

JULY 2009

ACCESS TO INFORMATION PROCEDURE RULES

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1. APPLICATION

These rules apply to all meetings of the Council, the Executive, Committees and formally appointed subsidiary bodies and Joint bodies (together called meetings). However, they do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

2. ATTENDANCE AT MEETINGS

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

3. NOTICES OF MEETINGS

The Council will give at least five clear working days' notice (excluding the day of the meeting and day of despatch) of any meeting by posting details of the meeting at Daneshill House, Danestrete, Stevenage.

4. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports available for public inspection at the designated office at least five clear working days before the meeting and as far as possible, on the Council's web site. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each report available to the public as soon as the report is completed and sent to Councillors.

5. SUPPLY OF COPIES

The Council will supply copies of and/or make available on the Council's web site:

- 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 Borough Solicitor thinks fit, copies of any other documents supplied to Councillors in connection with an item.

Should a person or organisation require a copy of an agenda to be posted to them an appropriate charge may be levied.

6. ACCESS TO MINUTES AND RELATED DOCUMENTS AFTER THE MEETING

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

- a. The Minutes of the meeting, 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. The agenda for the meeting; and
- c. Reports relating to items when the meeting was open to the public.

7. BACKGROUND PAPERS

a. List of background papers

The Borough Solicitor will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in her/his opinion:

- (i) Disclose any facts or matters on which the report or an important part of the report is based; and
- (ii) 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 9) and in respect of executive reports, the advice of a political advisor.

b. 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.

8. SUMMARY OF PUBLIC'S RIGHTS

These Rules are the written summary of the public's rights to attend meetings and to inspect and copy documents. They are kept at and are available to the public at the Council offices at Daneshill House and on the web site.

9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

- a. Confidential information – requirement to exclude public

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.

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 exempt information would be disclosed.

b. Exempt information – discretion to exclude public

Exempt information means information falling within the 7 categories (subject to any qualification) set out at (c) below.

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.

c. Exempt information

Description	Qualification
1. Information relating to any individual.	Information within this category is exempt 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.
2. Information which is likely to reveal the identity of an individual.	Public Interest – as in category 1 above.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt if it is required to be registered under: (a) the Companies Act 1985; (b) the Friendly Societies Act 1974 and 1992; (c) the Industrial and Provident Societies Act 1965 to 1978; (d) the Building Societies Act 1986; or (e) the Charities Act 1983 Information within this category which is not required to be registered is exempt 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.
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 the Minister of the Crown and employees of, or office holders under, the authority.	Public interest – as in category 1 above.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Public interest – as in category 1 above.
6. Information which reveals that the authority proposes: (a) to give under any enactment a notice by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	Public interest – as in category 1 above.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Public interest – as in category 1 above.
7A Information which is subject to any obligation of confidentiality.	Public interest – as in category 1 above.
7B Information which relates in any way to matters concerning national security.	Public interest – as in category 1 above.
7C The deliberations of the Standards Committee or of its Sub-Committees, established under the provisions of Part 3 of the Local Government Act 2000, in reaching any finding on a matter referred under the	Public interest – as in category 1 above.

provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	
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Information falling within any of the above Categories is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive thinks fit, the Council may exclude access by the public to reports that relate to business which, in accordance with Rule 9, 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.

11. APPLICATION OF RULES TO THE EXECUTIVE

Subject to Rules 14 and 15 (and Rule 18 for individual Members), these rules apply when the Executive, or a formally constituted subsidiary of the Executive, is taking a decision and if the Executive, or a formally constituted subsidiary of the Executive, meets with an officer (other than political assistant) present to discuss a decision which is to be taken collectively, within 20 days of the date by which it is to be decided as stated in the Forward Plan. This requirement does not include meetings whose sole purpose is for officers to brief members.

12. PROCEDURES BEFORE TAKING KEY DECISIONS

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:

- a. Notice has been published in the Forward Plan;
- b. At least five clear working days have elapsed since the publication of the forward plan; or
- c. At least five clear working days have elapsed since notice of the business to be transacted has been published on an agenda.

Where a Key Decision is to be taken by an officer, notice must be published in the Forward Plan.

13. THE FORWARD PLAN OF KEY DECISIONS

This Forward Plan may also be referred to as the Rolling Programme.

13.1 Period of the Forward Plan

The Forward Plan will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. It will be updated on a monthly basis and will be published no later than the 14th day of each month.

13.2 Contents of the Forward Plan

- a. The rolling programme will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Executive, a Committee of the Executive, individual Members of the Executive, officers, Neighbourhood Action Teams or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
 - (i) The matter in respect of which a decision is to be made;
 - (ii) Where the decision taker is an individual, her/his name and title, if any, and where the decision taker is a body, its name and details of membership;
 - (iii) The date on which, or the period within which, the decision will be taken;
 - (iv) The identity of the principal groups whom the decision taker proposes to consult before taking the decision;
 - (v) The means by which any such consultation is proposed to be undertaken;
 - (vi) The steps any person might take who wishes to make representations to the Executive 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
 - (vii) A list of the documents submitted to the decision taker for consideration in relation to the matter.
- b. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:
 - (i) That key decisions are to be taken on behalf of the Council;
 - (ii) That a rolling programme containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;

- (iii) That the programme will contain details of the key decisions to be made for the four month period following its publication;
- (iv) That each programme will be available for inspection at reasonable hours free of charge at the Council's offices;
- (v) That each programme will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the programme;
- (vi) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the rolling programme is available;
- (vii) That other documents may be submitted to decision takers;
- (viii) The procedure for requesting details of documents (if any) as they become available; and
- (ix) The dates on each month in the following year on which each rolling programme will be published and available to the public at the Council's offices.

Exempt information need not be included in the Forward Plan and confidential information cannot be included.

14. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the rolling programme, then subject to Rule 15 (special urgency) 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 rolling programme and until the start of the first month to which the next rolling programme relates;
- b. The Proper Officer has informed the Chair of the Scrutiny Overview Committee (or in her/his absence the Vice-Chair), of the matter to which the decision is to be made. (For this purpose it shall be sufficient notice, if, in the case of reports going to the Executive and relevant Committees, the Chair of the Scrutiny Overview Committee has been sent a copy of the agenda for the relevant meeting at least five clear working days before that meeting, giving notice of all the items to be discussed at that meeting);
- 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 working days have elapsed since the Proper Officer

complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public, subject to the normal issues as to exclusion of the public in the case of confidential or exempt business.

15. SPECIAL URGENCY

If, by virtue of the date by which a decision must be taken, Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Scrutiny Overview Committee (or in her/his absence, the Vice-Chair) that the taking of the decision cannot be reasonably deferred. In the event that the decision taker is not the Executive or the Leader, the Leader's agreement must also be obtained that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Scrutiny Overview Committee, or if the Chair/Vice-Chair is unable to act, then the agreement of the Mayor, or in her/his absence the Deputy Mayor, will suffice.

16. REPORT TO COUNCIL

a. When the Scrutiny Overview Committee can require a report

If the Scrutiny Overview Committee thinks that a key decision has been taken which was not:

- (i) Included in the Forward Plan; or
- (ii) The subject of the general exception procedure (Rule 14); or
- (iii) The subject of an agreement with the Scrutiny Overview Committee Chair, or the Mayor/Deputy Mayor of the Council under Rule 15,

the Committee may require the Executive 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 Chair or a majority of the Members of the Committee.

Alternatively, the requirement may be raised by resolution passed at a meeting of the Scrutiny Overview Committee.

b. Executive's report to Council

Where a report is required under Rule 16(a) above, the Executive will prepare a report 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 Scrutiny Overview Committee, then the report may be submitted to the subsequent meeting. 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.

c. Reports on special urgency decisions

The Leader will submit quarterly reports to each meeting of the Council on the executive decisions taken in the circumstances set out in Rule 15 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17. NOTICE OF DECISIONS

As soon as practicable after any meeting of the Executive or any of its Committees, the Proper Officer will produce a Notice of Decisions. The Notice will include a statement of the reasons for each decision; any alternative options considered and rejected at that meeting; and any relevant interests declared by members, together with any dispensations they have been granted.

18. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

As set out in Part 3 of this Constitution, other than in cases of urgency, where Rules 14 and 15 apply individual members of the Executive may only take Non-Key Decisions. Where an individual member of the Executive intends to take such a decision they must have the matter documented and include evidence that the relevant Strategic Director, Senior Officer, Chief Finance Officer (or her/his deputy) and Monitoring Officer (or her/his deputy) are content with the decision to be taken. 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 Notice must also include any relevant interests declared by Members, together with any dispensations they have been granted.

Before any such decision may be implemented, the report thereon must be circulated to all Members of the Council and made available for public inspection, subject to the exempt information rules. The matter will be subject to the Overview and Scrutiny Rules in relation to the call-in provisions before the decision may be implemented.

The provisions of Rules 6 and 7 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive.

All Non-Key Decisions taken by Executive members will be summarised in

a report to the next ordinary meeting of the Executive as soon as possible after the decision has been taken.

19. KEY DECISIONS TAKEN BY OFFICERS

As soon as reasonably practicable after a key decision has been taken by an officer, details of the decision taken, a statement of the reasons for it and any alternative options considered and rejected must be circulated to all Members of the Council and made available for public inspection, subject to the exempt information rules. The matter will be subject to the Overview and Scrutiny Rules in relation to the call-in provisions before the decision may be implemented.

20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

a. Rights to copies

Subject to Rule 20(b) below, the Scrutiny Overview Committee or any of its Topic Groups will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

- (i) Any business transacted at a meeting of the Executive or its Committees; or
- (ii) Any decision taken by an individual member of the Executive.

b. Limits on rights

The Scrutiny Members will not be entitled to:

- (i) Any document that is in draft form;
- (ii) 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
- (iii) The advice of a political adviser.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

a. 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 Executive or its Committees and contains material relating to any business previously transacted unless either (i) or (ii) below applies.

- (i) It contains exempt or confidential information.
- (ii) It contains the advice of a political advisor.

b. 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 Executive or its Committees or officers, which relates to any key decisions, unless 21(a)(i) or a.(ii) above applies.

c. Nature of rights

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

22. GENERAL

Notwithstanding the above:

- a. A Member will not be entitled to examine any document where he/she has an interest under the Council's Code of Conduct.
- b. A Member shall not disclose to any person any papers, business or other information of the Council, the Executive or Committee indicated as confidential or exempt (as defined in the Access to Information Rules set out in Part 4 of this Constitution) unless:
 - (i) The Council, the Executive or the Committee has taken steps to make that business public;
 - (ii) The relevant Chair expressly consents; or
 - (iii) The law requires.

A Member shall not be entitled to inspect personal files on individuals.

- c. The Chief Executive or Borough Solicitor can prevent inspection of documents which might be protected by privilege from the relationship of solicitor and client.