

Part 4.6 Access to information procedure rules

1. Scope

These rules apply to all meetings of the Council, the Overview and Scrutiny Committees, and all other Committees and Sub-Committees, including the Executive, Joint Committees, and Panels.

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 meetings

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at The Council Offices, The Burys, Godalming (the designated office) and on the Council's website.

5. Access to agenda and reports before the meeting

- (a) 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 offices above, at least five clear days before the meeting.
- (b) If a meeting is called as a matter of urgency (Procedure Rule 14 refers), papers will be made available as soon as possible on the Council's website.
- (c) Where reports referred to in the agenda are prepared after the summons for members to attend the meeting has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

6. Supply of copies

The Council will publish on its website and supply copies of:

- (a) any agenda and reports which are open to public inspection
- (b) any summary agenda pages indicating the nature of the items in the agenda, and
- (c) if the proper officer thinks fit, copies of any background papers identified in the report and other documents supplied to councillors in connection with an item

to any person on payment of a charge for copying, postage, and any other necessary costs.

7. Access to Minutes 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 or decisions taken, together with reasons, for all meetings of the Council or Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which would disclose information which remains exempt or confidential
- (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 report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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

These Access to Information Procedure Rules, as part of the Constitution, comprise a summary of the public's rights to attend meetings and to inspect and copy documents. These Rules and the entire Constitution are available at The Council Offices, The Bury, Godalming Surrey, and 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** 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

- (a) 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.

- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of Schedule 1 of the Human Rights Act 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

- (a) Exempt information means information falling within the following categories (subject to any condition), and where the Council has resolved that the discretion should be exercised:

Category	Condition
1. Information relating to any individual	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description
2. Information which is likely to reveal the identity of an individual	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information falling within paragraph 3 is not exempt if it is information that is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993.
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 officer-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	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order

<p>which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime *</p>	
<p>* For the Standards Panel, the additional paragraphs are to be read as if inserted following Paragraph 7:</p> <p>7A. Information which is subject to any obligation of confidentiality.</p> <p>7B. Information which relates in any way to matters concerning national security.</p> <p>7C. The deliberations of a Standards Panel in reaching any finding on a matter referred to that Panel</p>	

- (b) Information which is otherwise exempt by virtue of paragraphs 1 to 7 above, may be 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”.
- (c) Information is not exempt information if it relates to proposed development for which the Council, as 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 Joint Chief Executive/Executive Head of Legal and Democratic Services /(Monitoring Officer) thinks fit, the Council may exclude access by the public to reports which in their 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

- (a) General application. Rules 13 – 24 apply to the Executive.
- (b) Meetings to take Key Decisions. If the Executive meets to discuss and take a Key Decision, then it must also comply with Rules 1 – 11 unless Rule 14 (Urgent Decisions) applies. A key decision is defined in Article 12 of the Constitution.

This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. Procedure before taking key decisions

Subject to Rule 14 (Urgent Decisions), a Key Decision may not be taken unless:

- (a) a notice has been published in connection with the matter in question setting out the matters required by Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; and,
- (b) at least 28 clear 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 by the Leader or by an individual Portfolio Holder, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. Urgent decisions

14.1 General exception. If notice of a matter which is likely to be a key decision has not been published in accordance with Rule 13, then 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 the proper notice period can be given;
- (b) the Monitoring Officer has informed the Chair of the relevant Overview and Scrutiny Committee, or if there is no such person available, each member of that Committee by notice in writing, of the matter in respect of which the decision is to be made;
- (c) the Monitoring Officer has made copies of that notification available at the Council Offices for inspection by the public, and on the Council's website; and
- (d) at least five clear days have elapsed since the Monitoring Officer has complied with (b) and (c) above.

14.2 Special urgency. If by virtue of the date by which a decision must be taken, Rule 14.1 (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:

- (a) the Chair of the relevant Overview and Scrutiny Committee; or
- (b) if there is no such person, or the appropriate Chair of the Overview and Scrutiny Committee is unable to act, the Mayor; or
- (c) where there is no Chair of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,

that the making of the decision is urgent and cannot reasonably be deferred.

14.3 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 14.2 that the decision is urgent and cannot be reasonably deferred, the decision maker must make available a notice setting out the reasons that the meeting is urgent and cannot be reasonably deferred at the office of the Council and on the Council's website.

15. Report to Council

15.1 When an Overview and Scrutiny Committee can require a report

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

- (a) in compliance with Rule 13; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Mayor or Deputy Mayor, under Rule 14.2;

the Committee may require the 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 relevant Overview and Scrutiny Chair or any 5 members of the relevant scrutiny committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

15.2 Leader/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, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

15.3 Quarterly reports on Urgent 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 14 (urgent decisions) 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.

16. Private meetings of the Executive (Exempt procedure)

16.1 Any meeting of the Executive or any Executive committee which is proposed to be held wholly or partially in private session to deal with exempt or confidential business may only proceed in respect of those items of business in accordance with the following rules:

- (a) A notice of the intent to hold a private meeting must be published at least 28 clear days prior to the meeting and that notice must indicate the reasons for the meeting to be held in private.
- (b) A further notice must be published at least 5 clear days prior to the meeting and that notice must include:
 - (i) the reasons for the meeting to be held in private
 - (ii) any representations received about why the meeting should be open to the public; and
 - (iii) a statement of responses to such representations.

16.2 Where the date of the meeting at which it is proposed to consider exempt or confidential information makes compliance with Rule 16.1 (above) impracticable the meeting may only be held in private where:

- (a) the Chair of the relevant Overview and Scrutiny Committee, or in their absence The Mayor (or in their absence the Deputy Mayor), has agreed that the meeting is urgent and cannot reasonably be deferred, and
- (b) a notice of that agreement is published as soon as reasonably practicable.

17. Record of decisions

After any meeting of the Executive, the Monitoring Officer will produce a record of every decision taken as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

18. Meetings relating to matters which are not Key Decisions

All meetings of the Council, the Executive, or of Committees and Sub-Committees of the Council will be held in public, except in so far as confidential or exempt information is the subject matter of debate.

19. Notice of meeting of the Executive

Members of the Executive will be entitled to receive five clear working days' notice of a meeting to which they are summoned unless the meeting is convened at shorter notice as a matter of urgency.

The Joint Chief Executive, the Monitoring Officer, the Borough Solicitor, and their nominees, are entitled to attend any meeting of the Executive.

20. Taking Executive decisions by individuals

20.1 Reports intended to be taken into account

Where the Leader or an individual Portfolio Holder receives a report which they intend to take into account in making any key decision, then the decision will not be made until at least 5 clear days after receipt of that report.

20.2 Provision of copies of reports to Overview and Scrutiny Committees

On giving of such a report to the Leader or an individual Portfolio Holder, the person who prepared the report will give a copy of it to the Chair of every relevant Overview and Scrutiny Committee as soon as reasonably practicable and make it publicly available at the same time.

20.3 Record of decision

As soon as reasonably practicable after an Executive decision has been taken by the Leader or an individual Portfolio Holder, the Monitoring Officer will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by the Executive. This does not require the disclosure of exempt or confidential information or advice.

21. Overview and Scrutiny Committees access to documents

21.1 Rights to copies

Subject to Rule 21.2 below, an Overview and Scrutiny Committee 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 or private meeting of the Executive or any decision taken by the Leader or an individual Portfolio Holder.

21.2 Limit on rights

An Overview and Scrutiny Committee, or its members, 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.

22. Additional rights of access for councillors

22.1 Material relating to previous business

All councillors will be entitled to inspect any document which is in the possession or under the control of the Executive unless it contains exempt information upon which the Monitoring Officer will determine whether the document can be made available.

22.2 Material relating to key decisions

All councillors 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

22.3 Material in which a councillor has an interest

A councillor shall not knowingly inspect and or call for a copy of any document relating to a matter in which they have a professional interest or in which they have a Disclosable Pecuniary Interest.

22.4 Nature of rights

These rights of a councillor are additional to any other right they may have.