

## Rules of Procedure

### **Part 4E – Access to Information Rules**

#### **RULE 1. SCOPE**

- 1.1.1 These Rules set out the rights of the public to access the business of the Authority when conducted at Meetings (i.e. formal meetings of Council, Cabinet, committees and sub-committees) or through formal decisions made by Cabinet Members and Officers. They also set out the additional rights of Members to certain information.

#### **RULE 2. LIMITATION**

- 2.1 These Rules do not require the disclosure to the public or Members of Confidential or Exempt Information or limit the Authority's duties to protect certain information, including that covered by data protection legislation.

#### **RULE 3. RIGHT TO ATTEND AND REPORT ON MEETINGS**

- 3.1 Members of the public and Members may attend all Meetings subject only to the exceptions in these Rules. When attending Meetings under this Rule, members of the public may also report on them (see Appendix K 'Guidance for the recording of Council, Cabinet and Committee Meetings')

#### **RULE 4. NOTICE OF MEETINGS AND FORWARD PLAN**

- 4.1 The Proper Officer will give at least five Clear Days notice of any Meeting by posting details of the meeting at the Authority's offices and on its website.
- 4.2 The Authority publishes a rolling Forward Plan on its website which sets out such business as is proposed to be conducted at Meetings (Council and Cabinet only). The Forward Plan includes any Key Decisions that are to be taken (see Rule 13).

#### **RULE 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

- 5.1 The Proper Officer will make copies of the agenda and reports (except those reports which contain Confidential or Exempt Information) available for public inspection at the Municipal Offices and on the Authority's website at least five Clear Days before the Meeting.
- 5.2 If any item is added to the agenda after it has been published under Rule 5.1, the revised agenda shall be made available for public inspection from the time the item is added to the agenda. Where that item is the subject of a report, then the Proper Officer shall make such report available to the public as soon as it is completed and shall send the report to Members of the relevant Meeting.

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

- 6.1 The Proper Officer will make available to the public present at a Meeting a reasonable number of copies of the agenda and reports (excepting Confidential or Exempt Information).
- 6.2 The Proper Officer will supply to any person on payment of a charge for postage and any other administrative costs 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 Proper Officer thinks fit, any other documents supplied to Members in connection with an item.

## **RULE 7. ACCESS TO DOCUMENTS AFTER THE MEETING**

- 7.1 The Proper Officer 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, excluding any part of the minutes or proceedings when the Meeting was not open to the public or which disclose Confidential or Exempt 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.

## **RULE 8. BACKGROUND PAPERS**

### **List of Background Papers**

- 8.1 The report author shall ensure that there is 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) have been relied on to a material extent in preparing the report

but the list does not have to include published works or those documents which disclose Confidential or Exempt Information.

### **Public Inspection of Background Papers**

- 8.2 The Proper Officer 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.

### **RULE 9. NOTICE OF PUBLIC'S RIGHTS**

- 9.1 These Rules give notice of the public's rights to attend Meetings and to inspect and copy documents. A summary of these rights is included on the Authority's website.

### **RULE 10. EXCLUSION OF PUBLIC ACCESS TO MEETINGS**

#### **Confidential Information – Requirement to exclude public**

- 10.1 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 "Confidential Information" means information given to the Authority by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order

#### **Exempt Information – Discretion to exclude public**

- 10.3 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.
- 10.4 "Exempt Information" means information falling within the categories set out in Appendix L and subject to any condition in that Appendix.
- 10.5 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 that Article.

#### **Procedure for exclusion of public access to Cabinet Meetings**

- 10.6 At least twenty-eight Clear Days before the Cabinet Meeting, the Proper Officer shall:
- (a) make available at the Authority's offices a notice of intention to hold the Meeting in private, such notice to include a statement of reasons for the meeting to be held in private, and

- (b) publish that notice on the Authority's website
- 10.7 At least five Clear Days before a private meeting, the Proper Officer shall:
- (a) make available at the Authority's offices a further notice of its intention to hold the Meeting in private,
  - (b) publish that notice on the Authority's website, and
  - (c) include that notice in the agenda for the Meeting.
- 10.8 A notice under Rule 10.7 shall include:
- (a) a statement of the reasons for the meeting to be held in private,
  - (b) details of any representations received by the Authority about why the Meeting should be open to the public, and
  - (c) a statement of the Authority's response to such representations.
- 10.9 Where the date by which a Meeting must be held makes compliance with this Rule impracticable, the Meeting may only be held in private where:
- (a) the chairman of the appropriate Overview & Scrutiny Committee; or
  - (b) if there is no such person, or if the chairman of the appropriate Overview & Scrutiny Committee is unable to act, the Mayor; or
  - (c) where both the chairman of the appropriate Overview & Scrutiny Committee and the Mayor are unable to act, the Deputy Mayor
- has agreed that the Meeting is urgent and cannot reasonably be deferred.
- 10.10 As soon as reasonably practicable after agreement to hold a private meeting has been obtained under Rule 10.9, the Proper Officer shall:
- (a) make available at the Authority's offices a notice setting out the Reasons why the Meeting is urgent and cannot reasonably be deferred; and
  - (b) publish that notice on the Authority's website.

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

- 11.1 If the Proper Officer thinks fit, the Authority may exclude access by the public to reports which in his/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.

## **RULE 12. WORKING GROUPS**

12.1 Working groups, task groups and other bodies which are not empowered to make decisions in respect of the Authority's functions are not Meetings for the purposes of these Rules.

## **RULE 13. KEY DECISIONS**

### **Notice of Key Decision**

13.1 Subject to Rule 14 (general exception) and Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) prior notice of the Key Decision has been made available for inspection at the Authority's offices and on its website;
- (b) at least twenty-eight Clear Days have elapsed since the publication of such notice; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees (if any), notice of the meeting has been given in accordance with Rule 4.

### **Contents of Notice of Key Decision**

13.2 The notice referred to in Rule 13.1 will include:

- (a) the matter in respect of which the decision is to be made (subject to not disclosing Confidential or Exempt Information);
- (b) where the decision maker is an individual, his/her name and title, if any, and where the decision maker is a body, its name and a list of its membership;
- (c) the date on which, or period within which, the decision is to be made;
- (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 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.

## **General Exception**

- 13.3 If prior notice of a Key Decision has not been given in accordance with Rule 13.1 then, subject to Rule 13.5 (special urgency), the decision may still be taken if:
- (a) the decision must be taken by such a date that it is impracticable to give twenty eight Clear Days notice of it;
  - (b) the Proper Officer has informed the chairman of the appropriate Overview and 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 Proper Officer has made copies of such notice available to the public at the Authority's offices and on its website; and
  - (d) at least five Clear Days have elapsed since the Proper Officer complied with (a) and (b).
- 13.4 As soon as reasonably practicable after the Proper Officer has complied with Rule 14.1, he must make available at the Authority's offices and on its website the reasons why compliance with Rule 13.1 was impracticable.

## **Special Urgency**

- 13.5 If by virtue of the date by which a decision must be taken Rule 13.3 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the appropriate Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If there is no Chairman of the appropriate Overview and Scrutiny Committee, or if the Chairman of each appropriate Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.
- 13.6 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 13.5 above, they shall request the Proper Officer to make available at the Authority's offices and publish on the Authority's website a notice setting out the reasons why the decision was urgent and could not reasonably be deferred.

## **Reports on special urgency decisions**

- 13.7 Where an executive decision is taken in the circumstances set out in Rule 13.5 (special urgency) the Leader shall report to the next Ordinary Meeting of Council with a summary of the decision. At least one such report must be made to Council on an annual basis and shall include a nil return if appropriate.

## **RULE 14. DECISIONS BY CABINET MEMBERS AND OFFICERS**

### **Application**

14.1 This Rule applies to decisions made by Cabinet Members and those executive and non-executive decisions made by Officers covered by the 'Guide to Recording and Publication of Officer Decisions' at Appendix M.

### **Reports intended to be taken into account**

14.2 Where a Cabinet Member (including the Leader) or an Officer receives a report which he/she intends to take into account in making any decision covered by Rule 14.1, then he/she will not make the decision until at least three clear days after receipt of that report.

### **Provision and publication of copies of reports**

14.3 On giving of such a report to a Cabinet Member or Officer, the person who prepared the report will give a copy of it to the chairman of the appropriate Overview and Scrutiny Committee as soon as reasonably practicable and, unless it contains Confidential or Exempt Information, the Proper Officer will make it publicly available as soon as reasonably practicable.

## **RULE 15. RECORD OF DECISIONS**

### **Record of executive decisions by Cabinet and Cabinet Members and executive and non-executive decisions by Officers**

15.1 As soon as reasonably practicable after Cabinet, a Cabinet Member or, within the terms of the 'Guide to Recording and Publication of Officer Decisions' at Appendix M, an Officer makes a decision, the Proper Officer will produce a written record of the decision which will include the following:

- (a) a record of the decision including 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 maker when making the decision;
- (d) a record of any conflict of interest declared by any Member who is involved in the making or delegation or has been consulted on the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

### **Inspection of decisions by Cabinet Members and Officers**

15.2 The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by Cabinet Members and Officers under Rule 15.1. This does not require the disclosure of Exempt or Confidential Information.

### **Form of minutes - General**

15.3 The name of each Member present shall be recorded in the minutes.

15.4 Minutes of decisions taken shall comprise:

- (a) the decision taken, either in full or by reference to another document;
- (b) a reference to the report or other documentation upon which the decision of the meeting was taken;
- (c) any new advice or information, which may be information provided by a member, which is additional to that in (a) above; and
- (d) the reasons for the decision taken if this is not clear from (a) and (b) above or from the wording of the resolution passed;

but shall not record details of the discussion provided that a member may require any advice or undertaking made, or any fact given, orally at the meeting to be recorded in the minutes.

15.5 Minutes will normally record all decisions in the order in which they were made.

15.6 Where an item on the agenda has been the subject of Confidential or Exempt Information and the press and public have been excluded from the meeting:

- (a) if the decision relates to Confidential Information, the Proper Officer shall arrange for the Minute to be prepared on pink paper in accordance with Rule 11.1 above; or
- (b) if the decision relates to Exempt Information, the Proper Officer shall determine whether the decision is one which can be recorded in the open minutes of the meeting or whether it should be recorded in the same manner as (a) above, in which case he/she shall ensure that a summary of the proceedings which does not disclose that Exempt Information shall be included in the open minutes of the meeting.

### **Form of Minutes - Council**

15.7 Minutes of a Council meeting will:

- (a) record motions and amendments that have been proposed and seconded in the order in which they were put by the Person Presiding; and
- (b) state the proposer and seconder of each motion and amendment.

## **RULE 16. OVERVIEW AND SCRUTINY COMMITTEE MEMBER ACCESS TO DOCUMENTS**

### **Rights to copies**

16.1 Subject to Rule 16.2 below, a member of an Overview and Scrutiny Committee, Overview and Scrutiny Sub-Committee or Scrutiny Task Group will be entitled to a copy of any document which is in the possession or control of the Leader or Cabinet and which contains material relating to:

- (a) any business transacted at a meeting of Cabinet, or
- (b) any decision taken by a Cabinet Member;
- (c) any executive decision taken by an Officer

### **Limit on rights**

16.2 A member of an Overview and Scrutiny Committee will not be entitled to any whole or part of a document which contains Confidential or Exempt Information unless that information is relevant to:

- (a) an action or decision which the member is formally reviewing or scrutinising; or
- (b) any review contained in a programme of work of an Overview and Scrutiny Committee

### **Timescale**

16.3 The provision of any document under Rule 16.1 must be as soon as reasonably practicable and in any case no later than ten Clear Days after the Leader/Cabinet receives the request.

## **RULE 17. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

17.1 Subject to Rules 17.5 and 17.6, any document which is in the possession or under the control of the Leader/Cabinet which contains material relating to any business to be transacted at a public Meeting of the Cabinet shall be made available for inspection by any member.

- 17.2 Any document which is required by Rule 17.1 to be available for inspection by any member must be available for such inspection for at least five clear working days before the Meeting except that:
- (a) where the Meeting is convened at shorter notice, such a document must be available for inspection when the Meeting is convened; and
  - (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 17.1 in relation to that item, must be available for inspection when the item is added to the agenda.
- 17.3 Subject to Rules 17.5 and 17.6, any document which is in the possession or under the control of the Leader/Cabinet and contains material relating to:
- (a) any business transacted at a private meeting of the Cabinet;
  - (b) any decision made by the Leader or Cabinet Member in accordance with executive arrangements; or
  - (c) any decision made by an Officer in accordance with executive arrangements,
- must be available for inspection by any member when the Meeting concludes or in relation to (b) and (c) above, immediately after the decision has been made.
- 17.4 Any document which is required by Rule 17.3 to be available for inspection by any member must be available for such inspection, in any event, within 24 hours of the conclusion of the Meeting or the decision being made, as the case may be.
- 17.5 Rules 17.1 and 17.3 do not require a document to be available for inspection if it appears to the Proper Officer that it discloses Confidential or Exempt Information.
- 17.6 Notwithstanding Rule 17.5, Rules 17.1 and 17.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:
- (a) paragraph 3 of Appendix L (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
  - (b) paragraph 6 of Appendix L.
- 17.7 Where it appears to the Proper Officer that compliance with Rules 17.1 or 17.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, that Rule will not apply to that document or part.