

Access to Information Procedure Rules

1. Scope

These rules apply to all meetings of the council, policy and review panels, the standards committee and regulatory committees and public meetings of the Executive (together called meetings).

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.

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 Civic Offices 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 report will be available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda. Where a report to be considered at a decision making meeting has not been circulated in accordance with the timescale under the access to information rules, an explanation will be given either by the relevant Executive Member or the relevant officer, and the relevant group spokespersons will be given the opportunity to respond at the meeting.

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 city solicitor 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

Every report will list those documents (called background papers) relating to the subject matter of the report which in the opinion of the author of the report:

- (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).

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 is set out in Article 3.

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 categories (subject to any condition):

Category		Condition
1.	Information relating to any individual,	This means any individual person and relates back to the Data Protection Act 1998 (DPA).
2.	Information which is likely to reveal the identity of an individual.	This again relates back to DPA.
3.	Information relating to the financial or business affairs of any particular person (including the Authority holding that information),	Includes information relating to the Authority's own financial or business affairs. It does not include information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event. The "financial affairs or business affairs" include past, present and contemplated activities.

Paragraphs 10.4 - 10.7 were revised from 1 March 2006 as a result of the Local Government (Access to Information) (Variation) Order 2006 and the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006

Category	Condition
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Category		Condition
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.	<p>"Employee" means a person employed under a contract of service with the council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company.</p> <p>Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter.</p> <p>"Labour relations matter" means matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.</p>
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	<p>Information which reveals that the authority proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</p> <p>(b) to make an order or direction under any enactment.</p>	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	
7(A)	Information which is subject to any obligation of confidentiality	
7(B)	Information which relates in any way to matters concerning national security	

Category	Condition
7(C)	The deliberations of a standards committee or of a sub committee of the 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

Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning (General) Regulations 1992.

10.5 Public Interest Test

Paragraphs 1-7 of the exceptions (Rule 10.4) are subject to the public interest test. In determining whether this information should remain exempt, the report author and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. All report authors will, therefore, give consideration to this and explain why they consider the public interest test is best served by the information remaining exempt. The final officer determination as to disclosure will be made by the proper officer which the council has decided that all officers (in respect of reports in their name) are the 'proper officer' for the purpose of deciding whether a report should be endorsed 'Not for Publication'. This determination, together with reasons, will appear in the report and the agenda as well in relation to that item.

10.6 standards committee

All the exemptions may apply to the standards committee (and any sub-committees of that) although 7(A), (B) and (C) are specifically applicable to the standards committee when determining complaints alleging breaches of the member code of conduct.

10.7 The Executive

The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 taken cumulatively with previous regulations and primary legislation provide that exempt information does not need to be made available for all Members unless it comes within paragraph 3 and 6 of the table set out in rule 10.4. However, in relation to information under paragraph 3 of the table in rule 10.4, this can remain exempt if the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.

11. Exclusion of access by the public to reports

If the city solicitor 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.

12. Application of rules to the executive

Rules 13-22 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 — 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. Procedure before taking key decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. The forward plan

14.1 Period of forward plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of forward plan

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, 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:

- (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 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
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The city solicitor 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.

Exempt information need not be included in a forward plan and confidential information cannot be included.

15. General exception

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (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 forward plan and until the start of the first month to which the next forward plan relates;
- (b) the city solicitor has informed the chair of a relevant policy and review panel, or if there is no such person, each member of that panel in writing, by notice, of the matter about which the decision is to be made;

- (c) the city solicitor has made copies of that notice available to the public at the Civic Offices; and
- (d) at least 5 clear days have elapsed since the city solicitor complied with (b) and (c).

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

16. Special urgency

If by virtue of the date by which a decision must be taken Rule 15 (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 a relevant policy and review panel that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant policy and review panel, or if the chair of each relevant policy and review panel is unable to act, then the agreement of the Lord Mayor, or in his/her absence the Deputy Lord Mayor will suffice.

17. Report to council

17.1 When a policy and review panel can require a report

If a policy and review panel thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant policy and review panel chair, or the Lord Mayor/ Deputy Lord Mayor under Rule 16;

the panel may require the Executive to submit a report to the council within such reasonable time as the panel specifies. The power to require a report rests with the panel, but is also delegated to the city solicitor, who shall require such a report on behalf of the panel when so requested by the chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant policy and review panel.

17.2 Executive's report to council

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 7 days of receipt of the written notice, or the resolution of the panel, 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.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) 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

After any meeting of the Executive or any of its committees, the committee services manager 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 written options considered and rejected at that meeting.

19. Executive meetings relating to matters which are not key decisions

Unless the subject matter contains exempt or confidential information, the Executive will meet in public to consider matters which are not key decisions.

20. Decisions by individual members of the executive

20.1 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.

20.2 Provision of copies of reports to policy and review panels

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 democratic services manager and to the chair of every relevant policy and review panel as soon as reasonably practicable, and make it publicly available at the same time.

20.3 Record of individual decisions

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive or a key decision has been taken by an officer, he/she will prepare, or instruct the democratic services manager to prepare, a record of the decision, a statement of the reasons for it and any alternative written options considered and rejected. The record of decisions will be maintained by the democratic services manager and the provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information.

21. Policy and review panels access to documents

21.1 Rights to copies

Subject to Rule 21.2 below, a policy and review panel 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

- (a) any business transacted at a meeting of the Executive or its committees; or
- (b) any decision taken by an individual member of the Executive.

21.2 Limit on rights

A policy and review panel 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.

22. Confidential and Exempt Information¹

city council standing order 15 provides that Members who receive —

- 'confidential' or 'exempt' information within the meaning of the Local Government Act 1972, or
- information in a draft copy of any report or document, or
- information in any report or document bearing an indication that its contents are to be treated as confidential or commercially sensitive, must not disclose that information except —
 - (i) to another member entitled to have that information;
 - (ii) to an officer of the council authorised to receive it; or
 - (iii) where the council has given permission to disclose it;
 - (iv) any member may appeal to the standards committee to rule on whether any document(s) described as commercially sensitive, draft report, business confidential or confidential should remain so. The standards committee should consider such a request as soon as practicable and certainly within 21 days, otherwise the document(s) will be deemed 'open' to the public.

As and when exempt information that is commercially sensitive to the interest of the city council is required to be given to members it should be circulated at least 5 working days in advance of the meeting at which it is to be considered. All reports to be considered at formal decision making meetings will be prepared as open reports containing as much information as possible with exempt information being included as an appendix to the main report.

23. Additional rights of access for members

23.1 Material relating to previous business

All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted except that if it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information introduced by the Local Government (Access to Information) Act 1985 it must be required to enable the member to perform their public duty as a councillor.

¹ Para 22 was added by virtue of decisions taken by the council on 17 January 2006

23.2 Material relating to key decisions

All members of the council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any key decision, except that if it contains exempt information mentioned above it must be required to enable the member to perform their public duty as a councillor.

23.3 Nature of rights

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