection by the public at the Council's offices and on the Council's website.

If the Director of Finance and Support Services thinks fit, there may be excluded from the copy of any report the whole, or any part, of the report which relates only to matters during which, in the opinion of the Director of Finance and Support Services, the meeting is likely to be a private meeting,

Any document which is required to be available for inspection by the public must be available from such inspection for at least five clear days before the meeting except that-

- (a) where the meeting is convened at short notice, a copy of the agenda and associated reports must be available for inspection when the meeting is convened; and
- (b) where an item which would be available for inspection by the public is added to the agenda, copies of the revised agenda and any report relating to the item for consideration at the meeting, must be available for inspection by the public when the item is added to the agenda.

A copy of the agenda item or report will not be available for inspection by the public until a copy is available to Members of the Council.

Where the whole or of the part of a report for a public meeting is not available for inspection by the public-

- (a) every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication" and

- (b) there must be stated on every copy of the whole or part of the report-
 - i. that it contains confidential information ;or
 - ii. the description of exempt information by virtue of which the Executive are likely to exclude the public during the item to which the report relates.

Except during any part of a meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

Unless they contain confidential or exempt information, 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 will supply to that person or newspaper-

- (a) a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting;
- (b) such further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and
- (c) if the Director of Finance and Support Services thinks fit in the case of any item, a copy of any other document supplied to members of the Executive in connection with the item.

16.0 **PUBLICITY IN CONNECTION WITH KEY DECISIONS**

Where a decision maker intends to make a key decision, the Council will publish, a document which states-

- (a) that a key decision is to be made on behalf of the Council
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is the Portfolio Holder, the Portfolio Holder's name, and title if any and where the

- decision maker is the Executive, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
 - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
 - (f) the address from, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed is available;
 - (g) that other documents relevant to those matters may be submitted to the decision maker; and
 - (h) the procedure for requesting details of those documents (if any) as they become available.

At least 28 clear days before a key decision is made, the document must be made available for inspection by the public at the Council's offices and on the Council's website

Where, in relation to any matter-

- (a) the public may be excluded from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not, be disclosed to the public,

The document will contain particulars of the matter but may not contain any confidential or exempt information.

17.0 **GENERAL EXCEPTION**

Where the publication of the intention to make a key decision is impracticable, that decision may only be made-

- (a) where the Director of Finance and Support Services has informed the Chairman of the relevant Overview and Scrutiny Committee or, if there is no such person, each member of the relevant Overview and Scrutiny Committee

by notice in writing, of the matter about which the decision is to be made;

- (b) where the Director of Finance and Support Services has made available at the Council's offices for inspection by the public and published on the Council's website, a copy of the notice; and
- (c) after five clear days have elapsed following the day on which the Director of Finance and Support Services made available the notice.

As soon as reasonably practicable after the Director of Finance and Support Services has issued the notice, the Director will-

- (a) make available at the Council's offices a notice setting out the reasons why compliance with the publicity is impracticable.
- (b) publish that notice on the Council's website.

18.0 CASES OF SPECIAL URGENCY

Where the date by which a key decision must be made, makes compliance with publication of the notice impracticable, the decision may only be made where the decision maker has obtained agreement from-

- (a) the Chairman of the relevant Overview and Scrutiny Committee; or
- (b) or if the Chairman of the relevant Overview and Scrutiny Committee is unable to act, the Chairman of the Council
- (c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or of the Council, the Vice Chairman of the Council.

that the making of the decision is urgent and cannot reasonably be deferred,

As soon as reasonably practicable after the decision maker has obtained agreement of the relevant Chairman that the making of

the decision is urgent and cannot reasonably be deferred, the decision maker must-

- (a) make available at the Council's offices a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

19.0 RECORDING OF EXECUTIVE DECISIONS MADE AT MEETINGS

- (1) As soon as reasonably practicable after any meeting of the Executive or its Committee at which an executive decision was made, the Director of Finance and Support Services, or if the Director was not present at the meeting, the person presiding, must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph (2).
- (2) The statement referred to in paragraph (1) must include-
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the Executive at the meeting which the decision was made;
 - (d) a record of any conflict of interest relating to the matter decided which is declared by any Member of which the decision was made;
 - (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

20.0 RECORDING OF EXECUTIVE DECISIONS MADE BY PORTFOLIO HOLDERS

- (1) As soon as reasonably practicable after a Portfolio Holder has made an Executive decision, the Portfolio Holder will produce or instruct the Director of Finance and Support Services to produce a written statement of that Executive decision which included the information specified in paragraph (2).
- (2) The Statement referred to in paragraph (1) must include-
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the Portfolio Holder when making the decision;
 - (d) a record of any conflict of interest declared by any Executive Member who is consulted by the Portfolio Holder which related to the decision; and
 - (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.
- (3) As soon as reasonably practicable after an officer has made a decision which is an Executive decision, the officer will produce a written statement which must include-
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the officer when making the decision;
 - (d) a record of any conflict of interest declared by any Executive Member who is consulted by the officer which relates to the decision; and

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

21.0 INSPECTION OF DOCUMENT FOLLOWING EXECUTIVE DECISIONS

Unless they contain confidential or exempt information, after a meeting of the Executive or its Committee at which an executive decision has been made, or after a Portfolio Holder or an officer has made an Executive decision the Director of Finance and Support Services must ensure that a copy of –

- (a) any record of the decision; and
- (b) any report considered at the meeting or, considered by the Portfolio Holder or officer and relevant to a decision record or, where only part of the report is relevant to such a decision, that part,

must be available for inspection by members of the public as soon as is reasonably practicable, at the Council's offices, and on the Council's website,

Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection, those documents will be supplied for the benefit of the newspaper by the Council on payment by the newspaper of postage, copying or other necessary charge for transmission.

22.0 INSPECTION OF BACKGROUND PAPERS

When a copy of the whole or part of a report for a meeting is made available for inspection by members of the public, at the same time-

- (a) a copy of a list of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and
- (b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the Council's offices and on the Council's website.

23.0 **ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF LOCAL AUTHORITIES**

(1) Subject to paragraphs (5) to (6), any document which-

- (a) is in possession or under the control of the Executive; and
- (b) contains material relating to any business to be transacted at a public meeting,

will be available for inspection by any Member of the Council

(2) Any document which is required by paragraph (1) to be available for inspection by any Member of the Council must be available for such inspection for at least five clear days before the meeting except that-

- (a) where the meeting is convened at shorter notice, such as a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph (1) in relation to that item, must be available for inspection when the item is added to the agenda.

(3) Subject to paragraphs (5) to (6), any document which-

- (a) is in the possession or under the control of the Executive; and
- (b) contains material relating to-
 - i. any business transacted at a private meeting;
 - ii. any decision made by a Portfolio Holder
 - 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 a Portfolio Holder or an office immediately after the decision has been made.

- (4) Any documents which is required by paragraph (3) to be available for inspection by any Member 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.
- (5) Paragraphs (1) and (3) do not require a document to be available for inspection if it appears to the Director of Finance and Support Services that it discloses exempt information.
- (6) Notwithstanding paragraph (5), paragraphs (1) and (3) do require the document to be available for inspection if the information is -
 - (a) Information relating to the financial or business affairs of any particular person (including the authority holding that information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract); or
 - (b) 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) These right's are in addition to any other rights that a Member may have,

24.0 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES

- (1) Subject to paragraph (3) a Member of an Overview and Scrutiny Committee is entitled to a copy of any document which-
 - (a) is in the possession or under the control of the Executive ; and
 - (b) contains material relating to-
 - i. any business that has been transacted at a meeting of the Executive or its Committee;
 - ii. any decision that has been made by a Portfolio Holder in accordance with executive arrangements; or
 - iii. any decision that has been made by an officer in accordance with executive arrangements.
- (2) Subject to paragraph (3), where a Member of an Overview and Scrutiny Committee requests a document which falls within paragraph (10), the Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.
- (3) No Member of an Overview and Scrutiny Committee is entitled to a copy-
 - (a) 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 a 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 Executive determines that a member of an Overview and 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 Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

25.0 REPORTS TO THE LOCAL AUTHORITY WHERE THE KEY DECISION PROCEDURE IS NOT FOLLOWED

- (1) Where an Executive decision has been made and-
 - (a) was not treated as being a key decision; and
 - (b) a relevant Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision,

that Overview and 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-
 - (a) the decision and the reasons for the decision;
 - (b) the decision maker by which the decision was made; and
 - (c) if the Executive are of the opinion that the decision was not a key decision, the reasons for that opinion

26.0 EXECUTIVE REPORTS TO THE LOCAL AUTHORITY

- (1) The Leader shall submit to the Council a report containing details of each executive decision taken during the period since the last report was submitted to the Council where the making of the decision was agreed as urgent.

A report submitted for the purposes of paragraph (1) must include-

- (a) particulars of each decision made; and

- (b) a summary of the matters in respect of which each decision was made.
- (3) The Leader shall submit a least one report under paragraph (1) annually to the Council.

27.0 INSPECTION AND SUPPLY OF DOCUMENTS

- (1) Any document relating to decisions of the Executive or its Committees or a Portfolio Holder required to be open to inspection by members of the public will be available for inspection-
 - (a) at all reasonable hours at the Council's offices
 - (b) on the Council's website
 - (c) in the case of background papers on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of the Council.

28.0 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

- (a) All Members of the executive will be served notice of all private meetings of committees of the executive, whether or not they are Members of that committee.
- (b) All Members of the executive are entitled to attend a private meeting of any committee of the executive.
- (c) The head of the paid service, the chief financial officer and the monitoring officer, and their nominees are entitled to attend any meeting of the executive and its committees. The executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- (d) 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

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.