

ACCESS TO INFORMATION PROCEDURE RULES

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ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees, area committees (if any), the Standards Committee and regulatory committees and public meetings of the executive (together called meetings). **Rules specific to the Executive are set out in Section 13**

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

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.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

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 days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of Background Papers

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) and in respect of executive reports, the advice of any political advisor.

8.2 Public Inspection of Background Papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Offices, High Street, Epping, Essex CM16 4BZ.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information - Requirement to Exclude Public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt Information - Discretion to Exclude Public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of Confidential Information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of Exempt Information

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.

11. 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.

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

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.

13. ADDITIONAL RULES APPLICABLE TO THE EXECUTIVE

The following additional rules apply to the Executive, its Committees, individual Cabinet members and officers where appropriate.

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.

13.1 Admission of the Public to Meetings of the Executive

Any meeting of a decision-making body must be held in public and the public only 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 be afforded reasonable facilities for the purpose.

13.2 Private Meetings of the Executive

Notice of the Executive's intention to hold a private meeting (whether this is a whole meeting or a part) shall be given at least 28 days in advance at the Council Offices and on the website. The notice must give reasons for holding the meeting in private.

Further notice must be given of a private meeting at least 5 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.

13.3 Private Meetings of the Executive – Urgency

Where the date of the meetings is such that it is impracticable to comply with paragraph 13.2 above, the meeting may only be held in private where:

- **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;**
- **a notice at the Council Offices and on the website has been published indicating the reasons as to urgency and why meeting cannot be reasonably deferred.**

13.4 Procedures prior to Public Meetings of the Executive

Public meetings of the Executive may only be held where:

- **the time and place of the meeting has been published at the Council Offices and on the website at least 5 clear days before the meeting; or**
- **where the meeting is convened at shorter notice, the time and place, at which it is convened;**
- **a copy of the agenda (or part thereof) has been available for inspection by the public at least 5 clear days before the meeting (or at such shorter notice as indicated above).**

13.5 Access to Executive Agenda and Reports for Public Meetings

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.

13.6 Key Decisions

1. Definition

Key decisions are defined in Article 13.03 of this Constitution.

2. Publicity for Key Decisions

Where the Executive intends to make a key decision it may not be made until a public notice to that effect has been available at the Council Offices and on the website for at least 28 days beforehand. The notice must include:

- **the subject matter**
- **the name of the decision-maker**
- **the date on or period during which the decision will be made**

- a list of documents submitted to the decision taker for consideration in connection with the decision
- the address where copies can be obtained (subject to any redacted content)
- any other documents to be provided to the decision taker and how details may be requested.

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

3. General Exceptions to Key Decisions Procedure

Where publication of a proposed key decision cannot practically be achieved under paragraph 13.6(2) above, the Proper Office shall:

- inform the Chairman of the Overview and Scrutiny Committee (or, if he or she is not available for any reason, every member of that Committee) of the decision;
- publish a notice at the Council Offices and the website of the matter concerned;
- at the end of that period of 5 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 Offices and on the website.

4. Key Decisions – Special Urgency

Where the date on which a key decision must be made renders compliance with paragraphs 13.6(2) and 13.6(3) above impracticable, that decision may only be made if it is urgent and cannot reasonably be deferred.

The requirements under 13.6(3) above (General Exception) shall also apply to any such decision.

13.7 Reports to the Council Where Key Decision Procedures Not Followed

In cases where an executive 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 Executive explaining:

(a) the decision and the reasons for it;

(b) who made the decision;

(c) the reason the Executive considered that it was not a key decision, if that is their opinion.

13.8 Recording of Executive Decisions at Meetings and by Individuals

All executive 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 record of the decision and the date on which it was made;**
- **reasons for the decision;**
- **alternative options considered and rejected;**
- **any conflict of interest declared;**
- **any dispensation granted by the Head of Paid Service.**

This statement applies to decisions by the Cabinet, Cabinet Committee, Portfolio Holders and officers acting under specific delegations approved by the Executive 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 3 of the Constitution (Responsibility for Functions).

13.9 Inspection of Documents and Background Papers following Executive Decisions

Any records and reports relevant to a recorded Executive decision 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.

13.10 Additional Rights of Access to Documents by Councillors

Any document in the possession of the Executive and which contains material relating to business at a public meeting, must be available for inspection by any Councillor of the Authority at least 5 clear days before any relevant meeting.

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.

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.

Documents disclosing exempt information (except paras 3 and 6 of paragraph 10.4. of these rules) 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.

13.11 Additional Rights of Access for Members of Overview and Scrutiny Committees

A member of the Overview and Scrutiny Committee is entitled to a copy:

(a) of any document under the control of the Executive;

**(b) containing material relating to (i) business transacted at a public meeting; or
(ii) a decision of a portfolio holder or officer.**

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 Panels and which is contained in their programme of work; or

If the Executive determines that there is no entitlement to any such document, a written statement must be provided to the Overview and Scrutiny Committee.

13.12 Executive Reports to the Council

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