

# **Section 12 - Access to Information Procedure Rules**

## **12.1 Scope**

These rules apply to all meetings of the Council, Scrutiny and other Committee, Regulatory Committees, Joint Committees, Sub-Committees, panels and public meetings of the Executive (together called 'meetings' within this part of the Constitution).

## **12.2 Additional rights to information**

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

## **12.3 Rights to attend meetings**

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

12.3.2 Any person is permitted to film or record any meeting of Council, a Committee, Sub-Committee or the Executive, save where the public have been excluded for the consideration of exempt or confidential business. The rules, as prescribed by legislation, will allow for the reporting of meetings via social media of any kind. The council will provide reasonable facilities to facilitate reporting.

12.3.3 Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include, but are not limited to:

- (a) moving outside the area designated for the public;
- (b) making excessive noise;
- (c) intrusive lighting/flash; or
- (d) asking a Member to repeat a statement.

In addition, members of the public or the public gallery should not be filmed as this could infringe an individual's right to privacy, if their prior permission has not been obtained. Any person considered to be disruptive in filming or recording the public will be requested to cease doing so by the Chairman of the Committee and may be asked to leave the meeting.

## **12.4 Notices of meeting**

- 12.4.1 The council will give at least five Clear Days' notice of any meeting except where an urgent meeting is convened by posting details of the meeting at Wallfields, Pegs Lane, Hertford, Hertfordshire SG13 8EQ, the designated office and on the council's website.

## **12.5 Access to agenda and reports before the meeting**

- 12.5.1 The council will make available for public inspection the agenda and reports on its website and at the council offices at least five Clear Days before the meeting. If an item is added to the agenda after publication, the supplementary agenda will be open to inspection from the time the item was added to the agenda and the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Members.

## **12.6 Supply of copies**

12.6.1 Agendas, reports and Background papers are available to view on the council's website. The council will, on request, and may for such reasonable charge as is from time to time agreed, supply hard copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any Background papers listed within the reports; and
- (c) copies of any other documents supplied to Members in connection with an item to any person, on payment of a charge for postage and any other costs, if the Monitoring Officer thinks fit.

## **12.7 Access to documents after the meeting**

12.7.1 In addition to publishing information on the council's website as soon as reasonably practicable the council will make available upon request, hard copies, for a reasonable charge, of the following for six years after a meeting:

- (a) the minutes of the meeting, reports and records of decisions taken, together with reasons, for all meetings which were opened to the public. However where the meetings discuss exempt or Confidential Information, the minutes open to the public will only include a record of the proceedings and the decision.
- (b) records of Executive decisions taken by individual Executive Members or Officers including the reasons

for the decision and any alternative options considered and rejected.

(c) the agenda for the meeting.

## **12.8 Background papers**

### 12.8.1 List of Background papers

The author of the report will set out in every report a list of those documents (called Background papers) relating to the subject matter of the report which in the report author's 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 do not include published works or those which disclose exempt or Confidential Information (as defined in Paragraph 10 of this part of the Constitution).

12.8.2 The council will make available for public inspection for six years after the date of the meeting, one copy of each of the documents on the list of Background papers.

12.8.3 Arrangements for inspection should be made through Democratic Services at the designated office and on the council's website. In the case of reports to the Executive, the Background papers will be published on the council's website, subject to paragraph 12.10 in this part of the Constitution. The council may make a reasonable charge for access to Background papers to be inspected at the council's offices.

## **12.9 Exclusion of access by the public to meetings**

### 12.9.1 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.

### 12.9.2 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.

### 12.9.3 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 which falls into one of the seven definitions of information that is exempt from disclosure to the public and press which is at paragraph 12.9.4 below.

### 12.9.4 Meaning of exempt information

Exempt information means any information falling within the following seven categories (subject to any condition) as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended):

<u>Category</u>	<u>Condition</u>
1. Information relating to any individual.	

<p>2. Information which is likely to reveal the identity of an individual.</p>	
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>Information is not exempt information if it is required to be registered under:</p> <p>(a) The Companies Act 2006;</p> <p>(b) The Friendly Societies Act 1974;</p> <p>(c) The Friendly Societies Act 1992;</p> <p>(d) The Industrial and Provident Societies Acts 1965 to 1978;</p> <p>(e) The Building Societies Act 1986; or</p> <p>(f) The Charities Act 1993.</p> <p>“Financial and business affairs” includes contemplated, as well as past or current activities.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour</p>	<p>Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1)(a)</p>

<p>relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</p>	<p>to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992. These matters also apply to office holders as to employees.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<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>7. Information relating to any action or any action proposed to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

Notes: (a) Information falling within any of categories 1-7 is not exempt by virtue of that category if 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.

(b) Information which:- (a) falls within any of categories 1 to 7 above; and (c) is not prevented from being exempt by virtue of the condition 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.

(d) Where the meeting will determine any person's civil rights or obligations, 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 that Article.

## **12.10 Exclusion of access by the public to reports**

12.10.1 If the Monitoring Officer thinks fit, the council may exclude access by the public to reports. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12.11 Application of paragraphs to the Executive**

12.11.1 Paragraphs 12.12 – 12.23 of this part of the Constitution apply to the Executive, its Committees and Executive Members.

## **12.12 Procedures prior to private meetings**

12.12.1 At least 28 Clear Days before a private meeting of the Executive:

- (a) notice of intention to hold the meeting must be made available at the council's offices; and
- (b) that notice must be published on the council's website.

The council's Forward Plan will be used to publish notices under this rule.



12.12.2 The notice under paragraph 12.12.1 must include:

- (a) a statement of the reasons for the meeting being 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.

12.12.3 Where the date by which a meeting must be held makes compliance with paragraph 12.12.1 impracticable, the Chief Executive must obtain agreement from:

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

12.12.4 As soon as reasonably practicable after the Chief Executive has obtained agreement under paragraph 12.12.3 to hold a private meeting, they 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

## **12.13 Attendance at private meetings of the Executive**

- 12.13.1 All Members of the Executive will be served notice of, and are entitled to attend, all private meetings of the Executive. The Chief Executive, Deputy Chief Executive, the Chief Financial Officer and the Monitoring Officer (or their deputies) can attend.
- 12.13.2 The provisions of paragraph 12.3.2 in this part of the Constitution will not apply.

## **12.14 Rights of non-executive Members**

- 12.14.1 All Members may request to attend a private meeting of the Executive and attendance will be at the Leader's discretion.
- 12.14.2 Any request for documentation will be provided as soon as reasonably practicable, but no later than 10 Clear Days after the request is made, subject to paragraph 12.14.3.
- 12.14.3 If the Leader of the Council determines that material will not be provided, they must provide the Member with a written statement, setting out its reasons for that decision.

## **12.15 Procedures prior to public meetings**

- 12.15.1 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.

12.15.2 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 the time that the meeting was convened;
- (c) where an item which would be available for inspection by the public is added to the agenda, copies of the supplementary 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.

## **12.16 Access to agenda and reports for public meetings**

12.16.1 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.

12.16.2 If the Monitoring Officer thinks fit, there may be excluded from the copy of any report the whole, or any part which relates only to matters during which, in the opinion of the Monitoring Officer the meeting is likely to be a private meeting.

12.16.3 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 is likely to exclude the public during the item to which the report relates.

12.16.4 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 copy of the agenda and of the reports for the meeting on its website.

12.16.5 Unless they contain confidential or exempt information, following a request made by a member of the public or on behalf of the media 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 Monitoring Officer 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.

## **12.17 Publicity in connection with Key Decisions: the Forward Plan**

12.17.1 Where a decision maker intends to make a Key Decision, the council will publish a document, known as the Forward Plan 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 an individual Executive Member or Officer, that individual's name and title/portfolio as appropriate, or if the decision maker is the Executive, a list of Executive 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 are 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.

12.17.2 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.

12.17.3 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 many not contain any confidential or exempt information.

## **12.18 General exception and special urgency**

12.18.1 If it is not possible to meet the requirements to give notice of a Key Decision laid out in paragraph 12.17.2 above, the making of the Key Decision can proceed so long as:

- (a) the Monitoring Officer has sought and received in writing the agreement of the Chairman of the Overview and Scrutiny Committee or, in their absence, the Vice Chairman of the Overview and

Scrutiny Committee, to the general exception to the notice requirements; and

- (b) the Monitoring Officer has made available at the council's offices for inspection by the public and has published on the council's website, a copy of the notice of the decision, including the reasons why compliance with the publicity requirement is impracticable; and
- (c) five working days have elapsed following the day on which the Monitoring Officer made available the notice.

12.18.2 Where there is special urgency, the requirement in paragraph 12.18.1(c) above to give five working days' notice of the Key Decision may be withdrawn so long as requirements (a) and (b) in paragraph 12.18.1 above are met. In such cases, the notice of the Key Decision must include the reasons for the special urgency.

## **12.19 Recording of Executive decisions made at meetings**

12.19.1 As soon as reasonably practicable after any meeting of the Executive or its Committees at which an executive decision was made, the Monitoring Officer, must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph

12.19.2 The statement referred to in paragraph 12.19.1 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.

**12.20 Recording of executive decisions made by Executive Members and Key Decisions made by Officers acting under delegated authority**

12.20.1 As soon as reasonably practicable after an Executive Member has made an executive decision or an Officer has made a Key Decision, the Monitoring Officer will produce a written statement of that executive decision which should include the information specified in paragraph 12.20.2.

12.20.2 The statement referred to in paragraph 12.20.1 must include:

- (a) that a Key Decision has been made and details of the matter excluding any confidential or exempt information;
- (b) the date it was made;
- (c) the reasons for the decision;



- (d) details of any alternative options considered and rejected by the decision maker when making the decision;
- (e) a record of any conflict of interest declared by any Executive Member who was consulted in relation to the decision; and
- (f) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

## **21.0 Recording of other decisions by Officers**

12.21.1 Officer decisions of a significant nature, though not executive decisions made under delegated authority nor meeting the criteria for a Key Decision, should be recorded in writing as soon as reasonably practicable after the decision has been made. Such decisions are likely to be significant within the meaning of this rule where they:

- (a) grant a permission or licence; or
- (b) affect an individual's rights; or
- (c) award a contract; or
- (d) incur expenditure at a level which does not render it a Key Decision but would reasonably be expected to materially affect the council's finances; or
- (e) may be reasonably expected to have an impact on the council's reputation.

12.21.2 The written record must contain the following information:

- (a) the date the decision was made;
- (b) a record of the decision taken along with the reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where relevant, any conflicts of interest declared.

## **12.22 Inspection of documents following executive decisions**

12.22.1 Unless they contain confidential or exempt information, after a meeting of the Executive or its Committees at which an executive decision has been made, or after an Executive Member or an Officer has made an executive decision the Monitoring Officer must ensure that a copy of:

- (a) any record of the decision; and
- (b) any report considered at the meeting or, considered by the Executive Member 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.

## **12.23 Additional rights of access to documents for Members of local authorities**

- 12.23.1 Subject to paragraphs 12.23.5, 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.

- 12.23.2 Any document which is required by paragraph 12.23.3 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 12.23.1 in relation to that item, must be available for inspection when the item is added to the agenda.

- 12.23.3 Subject to paragraphs 12.23.5 to 12.23.6, 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 an Executive Member;
- (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 an Executive Member or an Officer immediately after the decision has been made.

12.23.4 Any documents which are required by paragraph 12.23.3 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.

12.23.5 Paragraphs 12.23.1 and 12.23.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information.

12.23.6 Notwithstanding paragraph 12.23.5, paragraphs 12.23.1 and 12.23.3 do require the document to be available for inspection if the information:

- (a) relates 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) reveals that the authority proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed

on a person; or

- (ii) to make an order or direction under any enactment.

12.23.7 These rights are in addition to any other rights that a Member may have.

## **12.24 Document retention schedule**

12.24.1 The council's document retention schedule can be found on the council's website.