

## **Part 4.2 Access to Information Procedure Rules**

### **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committee/Panels, the Audit and Corporate Governance Committee, Regulatory Committees, public 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, in particular the public may have additional rights of access to information under the Freedom of Information Act 2000 and/or data protection legislation.

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **4. NOTICE OF MEETING**

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at Observatory House, Windsor Road, Slough [the designated office] and on its website at Slough.gov.uk unless the meeting is called at shorter notice in accordance with the Provisions of the Local Government Act 1972.

### **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 Observatory House and on its website at least five clear working days before the meeting (Subject to 4 above). If an item is added to the agenda later or a meeting is convened at short notice, the reports and agenda (including revised agenda) will be open to inspection from the time the item was added to the agenda or meeting convened. Where reports are prepared after the summons has been sent out the Head of Democratic Services shall make each such report available to the public as soon as the report is completed and sent to Members.

### **6. SUPPLY OF COPIES**

At the meeting – The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of reports for the meeting (save during any part of the meeting to which the public are excluded).

The Council will supply copies / make available on its website the following:

- (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 Head of Democratic Services thinks fit, copies of any other documents supplied to Members in connection with an item

to any person on payment of a reasonable 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 Executive, excluding any part of the minutes of proceedings which disclose exempt or confidential information; (see rules 10.3 and 10.4 below).
- (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.

## **8. BACKGROUND PAPERS**

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

The author of any report will set out in the 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 below) and in respect of executive reports, the advice of a political advisor. In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 background papers will be published on the Council's website and available for inspection at the Council offices.

**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 copy of these Rules containing a written summary of the public’s rights to attend meetings and to inspect and copy documents are incorporated into the Council’s Constitution which is publicly available on the Council’s website.

**10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

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

The public must by law 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 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.

**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 following categories (subject to any condition):

Category	Condition
1. Information relating to any individual	
2. Information which is likely to reveal the identity of an individual.	

Category	Condition
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is 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; or</li> <li>(f) the Charities Act 1993</li> </ul>
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 -	<ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>(b) to make an order or direction under any enactment.</li> </ul>
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

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.

Information which

- (a) falls within any of paragraphs 1 to 7 above; and

- (b) is not prevented from being exempt by virtue of the qualification to paragraph 3 or the above paragraph (proposed development for which the local planning authority may grant itself planning permission),

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.

The Authority must release the information unless *“in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information”*.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decision made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

11.1 If the Head of Democratic Services 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” and the Agenda shall indicate the category of information likely to be disclosed.

11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the Executive. If the Executive, its Committees or single member meet to take a key Decision then it must also comply with

Rules 1 – 11 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. A key Decision is as defined in Article 13 of this Constitution.

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

Subject to Rule 15 (General Exception) and Rule 16 (Special Urgency), a Key Decision may not be taken unless:

- (a) a Notice of Key Decision (called here a Notification of Decisions) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Notification of Decisions; and
- (c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

### **14. NOTICE OF DECISIONS**

#### **14.1 Notification of Decisions**

The Council will publish a Notification of Key Decisions and other decisions to be taken by the Cabinet over the next three months on a monthly basis. The Notification of Decisions will also contain Notice that a decision is likely to be taken in the confidential part of the meeting and the reason why.

#### **14.2 Contents of the Notification of Decisions**

The Notification of Decisions will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Executive, a Committee of the Executive, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) which body will take the decision and that body's 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;
- (e) the address from which, subject to any prohibition or restrictions on their disclosure, copies of, or extracts from any document listed is available;
- (f) that other documents relevant to those matters may be submitted;

- (g) the procedure for requesting details of those documents (if any) as they become available.
- (h) An indication if the decision (or part of it) is likely to be taken in the confidential part of the meeting and the reasons why.

Exempt information need not be included and confidential information cannot be included.

## 15. **GENERAL EXCEPTION**

If a Notice of Key Decision has not been published in the Notification of Decisions), 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 publish a Notice of Key Decision;
- (b) the Head of Democratic Services has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each Member of that Committee in writing, by notice, of the matter about which the decision is to be made;
- (c) the Head of Democratic Services has made copies of that notice available to the public at the offices of the Council and at Slough.gov.uk; and
- (d) at least 5 clear working days have elapsed since the Head of Democratic Services has complied with (a) and (b).

As soon as reasonably practicable after the Head of Democratic Services has complied with Rule 15 he must make available at Observatory House and publish on Slough.gov.uk the reasons why compliance with Rule 14 is impractical.

## 16. **SPECIAL URGENCY**

16.1 If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of Overview and Scrutiny Committee or he/she is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

16.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 he must make available at Observatory House and publish on Slough.gov.uk a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

## 17. **REPORT TO COUNCIL**

17.1 **When the Overview and Scrutiny Committee can require a report**

If Overview and Scrutiny Committee think that a key decision has been taken which was not:

- (a) The subject of a Notice of Key Decision; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Committee, or the Mayor/Deputy Mayor under Rule 16;

The Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies.

### **17.2 Executive's report to Council**

The 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.

### **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the 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 EXECUTIVE DECISIONS**

- 18.1 After any meeting of the Cabinet the Head of Democratic Services will produce a written record of every decision taken at that meeting as soon as practicable.

As soon as reasonably practicable after any key decision made by an officer a written record of the decision will be produced.

The record will include:

- (a) a record of the decision and 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 or in the case of a decision made by an individual at the time when he/she made the decision;
- (d) a record of any conflict of interest in relation to the matter decided which is declared by any Member of the decision making body which



made the decision or in the case of an officer decision any conflict of interest declared by any executive Member consulted; and

- (e) in respect of any declared conflict of interest a note of any dispensation granted by the Council's Monitoring Officer.

18.2 The statement required by 18.1 above shall be prepared by:-

- (i) in the case of decisions made by the Executive (or a Committee of the Executive), the Head of Democratic Services (or his/her representative) present at the meeting;
- (ii) in the case of a key decision made by an officer, the officer making the decision.

18.3 A record of significant officer decisions will be published on a monthly basis. The definition of a significant officer decision is contained in Part 3.6 Scheme of Delegation to Officers.

## 19. **MEETINGS OF THE CABINET TO BE HELD IN PUBLIC**

19.1 Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed. If a meeting moves into Part 2 session any member of the public or press present will be asked to leave.

## 20. **NOTICE OF PRIVATE MEETINGS OF THE EXECUTIVE [MEETINGS THAT ARE LIKELY TO CONSIDER CONFIDENTIAL/EXEMPT BUSINESS]**

20.1 At least 28 clear days before a private meeting, the Cabinet must:-

- make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and
- publish that notice on the Council's website.

20.2 At least five clear days before a private meeting, the Cabinet must:-

- make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
- publish that notice on the Council's website.

20.3 A notice under paragraph 20.2 must include:-

- a statement of the reasons for the meeting to be held in private;

- details of any representations received by the decision-making body about why the meeting should be open to the public; and
- a statement of its response to any such representations.

20.4 Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:-

- the Chair of the Overview and Scrutiny Committee; or
- or if the Chair of the relevant overview and scrutiny committee is unable to act/absent, the Mayor; or
- where there is no chair of either the relevant overview and scrutiny committee and the Mayor is unable to act/absent, the Deputy Mayor,
- that the meeting is urgent and cannot reasonably be deferred.

20.5 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.4 to hold a private meeting, it must:-

- make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- publish that notice on the Council's website.

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

### **21.1 Notice and Attendance**

- All members of the Cabinet will be served notice of all meetings of the Cabinet that are likely to consider confidential/ exempt information.
- All members of the Cabinet are entitled to attend meetings of the Cabinet that are likely to consider confidential/exempt information.

### **21.2 Officer Involvement**

The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet.

## **22. INSPECTION OF DOCUMENTS AFTER EXECUTIVE DECISIONS**

22.1 A copy of any report or part report considered by the Executive, when making a decision, will be open to inspection by the public for 6 years from the date the decision was made. Documents containing confidential or exempt information or the advice of a political adviser need not be disclosed. If a document is not disclosed because it contains exempt information, the Head of Democratic Services will prepare a statement. The statement will describe the category of exempt information. The statement will be open to inspection for 6 years from the date of the meeting.

## **23. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **23.1 Rights to Copies**

Subject to Rule 23.2 below, the Overview and Scrutiny Committee and Panels will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business transacted at a public meeting of the executive or committee of the executive, a decision taken by an individual member and any decision made by an officer in accordance with executive arrangements.

### **23.2 Limit on Rights**

A Overview and Scrutiny Committee 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.

Where the Executive determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document, it must provide a written statement of the decision to the Committee.

## **24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **24.1 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 Executive and contains material relating to any business previously transacted at a meeting unless either (a), (b) or (c) below applies:-

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5, 7 of the categories of exempt information; or
- (b) in the case of information falling within paragraph 3 Members have a right to inspect any document unless the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract;
- (c) it contains the advice of a political adviser.

### **24.2 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 Executive which relates to any key decision unless paragraph 24.1 (a) or (b) above applies.

### **24.3 Nature of rights**

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

## **25. JOINT COMMITTEES**

These Rules apply to the Council's Joint Committees as follows:

- 25.1 If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.
- 25.2 If the joint committee contains members who are not on the Cabinet of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the full Council and its committees will apply.