

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees and sub-committees, area committees and regulatory committees and public meetings of the Cabinet (together called meetings). They also apply to all meetings of the Standards Committee except where a sub-committee of the Standards Committee is considering an allegation against a member under Section 57A of the Local Government Act 2000 or a request to review a decision to take no action under Section 57B of the 2000 Act. Specific statutory provisions relating to the Standards Committee and any sub-committee thereof will apply to these committees.

### **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 Shire Hall, Cambridge.

### **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 Proper 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 from the time the item was added to the agenda.

### **6. SUPPLY OF COPIES**

The Council will supply copies of the following:

- (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 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 Cabinet, 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.
- (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;

but does 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 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 Shire Hall, Cambridge.

## 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. Information is only exempt 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.

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 but subject to the conditions set out in Paragraph 10.5 and interpretation set out in paragraph 10.6 below:

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 Conditions Relating to Exempt Information

8. 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 Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993.
9. 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.
10. Information which:
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 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.

## 10.6 Interpretation of Exempt Information

In paragraph 10.4 and 10.5:

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"labour relations matter" means—

(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

## 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 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 CABINET**

Rules 13 – 24 apply to the Cabinet. If the Cabinet meets 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 14.03 of this Constitution.

If the Cabinet meets to discuss a Key Decision to be taken collectively, with an officer present, within 28 days of the date according to the Forward Plan 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. A Key Decision is as defined in Article 14.03 of this Constitution.

## 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 Cabinet, 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 the subject of a Key Decision to be taken by the Cabinet, individual members of the Cabinet, officers, area committees 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 insofar 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 Cabinet 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.
- (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 Proper Officer will publish once a year a notice in at least one newspaper circulating 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.
- (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 Proper Officer has informed the chairman of a relevant 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.
- (d) At least 5 clear 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.

## 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 Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.

## 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 Forward Plan; or
- (b) The subject of the general exception procedure; or

- (c) The subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Chairman/Vice-Chairman of the Council under Rule 16;

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, but 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 3 members of the Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

## 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 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 Cabinet 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 Cabinet 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. **CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will decide whether meetings relating to matters which are not Key Decisions will be held in public or private but the presumption will be that they will be in public.

## 20. **DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

### 20.1 **Before Taking a Decision**

Before taking a decision, the Cabinet member must:

- (a) Determine if the decision is a Key Decision or not and if he/she has the necessary authority to take that decision. If in doubt on either issue, the Cabinet member must inform and seek the advice of the Chief Executive.

- (b) If the decision is not a Key Decision then ensure that he/she has received appropriate officer advice in a written form.
- (c) If the decision is a Key Decision follow the procedures stated below. (The Council has resolved that Key Decisions should not be taken by individual members and may review this on an annual basis.)

## 20.2 **Reports Intended to be Taken into Account**

Where an individual member of the Cabinet 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 3 clear days after receipt of that report.

## 20.3 **Provision of Copies of Reports to Overview and Scrutiny Committees**

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 Chairman of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

## 20.4 **Record of Individual Decision**

As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet or a Key Decision has been taken by an officer, 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 provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet.

## 21. **OVERVIEW AND SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS**

### 21.1 **Rights to Copies**

Subject to Rule 21.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Cabinet; or
- (b) any decision taken by an individual member of the Cabinet.

### 21.2 **Limit on Rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (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. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **22.1 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 Cabinet and contains material relating to any business previously transacted at a private meeting unless it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information in paragraph 10.4 and information within paragraph 3 referring to any terms proposed by or to the authority in the course of negotiations for a contract.

### **22.2 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 which relates to any Key Decision unless it is exempt information to which paragraph 22.1 above applies.

### **22.3 Nature of Rights**

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

### **22.4 Freedom of Information Act 2000**

The Council's code of practice on Freedom of Information and the Publication Scheme afford the public (and members) with additional rights to access to information which is in accordance with the Freedom of Information Act 2000's requirements, relevant exceptions and public interest tests.