

ARTICLE 18 - ACCESS TO INFORMATION (NEW)

1. SCOPE

- 1.1 ~~These rules apply~~ **This Article applies** to all meetings of the Council, the Overview and Scrutiny Committee, all committees, ~~the Standards Committee and regulatory committees and other public meetings of the executive (together called meetings).~~ Rules **Access to information provisions** specific to the Executive **Cabinet** are set out in Section 12 of this Article.

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.

3. RIGHT TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these rules **set out in this Article**.

- 3.2 **Any meeting of a decision-making body will be held in public and the public may only be excluded in the following circumstances:**

- (a) **if any part of the meeting is likely to disclose confidential or exempt business; or**
- (b) **a lawful power of exclusion is used to maintain orderly conduct or prevent misbehaviour.**

- 3.3 **A person attending the meeting for the purpose of reporting the proceedings will be afforded reasonable facilities for the purpose.**

4. NOTICE OF MEETING

- 4.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Offices, High Street, Epping, Essex CM16 4BZ **and on the authority's website.**

5. ACCESS TO AGENDA AND REPORTS BEFORE A MEETING

- 5.1 The Council will make copies of all agenda and reports for meetings that are open to the public available for inspection at the designated office **Civic Offices** at least five clear days before the meeting. If an item is added to an agenda later, ~~the revised~~ **such supplementary** 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 that the item was added to the agenda.

- 5.2 **All agenda (and supplementary agenda) will be sent to members of the Council either by electronic means (if the member has opted-in to the service of such documents electronically) or to their designated postal address, and will also be published on the Council's website.**

6. SUPPLY OF COPIES

- 6.1 The Council will supply copies of **the following, subject (where necessary) to the payment of appropriate costs in respect of copying and postage etc.**
- (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 **Monitoring Officer** thinks fit, copies of any other document(s) 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. AND DECISIONS AFTER A MEETING

- 7.1 The Council will make available copies of the following for six years after a meeting:
- (a) the minutes of the meeting and/or records of decisions taken, together with reasons, for all meetings of the executive **Cabinet**, 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.

7.2 **All documentation will also be available on the Councils website.**

8. BACKGROUND PAPERS

List of Background Papers

- 8.1 The Chief Executive 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 **the glossary to this Constitution**) and in respect of executive **Cabinet** reports, the advice of any political advisor.

Public Inspection of Background Papers

- 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 RIGHTS

- 9.1 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 the Civic Offices, High~~

Street, Epping, Essex CM16 4BZ is set out within Article ??? of this Constitution.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

Confidential Information - Requirement to Exclude Public

- 10.1 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.

Exempt Information - Discretion to Exclude Public

- 10.2 Exempt information is any information falling within the seven categories applied by Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006. The categories of exempt information are set out in Appendix 1 to this Article.

- 10.3 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.

- 10.4 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 that Act.

~~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.~~

DELETE – Definition to be included within glossary

~~10.4 — Meaning of Exempt Information~~

~~Exempt information means information falling within the following 7 categories (subject to any condition):~~

- ~~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.

10.5 — Qualifications

1. — 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 Act 1965 to 1978;
 - (e) — the Building Societies Act 1986; or
 - (f) — the Charities Act 1993.
2. — 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(a).
3. — Information which —
- (a) — falls within any of paragraphs 1 to 7 above; and
 - (b) — is not prevented from being exempt by virtue of paragraph 10.5 (sub paragraphs 1 or 2) 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.

DELETE – Transfer to Appendix 1

~~EXCLUSION OF ACCESS BY THE PUBLIC - STANDARDS COMMITTEE MEETINGS~~

The provisions contained in paragraph 10 above shall apply with any necessary exceptions to the proceedings of the Standards Committee.

Furthermore, where a meeting of a Standards or a Sub-Committee of a Standards Committee is convened to consider a matter referred under the provisions of Section 64(2) or 71(2) of the Local Government Act the provisions of Schedule 12A of the 1972 Act shall apply with the addition of the following descriptions of exempt information:

- (a) — Information which is subject to any obligation of confidentiality.
- (b) — Information which relates in any way to matters concerning national security.
- (c) — 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.

DELETE – Not required

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 **These rules summarise the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, to which reference must be made.**

- 11.2 If the Chief Executive 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.

IMPORTANT NOTE

THESE RULES SUMMARISE THE PROVISIONS OF THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012 TO WHICH REFERENCE MUST BE MADE.

12. ADDITIONAL RULES APPLICABLE TO THE CABINET

- 12.1 The following additional rules apply to the Executive **Cabinet**, its Committees, individual Cabinet members and officers (where appropriate).

Admission of the Public to Meetings of the Cabinet

Any meeting of a decision-making body must be held in public and the public may only be excluded in the following circumstances:

- (a) if any part of the meeting is likely to disclose confidential or exempt business; or
- (b) a lawful power of exclusion is used to maintain orderly conduct or prevent misbehaviour.

A person attending the meeting for the purpose of reporting the proceedings is to will be afforded reasonable facilities for the purpose.

DELETE – Duplication, transferred to Section 3

Private Meetings of the Cabinet

- 12.2 Notice of the Executive's **Cabinet's** intention to hold a private meeting (whether a whole meeting or a part) shall be given at least twenty-eight days in advance at the Council **Civic** Offices and on the Council's website. The notice must give reasons for holding the meeting in private.

- 12.3 Further notice must be given of a private meeting at least five clear days before the meeting, at the Council Offices and on the website giving the reasons for holding the meeting in private and any representations received from the public about why it should be held in public.

Private Meetings of the Cabinet – Urgency

- 12.4 Where the date of the meetings is such that it is impracticable to comply with paragraph 12.2 above, the meeting may only be held in private where:
- (a) the approval of the Chairman of Overview and Scrutiny Committee has been obtained or, in his or her absence, that of the Chairman of the Council; or

- (b) a notice has been published at the Council **Civic** Offices and on the Council's website indicating the reasons as to urgency and why meeting cannot be reasonably deferred.

Procedures prior to Public Meetings of the Cabinet

- 12.5 Public meetings of the Executive **Cabinet** may only be held where:
- (a) the time and place of the meeting has been published at the Council **Civic** Offices and on the Council's website at least five clear days before the meeting; or
 - (b) where the meeting is convened at shorter notice, the time and place, at which it is convened; and
 - (c) a copy of the agenda (or part thereof) has been available for inspection by the public at least five clear days before the meeting (or at such shorter notice as indicated above).

Access to Cabinet Agenda and Reports for Public Meetings

- 12.6 There is no requirement for a copy of the agenda, item or report to be available for inspection by the public until a copy is available to members of the decision-making body concerned.

13. KEY DECISIONS

Definition

- 13.1 Key decisions are defined in Article 14.04 (**Decision Making**) of this Constitution.

Publicity for Key Decisions

- 13.2 Where the Cabinet intends to make a key decision it may not be made until a public notice to that effect has been available at the Council **Civic** Offices and on the Council's website for at least twenty-eight days beforehand. The notice must include:
- (a) the subject matter;
 - (b) the name of the decision-maker;
 - (c) the date on or period during which the decision will be made;
 - (d) a list of documents submitted to the decision taker for consideration in connection with the decision;
 - (e) the address where copies can be obtained (subject to any redacted content); and
 - (f) any other documents to be provided to the decision taker and how details may be requested.

- 13.3 The notice must not disclose any exempt or confidential information but must, otherwise, give particulars of the subject matter.

General Exceptions to Key Decisions Procedure

- 13.4 Where publication of a proposed key decision cannot practically be achieved under paragraph 13.6 above, the Proper Officer shall:

- (a) inform the Chairman of the Overview and Scrutiny Committee (or, if he/she is not available for any reason, every member of that Committee) of the decision;
- (b) publish a notice at the Council **Civic** Offices and on the Council's website of the matter concerned; and
- (c) at the end of that period of five clear days from the day of publication of that notice, publish a further notice of why compliance in paragraph (b) is impracticable at the Council **Civic** Offices and on the Council's website.

Key Decisions – Special Urgency

- 13.5 Where the date on which a key decision must be made renders compliance with paragraphs **this section** 13.6(2) and 13.6(3) above impracticable, that decision may be made only if it is urgent and cannot reasonably be deferred.
- 13.6 The requirements under Paragraph 13.4 above (General Exception) shall also apply to any such decision.

Reports to the Council Where Key Decision Procedures Not Followed

- 13.7 In cases where an Cabinet decision has been made and the decision taker did not treat it as a key decision, the Overview and Scrutiny Committee may require a report to the Council from the Cabinet explaining:
 - (a) the decision and the reasons for it;
 - (b) who made the decision; and
 - (c) the reason the Cabinet considered that it was not a key decision, if that is their opinion.

Recording of Cabinet Decisions at Meetings and by Individuals

- 13.8 All Cabinet decisions (including those of individual Portfolio Holders) must be recorded by means of a written statement. This must be produced as soon as reasonably practical after the decision is made. A written statement must include the following:
 - (a) a record of the decision and the date on which it was made;
 - (b) reasons for the decision;
 - (c) alternative options considered and rejected;
 - (d) any conflict of interest declared; and
 - (e) any dispensation granted by the ~~Head of Paid Service~~ **Monitoring Officer**.
- 13.9 This statement applies to decisions by the Cabinet, a Cabinet Committee, Portfolio Holders and officers acting under specific delegations approved by the Cabinet at a meeting or by a Portfolio Holder. The requirement to record executive decisions made by officers will not extend to management of services or exercise of delegated authorities for service provision as recorded in Part ??? of the Constitution (Responsibility for Functions).

Inspection of Documents and Background Papers following Cabinet Decisions

- 13.10 **The provisions of Sections 5-7 of this Article shall apply** to all recorded Cabinet decisions ~~shall be available for inspection by the public as soon as reasonably practical at the Council Offices and on the website.~~

~~Copies of such documents must be supplied to the press on payment of postage and copying and any necessary transmission costs in accordance with the scheme operated for the time being by the Council.~~

~~A list of background papers in respect of a public meeting of the Executive must be available for inspection at the Council Offices and on the website. The list must be accompanied by at least one copy of each background paper.~~

DELETE – Not required

Additional Rights of Access to Documents by Councillors

- 13.11 Any document in the possession of the Cabinet and which contains material relating to business at a public meeting, must be available for inspection by any Councillor of the Authority at least five clear days before any relevant meeting.
- 13.12 Where a meeting is convened or an item added to an agenda at shorter notice relevant documents must become available when the meeting is convened or item added.
- 13.13 Documents relating to decisions at private meetings, by Portfolio Holders or by an officer, must become available no longer than 24 hours after the meeting concludes or the decision is made.
- 13.14 Documents disclosing exempt information are not required to be available for inspection. Documents disclosing exempt information category 3 shall only be available in so far as they relate to any terms for a contract with the Council or any contract negotiations.

Additional Rights of Access for Members of the Overview and Scrutiny Committee

- 13.15 A member of the Overview and Scrutiny Committee is entitled to a copy **of any document:**
- (a) ~~of any document~~ under the control of the Cabinet; and/or
 - (b) containing material relating to (i) business transacted at a public meeting; or (ii) a decision of a portfolio holder or officer.
- 13.16 When requested the document must be provided by the Proper Officer no later than 10 clear days after the request is received. There is no entitlement to a copy of any such document if it contains exempt or confidential information unless:
- (a) it is relevant to a review or scrutiny of a decision with which that member is carrying out; or
 - (b) it is relevant to a review being conducted by the Overview and Scrutiny Committee or any of its **Select Committees or Task and Finish** Panels and which is contained in their programme of work; or
- 13.17 If the ~~Executive~~ **Cabinet** determines that there is no entitlement to any such document, a written statement must be provided to the Overview and Scrutiny Committee **by the Proper Officer**.

Cabinet Reports to the Council

13.18 The Leader of Council must submit one report per year containing details of decisions made by the Cabinet on grounds of urgency. The frequency of such reports shall otherwise be as determined by the Council.

14. THE FORWARD PLAN KEY DECISION LIST

Period of Forward Plan the Key Decision List

14.1 ~~Forward plans~~ **The Key Decision List** will be prepared by the Leader of the Council to cover a period of four months, beginning with the first day of any month.

14.2 ~~They~~ **The Key Decision List** 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.

Contents of Forward Plan the Key Decision List

14.3 ~~The Forward Plan~~ **Key Decision List** will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers (**if specifically delegated**), area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. ~~It will~~ **The Key Decision List will incorporate details of proposed private decisions** and describe the following particulars in so far 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, its name and details of membership;
- (c) the date on which, or the period within 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 representations 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; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

14.4 ~~The forward plan~~ **Key Decision List** ~~must~~ **will** be published at least 14 days before the start of the period covered. ~~The Council will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

- ~~(a) that key decisions are to be taken on behalf of the Council;~~
- ~~(b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;~~
- ~~(c) that the plan will contain details of the key decisions to be made for the four-month period following its publication;~~
- ~~(d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;~~
- ~~(e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;~~

- (f) ~~the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;~~
- (g) ~~that other documents may be submitted to decision takers;~~
- (h) ~~the procedure for requesting details of documents (if any) as they become available; and~~
- (i) ~~the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.~~

DELETE – These publication requirements not currently undertaken

- 14.5 Exempt information need not be included in a forward plan **the Key Decision List** 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 **Key Decision List**, then subject to Rule **Section** 15 (Special Urgency) **of this Article**, the decision may still be taken if:
- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
 - (b) the Proper Officer has informed the Chairman of a relevant the Overview and Scrutiny Committee, or if there is no such person **the Chairman of the Overview and Scrutiny Committee is unable to act**, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
 - (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
 - (d) at least five clear days have elapsed since the Proper Officer 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, Rule **Section** 14 (General Exception) above cannot be followed, the decision may 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 a relevant **the** Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. ~~If there is no Chairman of the Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman of the Council will suffice.~~

17. REPORT TO COUNCIL

When the Overview and Scrutiny Committee can require a Report

- 17.1 If the Overview and Scrutiny Committee considers that a key decision has been taken which was not:
- (a) included in the forward plan **key decision list**; or
 - (b) the subject of the general exception procedure; or

- (c) the subject of an agreement with the Chairman of ~~a relevant~~ **the** Overview and Scrutiny Committee, or the Chairman/Vice-Chairman of the Council under **Rule Section 16** above:

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 Proper Officer, 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 Overview and Scrutiny Committee.

Cabinet's Report to Council

- 17.2 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 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 is of the opinion that it was not a key decision the reasons for that opinion.

Quarterly Reports on Special Urgency Decisions

- 17.3 ~~In any event the~~ **The** Leader will submit quarterly reports **a report** to the Council on ~~the executive decisions~~ **on any Cabinet decision** taken in the circumstances set out in Section 16 (Special Urgency) of this Article ~~in the preceding three months~~. The report will include ~~the number of decisions so taken and~~ a 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 Chief Executive or, where no officer was 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 relating to 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. Notice and papers will be sent to all other 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. All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.

- 21.2 Notice of private meetings of the Cabinet and its committees will be served on the Chairman of the Overview and Scrutiny Committee ~~and sub-committees~~, at the same time as notice is served on members of the Cabinet. ~~Where an overview and scrutiny committee does not have a Chairman~~ **If the Chairman of the Overview and Scrutiny Committee is unable to act**, the notice will be served on all the members of the committee.
- 21.3 Members other than Cabinet members will not be entitled to attend private meetings of the Cabinet and its committees, except by specific invitation. Such members may be able to address the Cabinet or a Cabinet Committee if invited and may answer questions.
- 21.4 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (~~and~~ **or** their nominees) are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place. A private Cabinet meeting may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.
- 21.5 ~~In all of the above examples~~, The provisions of Rule **Section** 18 (Recording and Publicising Decisions) of this Article will apply to all private meetings of the Cabinet.

22. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

~~22.1 Reports Intended to be taken into Account~~

~~Where an individual member of the Executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.~~

DELETE – Relevance unclear

~~22.2 Provision of Copies of Reports to the Overview and Scrutiny Committee~~

~~On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.~~

DELETE – Relevance unclear

Record of Individual Decision

- 22.1 As soon as reasonably practicable after an Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. **The record of the decision will utilise the pro-forma decision sheet maintained by Democratic Services.**
- 22.2 The provisions of Rules **Sections** 7 and 8 **of this Article** (Inspection of Documents after Meetings) will also apply to the making of decisions by individual members of the Cabinet. **Details of all decisions taken will be published in the Council Bulletin to facilitate the commencement of the period for call-in.** ~~This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.~~

23. OVERVIEW AND SCRUTINY COMMITTEE - ACCESS TO DOCUMENTS

Rights to Copies

23.1 Subject to **Rule Section 23.2** below, the Overview and Scrutiny Committee (including any **Standing Select Committee** or Task and Finish Panel appointed by it) will be entitled to a copy 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 at a public or private meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet.

Limit on Rights

23.2 The Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form; or
- (b) any part of a 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; or
- (c) the advice of a political adviser **(NB - Definition of 'Political Advisor' to be included in glossary)**

24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

Material Relating to Previous Business

24.1 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 to 6, 9, 11, 12 and 14~~ of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

Material Relating to Key Decisions

24.2 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 relates to any key decision unless paragraph 24.1 (a) or (b) above applies.

Nature of Rights

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

25. CONVENTIONS ON THE RELATIONSHIPS BETWEEN POLITICAL GROUPS & COUNCILLORS WITH OFFICERS

25.1 **The formal business of the Council is regulated by the Constitution and various supplementary guidance. The conventions set out in Appendix 2 to this Article are for guidance of members of the Council and Directors and are aimed at supplementing such rules and guidance.**

APPENDIX 1

EXEMPT INFORMATION

1. EXEMPT INFORMATION

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

- (a) information relating to any individual;
- (b) information which is likely to reveal the identity of an individual;
- (c) information relating to the financial or business affairs of any particular person (including the authority holding that information);
- (d) 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;
- (e) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- (f) information which 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; and
- (g) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

2. QUALIFICATIONS

2.1 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 Act 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

2.2 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(a).

2.3 Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 10.5 (sub paragraphs 1 or 2) 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.

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APPENDIX 2

CONVENTIONS ON THE RELATIONSHIPS BETWEEN POLITICAL GROUPS & COUNCILLORS WITH OFFICERS

1. ENTITLEMENT TO INFORMATION

- 1.1 Any member of the Council may ask the appropriate Director for written factual information about a Directorate (or part thereof) or service. Such requests will be met, subject to any legal requirements (including the Freedom of Information and Data Protection Acts).
- 1.2 A Councillor may require the Director to treat the request for information as confidential and this confidentiality will be respected unless it is agreed with the Councillor concerned that request no longer needs to be treated in that way.
- 1.3 All such requests shall be made to a **the appropriate** Director or Assistant Director.
- 1.4 Where a Director on his own initiative provides information to any political group, the information will also be supplied to the other Groups unless it is of a routine or minor nature.

2. BRIEFING MEETINGS

- 2.1 Formal briefings may be arranged for meetings to discuss business to be transacted at meetings. Briefings will be attended by the Chairman and Vice-Chairman concerned except in the case of the District Development Control **Management** Committee and Area Plans Sub-Committees where appointed group representatives and independent members serving on the Committee or Sub-Committee concerned will also attend.
- 2.2 Briefing meetings will deal with (a) procedural matters; and (b) the up-dating of information contained in agenda items by officers.
- 2.3 All political groups will notify their group representatives on the District Development Control Committee and the Area Plans Sub-Committees at the beginning of each Council year. **DELETE – covered elsewhere** The role of the Group representative shall be to act as spokesman for their group in connection with those meetings.
- 2.4 All briefings will be held at a mutually convenient time, usually on the day of the meeting in question and where possible will be published on the weekly calendar in the Council Bulletin. **DELETE – Briefing arrangements not routinely published in Council Bulletin**
- 2.5 Group Leaders and independent members may attend the briefing for the Chairman and Vice-Chairman of the Council meetings.

3. BRIEFING OF POLITICAL GROUPS

- 3.1 The Chief Executive, Directors and Assistant Directors of the Council shall only attend meetings of political groups if this is for the purpose of assisting Council business. Where a political group invites an officer to attend a meeting, such invitations should be accepted only if the same opportunity is afforded to all political groups. Where officers have doubts about the appropriateness of accepting such an invitation, the Chief Executive will make a final decision.

- 3.2 Where an officer considers that it would assist Council business to attend a political group meeting for the purpose of briefing and makes a proposal that he/she should attend, the officer concerned shall be careful to extend that offer to all political groups.
- 3.3 Meetings of group leaders may be held. Such meetings will have no executive powers but will be authorised to meet with the Chief Executive on an informal basis to discuss business to be considered by the Council. Group Leaders' meetings shall have formal agenda and minutes and shall be chaired by the Leader of the largest political group present.

NB - Don't think that meetings of group leaders have formal agenda/minutes

MEETING PRACTICE

DELETE - This detail adequately covered elsewhere in the Constitution or in the Members' Charter)

Role of Chairman

~~The Chairman of the Council, the Leader of the Cabinet or the Chairman of any Committee, Sub-Committee or Panel/Working Group shall ensure that there is a reasonable opportunity for debate and that there is effective despatch of Council business. The Chairman shall ensure that every motion which is properly proposed and seconded is put to the vote.~~

DELETE - Provisions relating to motions covered elsewhere in the Constitution

Casting Vote

~~In circumstances where a second or casting vote may be required, the Chairman shall consider whether to make a second or casting vote by taking advice on whether the decision is necessary and whether there will be a further opportunity to debate the issue concerned within a reasonable timescale. The Chairman may decide, dependant on that advice, not to make a casting vote or if one is cast, to vote according to the status quo. However, in some cases there is no status quo (e.g. quasi judicial decisions concerning planning, licensing and appeals of various kinds) and in those circumstances the Chairman shall vote in accordance with their judgement of the public interest. Chairmen will acknowledge at all times the requirement under the Constitution to signify whether he or she intends to vote in the first vote on any matter before a meeting.~~

DELETE - Provisions relating to casting vote covered elsewhere in the Constitution

Respect for the Chair and Behaviour

~~Group Leaders will do everything possible to ensure that members of their groups are aware of the rules of debate and proper standards of behaviour at all meetings.~~

Seating Arrangements – Council and Committee Meetings

~~Seating in the Council Chamber shall be agreed between the political groups.~~

Committee Minutes

~~Draft minutes will be cleared with the appropriate Chairman.~~

4. RELATIONS WITH THE MEDIA

- 4.1 Official media statements will be issued on behalf of the District Council, a Portfolio Holder, ~~an~~ **or the Chairman of the** Overview and Scrutiny or other Committee Chairman. Such statements may be prepared in consultation with appropriate Directors but must be approved by the quoted Members before issue. Quoted members will also be consulted on statements issued within the broader context of a proactive media releases and in response media enquiries. Statements issued through the Public Relations and Marketing Officer (Including quoted comments by members) must reflect the nature of decisions or Council policy and exclude 'political' comment.
- 4.2 Members may speak directly to the media on any given issue (subject to legal constraints such as the Data Protection Act 1998) in order to express personal or political points of view.
- 4.3 Political Groups may issue their own press releases either through group leaders or group representatives. These will be solely the province of the political group concerned and will not involve officer input except in so far as a group wish to check factual information. Press statements arising from Council business and issued in a party capacity by a Leader or Group Representative must be careful to differentiate between the Council's policy and the views of the group concerned.
- 4.4 The Chairman and Vice-Chairman of the Council have a special role within the authority by virtue of their civic responsibilities. To reflect this role, they will receive special support from relevant officers in carrying out those duties.
- 4.5 Political groups and individual councillors should bear in mind the special rules which apply to Council publicity during election periods and shall bear in mind the guidance set out in Appendix 2 to this report. **(NB – Include previously issued ‘Purdah’ guidance?)**

APPOINTMENT OF REPRESENTATIVES

The appointment of representatives to any outside body of a permanent nature or involving regular attendance will be determined by the Council in accordance with Council Procedure Rules.

DELETE - Provisions relating to the appointment of representatives covered elsewhere in the Constitution

5. OFFICER SUPPORT ARRANGEMENTS

- 5.1 **Management Board will manage the business submitted to the Cabinet and Overview and Scrutiny. The Chief Executive will be the lead officer for the Cabinet with Service Directors chief officers attending when required. The Head of the Policy Unit will undertake the role of “Cabinet Secretary”. The Deputy Chief Executive will be the lead officer for the Overview and Scrutiny Committee. The co-ordination of the “call-in” procedure will be undertaken within Democratic Services led by the Assistant to the Chief Executive.**
- 5.2 **Democratic Services will support both the Cabinet and non-Executive sides of the Council and Agenda Planning Groups will be held for Cabinet and the Overview and Scrutiny Committee. The Agenda Planning Group for the Cabinet will be chaired by the Chief Executive whilst the Overview and Scrutiny Committee Agenda Planning Group will be chaired by the Deputy Chief Executive.** A Democratic Services Officer will support both agenda planning groups

~~and the Cabinet and Overview and Scrutiny Committee themselves. Existing officer agenda planning party meetings for non-executive committees, groups etc. will continue where appropriate.~~

5.3 **Draft minutes will be cleared with the appropriate Chairman.**

6. FACILITIES FOR MEMBERS

6.1 Word processing and photocopying facilities are available in accordance with Council policy, on application to Democratic Services. Typing for the Chairman and Vice-Chairman of the Council is provided through Democratic Services **the Public Relations and Marketing Officer.**

7. REVIEW OF CONVENTIONS

7.1 ~~The conventions set out in this document will be reviewed from time to time.~~ The Chief Executive will also initiate a special review at any time if required by a change in the political balance on the Council or on the request of any of the political groups.

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