

## ACCESS TO INFORMATION PROCEDURE RULES

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**1. SCOPE**

These rules apply to all meetings of the Council, Scrutiny Panels, area forums, the Standards Committee, committees of the Council and meetings of the Cabinet and its committees (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 working days notice of any meeting of the Council, the Cabinet, a Council Committee and Scrutiny Panels by posting details of the meeting at the Town Hall, Halifax (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 designated office at the time the notice is given of the meeting being not less than at least five clear working days before the meeting. If an item is added to the agenda later, the Head of Democratic and Partnership Services shall make each such report available to the public as soon as the item is 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 Democratic and Partnership 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, 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 Chief Officers will 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) 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 reports, the advice of a political assistant.

### **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.

### **8.3 Appeals Procedure**

- (a) Any request to inspect and copy background documents as listed on any report open to inspection by the public shall be to the Chief Officer of the service initiating the report.
- (b) The Chief Officer concerned shall permit access unless the document discloses confidential or exempt information as defined by the Act.
- (c) If a Chief Officer decides not to permit access to any background document he shall do so in writing, state his reasons and advise of rights of appeal.
- (d) Any person aggrieved by a decision of a Chief Officer may appeal to the Head of Democratic and Partnership Services.
- (e) The Head of Democratic and Partnership Services on consideration of any appeal may either overrule or confirm the decision of the Chief Officer. The decision of the Head of Democratic and Partnership Services shall be notified in writing to both the appellant and the Chief Officer. If access is refused the reasons for the decision shall be stated and notice of right of appeal to Committee given.
- (f) If the appellant is aggrieved by the decision of the Head of Democratic and Partnership Services he may within 28 days of the decision notify the Head of Democratic and Partnership Services that he wishes the matter to be referred to the Appeals Panel of the Council.
- (g) The Head of Democratic and Partnership Services upon receipt of such request shall arrange for the request to be determined by the Appeals Panel. The appellant may attend the meeting and address the Members.

## **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 designated office.

## **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 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.

Under Section 14(2) of the Licensing Act 2003 the Licensing and Regulatory Committee or a Licensing Sub Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

### **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**

Information which falls within the categories below is only exempt information if, and so long as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (the public interest test).

Information falling within any of the categories below is not exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and County Planning General Regulations 1992.

Exempt information means information falling within the following categories (subject to any condition):-

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual. (Information relating to an individual)	
2. Information which is likely to reveal the identity of an individual (Information identifying an individual)	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information) (Financial or business affairs)	Information is not exempt if it 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 in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of or an officer holder under the authority. (Labour relations, consultations or negotiations)	Information is only exempt if it relates to matters described in Section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e.  (a) terms and conditions of employment or the physical conditions in which any workers are required to work; (b) engagement or non-engagement or termination or suspension of employment or the duties of employment of one or more workers; (c) allocation of work or the duties of employment as between workers or groups of workers; (d) matters of discipline; (e) membership or non-membership of a trade union on

Category	Condition
	<p>the part of a worker;</p> <p>(f) facilities for officials of trade unions;</p> <p>(g) machinery for negotiation or consultation and other procedures relating to any of the matters at (a) to (f) above including the recognition by employees or employers association of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.</p>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (Legal privilege)	
6. Information which reveals the Authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person (b) to make any order or direction under any enactment (Enforcement proceedings)	
7. Information relating to any action or to be taken in connection with the prevention, investigation or prosecution of crime (Crime prevention, investigation or prosecution)	

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

If the Head of Democratic and Partnership 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 EXECUTIVE (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 13.3 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 13.3 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 Cabinet key decisions list) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the Cabinet key decisions list; 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 CABINET KEY DECISIONS LIST**

### **14.1 Period of key decisions list**

Key decisions lists 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 list.

#### **14.2 Contents of key decisions list**

The key decisions list will contain matters which the leader has reason to believe will be subject of a key decision to be taken by the Cabinet, an individual Cabinet Member, a committee of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the list. 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; and
- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The key decisions list must be published at least 28 days before the start of the period covered.

Exempt information need not be included in a key decisions list 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 key decisions list, 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 key decisions list and until the start of the first month to which the next key decisions list relates;
- (b) the Head of Democratic and Partnership Services has informed the chair of a relevant Scrutiny Panel, or if there is no such person, each member of that Panel in writing, by notice, of the matter to which the decision is to be made;

- (c) the Head of Democratic and Partnership 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 Democratic and Partnership 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 making the decision, obtains the agreement of the chair of a relevant Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant Scrutiny Panel, or if the chair of each relevant Scrutiny Panel 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 Scrutiny Panel can require a report**

If a Scrutiny Panel thinks that a key decision has been taken which was not:

- (a) included in the Cabinet key decisions list; or
- (b) the subject of the general exception procedure in Rule 15; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the Mayor/Deputy Mayor of the Council under Rule 16;

the Panel may require the Cabinet to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Panel, but is also delegated to the Head of Democratic and Partnership Services, who shall require such a report on behalf of the Panel when so requested by the chair or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Panel.

### **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 Scrutiny Panel, 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**

After any meeting of the Cabinet or any of its committees, whether held in public or private, Head of Democratic and Partnership Services 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**

Meetings relating to matters which are not key decisions will be held in public and Rules 1-11 inclusive will apply.

## **20. SCRUTINY PANELS ACCESS TO DOCUMENTS**

### **20.1 Rights to copies**

Subject to Rule 20.2 below, a Scrutiny Panel 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 Panel will not be entitled to:

- (a) any document that is in draft form; or
- (b) the advice of a political assistant.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS**

### **21.1 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 Cabinet or its committees which relates to any key decision unless it contains the advice of a political assistant.

### **21.2 Nature of rights**

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

### **21.3 Restrictions**

The rights of Members under Section 100F of the Local Government Act 1972 to inspect documents may be restricted by the Head of Democratic and Partnership Services in consultation with the Leader or Chair of the relevant Committee or Panel in the circumstances stated in sub section 2 of Section 100F.

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