

# Access to Information Procedure Rules

## 1. Scope of these Rules

These rules apply to all meetings of the Council, Scrutiny Committees and Council Committees and public meetings of the Cabinet (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, and Report on, Meetings

Members of the public may attend all formal, public meetings subject only to the exceptions in these rules. The right to attend also includes the right to report and commentate on public meetings of the Council<sup>1</sup>. This right to report and commentate also includes the right to take photographs, film and audio-record the proceedings as well as commentate on the proceedings via social media. Carrying out an oral commentary during the meeting is not permitted as this would be disruptive to the good order of the meeting. The Chairman of the relevant meeting has discretion to suspend an instance of reporting and/or commentating where this amounts to disruptive behaviour and may require any person acting in a disruptive manner to be excluded from the meeting.<sup>2</sup> Members of the public, including journalists, should comply with any policy or guidance on reporting/commentating produced by the Council from time to time. The Council will provide reasonable facilities to enable members of the public to report on meetings and it is advisable that any person wishing to film or audio-record a meeting lets the Council know so that appropriate arrangements can be made.

## 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 County Hall, Oxford and posting details on the Council's web-site.

## 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 County Hall at least five clear working days before the meeting. Where a report is prepared after the Agenda has been

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<sup>1</sup> *The right to report and commentate (and their restrictions) are those given under the Openness of Local Government Bodies Regulations 2014.*

<sup>2</sup> *Disruptive behaviour is any activity which, in the opinion of the Chairman of the meeting, disrupts the conduct of the meeting or impedes other members of the public being able to see, hear or film the proceedings. This could include, but is not restricted to, excessive noise, moving from designated areas without the consent of the Chairman, intrusive lighting and flash photography.*

published, the Proper Officer will make each such report available to the public as soon as the report is completed and sent to councillors. All agendas and reports will be made available on the Council's web-site where these exist in electronic form.

## **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 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; and
- (d) reports relating to items when the meeting was open to the public.

These will be placed on the web site where they exist in electronic form.

## **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 her/his 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.

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

## **8.2 Public Inspection and Purchase of Background Papers**

The Council will keep for four years after the date of the meeting at least one copy of each of the documents on a list of background papers so that it can be produced for inspection as soon as reasonably practicable after a request to inspect the document has been received. Any person is entitled either:

- (a) to make copies or extracts from such a document; or
- (b) to be supplied with a photocopy of all or parts of the document on payment of a reasonable fee;

provided in either case that copyright is not infringed.

## **9. Summary of the Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at County Hall, Oxford.

## **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 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.

### **10.3 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. However there is a presumption of openness that requires any meeting to be held in public unless there are compelling grounds for excluding the public.

#### 10.4 Meaning of Exempt Information

Subject to the conditions and exclusions in Rule 10.5 below, exempt information is defined in the relevant Regulations as information falling within any of the following categories:

Category	Interpretation
1. Information relating to any individual	To be exempt the information must relate to a particular and identifiable person
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)	Such affairs may be contemplated, as well as past or current (see also condition (a) in 10.5 below)
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	“Labour relations matters” are as specified in section 218(1)(a)-(g) of the Trade Unions and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute); “employee” means a person employed under a contract of service; “office-holder” means a paid appointee to an office
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	“Legal professional privilege” is a right in certain situations to withhold documents conveying legal advice to a client or relating to litigation
6. Information which would reveal 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	
7A. Information which is subject to any obligation of confidentiality. 7B. Information which relates in any way to matters concerning national security.	

#### 10.5 Exempt Information – Conditions and Exclusions

Under the relevant Regulations information is not exempt:

- (a) if it is required to be registered under
- the Companies Act 1985;
  - the Friendly Societies Act 1974;
  - the Friendly Societies Act 1992;
  - the Industrial and Provident Societies Acts 1965 to 1978;
  - the Building Societies Act 1986; or
  - the Charities Act 1993;

- (b) 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;
- (c) unless in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### 10.5 Restriction on the recording of proceedings

The right to record proceedings (under the Openness of Local Government Bodies Regulations 2014) does not extend to the recording of confidential or exempt discussions. Where the public are excluded from meetings, this exclusion means that no recording equipment may be left in the room to record proceedings. The Chairman of the meeting may require that recording equipment is removed from the meeting for the duration of the confidential/exempt items.

### 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 her/his 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 "Restricted" together with the category of information likely to be disclosed.

### 12. Application of Rules to the Cabinet

- 12.1 Rules 13 – 24 apply to the Cabinet and any committees of the Cabinet.
- 12.2 The Cabinet and its committees must also comply with Rules 1 – 11 above in relation to the whole or part of any meeting insofar as the Leader of the Council or other person likely to preside at the meeting reasonably believes that either:
  - (a) a decision to be made will be a key decision as defined in paragraph 3(b) of Article 14 of this Constitution; or
  - (b) a matter is likely to be discussed which is included in the Forward Plan as defined in Rule 14 or is the subject of a notice under Rule 15 (general exception); and (in either case):
    - (i) the decision on that matter is likely to be made within 28 days; and
    - (ii) an officer who is not a political adviser or assistant will be present at the discussion.

- 12.3 Rule 12.2 does not include a meeting to which sub-paragraph (b) of that rule applies whose principal purpose is for an officer to brief a decision maker on matters affecting the making of an executive decision.

### **13. Procedure Before Taking Key Decisions**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken by the Cabinet, a committee of the Cabinet, an individual Cabinet Member, area committee under joint arrangements, or by an officer unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 3 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, a committee of the Cabinet or an individual Cabinet Member, 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 of the Council to cover a period of four months, beginning with the first working day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first working 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 of the Council has reason to believe will be subject of a decision to be taken by the Cabinet, a committee of the Cabinet, individual member of the Cabinet, area committee, or under joint arrangements or of a key decision to be taken by an officer, 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, her/his 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; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

### **14.3 Publicising the Forward Plan**

The forward plan must be published widely at least 28 clear days before the start of the period covered.

The Proper Officer will publish once a year (between 14 and 21 days before the first forward plan of the new financial year comes into operation) a notice in at least one newspaper circulating in the County and in such other ways as will ensure maximum coverage in the County, 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 including notice of confidential and exempt information;
- (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 County Hall, Oxford.

## 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; and
- (b) the Proper Officer has informed the Chairman of the Performance Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter on which the decision is to be made; and
- (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 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 unless Rule 10 applies.

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

## 17. Report to Council

### 17.1 When Scrutiny Committee can require a Report

If the Performance 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 Scrutiny Committee Chairman, or the Chairman or 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 5 members of it. Alternatively the requirement may be raised by resolution passed at a meeting of the Performance 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 10 working days of issue of the written notice, or the resolution of the Scrutiny 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 of the Council 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 of the Council will submit quarterly reports to the Council on any 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 Cabinet or any Committee of the Cabinet, to which these rules apply, 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. How each member of the Cabinet voted will be noted as a matter of public record.

## **19. Cabinet Meetings Relating to Matters which are not Key Decisions**

All decisions of the Cabinet or any committee of the Cabinet in the exercise of executive functions which are not key decisions will be made at a public meeting. Rules 1 – 11 above will apply. Where any item is to be added to a published agenda, the Proper Officer will notify the Chairman of the Performance Scrutiny Committee at the time the item is added.

## **20. Non-Cabinet Members**

All members of the Council and the voting co-opted members of the Education Scrutiny Committee will be entitled to receive the Cabinet Forward Plan each month when it is published. All members of the Council will, subject to the provisions of section 7 of the Protocol on Members' Rights and Responsibilities set out at Part 9.2 of this Constitution, be entitled to receive the agenda for and minutes of each meeting of the Cabinet or a committee of the Cabinet. The voting co-opted members of the Education Scrutiny Committee will be entitled to receive, subject to the provisions of section 7 of the Protocol on Members' Rights and Responsibilities set out at Part 9.2 of this Constitution, any items on an agenda of the Cabinet or any Committee of the Cabinet which concern the discharge of any education functions.

## **21. Officers**

The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its Committees including any part of a meeting from which the public has been excluded.

## **22. Decisions by Individual Members of the Cabinet**

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

Where the Cabinet has delegated decision making powers to an individual member of the Cabinet and s/he receives a report which s/he intends to take into account in making an executive decision, then s/he will not make the decision until at least five clear days after receipt of that report.

### **22.2 Provision of Copies of Reports to Scrutiny Committees**

On the giving of such a report to an individual decision maker, the Proper Officer will at the same time also give a copy of it to the Chairman of every relevant Scrutiny Committee and make it publicly available.

### **22.3 Record of Individual Decisions**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, s/he will 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. This does not require the disclosure of confidential or exempt information as defined in Rule 10.

## **23. Scrutiny Committees Access to Documents**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, a Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or any Committee of the Cabinet or any Committee of the Council and which contains material relating to any:-

- (a) business transacted at a meeting of the Cabinet or a Committee of the Cabinet or Committee of the Council
- (b) decision taken by an individual member of the Cabinet
- (c) decision taken under joint arrangements
- (d) key decision taken by an officer.

### **23.2 Limit on rights**

A Scrutiny Committee will not be entitled to:

- (a) any private briefing document from an officer to the Cabinet, individual Cabinet member or a political Group;
- (b) any document that is in draft form, unless the Cabinet believes that it is necessary for the Scrutiny Committee in order to carry out its challenge role on behalf of the Cabinet;
- (c) any part of a document that contains confidential or exempt information as defined in Rule 10, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (d) the advice of a political adviser.

## **24. Additional Rights of Access for Members**

### **24.1 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 or a Committee of the Cabinet which relates to any key decision to be taken as set out in the Forward Plan in Rule 14 unless paragraph (a), (b) or (c) below applies:-

- (a) any private briefing document from an officer to the Cabinet, individual Cabinet member or a political Group;
- (b) it contains exempt information falling within paragraphs 1, 2, 3 (if relating to contract terms in the course of negotiation), 4, 5, 7 or 7A-C of the categories of exempt information as defined in Rule 10; or

(c) it contains the advice of a political adviser.

Where a member wishes to inspect any document which contains exempt information falling within (b) above as s/he believes that it is necessary to do so in order to properly fulfil her/his duties as a County Councillor then the procedure set out in the Protocol on Members' Rights and Responsibilities at Part 9.2 of this Constitution should be followed.

**24.2 Material Relating to Cabinet and Non-Cabinet Decisions and to Previous Business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or a Committee of the Cabinet or a Committee of the Council and contains material relating to any business to be transacted at a meeting or previously transacted at a meeting unless either (a), (b) or (c) in Rule 24.1 above applies.

**24.3 Nature of Rights**

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