

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Board, the Audit, Standards and Governance Committee, Area Committees and other committees, boards and panels ("meetings") unless a statutory exemption applies. Overview and Scrutiny Task Groups are not covered by these Rules.

These rules also apply to Executive Decisions made by individual officers.

### **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**

4.1 The Council will give at least 5 clear days notice of any meeting by posting details of the meeting at The Council House, Burcot Lane, Bromsgrove and on the Council website.

4.2 However, in cases of exceptional urgency the Chief Executive, having consulted with the Chairman of the Council or the Chairman of the relevant Committee, Board or Panel, may convene a meeting giving less than 5 clear days' notice. The agenda and minutes of the meeting shall specify the nature of the exceptional urgency.

4.3 For the avoidance of doubt, where the term "clear days" is used, this does not include statutory and concessionary holidays, the day on which notice is given, the day of the meeting or any Saturday or Sunday.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at The Council House at least 5 clear days before the meeting. Copies of the agenda and reports for all meetings will be sent to all members of the Council at least 5 clear days before the meeting.

5.2 Items will only be added to an agenda less than 5 clear days before the date of the meeting in cases of exceptional urgency and only if the officer or member presenting the item has, before the meeting, submitted to the Head of Legal, Equalities & Democratic Services a form signed or approved by

the Chairman of the Council or the relevant Committee as appropriate giving reasons why:

- (a) the item could not have been included on the agenda; and
- (b) the item required a decision before the next scheduled meeting of the Council or Committee.

5.3 If an item is added to the agenda less than 5 clear days before the date of the meeting, the revised agenda will be open to inspection from the time the item was added to the agenda.

5.4 In cases of exceptional urgency where less than 5 days' notice of a meeting is given, copies of the agenda and reports will be made available and shall be open to inspection from the time the meeting is convened.

### 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 Chief Executive 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. **WITHDRAWAL OF ITEMS FROM AN AGENDA**

Items on the agenda for meetings of the Council, Cabinet, Audit, Standards and Governance Committee and Overview and Scrutiny Board will not be withdrawn less than 3 clear calendar days before the date of the meeting except in exceptional circumstances and only when the Chairman of the Council, the Leader or the Chairman of the Board as appropriate has agreed to the item being withdrawn at that time.

### 8. **ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Council will make available copies of the following for 6 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 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 coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **9. BACKGROUND PAPERS**

### **9.1 List of background papers**

The Chief Executive 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 of 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 11), and in respect of Cabinet reports, the advice of a political advisor.

### **9.2 Public inspection of background papers**

When a report for a meeting is made available for Cabinet meetings the Council will also make available at its office and on its website, one copy of each of the background papers referred to in the list prepared under rule 9 above.

These background papers will be available for public inspection for 4 years after the date of the meeting. Copies of background papers will be supplied to any person on payment of a charge for postage and any other costs.

## **10. SUMMARY OF THE RIGHTS OF THE PUBLIC**

These Rules constitute a summary of the rights of the public to attend meetings and to inspect and copy documents. These Rules will be kept at and available to the public at The Council House, Bromsgrove. .

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 11.1 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.

### 11.2 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.

### 11.3 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.

### 11.4 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.	<p>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.</p> <p>Information 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.</p>

Category	Condition
<p>2. Information which is likely to reveal the identity of any individual.</p>	<p>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.</p> <p>Information 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.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>"Financial or business affairs" includes contemplated, as well as past or current, activities.</p> <p>Information falling within paragraph 3 is not exempt by virtue of that paragraph if required to be registered under:</p> <ul style="list-style-type: none"> <li>a) the Companies Act 1985</li> <li>b) the Friendly Societies Act 1974</li> <li>c) the Friendly Societies Act 1992</li> <li>d) the Industrial and Provident Societies Acts 1965 to 1978</li> <li>e) the Building Societies Act 1986</li> <li>f) the Charities Act 1993.</li> </ul> <p>"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).</p> <p>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.</p>

Category	Condition
	<p>Information 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.</p>
<p>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 office holders under, the authority.</p>	<p>"Employee" means a person employed under a contract of service.</p> <p>"Labour relations matter" means:</p> <ul style="list-style-type: none"> <li>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</li> <li>b) any dispute about a matter falling within paragraph (a) above;</li> </ul> <p>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.</p> <p>"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.</p> <p>Information 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.</p>

Category	Condition
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>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.</p> <p>Information 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.</p>
<p>6. 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>	<p>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.</p> <p>Information 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.</p>
<p>7. Information relating to any action taken, or be taken, in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information 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.</p>

## 12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive 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 11, 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.

In some cases the Council may consider an item in public although the report it is discussing contains some exempt information. In all cases a public summary of the item will be provided after the meeting, usually as part of the minutes of the meeting.

The Cabinet will indicate on its Work programme where it is likely to exclude the public from a meeting or part of a meeting. Members of the public can make representations to the Council if they feel that the item should be considered in public. Rule 15 below refers to this in more detail.

### 13. **APPLICATION OF RULES TO THE CABINET**

Rules 14-24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a Key Decision then it must also comply with Rules 1-12 unless either Rule 16 (General Exception) or Rule 17 (Special Urgency) applies. A Key Decision is as defined in Article 13.3 of this Constitution.

### 14. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Work Programme) has been published in connection with the matter in question;
- (b) at least 28 days have elapsed since the publication of the Work Programme.

### 15. **THE WORK PROGRAMME**

#### 15.1 **Period of Work Programme**

Work Programmes will be prepared by the Leader to cover a period of at least 28 days. They will be prepared on an approximately monthly basis and published at least 28 days before the first meeting of the Cabinet to which Key decisions on the Programme relate.

#### 15.2 **Contents of the Work Programme**

The Work Programme will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an Cabinet function during the period covered by the Programme. It will describe the following items in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a key 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) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (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; and
- (g) the procedure for requesting details of those documents (if any) as they become available..
- (h) which of the key decisions outlined may involve the consideration of exempt or confidential information, the reasons why and how the public may make representations when they consider the item should be considered in public.

The Work Programme must be published at least 28 days before the start of the period covered.

Exempt information need not be included in the Work Programme and confidential information cannot be included.

### 16. **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 17 (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 Work Programme;
- (b) the Chief Executive has informed the Chairman of the Overview and Scrutiny Board, or in his/her absence each member of the Board by notice, of the matter about which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and published it on the Council's website; and

- (c) at least 5 clear days have elapsed since the Chief Executive complied with (a) and (b).

The notice should include reasons why it has not been possible to include the item on the Work Programme.

## **17. SPECIAL URGENCY**

If the date by which a decision must be taken means that Rule 16 (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 the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, that the taking of the decision is urgent and cannot be reasonably deferred.

If the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman, will suffice.

As soon as reasonably practicable after the decision-maker has agreement that the decision is urgent and cannot reasonably be deferred, they must publish a notice on the Council's website setting out the reasons why the meeting is urgent. The notice must also be available at the Council's offices for members of the public to see.

## **18. REPORT TO COUNCIL**

### **18.1 When the Overview and Scrutiny Board can require a report**

If the Overview and Scrutiny Board considers 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 (Rule 16); or
- (c) the subject of an agreement with the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, or the Chairman/Vice-Chairman of the Council under the Special Urgency procedure (Rule 17)

the Overview and Scrutiny Board may, subject to Rule 18.2, require the Cabinet to submit a report to the next available meeting of the Council. The power to require a report rests with the Overview and Scrutiny Board, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Overview and Scrutiny Board when so requested by the Chairman or Vice-Chairman of the Overview and Scrutiny Board or any three

members of the Overview and Scrutiny Board. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board.

## **18.2 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 falls within 7 days of receipt of the written notice or the resolution of the Overview and Scrutiny Board, then the report may be submitted to the following meeting of the Council. 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.

## **18.3 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 17 (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.

## **19. RECORD OF DECISIONS**

### **19.1 Meetings**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, 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;
- any alternative options considered and rejected at that meeting;
- A record of any conflict of interest relating to the matter declared by any member of the decision-making body;
- For any declared conflict of interest, a note of dispensation granted by the Head of Paid Service (the Chief Executive).

### **19.2 Officer Decisions**

From time to time, Officers will make decisions that would otherwise be made at meetings of the Cabinet. As soon as practicable after the decision is made the officer will provide a written statement which will include:

- A record of the decision and the date it was made;
- The reasons for the decision;
- Details of alternative options considered and rejected when making the decision;

- Any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision;
- A note of dispensation granted by the Council's Head of Paid Service (the Chief Executive) relating to any declared conflicts of interest.

The Decisions recorded will be those where a matter has been delegated to an officer/s at a meeting of the Cabinet or involves expenditure above £50,000.

### 19.3 **Publication of Decisions**

Once a decision is made under paragraphs 19.1 and 19.2 above, copies of the record of the decision will be published, as soon as reasonably practicable, on the Council's website. Copies will also be available for inspection by members of the public at the Council's offices.

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

Meetings of the Cabinet relating to matters which are not Key Decisions will be held in public and must comply with Rules 1-12.

## 21. **ATTENDANCE AT MEETINGS OF THE CABINET**

- 21.1 All members of the Council are entitled to attend a meeting of the Cabinet. Members of the Council who are not members of the Cabinet may speak at meetings of the Cabinet. Only members of the Cabinet may vote.
- 21.2 All members of the Council are entitled to attend a meeting of a committee of the Cabinet. Members of the Council who are not members of the Cabinet and who are not members of the committee may speak at such meetings. Only members of the committee may vote.
- 21.3 The Head of Paid Service, the Section 151 Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- 21.4 A meeting of the Cabinet or any of its committees may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.
- 21.5 In all cases, the provisions of Rule 19 (Record of Decisions) will apply.

**22. OVERVIEW AND SCRUTINY BOARD - ACCESS TO DOCUMENTS**

**22.1 Rights to copies**

Subject to Rule 22.2 below, members of the Overview and Scrutiny Board will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet; or
- (c) Any decision made by an officer in accordance with executive arrangements.

Subject to paragraph 22.2 below, the Cabinet must provide the document requested as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

**22.2 Limit on rights**

The Overview and Scrutiny Board 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; or
- (c) the advice of a political adviser.

**23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

**23.1 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 or its committees and contains material relating to any business previously transacted at a meeting or to a decision made by an officer in accordance with Executive arrangements, unless (a) (b) or (c) below applies:

- (a) it contains exempt information, unless it is exempt under paragraphs 3 or 6 of the categories of exempt information. However, information which is exempt under paragraph 3 does not have to be disclosed if it related to terms proposed or to be proposed by or to the authority in the course of negotiations for a contract;
- (b) it contains confidential information; or

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

### **23.2 Material relating to Key Decisions**

All members of the Council will be entitled to inspect any document in the possession or under the control of the Cabinet or its committees, except those available only in draft form, which relates to any key decision unless paragraph (a) (b) or (c) above applies.

### **23.3 Nature of rights**

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