

# **PART 4 - PROCEDURAL RULES**

## **SECTION F**

### **ACCESS TO INFORMATION PROCEDURE RULES**

#### **1. Scope**

These rules apply to all meetings of the Council, overview and scrutiny committees, area committees (if any), the Audit & Standards Committee, the Employment Committee and regulatory committees and meetings of the Executive (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**

- 3.1 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 publishing a notice on the Council's website and by posting details of the meeting at Surrey Heath House, Knoll Road, Camberley (the designated office) and on the Council's Website.

#### **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 on the Council's Website and at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, or where reports are prepared after the summons has been sent out, the revised agenda, and/or late report will be open to inspection from the time the item was added to the agenda or as soon as the report is completed.

#### **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, copying and any other necessary costs.

## **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, together with reasons, for all meetings, 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 taken in the exempt part of the meeting where the open minutes would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) agenda reports relating to items when the meeting was open to the public.

## **8. Background papers**

### **8.1 List of background papers**

The officer in whose name the report appears 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).

### **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 Surrey Heath House, Knoll Road, Camberley (The Council Offices). (As the Constitution must be available to the public these Rules constitute the written summary.)

## **10. Exclusion of access by the public to meetings**

### **10.1 Confidential information requirement to exclude public**

The public must be excluded, by resolution, 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, by resolution, 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.

### **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 10 categories (subject to any qualification) defined in Appendix I to these Rules.

## **11. 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 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 Executive**

12.1 In addition to Rules 1 to 11, Rules 13 to 19 also apply to the Executive.

## **13. Rights to Attend Meetings**

13.1 Further to Rule 3, any member of the public, may in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public.

## **14. Background papers**

14.1 Further to Rule 8, the Council will, at least 5 clear days before the meeting, publish on the Council's Website the background papers listed in agenda reports and make available copies at the Council Offices for public inspection.

## **15. Procedure before Holding Private Meetings of the Executive**

- 15.1 The Council will give at least 28 clear days' notice of any private meeting of the Executive by publishing a notice on the Council's website and by posting the notice at the Council Offices. The Notice will include a statement of the reasons for the meeting to be held in private.
- 15.2 At least five clear days before a private meeting the Executive must make available at the Council Offices and on the Council's website a further notice of its intention to hold a meeting in private. This notice will include:-
- (a) a statement of the reasons for the meeting to be held in private;
  - (b) details of any representations received by the Executive about why the meeting should be open to the public; and
  - (c) a statement of its response to any such representations.
- 15.3 Where the date by which a private meeting must be held makes compliance with this rule impracticable, the meeting may only be held in private where the Executive has obtained agreement, that the meeting is urgent and cannot be reasonably deferred, from:-
- (a) the Chairman of the relevant Scrutiny Committee; or
  - (b) if there is no such person, or if the Chairman of the relevant Scrutiny Committee is unable to act, the Mayor, or in his/her absence the Deputy Mayor.
- 15.4 As soon as reasonably practicable after the Executive has obtained agreement under rule 13.3 to hold a private meeting it must make available at the Council Offices and on its website a notice setting out the reasons why the meeting is urgent and cannot be reasonably be deferred.

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

Subject to Rule 18 (general exception) and Rule 19 (special urgency), a key decision (as defined in Article 13.3 of the Constitution) may not be taken unless:

- (a) a notice has been published in connection with the matter in question;
- (b) at least 28 clear working days have elapsed since the publication of the notice; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees or by the Leader or individual Portfolio Holders, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **17. The Schedule of Key Decisions**

### **17.1 Publication of the Schedule of Key Decisions**

The Schedule of Key Decisions will be published at least 28 clear days prior to each meeting of the Executive.

### **17.2 Contents of the Schedule of Key Decisions**

The Schedule of Key Decisions will contain matters which there is reason to believe will be subject of a key decision to be taken during the period covered by the Schedule. Other significant decisions to be taken by full Council will be included for information in the Schedule. The Schedule will describe the following particulars where 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 a body, its name and details of membership and where the decision taker is an individual, his/her name and title;
- (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.

## **18. General exception**

Where notice of a matter which is likely to be a key decision, has not been published at least 28 clear days prior to the date on which the decision is to be made, then subject to Rule 19 (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 in order to give the requisite notice;
- (b) the Chief Executive has informed the chairman, or if he is not available, the vice-chairman, of the relevant scrutiny committee or if there are no such persons, each member of that committee

in writing, by notice, of the matter to which the decision is to be made;

- (c) the Chief Executive has made copies of that notice available to the public at the Council Offices and published on the Council's Website; and
- (d) at least 5 clear working days have elapsed since the Chief Executive complied with (b) and (c).

## **19. Special Urgency**

- 19.1 If by virtue of the date by which a decision must be taken 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, or if he is not available, the vice-chairman, of the relevant scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chairman or vice-chairman of the relevant scrutiny committee, or if the chairman or vice-chairman of the relevant scrutiny committee is unable to act, then the agreement of the Mayor or in his /her absence the Deputy Mayor will suffice.
- 19.2 As soon as reasonably practical after the decision maker has obtained agreement under Rule 19.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available a notice setting on the reasons that the meeting is urgent and cannot reasonably be deferred at the office of the Council and on the Council's website.

## **20. Report to Council**

### **20.1 When a scrutiny committee can require a report**

If a scrutiny committee thinks that a key decision has been taken which was not included in the Schedule of Key Decisions and was not

- (a) the subject of the general exception procedure (Rule 18); or
- (b) the subject of an agreement with a relevant scrutiny committee chairman, vice-chairman or the Mayor or Deputy Mayor (Rule 17);

the committee may require the Leader/Executive 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 Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the chairman or any 5 Members of the relevant scrutiny committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committee.

## **20.2 Leader's/Executive's report to Council**

The Leader/Executive 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.

## **20.3 Reports on special urgency decisions**

In any event the Leader will submit a report to the Council, at least on an annual basis, on the Executive decisions taken in the circumstances set out in Rule 17 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **21. Record of decisions**

21.1 After any meeting of the Executive or any of its committees or following decisions made by the Leader or individual Portfolio Holder, the Chief Executive will produce a record of every decision taken as soon as practicable. The record will include:

- (a) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected at the Executive 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 Executive which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

21.2 As soon as practicable after an individual member/officer has made an executive decision, that member/officer must produce a record of that executive decision which includes:

- (a) record of the decision including the date it was made;
- (b) a record for the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member/officer when making the decision;
- (d) a record of any conflict of interest declared by any member of the Executive who is consulted by the member/officer which relates to the decision; and

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

## **22. Scrutiny committees access to documents**

### **22.1 Rights to copies**

Subject to Rule 23.2 below, a scrutiny committee will be entitled to copies of any document which is in the possession or control of the Leader/Executive and which contains material relating to

- (a) any business transacted at a meeting of the Executive; or
- (b) any decision taken by an individual member of the Executive; or
- (c) any executive decision taken by an officer of the authority.

22.2 The Executive must provide a document that falls under Rule 20.1 as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

### **22.3 Limit on rights**

A scrutiny committee will not be entitled to any document that is in draft form.

## **23. Additional rights of access for members**

### **23.1 Material relating to business**

All members will be entitled to inspect any document which is in the possession or under the control of the Leader/Executive and contains material relating to any business transacted at a meeting or decision made by an individual member of the Executive. Any document will be available in accordance with Rule 5.1.

### **23.2 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 Leader/Executive which relates to any key decision.

### **23.3 Material in which a Member has an interest**

A Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he/she has a professional interest or in which he/she has a Disclosable Pecuniary Interest.

### **23.4 Nature of rights**

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



## **24. Offences**

- 24.1 A person who has custody of a document that relates to an executive decision (agenda, reports, background papers or decisions) which is required to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person:-
- (a) intentionally obstructs any person exercising a right conferred under these rules to inspect, or to make a copy of the whole or part of the document; or
  - (b) refuses to supply a copy of the whole or part of the document in accordance with these rules.
- 24.2 A person who commits an offence under Rule 23.3 is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

## **APPENDIX I**

### **EXEMPT INFORMATION**

#### **Categories of Exempt Information** (see also Qualifications 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.
  - (a) Information which is subject to any obligation of confidentiality.
  - (b) Information which relates in any way to matters concerning national security.
  - (c) Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1) (c) of the Local Government Act 2000.

#### **Qualifications**

1. Information falling within Category 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.
- 2. 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.
- 3. Information which:-
  - (a) falls within any of Categories 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of Qualifications 1 or 2 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.