

ACCESS TO INFORMATION PROCEDURE RULES

1 Scope

- 1.1 These Rules apply to all meetings of the full Council, overview and scrutiny committees and their sub committees, area committees, Audit Committee, regulatory committees and their sub committees and public meetings of the Cabinet its committees and Joint Committees (together called meetings).
- 1.2 These Rules also apply to the Standards Committee and its sub-committees subject to any procedural differences contained in statute or adopted by the Committee in respect of considering and determining individual cases. In particular the Assessment and Review Sub-Committees have their own procedures outside the scope of these Rules.

2 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.
- 2.2 Information is given in this part of the Constitution on access to agendas, reports and minutes (and, in the case of executive decisions, records of decisions taken) and the relevant background documents on Council files.
- 2.3 The Council also regularly updates its Publication Scheme under the Freedom of Information Act. This is available on the website, at the Council offices, or on request to the Corporate Director (Governance). This gives further details as to information which is available to the public.

3 Rights to Attend and Record Meetings

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 The audio and/or visual recording of meetings by members of the public is prohibited, unless the meeting concerned has specifically authorised that an exception be made. Such exceptions will normally only be considered for members of the press, rather than individuals or interest groups.

4 Notices of Meetings

- 4.1 The Council will give at least five clear working days notice of any meeting by posting details of the meeting at the City Offices, Colebrook Street, Winchester.

5 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 at the designated office at least five clear working 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 Corporate Director (Governance) 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 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
- c) if the Corporate Director (Governance) 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

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 decision taken, together with the reasons, for all meetings of the Cabinet) excluding any part of the minutes or proceedings when the meeting is 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.
- d) Reports relating to items when the meeting was opened to the public.
- e) The Corporate Director (Governance) will determine any requests from the public for exempt reports/minutes after the meeting has taken place by applying the following statutory test:

“To consider whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

8. Background Papers

8.1 Each officer will set out in every report he/she prepares 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.

b) which has been relied on to a material extent in preparing the report but does not include published work or those which disclose exempt or confidential information (as defined in Procedure Rule 10) and in respect of executive reports, the advice of a political advisor.

8.2 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

9.1 This 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 the City Offices, Colebrook Street, Winchester.

10. Exclusion of Access by the Public to Meetings

10.1 Confidential information – requirements 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 will 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 may 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

Exempt information means information falling within the following seven categories in relation to the business of Council, its Committees and Cabinet. Specific categories (7A to 7C below) relate to the work of the Standards Committee. All categories are subject to important qualifications in paragraphs 8-10 below.

The categories of exempt information are as follows:

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.

QUALIFICATIONS:

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.

Standards Committee – Additional Categories of Exempt Information

The following categories of exempt information (as outlined in Paragraphs 7A, 7B and 7C below) relate only to the Standards Committee or its sub-committees.

4) Where a meeting of a standards committee, or a sub-committee of a standards committee, is convened to consider a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000, the provisions of Parts 1 to 3 of Schedule 12A to the 1972 Act shall apply as if, after paragraph 7 of that Schedule, the following descriptions of exempt information were inserted:-

- 7A. 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.

11. Exclusion of Access by the Public to Reports

- 11.1 If the Corporate Director (Governance) thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Procedure 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 Procedure Rules to the Cabinet

- 12.1 Procedure Rules 13-24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Procedure Rules 1-11 unless Procedure Rule 15 (General Exception) or Procedure Rule 16 (Special Urgency) apply. A key decision is as defined in Article 13 of the Constitution and for ease of reference is repeated below:-

A key decision is an executive decision which is likely

- to result in the Council incurring expenditure or making savings amounting to more than £100,000 of the budget for the service;
- to be significant in terms of its effect on communities living or working in an area comprising two or more wards within the District.

A decision taker may only make a key decision in accordance with the requirements of the Cabinet and Executive Procedure Rules set out in Part 4 of this Constitution.

- 12.2 If the Cabinet 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 Procedure Rules 1 – 11 unless Procedure Rule 15 (General Exception) or Procedure Rule 16 (Special Urgency) apply. A key decision is as defined in paragraph 12.1 above and in Article 13 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.
- 12.3 If the Cabinet decides to hold meetings in public, other than in circumstances when it is required by law to do so (in relation to key decisions), then Procedure Rules 1 – 11 shall apply.

13 Procedure Before Taking Key Decisions

Subject to Procedure Rule 15 (General Exception) and Procedure 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 working days have elapsed since the publication of the Forward Plan
- c) where the decision is to be taken at the meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Procedure Rule 4 (Notice of Meetings).

14 The Forward Plan

14.1 Period of Forward Plan.

Forward Plans will be prepared by the Leader over a period of four months, beginning with the first day of the 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 Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a Cabinet committee, individual members of the Cabinet, officers, area committees, or under joint arrangements (if any) in the cause of the discharge of an executive function in the period covered by the Plan. It would describe the following particulars insofar 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 taker is an individual, his/her name and title, if any and where the decision taker is a body, name and details of membership.
- c) the date on which, or the period in 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 representation to the Cabinet 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.
- g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- h) the Forward Plan must be published at least fourteen days before the start of the period covered. The Corporate Director (Governance) will publish once a year a notice in at least one newspaper circulating in the area, stating:
 - 1) that key decisions are to be taken on behalf of the Council.
 - 2) that the Forward Plan contains particulars of the matter on which decisions are to be taken will be prepared on a monthly basis.
 - 3) that the Plan will contain details of the key decisions to be made for the four month period following its publication.
 - 4) that each Plan will be available for inspection at reasonable hours free of charge at the City Council's offices.
 - 5) that each Plan will contain a list of the documents submitted to the decision taker for consideration in relation to the key decisions on the plan.
 - 6) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed on the Forward Plan is available.
 - 7) that other documents may be submitted to decision takers.
 - 8) the procedure for requesting details of documents (if any) as they become available.
 - 9) the dates on each month and the following year on which each Forward Plan will be published and available to the public at the City Council's offices.

10) exempt information need not be included in the Forward Plan and confidential information cannot be included.

15. General Exception

- 15.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Procedure Rule 16 (Special Urgency), the decision may still be taken if:
- a) the decision must be taken by such a date that it is impractical to defer the decision until it has been included in the next Forward Plan until the start of the first month to which the next Forward Plan relates.
 - b) the Corporate Director (Governance) has informed the chairman of the relevant overview and scrutiny committee, or if there is no such person, each member of the relevant committee in writing, by notice, of the matter to which the decision is to be made.
 - c) the Corporate Director (Governance) has made copies of that notice available to the public at the offices of the City Council.
 - d) at least five clear working days have elapsed since the Corporate Director (Governance) complied with (a) and (b) above.

Where such a decision is taken collectively, it must be taken in public.

16. Special Urgency

- 16.1 If by virtue of the date by which a decision must be taken Procedure 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 the relevant overview and scrutiny committee that the taking of a decision cannot be reasonably deferred. If there is no chairman of a relevant overview and scrutiny committee, or if the chairman of the relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

17. Reports to Council

- 17.1 If an overview and scrutiny committee thinks that a key decision has been taken which is not
- a) included in the Forward Plan.
 - b) the subject of the general exception procedure.
 - c) the subject of an agreement with a relevant overview and scrutiny committee chairman or the Mayor/Deputy Mayor of the Council under Procedure Rule 16.

the committee may require the Cabinet 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 Corporate Director (Governance), who shall require such a report on behalf of the committee when so requested by the chairman or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 Cabinets Reports to Council

The Cabinet will prepare reports 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 of the Council is of the opinion that it was not a key decision, the reasons for that opinion.

17.3 Annual Reports on General Exception and Special Urgency Decisions - Monitoring of the Forward Plan.

In any event the Leader of the Council will submit annual reports to The Overview and Scrutiny Committee on the executive decisions taken in the circumstances set out in Procedure Rule 15 (General Exceptions) and Procedure Rule 16 (Special Urgency) in the year. The report will include the number of decisions so taken, reasons for departure from the Forward Plan and the summary of the matters in respect of which those decisions were taken.

18. Record of Decisions

- 18.1 After any meeting of the Cabinet or any of its committees, whether held in public or private, the Corporate Director (Governance) or, where there was no officer 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. Cabinet Meetings Relating to Matters which are not Key Decisions

- 19.1 The Cabinet will decide whether meetings considering matters which are not key decisions will be held in public or private.

20. Notice of Private Meeting of the Cabinet

- 20.1 Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. Both the notice and the papers for the meeting will also be served on all members of the Council.

21. Attendance at Private Meetings of the Cabinet

- 21.1 All members of the Cabinet will be served notice of all private meetings of committees of the Cabinet, whether or not they are members of that committee.
- 21.2 All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet. All those in attendance may speak but only members of the committee may vote.
- 21.3 Notice of private meetings of the Cabinet and its committees will also be served on the chairmen of all overview and scrutiny committees and sub-committees, at the same time as notice is served on members of the Cabinet. Where a policy review or scrutiny committee does not have a chairman, the notice will be served on all members of that committee.
- 21.4 Where a matter under consideration in a private meeting of the Cabinet, or a committee of it, is within the remit of overview and scrutiny committee/sub-committee, the chairman of that committee or in his/her absence the vice-chairman may attend that private meeting of Cabinet and, with the consent of the person presiding, speak. Any other member of the Council may also attend and, with the consent of the person presiding, speak.
- 21.5 The Head of the Paid Service, the Head of Finance and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Corporate Director (Governance) has been given reasonable notice that a meeting is to take place.
- 21.6 A private Cabinet meeting may only take place in the presence of the Corporate Director (Governance) or his nominee with responsibility for recording and publicising the decisions.
- 21.7 In all of the above, the provisions of Procedure Rule 18 (Recording and Publicising Decisions), will apply.

22. Decisions by Individual Members of Cabinet

22.1 Reports intended to be taken into account

Where an individual member of the Cabinet proposes to make an executive decision, then he/she will not make the decision until at least five clear days after publication of a draft decision notice, including any recommendation as to action to be taken. Publication of draft decision notices is not required in respect of decisions by the Leader to make appointments or to amend the Scheme of Delegation in Part 3 of the Constitution.

Before any draft decision notice is referred to the decision maker by the Corporate Director (Governance), the Chief Executive and Head of Finance will be entitled to be consulted.

22.2 Provision of Copies of Draft Decision Notices to Overview and Scrutiny Committees and Other Members of the Council

On publication of a draft decision notice the Corporate Director (Governance) will provide a copy to the Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. All Members of the Council will also be notified by the Corporate Director (Governance). If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

However, the requirement for a draft decision notice will not apply to appointments by the Leader. Nor does it apply to changes to the Scheme of Delegation to Cabinet, Cabinet Committees, individual portfolio holders or officers. The record of the decision referred to in Rule 22.3 below still applies in these instances.

22.3 Record of the 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/she will prepare, or instruct the Corporate Director (Governance) to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. In addition, a summary of decisions taken by Members will be included in the Democratic Services Update.

The provisions of Procedure 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.

23. Overview and Scrutiny Committees – Access to Documents

23.1 Rights to Copies

Subject to Procedure Rule 23.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- a) Any business transacted in a public or private meeting of the Cabinet or its committees
- b) Any decision taken by an individual member of the Cabinet.

23.2 Limit on Rights

An overview and scrutiny committee will not be entitled to

- a) any document that is in draft form.

- b) any part of the document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.
- c) the advice of a political adviser.

24. Additional Rights of Access to Members

24.1 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 Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies:

- a) it contains exempt information falling within paragraphs 1-6, 9, 11, 12 and 14 1-3 of the categories of exempt information. However, in relation to paragraph 3 this can remain exempt if the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.”
- b) It contains the advice of a political advisor.

24.2 Material Relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relate to any key decision under paragraph (a) or (b) apply.

24.3 Nature of Rights

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