

## **Section 2**

# **Access to Information Procedure Rules**

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## **Access to Information Procedure Rules**

### **1 Scope**

These rules apply to all meetings of the Council, the Executive, Scrutiny Committees, the Standards Committee and Regulatory Committees (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 working days notice of any meeting by posting details of the meeting at the Civic Centre, Riverside, Stafford (hereinafter called “the designated office”) and on its website.

### **5 Procedures Prior to Public Meetings**

5.1 An item of business shall 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 required by Rule 6 for at least five clear working days before the meeting; or
- (b) where the meeting is convened at shorter notice in accordance with these Rules, 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 the person presiding at the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

### **6 Access to Agenda and Connected Reports**

6.1 The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Offices, and by electronic means, at least five clear days before the meeting. If an item is added to the agenda later, supplementary agenda papers will be open to inspection from the time the item was added to the agenda.

- 6.2 Nothing in paragraph 6.1 shall require 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 body concerned.

## **7 Access To Minutes Etc, After The Meeting**

- 7.1 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, 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 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 The appropriate 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.
  - (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 and in respect of Cabinet reports, the advice of a political advisor.
- 8.2 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.
- 8.3 In relation to Cabinet decisions the Council will make available on the council's website a copy of the background papers included within the list.

## **9 Exclusion Of Press And Public From Meetings**

- 9.1 Confidential Information - 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.

- 9.2 Exempt Information - 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.
- 9.3 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.
- 9.4 Meaning of exempt information - Exempt information means information falling within the categories and subject to the qualifications set out below.

### **Part 1 - Categories of Exempt Information**

- 9.4.1 Information relating to any individual.
- 9.4.2 Information which is likely to reveal the identity of an individual.
- 9.4.3 Information relating to the financial or business affairs of any particular person (including the Council).
- 9.4.4 Information relating to any consultations or negotiations, contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council.
- 9.4.5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 9.4.6 Information which reveals that the Council proposes:-
- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person;
  - (b) to make an order or direction under any enactment.
- 9.4.7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### **Part 2 - Qualifications**

- 9.4.8 Information falling within paragraph 9.4.3 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.

9.4.9 Information is not exempt if it is held by the Council in its capacity as local planning authority and 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.

9.4.10 Information which:-

- (a) falls within any of paragraphs 9.4.1 to 9.4.7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 9.4.8 or 9.4.9 above;

is exempt information 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.

9.5 Except as provided in this Rule 9 all meetings shall be open to the public.

9.6 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 this 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.

## **10 Application of Rules to the Cabinet**

10.1 Rules 11-17 apply to the Cabinet only, in addition to Rules 1-9.

## **11 Procedure Prior to a Private Meeting of the Cabinet**

11.1 Subject to 11.2 below, a decision by Cabinet to hold a meeting, or part of a meeting, in private may not be taken unless:

- (a) a notice has been published in the Forward Plan at least 28 clear days before the meeting in question and made available on the council's website. This notice is to include a statement of the reasons for the meeting being held in private;
- (b) a further notice is included on the agenda and published on the council's website five clear days before the meeting. This notice is to include:
  - (i) a statement of the reasons for the meeting to be held in private;
  - (ii) details of any representations received by the Cabinet about why the meeting should be open to the public;
  - (iii) a statement of its response to any such representations.

11.2 If a matter has not been included in accordance with rule 11.1 above, then the decision to hold a meeting, or part of a meeting, in private may still be taken if agreement that the meeting is urgent and cannot reasonably be

deferred is obtained from the Chairman of the relevant Scrutiny Committee (or in that person's absence the Mayor or in the his/her absence the Deputy Mayor). As soon as it is practicably possible a notice will be published on the council's website setting out the reason why the meeting is urgent and cannot be reasonably deferred.

## **12 Procedure Before Taking Key Decisions**

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

- (a) A notice has been published in the Forward Plan in connection with the matter in question;
- (b) The notice referred to in a. has been available for public inspection for at least 28 clear days on the council's website;
- (c) Where the decision is to be taken at a meeting of the Cabinet, notice has been given in accordance with Rule 4 (notice of meetings).

## **13 The Forward Plan**

13.1 The Forward Plan must be published on the council's website, at least 28 clear days before a key decision is to be made.

13.2 The Forward Plan will contain notice of matters which the Proper Officer has reason to believe will be the subject of a Key Decision to be taken by the Cabinet or other Officers, in the course of the discharge of an Executive function during the period covered by the Plan. It will give the following details:-

- (a) That a key decision is to be made;
- (b) The matter in respect of which a decision is to be made;
- (c) Where the decision taker is an individual , his or her name or title, if any and where the decision taker is a body, its name;
- (d) The date on which, or the period within which, the decision will be taken;
- (e) A list of documents to be submitted to the decision taker for consideration;
- (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 the matter may be submitted to the decision maker;
- (h) The procedure for requesting details of those documents (if any) as they become available;
- (j) If the decision is to be taken at a private meeting, the notice required by Rule 11.1a.

## **14 General Exception**

- 14.1 Subject to Rule 15 (special urgency), where the publication of the intention to make a key decision under Rule 12 is impracticable, that decision may only be made where:-
- (a) Notice of the matter about which the decision is to be made and the reasons why it has been impracticable to apply Rule 12 has been given in writing to the Chairman of the relevant Scrutiny Committee or, in their absence, to each member of that Committee and made available on the council's website;
  - (b) At least five clear days have elapsed since the notice given in paragraph a. was made available.

## **15 Special Urgency**

- 15.1 Where the date by which a key decision must be made makes compliance with Rule 14 (General Exception) impracticable the decision may only be made when agreement has been obtained from the Chairman of a relevant Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no chairman of a relevant Scrutiny Committee or if the chair of the relevant Scrutiny Committee is unavailable or unable to act, then the agreement of the Mayor, or in his/her absence, the Deputy Mayor will suffice.
- 15.2 As soon as reasonably practicable after this agreement has been obtained, a notice must be published on the council's website setting out the reasons why the decision is urgent and cannot reasonably be deferred.

## **16 Report To Council**

- 16.1 If a relevant Scrutiny Committee thinks that an executive decision has been taken and was not treated as a key decision and the Committee are of the opinion that the decision should have been treated as a key decision the Committee may require the Leader of the Council to submit a report to the Council within such reasonable time as the Scrutiny 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, 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 of the Committee. The request must be made in writing.



- 16.2 The Leader will prepare a report for submission to the next available meeting of the Council following at least 10 clear days after the receipt of the written notice, or the resolution of the Committee.
- 16.3 The report to Council will set out particulars of the decision and the reasons for 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.
- 16.4 The Leader of the Council will submit an annual report to the Council containing details of each executive decision taken where the making of the decision was agreed as urgent in accordance with this Rule 16 (Special Urgency) since the last such report.

## **17 Record of Decisions**

- 17.1 After any meeting of the Cabinet or a decision making body at which an executive decision was made, the Proper Officer will produce a record of every decision taken at that meeting as soon as practicable. The record 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 any dispensation granted.

## **18 Executive Decisions Taken By Officers Under Delegated Authority**

- 18.1 This Rule 18 applies to any Key Decision taken by an officer.
- 18.2 A copy of any report or part report relevant to a decision to which this rule applies made by an officer will be open to inspection by the public for six years from the date the decision was made. Documents containing confidential or exempt information or the advice of a political adviser or assistant need not be disclosed. If a document is not disclosed because it contains exempt information, the statement will describe the category of exempt information.
- 18.3 As soon as reasonably practicable after a decision to which this rule applies has been taken by an Officer, he/she will prepare a record of the decision, the record will 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.

18.3 The provisions of rules 6 and 7 will also apply to records of decisions by officers to which this rule applies.

## **19 Overview and Scrutiny Committees Access to Documents**

19.1 Subject to Rule 19.2 below, a Member of a relevant Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive or
- (b) any decision taken by an individual member of the Executive or an officer where Rule 18.1 applies.

19.2 No Member of a relevant Scrutiny Committee will be entitled to any part of a document, including background papers that contains exempt or confidential information, unless the information is relevant to:-

- (a) an action or decision that that Member is reviewing or scrutinising; or
- (b) any review contained in any program of work of the scrutiny committee.

19.3 If a member of a relevant Scrutiny Committee is not entitled to a copy of a document, the Executive must provide the relevant Scrutiny Committee with a written statement setting out its reasons for that decision.

## **20 Additional Rights of Access for Members**

20.1 Subject to paragraph 20.2 all members will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business transacted at a private meeting or any decision made by an individual Member of the Cabinet or an officer where Rule 18.1 applies.

20.2 Notwithstanding Rule 20.1, nothing in these Rules requires any document to be made available for inspection if it appears to the Proper Officer that:-

- (a) it discloses confidential or exempt information as defined in Rule 8;
- (b) it discloses the advice of a political advisor.

## **21 Proper Officer**

21.1 The Proper Officer for the purpose of these rules is the Head of Law and Administration or in his or her absence the Chief Executive or such other officer as he or she may designate.