

# Access to Information Rules

These rules explain how the Cabinet and other decision making bodies operate, they are based on the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## 1. Application to Other Meetings

- 1.1 These Rules also apply to Council and all joint committees, committees, and sub-committees of the Council.

## 2 Meetings of the Cabinet and their committees to be held in public

- 2.1 A meeting of Cabinet, its committees and sub committees (decision-making bodies) must be held in public.

- 2.2 However, the public must be excluded from a meeting during an item of business whenever:-

- (a) it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;
- (b) the decision-making body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them; or such judgement being made if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information;
- (c) a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

- 2.3 A resolution to exclude the public from a meeting must:-

- (a) identify the proceedings, or the part of the proceedings to which it applies, and
- (b) state, by reference to the descriptions in Schedule 12A to the 1972 Act (access to information: exempt information), the description of exempt information giving rise to the exclusion of the public.

- 2.4 The public may only be excluded for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.

- 2.5 Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the decision-making body is not to have the power to exclude members of the public from a meeting while it is open to the public.

2.6 While the meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

### **3 Procedures prior to private meetings**

3.1 A decision made by a decision-making body to hold a meeting in private is a prescribed decision for the purpose of Section 9GA(5) of the 2000 Act (regulations requiring prescribed information about prescribed decisions).

3.2 At least 28 clear days before a private meeting, the decision-making body must:-

- (a) publish on the Council's website make available at the offices of the Council a notice of its intention to hold the meeting in private; and
- (b) make available at the offices of the Council a copy of this notice.

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

3.4 At least five clear days before a private meeting, the decision-making body must:-

- (a) publish on the Council's website a further notice of its intention to hold the meeting in private,
- (b) make available at the offices a copy of this further notice.

3.5 The notice must include:-

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

3.6 Where the date by which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from: -

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

that the meeting is urgent and cannot reasonably be deferred.

3.7 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 5.6 of these rules to hold a private meeting, it must:-

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

#### **4 Procedures prior to public meetings**

4.1 The decision-making body must give notice of the time and place of a public meeting on the Council's website and by displaying it at the offices of the Council:-

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

4.2 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 as requested by regulation 7 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 by reason of special circumstances, which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency.

#### **5 Access to agenda and connected reports for public meetings**

5.1 A copy of the agenda and public reports for a meeting must be made available for inspection by the public:-

- (a) on the Council's website; and
- (b) at the offices of the Council.

5.2 However, if the proper officer thinks fit, there may be excluded from the copy of any report provided pursuant to paragraph 7.1 of these rules the whole, or any part, of the report which relates only to matters during which, in the proper officer's opinion, the meeting is likely to be a private meeting.

5.3 Any document which is required by paragraph 7.1 to be available for inspection by the public 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, a copy of the agenda and associated reports must be available for inspection when the meeting is convened; and

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

5.4 Nothing in these rules requires 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.

5.5 Where by virtue of paragraph 7.2 of these rules the whole or any 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 the part of the report:-

- (i) that it contains confidential information; or
- (ii) by reference to the descriptions in Schedule 12A to the 1972 Act, the description of exempt information by virtue of which the decision-making body discharging the executive function are likely to exclude the public during the item to which the report relates.

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

5.7 Agendas will be made available to the public and the media on the Council's website. However, following a request made by a member of the public or on behalf of a media organisation and on payment being made of postage, copying or other necessary charge for transmission, the Council must supply to that person individually or on behalf of a media organisation:-

- (a) a copy of the agenda for a public meeting and a copy for 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 proper officer thinks fit in the case of any item, a copy of any other document supplied to members of the Cabinet in connection with the item.

## **6 Key Decisions**

6.1 In these Rules a "key decision" means an executive decision, which is likely:-

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.

6.2 In determining the meaning of “significant” for these purposes the Council must have regard to any guidance for the time being issued by the Secretary of State in accordance with Section 9Q of the 2000 Act (guidance). The Council has decided that revenue income or expenditure of £100,000 or more, and Capital income or expenditure of £250,000 or more is significant.

## **7 Publicity in connection with key Decisions**

7.1 Where a decision-maker intends to make a key Decision, that decision must not be made until a document has been published 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, that individual’s name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision-maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

7.2 At least 28 clear days before a key decision is made, the document referred to above must be made available for inspection by the public:-

- (a) on the Council’s website; and
- (b) at the offices of the Council.

7.3 Where, in relation to any matter:-

- (a) the public may be excluded under paragraph 4.2 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 must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

## **8 General exception**

- 8.1 When the publication of the intention to make a key decision under paragraph 9 is impracticable under these rules, that decision may only be made:-
- (a) where the proper officer has informed the Chairman of the relevant Scrutiny Committee or, if there is no such person, each member of the Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;
  - (b) where the proper officer has made available at the offices of the Council for inspection by the public and published on the Council's website a copy of the notice given pursuant to sub-paragraph (a); and
  - (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).
- 8.2 As soon as reasonably practicable after the proper officer has complied with these requirements he or she must:-
- (a) publish a notice on the Council's website a notice setting out the reasons why compliance with the requirement to give 28 days notice of a key or exempt decision was impractical
  - (b) Make this notice available at the Council's offices.

## **9 Cases of special urgency**

- 9.1 Where the date by which a key decision must be made under the impracticable the decision may only be made where the decision maker has obtained agreement from:-
- (a) the Chairman of the relevant Scrutiny Committee; or
  - (b) if there is no such person or if the Chairman of the relevant Scrutiny Committee is unable to act, the Chairman of the Council; or
  - (c) where there is no Chairman of the relevant Scrutiny Committee or of the Council, the Vice-Chairman of the Council,
- that the making of the decision is urgent and cannot reasonably be deferred.
- 9.2 As soon as reasonably practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must:-

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

## **10 Recording of executive decisions made at meetings.**

10.1 As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the proper officer, or if the proper officer was not present at the meeting, the 'person presiding' (*or the person actually presiding or the person nominated to preside at that meeting*) must ensure that a written statement is produced for every executive decision.

10.2 The statement 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 decision-making body at the meeting at 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 the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

10.3 Executive decisions made by decision-making bodies are prescribed decisions for the purposes of Section 9G(3) of the 2000 Act (duty to keep written records of private meetings).

## **11 Recording of executive decisions made by officers.**

11.1 Executive Decision is defined as a decision in connection with the discharge of an Executive function by officers through the Council's scheme of delegation, which will, or is likely to incur expenditure or savings or generate revenue return/income in excess of the Key Decision financial thresholds as a specific consequence of that decision.

11.2 As soon as reasonably practicable after an officer exercises delegated authority to make a Delegated Decision a written statement of that decision should be produced. This must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;

- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any Cabinet member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's Head of Paid Service.

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

12.1 After a meeting of a decision-making body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the proper officer must ensure that a copy of:-

- (a) any records prepared in accordance with these rules; and
- (b) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded, 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 offices of on the Council's website or at the Council's offices apart from where they relate to Human Resources matters.

12.2 Those documents available for public inspection will be made available on the Council's website. Where a request on behalf of a media organisation is made for a copy of any of these documents must be supplied for the benefit of the media organisation by the Council on payment by the media organisation to the Council of postage, copying or other necessary charge for transmission.

## **13 Inspection of background papers**

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

- (a) a copy of a list compiled by the proper officer of the background papers to the report or part of the report, must be included in the report or, as the case may be, part of the report; and
- (b) at least one copy of each of the documents included in that list will be published on the Council's website and made available for inspection by the public at the Council's offices.

## **14 Additional rights of access to documents for members of Council**

14.1 Councillors can see :-

- (a) background papers to public reports ; and
- (b) other relevant material relating to any business to be transacted at a public meeting



14.2 Any document which is required 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 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 16.1 of these rules in relation to that item, must be available for inspection when the item is added to the agenda.

14.3 Any document which:-

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains material relating to:-
  - (i) any business transacted at a private meeting;
  - (ii) any decision made by an individual member in accordance with executive arrangements; or
  - (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 officer immediately after the decision has been made.

14.4 Any document which is required to be available for inspection by any member of the Council 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.

14.5 These rules do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act (descriptions of exempt information: England).

14.6 These rules do require the document to be available for inspection if the information is information of a description for the time being falling within:-

- (a) paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 12A to the 1972 Act.

14.7 Where it appears to the proper officer that release of a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph will not apply to that document or part.

14.8 The rights conferred by these rules are in addition to any other rights that a member of the Council may have.

## **17 Additional rights of access to documents for members of Scrutiny Committees**

17.1 A member of a Scrutiny Committee of the Council is entitled to a copy of any document which:-

(a) is in the possession or under the control of the Cabinet; and

(b) contains material relating to:-

(i) any business that has been transacted at a meeting of a decision-making body of the Council;

(ii) any decision that has been made by an individual member of the Cabinet in accordance with executive arrangements; or

(iii) any decision that has been made by an officer of the authority in accordance with executive arrangements.

17.2 Where a member of a Scrutiny Committee requests a document which falls within these rules, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

17.3 No member of a Scrutiny Committee is entitled to a copy:-

(a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:-

(i) an action or decision that the member is reviewing or scrutinising; or

(ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or

(b) of a document or part of a document containing advice provided by a political adviser or assistant.

17.4 Where the Cabinet determines that member of a Scrutiny Committee is not entitled to a copy of a document or part of any such document then it must provide the Scrutiny Committee with a written statement setting out its reasons for that decision.

**18 Reports to the local authority where the key decision procedure is not followed.**

18.1 Where an executive decision has been made and:-

- (a) It was not treated as being a key decision; and
- (b) A relevant Scrutiny Committee is of the opinion that the decision should have been treated as a key decision,

that Scrutiny Committee may require the Cabinet which is responsible for the decision to submit a report to the Council within such reasonable period as the committee may specify.

18.2 Such a report must include details of:-

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

**19 Cabinet reports to the local authority**

19.1 The Leader must submit to the Council at such intervals as may be determined a report containing details of each executive decision taken during the period since the last report was submitted to the Council where the making of the decision was agreed as urgent.

19.2 Such a report must include:-

- (a) particulars of each decision made; and
- (b) a summary of the matters in respect of which each decision was made.

19.3 The Leader must submit at least one report under paragraph 19.1 annually to the Council.

**20 Confidential information, exempt information and advice of a political adviser or assistant**

20.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

20.2 Nothing in these Rules:-

- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information; or

- (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

20.3 Where an officer makes an delegated decision in accordance with executive arrangements, nothing in these Rules:-

- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
- (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

20.4 Nothing in these Rules requires a decision-making body to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place, where such proceedings include Confidential information, exempt information and advice of a political adviser or assistant.

## **21 Inspection and supply of documents**

21.1 Any document required by any provision of these Rules to be open to inspection by members of the public must be available for inspection:-

- (a) on the Council's website; and
- (b) at the offices of the Council;
- (c) in the case of documents to be available for inspection, on payment of a reasonable fee if required by the Council by the person seeking to inspect the documents at the offices of the Council.

21.2 Where a document is to be available for inspection by a person under any provision in these Rules, the person may:-

- (a) make a copy of the whole or part of the document; or
- (b) require the person having custody of the document to supply the person requiring inspection of a copy of the whole or part of the document,

on payment by the person requiring the copy to the Council of postage, copying or other necessary charge for transmission.

21.3 Any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Rules.

- 21.4 These rules do not require or authorise the doing of any act which infringes the copyright of any work except that, where the owner of the copyright is the Council, nothing done pursuant to that paragraph constitutes an infringement of the copyright.
- 21.5 Where any document required by these Rules to be open to inspection by the public:-
- (a) is supplied to or available for inspection by members of the public; or
  - (b) is supplied for the benefit of any media organisation
- the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.
- 21.6 Any written record of an executive decision or any report required under these rules to be available for inspection by members of the public, must be retained by the Council and made available for inspection by the public for a period of at least six years beginning on the date on which the decision, to which the report or record relates, was made.
- 21.7 Any background papers required under these rules to be available for inspection by members of the public must be retained by Council and be available for inspection by the public for a period of at least four years beginning on the date on which the decision, to which the background papers relate, was made.
- 21.8 The rights conferred on any person by these Rules to inspect, copy or be supplied with documents are in addition to any such rights that person may have apart from those under these Rules.

## **22 Offences**

- 22.1 A person who has custody of a document which is required to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person:-
- (a) intentionally obstructs any person exercising a right conferred under these Rules to inspect, or to make a copy of the whole or part of the document, or
  - (b) refuses to supply a copy of the whole part of the document in accordance with these rules.