

Access to Information Procedure Rules

The Access to Information rules which apply to Council meetings and Committees of Council in Executive and alternative arrangement constitutions are set out in sections 100A-H and schedule 12A of the Local Government Act 1972.

Slightly different access to information rules will apply to the Executive in Executive forms of constitution, to be set out in regulations under section 22 of the Local Government Act 2000.

Decisions taken by individual members of the Executive will not take place in a meeting. Where the Executive or a Committee of the Executive meets with officers to discuss a key decision which will be decided collectively, that meeting will generally be open to the public.

In applying access to information rules, Councils and Executives should take account of the presumption of openness principle of decision-making set out in paragraph 7.3 of the DETR Guidance and Article 13.02 of the Constitution.

Regard should also be had to the potential effect of the enactment of the Freedom of Information Act 2000. This will focus attention on the policy for disclosure of information of each Council.

Councils are recommended to consider adoption of a policy statement on access to information as set out in "Open Government: a good practice note on access to information" published by the former Association of Metropolitan Authorities in June 1995.

1. SCOPE

EXECUTIVE ARRANGEMENTS

These Rules apply to all meetings of the Council, the Cabinet, Overview Groups, Advisory Groups, Scrutiny Committees, Area Committees, the Standards Committee, Planning Committee and Licensing Committee and Health and Safety Committee (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 subject only to the exceptions in these rules.

4. **NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the reception area at the Civic Centre, Park Gates, Poole (the designated office).

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 the offices of Democratic Services at the Civic Centre, Poole at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Head of Legal and Democratic Services shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for 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 Head of Legal and Democratic Services 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 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 Cabinet and any decisions taken by Portfolio Holders), 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 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 officers preparing and submitting report 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) and in respect of Cabinet and Portfolio Holder reports, the advice of a Political Advisor.

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 the Civic Centre, Poole.

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

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 confidential 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 15 categories (subject to any condition):

<i>Category</i>		<i>Condition</i>
1.	Information relating to any individual	This means any individual person and relates back to the Data Protection Act 1998 (DPA)
2.	Information which is likely to reveal the identity of an individual	This again relates back to DPA
3.	Information relating to the financial or business affairs of any particular person (including the Authority holding that information)	<p>Includes information relating to the Authority's own financial or business affairs. It does not include information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies 1965-1978, the Building Societies Act 1986 or the Charities Act 1983 as such information will be in the public domain in any event.</p> <p>The "financial affairs or business affairs" include past, present and contemplated activities.</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 with the Council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company. Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter.</p> <p>"Labour relations matter" means matters which may be the subject of a trade dispute within the</p>

		meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.
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	
7(A)	Information which is subject to any obligation of confidentiality	
7(B)	Information which relates in any way to matters concerning national security	
7(C)	The deliberations of a Standards Committee or of a Sub-Committee or the 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	

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 can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.5 Public Interest Test

Paragraphs 1-7 of the exceptions (Rule 10.4) are subject to the public interest test. In determining whether this information should remain exempt, the report writer and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in

disclosing the information. All report writers will, therefore, give consideration to this and explain why they consider the public interest test is best served by the information remaining exempt. The final officer determination as to disclosure will be made by the Head of Legal and Democratic Services who is also the Proper Officer for decision-making and the Monitoring Officer. This determination, together with reasons, will appear in the report and the agenda as well in relation to that item.

- 10.6 The Local Authorities (Executive Arrangements) Access to Information) (Amendment) (England) Regulations 2006 taken cumulatively with previous regulations and primary legislation provide that exempt information does not need to be made available for all Members unless it comes within paragraph 3 and 6 of the table set out in rule 10.4. However, in relation to information under paragraph 3 of the table in rule 10.4, this can remain exempt if the information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract.

10.7 **Standards Committee**

All the exemptions may apply to the Standards and Governance Committee (and any Sub-Committees of that) although 7(A), (B) and (C) are specifically applicable to Standards Committees when determining complaints alleging breaches of the Member Code of Conduct.

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

If the Head of Legal and 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" together with the category of information likely to be disclosed.

12. **APPLICATION OF RULES TO THE CABINET**

Rules 13 – 24 apply to the Cabinet and its Committees. If the Cabinet or its Committees 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 13.03 of this Constitution).

If 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. A key decision is (as defined in Article 13.03 of this 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 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;
- (b) at least 5 clear days have elapsed since the publication of the Forward Plan; and
- (c) 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 (notice of meetings).

14. **THE FORWARD PLAN**

14.1 **Period of Forward Plan**

Forward Plans will be prepared by the Leader assisted by Head of Legal and Democratic Services 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.*

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, individual members of the Cabinet, officers, Area Committees or under joint arrangements in the course of the discharge of a Cabinet 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/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 identify 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.

In order to be of assistance to Poole citizens, the Council has agreed that “other decisions” that are not “key decisions” shall be itemised in the same way. This list may not be exhaustive and shall not be the subject of general exception or special urgency requirements in these Rules.

The Forward Plan must be published at least 14 days before the start of the period covered. The Head of Legal and Democratic Services 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 and other 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 to be submitted to the decision takers for consideration in relation to the key decisions and other decisions in 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 on which each Forward Plan will be published and available to the public at the Council’s offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

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 Legal and Democratic Services has informed the Chair of a relevant Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Head of Legal and Democratic Services has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Head of Legal and Democratic Services complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

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, or in his/her absence, the Vice-Chair, making the decision, obtains the agreement of the Chair (or in his/her absence, the Vice-Chair) of a relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair, or in his/her absence, the Vice-Chair of a relevant Scrutiny Committee, or if the Chair, or in his/her absence the Vice-Chair of each relevant Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/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 of the Council 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 power to require a report rests with the Committee, but is also delegated to the Head of Legal and Democratic Services who shall require such a report on behalf of the Committee when so requested by (the Chairman or any 5 members). 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 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 report on special urgency decisions

In any event the Leader assisted by the Head of Legal and Democratic Services will submit quarterly reports to the Council on the Cabinet 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

After any meeting of the Cabinet or any of its Committees, whether held in public or private, or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting 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.

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

All meetings of the Cabinet will be held in public unless when considering exempt or confidential information.

20. DELEGATED DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET (PORTFOLIO HOLDERS)

20.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key or other decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

20.2 Provision of copies of reports to Scrutiny Committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Head of Legal and Democratic Services who will make it publicly available at the same time.

20.3 Record of an individual decision

As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Head of Legal and Democratic Services to 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 individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a Political Assistant.

21. SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

21.1 Rights to copies

Subject to Rule 21.2 below, a Scrutiny Committee (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

- (a) any business transacted at a public or private meeting of the Cabinet (or its Committees); or
- (b) any decision taken by an individual member of the Cabinet.

21.2 Limit on rights

A Scrutiny Committee will not be entitled to the advice of a Political Adviser.

22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

22.1 Material relating to previous business

All Councillors will have a right to inspect any document they reasonably need to see in order to perform their duties as a Councillor which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business previously transacted at a meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1 to 7 of the categories of exempt information; or

(b) it contains the advice of a Political Adviser.

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 Cabinet or its Committees which relates to any key decision or other decision unless paragraph 22.1 (a) or (b) above applies.

22.3 Nature of the rights

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