

## **15. Access to information and key decision procedures**

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### **15.1 Meetings affected by these procedures**

The key decision procedures (15.14 to 15.19) apply to executive decisions.

The rest of the procedures in this section apply to Council, Cabinet and committee meetings.

### **15.2 Other rights to information**

These procedures do not affect any other rights to information under the law and this Constitution.

### **15.3 Public's rights to attend meetings**

The public can attend meetings, except when confidential or exempt information is being discussed (15.4). The public also have the right to record meetings that are held in public.

### **15.4 Exceptions to public's right to attend meetings**

- (a) Confidential information – must meet in private

The meeting must be conducted in private when confidential information is likely to be discussed.

Confidential information is information that is prevented from being made public by court order or a government department that has provided the information.

(b) Exempt information – can meet in private

The meeting can be held in private when exempt information is likely to be discussed.

The Cabinet meeting can be held in private provided that 28 days' notice has been given of that meeting in the Forward Plan on the Council's website.

The notice must include a statement of the reasons for the meeting to be held in private.

Any representations made and the Council's response must be included in the agenda for the meeting.

If notice of a private meeting has not been given in the manner specified it can still take place providing:

- the Chair of the Scrutiny Committee (or the Lord Mayor or the Deputy Lord Mayor in their absence) agrees: and
- it is included in the Forward Plan at the earliest opportunity and reasons are given as to why the decision to be made in private cannot wait.

Where an officer makes an executive decision and the publication of that decision includes exempt information then it must be advertised in the same way.

(c) Information is exempt if it would not be in the public interest to publish it and it falls into one or more of the categories set out below identified in Schedule 12A to the Local Government Act 1972:

a. Information about individuals

- Information relating to any individual (paragraph 2, Schedule 12A, Local Government Act 1972)
- Information which is likely to reveal the identity of an individual (paragraph 2).

b. Information about someone's finances or business

Information relating to the financial or business affairs of any particular person (including the authority holding that information) (paragraph 3).

c. Labour relations information

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 (paragraph 4)

- d. Information that could be considered legally privileged

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (paragraph 5)

- e. Information about legal action

Information which reveals that the authority proposes:

- (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (ii) to make an order or direction under any enactment (paragraph 6)

- f. Information about action to deal with a crime

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime (paragraph 7)

- (d) Disorderly conduct – exclusion of members of the public

A member or members of the public can be excluded from the meeting in order to maintain orderly conduct or prevent misbehaviour.

### **15.5 Reports that are expected to be considered in private**

If the Monitoring Officer expects that a report will be considered in private (15.4), it will not be made available to the public. It will be marked “not for publication” and will say what category of information is involved.

### **15.6 Notice of meetings**

At least five clear working days before each meeting, the Council will post details of the meeting at the Town Hall and on the Council’s website subject to copies being made available to members of the decision-making body first.

### **15.7 Background papers**

Each report will include a list of background papers if there are any. Background papers are papers that have been relied on when writing the report. They do not include published works or documents that contain exempt or confidential information (15.4). All background papers will be published on the Council’s website.

### **15.8 Access to meeting papers before a meeting**

The agenda and reports will be available at the Town Hall at least five clear working days before a meeting subject to copies being made available to members of the decision making body first. If an item or report is added later, it will be made available as soon as it is added.

Copies of the agenda, reports and background papers will be available for public inspection. The agenda, reports and background papers will also be available on the Council's website at least five clear working days before a meeting. Members of the public may register for email alerts of the publication of an agenda and accompanying reports. They may also subscribe annually for paper copies subject to payment of a charge.

### **15.9 Access to meeting papers after a meeting**

For six years after a meeting, the Council will make available:

- The agenda and reports
- The minutes (except for items that were considered in private because they were exempt or confidential). These will be made available within 10 working days of the meeting and, for executive decisions, they will record the reasons for the decision, any alternatives considered and any interests declared
- A summary of any business that was not open to the public if the minutes available to the public do not give a reasonable record.

For four years after the meeting the Council will make available the background papers to a report.

### **15.10 Summary of the public's rights**

A summary of the public's rights to attend meetings and to inspect and copy documents will be available at the Town Hall.

### **15.11 Access to documents by members of the Scrutiny Committees**

Members of the Scrutiny Committees have a right to copies of any documents seen or controlled by the Cabinet that are relevant to decisions taken by the Cabinet or key decisions taken by officers except for:

- Advice given by a political assistant
- Exempt or confidential information (unless it is relevant to something being scrutinised)
- Any draft of reports to be considered by the Cabinet.

### **15.12 Extra rights of access to information for councillors**

Any councillor can look at any documents seen or controlled by the Cabinet that are relevant to:

- Decisions to be taken by the Cabinet in public
- Decisions taken by the Cabinet in private
- Key decisions taken by officers.

But this does not apply to:

- Information about individuals
- Information about the possible terms of a contract the Council is negotiating
- Labour relations information
- Information that could be considered legally privileged
- Information about action to deal with a crime
- Advice given by a political assistant
- Any document in draft form (except for draft documents approved by the Cabinet for consultation).

This right is additional to any other rights the councillor has.

Any councillor may attend private meetings of Cabinet.

### **15.13 Councillors' duty not to pass on confidential or exempt information**

Councillors must not pass on exempt information that has not been made public or confidential information (15.4). If they do this, they may be breaking the Members' Code of Conduct (Part 22).

### **15.14 Key decisions**

A key decision is an executive decision likely to:

- Have a significant effect on people living or working in a least two wards or
- Involve spending, income, or saving a significant amount – whether an amount is significant depends on the Council's total budget for the service involved. For this Council 'significant' in budgetary terms is:
  - a. Expenditure, income, or savings of £750,000 or greater in the context of the medium term financial strategy,
  - b. Acquiring or disposing of freeholds with a consideration over £750,000 in the context of the medium term financial strategy except for disposals pursuant to right to buy legislation
  - c. Acquiring or disposing of leaseholds where either the rental value is in excess of £250,000 per annum and/or the premium is £750,000 except for statutory lease renewals under Part 2 of the Landlord and Tenant Act 1954 and disposals pursuant to right to buy legislation and disposals pursuant to right to buy legislation.
  - d. Acquiring or disposing of easements with a value over £750,000 and/or rental value over £250,000 each year

### **15.15 Procedures before taking key decisions**

When a key decision is taken, it must have been entered on to the Forward Plan (see 15.16) and published for a period of 28 days before the decision is taken, unless it is urgent (15.17).

If a key decision is taken by the Cabinet or a single Cabinet Member, the report must say that it is a key decision.

### 15.16 The Forward Plan

#### (a) Period of Forward Plan

The Director of Law, Governance and Strategy will prepare a Forward Plan at least every month. Each plan will start with the first day of the next month and cover at least four months.

#### (b) What is in the Forward Plan?

The Forward Plan will list:

- Any key decisions that are going to be taken.
- Any decisions that are going to be taken by the Cabinet
- Any decisions that are going to be taken by the Cabinet where the report, in whole or in part, will be taken in private

For each decision, it will say:

- What the decision is about
- Who will take the decision
- When the decision will be taken
- How to comment and when by

### 15.17 Urgent key decisions

If a key decision has not been included in the Forward Plan and published for 28 days in advance of it being taken, it can still be taken in exceptional circumstances if it is not practicable to put it in the plan and wait 28 days before the decision is taken.

Before taking a key decision that has not been included in the Forward Plan, the Director of Law, Governance and Strategy must write to the Chair of the Scrutiny Committee (or each member of the committee if there is no chair) and make copies of the letter available to the public at the Council's offices and publish it on the Council's website.

The decision cannot normally be taken until five clear working days after the chair is told.

Where it is not reasonable or practicable to wait until five clear working days have elapsed to take the decision, the Director of Law, Governance and Strategy must write to the Chair of the Scrutiny Committee (or the Lord Mayor where there is no chair) to obtain agreement that the making of the decision is urgent and cannot

reasonably be deferred. As soon as possible after the authority to take the urgent key decision has been obtained the Director of Law, Governance and Strategy shall make available to the public at the Council's offices and publish on the Council's website a notice saying why 28 days' notice has not been given.

At least once a year the Leader must report to the Council on the number and nature of key decisions taken under 15.17 (Urgent key decisions).

### **15.18 Reports to Council on decisions that were not in the Forward Plan**

The Scrutiny Committee can require the Cabinet to report to Council if a decision has been taken that the committee considered should have been treated as a key decision, explaining the reasons for it and why the Cabinet considered the decision not to be key.

Normally the Cabinet will report to the next ordinary Council meeting. But if the next meeting is within seven days of the request for a report, the Cabinet will report to the next meeting after that.

At least once a year the Leader must report to the Council on the number and nature of key decisions taken under 15.17.

### **15.19 Key decisions taken by officers**

When an officer takes a key decision, notice of it must be given in the Forward Plan as required in 15.15. The officer must produce a record of it as soon as possible. The record will then be published by Committee and Member Services and the deadline for call in will be within two working days of the decision being published. The record of the decision will include the reasons for the decision, any alternatives considered and any interest declared by any Cabinet member they have consulted. Information does not have to be made public under this rule if it is exempt or confidential (15.4).

### **15.20 Executive decisions taken by officers**

When an officer takes an executive decision which has been delegated expressly to them by Cabinet, whether a key decision or not, they must produce a record of it. This will include the reasons for the decision, any alternative considered and any interest declared by any Cabinet member they have consulted. Information does not have to be made public under this rule if it is exempt or confidential (15.4). The decision and report must be available to the public and published on the Council's website and, in the case of a key decision, this must be as the decision is made in order to allow for call in.

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