

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, scrutiny committees (see Article 6), area committees (if any) (see Article 10), the Standards Committee (see Article 9), regulatory and other Council committees (see Article 8) and the Cabinet (see Article 7) (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

Members of the public may attend all meetings (as defined in Rule 1) subject only to the exceptions in these rules.

4. NOTICES OF MEETING

The Council will, unless a meeting has to be called at shorter notice, give at least five clear working days notice of any meeting by posting details of the meeting at the Council Offices, Southfields, Southfield Road, Loughborough and on the Council's website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

Unless a meeting has to be called at shorter notice, copies of the agenda and such reports open to the public as are ready will be available for inspection at the Council's Southfields offices at least five clear working days before the meeting. Where reports are prepared after the summons has been sent out, the Head of Strategic Support shall make each such report available to the public as soon as the report is completed and sent to councillors. All such agendas and reports open to the public will be made available on the Council's website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

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 monitoring officer thinks fit, copies of any other documents supplied to councillors 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 for inspection 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 so much of the minutes or records during which the meeting was not open to the public as discloses 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 made available on the Council's website where they exist in electronic form.

8. BACKGROUND PAPERS

8.1 List of background papers

Every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in the author's 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) and, for Cabinet reports, the advice of a political adviser (if any has been appointed).

8.2 Public inspection of background papers

The Council will keep for four years after the date of the meeting one copy of each of the documents on the 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 any copyright is not infringed.

9. **SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect the copy documents must be kept at and available to the public at the Council Offices, Southfields, Southfield Road, Loughborough. As the Constitution must be available to the public then 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 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.

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.

10.4 **Meaning of exempt information**

Exempt information means information falling within the following 10 categories (subject to any condition). Information is exempt 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.

Category	Condition
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.	To be exempt the information must relate to a particular and identifiable person.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information is not exempt information if it is required to be registered under:</p> <ul style="list-style-type: none"> (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. <p>"Financial or business affairs" includes contemplated, as well as past or current, activities.</p> <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>
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.	<p>"Employee" means a person employed under a contract of service.</p> <p>"Labour relations matter" means—</p> <ul style="list-style-type: none"> (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 (b) any dispute about a matter falling within paragraph (a) above. <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>

Category	Condition
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	none
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.	none
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	none
Exempt information relating to Standards Committee or Standards Sub-committee (Standards Panel) hearings only	
7A. Information which is subject to any obligation of confidentiality.	none
7B. Information which relates in any way to matters concerning national security.	none
7C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	none

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph 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.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the monitoring officer 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 CABINET

The Council has decided that all meetings of the Cabinet (relating to matters which are or are not key decisions) will be held in public, except where exempt or confidential information is likely to be disclosed, and be subject to all of these Rules. Rules 13 - 20 apply only to the Cabinet and its committees or, in certain cases, officers taking executive decisions under delegated powers.

In addition, when the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members. A key decision is as defined in Article 13.03 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 (called here a forward plan) has been published in connection with the matter in question; and
- (b) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notices of meeting).

14. THE FORWARD PLAN

14.1 Period of forward plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period

beginning with the first day of the second month covered in the preceding plan.

The most recent forward plan shall be taken to have superseded any earlier forward plan, or, as the case may be, each earlier forward plan.

14.2 Contents of forward plan

The forward plan 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, officers, area committees 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) where the decision taker is an individual, his or 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) 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.

Exempt information need not be included in a forward plan and confidential information cannot be included. The advice of a political assistant need not be included in a forward plan. Notice of matters which the Leader has reason to believe will be subject of a key decision and which may involve the consideration of exempt or confidential information or the advice of a political assistant must still be included in the forward plan but in such a way that that information or advice is not shown.

14.3 Publication of forward plan

The forward plan must be published at least 14 days before the start of the period covered.

The Head of Strategic Support will publish once a year a notice in at least one newspaper circulating in the area, 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;
- (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; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

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;
- (b) the Head of Strategic Support has informed the chairs of the Scrutiny Management Board and the Overview Scrutiny Group or if there are no such persons, each member of the Scrutiny Management Board in writing, by notice, of the matter to which the decision is to be made;
- (c) the Head of Strategic Support 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 Head of Strategic Support complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public unless it would involve the disclosure of exempt or confidential information.

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 taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the Scrutiny Management Board that the taking of the decision cannot be reasonably deferred. If there is no chair

of the Commission or if the chair of the Commission is unable to act, then the agreement of the Mayor, or in his or her absence the Deputy Mayor, will suffice.

17. REPORT TO COUNCIL

17.1 When a scrutiny committee can require a report

If a 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 chair, or the Mayor/Deputy Mayor 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 Chair of the committee or any five of its members may request in writing that the Head of Strategic Support requires such a report on behalf of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant 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 seven 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 DECISIONS

As soon as is reasonably practicable after a meeting of a decision making body at which an executive decision has been made, whether held in public or private, the Head of Strategic Support, shall ensure that a written statement is produced in respect of every executive decision made at that meeting including:

- a record of the decision;

- a record of the reasons for the decision;
- details of any alternative options considered and rejected at the meeting by the decision making body when it made the decision; and
- a note of any relevant dispensation granted by the Standards Committee.

Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken unless the Head of Strategic Support or his or her nominee is present.

19. KEY DECISIONS MADE BY OFFICERS

- (a) The Cabinet may delegate executive decision making to an officer. Where they do so, the officer may only take a key decision on the basis of written reports setting out key legal, financial, service and corporate implications.
- (b) Where an individual officer receives a report which he or she intends to take into account in making a key decision he or she shall not make that decision until the report has been available for public inspection for five clear days.
- (c) The individual officer making the decision must ensure that the Head of Strategic Support receives a copy of the report and makes it available in accordance with paragraph (d).
- (d) The Head of Strategic Support will circulate the report to the relevant scrutiny committee, the chief executive, the chief financial officer and the monitoring officer. The report will be made publicly available as soon as reasonably practicable.
- (e) As soon as is reasonably practicable after an officer has made a key decision he or she shall produce a written statement including
 - a record of the decision;
 - a record of the reasons for the decision;
 - details of any alternative options considered and rejected at the time by the officer when he or she made the decision; and
 - a record of any conflict of interest declared by any executive member who was consulted by the officer in relation to the decision.
- (f) All decisions of the executive and key decisions taken by officers must be published and will be subject to call in as set out in Overview and Scrutiny Procedure Rule 13 in Part 4 of this Constitution.
- (g) Nothing in these rules relating to the taking of decisions by individual officers shall require them to disclose confidential or exempt information.

20. **SCRUTINY BODIES' ACCESS TO DOCUMENTS**

20.1 **Rights to copies**

Subject to Rule 20.2 below, a scrutiny body (including its sub-committees) 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 any business transacted at a meeting of the Cabinet or its committees.

20.2 **Limit on rights**

A scrutiny body 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 assistant.

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

21.1 **Material relating to Council business**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Council, or a committee and contains material relating to any business previously transacted or to be transacted unless either (a) or (b) below applies:

- (a) it contains exempt information falling within the categories of exempt information in Rule 10.4 above except where the information falls within:
 - (i) paragraph 3 of the categories of exempt information in Rule 10.4 above (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
 - (ii) paragraph 6 of the categories of exempt information in Rule 10.4 above; or
- (b) it contains the advice of a political assistant.

21.2 **Material relating to Cabinet business**

All members of the Council will be entitled to inspect any published document or background paper which is in the possession or under the control of the Cabinet, or one of its committees and contains material relating to any business previously transacted or to be transacted unless either (a) or (b) below applies:

- (a) it contains exempt information falling within the categories of exempt information in Rule 10.4 above except where the information falls within:
 - (i) paragraph 3 of the categories of exempt information in Rule 10.4 above (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
 - (ii) paragraph 6 of the categories of exempt information in Rule 10.4 above; or
- (b) it contains the advice of a political assistant.

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 its committees which relates to any key decision unless paragraph (a) or (b) above applies.

21.3 **Nature of rights**

These rights of a member of the Council are additional to any other right he or she may have, for example under the common law.