

# Part 4

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# **Access to Information Procedure Rules**

## **1. Scope**

**These rules apply to all meetings of the Council, its Committees and Sub-Committees, and meetings of the Cabinet, its Committees and Sub-Committees.**

## **2. Additional right to information**

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

## **3. Right to attend meetings**

**Members of the public may attend all meetings subject only to the exceptions in Section 10 of these Rules and may participate so far as the Council's Public Participation Scheme allows.**

## **4. Notice of meetings**

**The Council will give at least five clear working days notice of any meeting by posting details of the meeting at Beech Hurst, Andover - the designated office.**

**In addition to the designated office, notices will be posted at the Guildhall, Andover and at the Council Offices, Former Magistrates' Court, Romsey.**

## **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 working days before the meeting.**

**If an item is added to the agenda later (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. The revised agenda will be open to inspection from the time the item was added.**

**In addition, copies of these agendas and reports will also be available for public inspection at the Council Offices, Former Magistrates' Court, Romsey.**

## **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 Proper Officer 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 documents after the meeting**

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

- (a) the minutes of the meeting. For all meetings of the Cabinet this will include records of decisions taken together with reasons, 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 Proper Officer 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.**

Background papers do not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of Cabinet reports, the advice of a political advisor.

### **8.2 Public inspection of background papers**

The Council will make available on its website, for four years after the date of the meeting, each of the documents listed on the reports as a background paper.

## **9. Summary of public's rights**

A summary of the public's right to attend meetings, and to inspect and copy documents kept at and available to the public at the Council's main offices can be found in Rule 6 above and 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 the Article.

## 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, as defined in Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, means information falling within the following categories (subject to any condition):

### All Council Committees

Category	Condition
1. Information relating to any individual.	Information is not exempt information unless it relates to any individual i.e. it must relate to and be recognisable as referring to a particular individual.
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it is likely to reveal the identity of an individual, i.e. it must be such as to make it likely that the individual to whom it relates could be identified.
3. Information relating to the financial or business affairs of any particular person including the authority holding that information.	Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts (as defined in section 2 of the Companies Act 2006), the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the

	<b>Building Societies Act 1986 or the Charities Act 1993. To be exempt the information must relate to a particular third person who must be identifiable. The “financial affairs” or “business affairs” include past, present and contemplated activities.</b>
<b>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority.</b>	<b>Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations (Consolidation) Act 1993, i.e. matters which may be the subject of a trade dispute.</b>
<b>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b>	
<b>6. Information which reveals that the authority proposes: (a) to give under any enactment a notice under which, or by virtue of, requirements are imposed on a person; or (b) to make an order or direction under any enactment.</b>	<b>Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.</b>
<b>7. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</b>	

**Information falling within any of paragraphs 1-7:**

- **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; and**

- 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.

### **General Purposes Employment Appeals & Ethics Sub-Committee**

Information falling within paragraphs 7A to 7C, as shown below, is exempt information where a meeting of the General Purposes Employment Appeals & Ethics Sub-Committee is convened to consider a matter referred under the provisions of the Standards Committee (England) Regulations Act 2008.

<b>7A. Information which is the subject of any obligation of confidentiality.</b>
<b>7B. Information which relates in any way to matters concerning national security.</b>
<b>7C. The deliberations of the Committee.</b>

#### **11. Exclusion of access by the public to reports**

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his/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 Cabinet**

*Henceforth, any reference to Cabinet also refers to its Committees and Sub-Committees.*

Rules 13 – 27 apply to the Cabinet. If the Cabinet 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.

If the Cabinet meet to discuss a key decision to be taken collectively, with an officer, other than a political assistant present, within 28 calendar days of the date according to the Work Programme by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

A key decision is as defined in Article 12.3 of this Constitution.

#### **13. Procedure before taking decisions**

Subject to Rule 15 (General Exception) and Rule 16 (Special Urgency) below, a key decision may not be taken unless:

- a notice (called herein a Work Programme) has been published in connection with the matter in question; and
- at least 28 clear calendar days have elapsed since the publication of the Work Programme; and

- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. The Work Programme**

### **14.1 Publication**

The Work Programme is published a minimum of 28 clear calendar days prior to each meeting of the Cabinet. It will contain details of reports requiring consideration by the Cabinet, either at the next or any subsequent meeting.

The work programme will be made available for inspection by the public at the Council's offices and on the Council's website.

### **14.2 Contents**

The Work Programme will state that a key decision is to be taken by the Cabinet, individual members of the Cabinet, 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 maker is an individual, his/her name and title, and where the decision maker 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) a list of the documents submitted to the decision taker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker;
- (g) the procedure for requesting details of those documents (if any) as they become available; and
- (h) whether the consideration of the item will require the exclusion of the public on the grounds of the disclosure of exempt or confidential information.

## **15. General Exception**

If a matter which is likely to be a key decision has not been included in the Work Programme, then subject to Rule 16, 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 Work



**Programme and until the start of the first month to which the next Work Programme relates;**

- (b) the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, 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 5 clear working days have elapsed since the Proper Officer complied with (a) and (b).**

**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 15 cannot be followed, then the decision can only be taken if a Head of Service, in consultation with the Chief Executive (or in his absence a the Deputy Chief Executive), considers that the decision is so urgent that it cannot await the next meeting of the Cabinet, he/she shall have authority after due consultation with the Leader (or in his/her absence the Deputy Leader or the Portfolio Holder) and the Chairman (or in his/her absence, the Vice-Chairman) of the Overview and Scrutiny Committee, to determine the matter on behalf of the Council provided that:**

- (a) a record of the three consultations shall be kept and the decision shall be reported to the next meeting of the Cabinet; and**
- (b) if any one of the three consultees so requires, the question shall instead be referred for decision to a special meeting of the Cabinet.**

## **16.2 Quarterly reports to Council on special urgency decisions**

**The Cabinet will submit quarterly reports to the Council on decisions taken in the circumstances set out in Rule 16 (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. Report to Council**

### **17.1 When an Overview and Scrutiny committee can require a report**

**If an Overview and Scrutiny committee thinks that a key decision has been taken which was not:**

- (a) included in the Work Programme; or**
- (b) the subject of the General Exception procedure under Rule 15; or**

- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Leader, Deputy Leader or the Portfolio Holder under Rule 16 Special Urgency,

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, and may be raised by resolution passed at a meeting of the Committee. Alternatively the power 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 5 members.

## **17.2 Cabinet's report to Council**

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 Cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

## **18. Record of Decisions**

After any meeting of the Cabinet, its Committees or Sub-Committees, whether held in public or otherwise, the Proper Officer 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. Notice of meetings**

This Rule applies to all meetings of the Council, its Committees and Sub-Committees, including meetings of the Cabinet, its Committees and Sub-Committees.

**19.1 Members will receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice.**

**19.2 Members who are not the subject of a summons will be notified of the availability of the agenda and reports for the meeting concerned.**

## **20. Overview and Scrutiny Committees – Access to documents**

### **20.1 Right to copies**

Subject to Rule 21.2 below, the Overview and Scrutiny Committee (including its Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Cabinet, its Committees or Sub-Committees, and which contains material relating to any business transacted at a meeting of the Cabinet, its Committees or Sub-Committees.

### **20.2 Limit on rights**

**An Overview and Scrutiny Committee will not be entitled to:**

- (a) any document that is in draft form; or
- (b) the advice of a political adviser.

## **21. Additional rights of access for members**

### **21.1 Material relating to previous business**

**All Members will be entitled to inspect any document which is in the possession of the Cabinet and which contains material relating to any business previously transacted at a private meeting of the Cabinet unless either (a) or (b) below applies:**

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information (see Rule 10.4); or
- (b) it contains the advice of a political adviser

### **21.2 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 Cabinet, its Committees or Sub-Committees and which relates to any key decision unless paragraph (a) or (b) above applies.**

### **21.3 Nature of rights**

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