

## **Access to Information Procedure Rules**

### **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, the Standards Committee, the Audit and Governance Committee, the Licensing and Gambling Committee, Licensing and Appeals Committee and the Planning Committee and meetings of the Cabinet and any sub-committees appointed by them (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 AND REPORT ON MEETINGS**

3.1 Members of the public may attend all meetings and are permitted to report on the meeting, subject only to the exceptions in these rules.

3.2 Oral reporting or oral commentary on a meeting as it takes place is not permitted if the person reporting or providing commentary is present at the meeting.

3.3 'Reporting' means:

- (a) filming, photographing or making an audio recording of proceedings at a meeting,
- (b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later, or
- (c) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available, as the meeting takes place or later to persons not present.

3.4 Any person who attends the meeting to report the proceedings may use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities.

3.5 Publication and dissemination may take place at the time of the meeting or occur after the meeting.

### **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 Council offices, 52 Derby Street, Ormskirk and on the Council's website .

### **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 and where appropriate on the Council's website 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 designated officer 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 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) any other documents supplied to councillors in connection with an item if the Legal and Democratic Services Manager thinks fit.

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

## 7. **ACCESS TO MINUTES, DECISIONS 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**

Every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the author:

- (a) disclose any facts or matters on which the decision / 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 or making the decision

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 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 at the Council offices and in respect of executive decisions on the Council's website.

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

A written summary of the public's rights to attend and report on meetings and to inspect and copy documents is kept at and available to the public at the Council offices, 52 Derby Street, Ormskirk. (See Constitution 3.3 Article 3).

## **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 and reporting on the meeting will also not be permitted.

### **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 and reporting on the meeting will also not be permitted.

### **10.3 Meaning of confidential information**

“Confidential information” means information given to the Council by a Government Department on terms (however expressed) which forbid its public disclosure, or information which cannot be publicly disclosed by or under any enactment or by a Court Order.

### **10.4 Meaning of exempt information**

Information which falls within any of the descriptions 1 - 7 below is exempt information if and so long, as the Proper Officer considers, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Description	Qualification and Interpretation
1. Information relating to any individual	
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Information falling within description 3 is not exempt information by virtue of that description if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) the Companies Act (as defined in Section 2 of the Companies Act 2006).</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978</li> <li>(e) the Building Societies Act 1986</li> <li>(f) the Charities Act 1993</li> </ul> <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 at 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>“labour relations matter” means</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) any dispute about a matter falling within paragraph (a) above and for the purposes at this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</li> </ul> <p>“office-holder” 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> <p>“employee” means a person employed under a contract of service.</p>

Description	Qualification and Interpretation
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.	

Notes:

- (i) Information is not exempt information 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.
- (ii) Previous exemptions relating to personal information continue to be protected under the Data Protection Act.
- (iii) The Exemptions relating to commercial interests complement similar provisions in the Freedom of Information Act and Environmental Information Regulations.
- (iv) Information which
  - (a) falls within any paragraphs 1-7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 3 and (i) above, is exempt information 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. )

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

If the Legal and Democratic Services Manager 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 to 24 apply to the Cabinet and any committees that it sets up. If the Cabinet or such committees meet to take a key decision then it must also comply

with Rules 1 to 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply.

If the Cabinet or any of 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 to 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;
- (b) at least five 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 any of its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### 14. **THE FORWARD PLAN**

#### 14.1 **Forward plan notice**

Forward plans will be prepared by the Leader 28 clear days prior to a Cabinet meeting. Supplementary forward plans may be produced if required.

#### 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 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/her name and title, if any and where the decision taker is a body, its name and a list of its membership;
- (c) the date on which, or the period within which, the decision is to be made ;

- (d) the documents to be submitted to the decision taker for consideration in relation to the matter and the address where copies of, or extracts from, the documents are available, subject to prohibition or restriction;
- (e) that other documents relevant to these matters may be submitted and the procedure for requesting details of those documents (if any) as they become available;
- (f) details of decisions to be taken in private and a statement of reasons.

#### 14.3 Publication of the forward plan

The forward plan must be published at least 28 clear days before a key decision is made and must be made available for inspection by the public at the Council Offices and on the Council's website.

#### 14.4 Exempt and confidential information

The forward plan must contain particulars of the decision to be taken but may not contain any confidential or exempt information. Documents relating to the decision need not be disclosed to the public and the public may be excluded from the meeting.

### 15. **GENERAL EXCEPTION**

If a matter which is likely to be the subject of 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 and it is impracticable to publish notice of intention to make a key decision under Rule 14;
- (b) the Chief Operating Officer has informed the Chairman of a relevant 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 Chief Operating Officer has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (d) at least five clear days have elapsed since the Chief Operating Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public subject to Rule 10.

### 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), the Leader (if the Cabinet is making the decision) or the Chairman of the body making the decision:-

- (a) obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee; or  
if there is no Chairman of the relevant Overview and Scrutiny Committee; or  
if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council (the Mayor), or in his/her absence the Vice Chairman (the Deputy Mayor) that the making of the decision is urgent and cannot reasonably be deferred; and
- (b) makes available on the Council's website and at the Offices of the Council a notice setting out the reasons that the meeting/decision is urgent and cannot reasonably be deferred.

## **17. REPORT TO COUNCIL**

### **17.1 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) included in the forward plan; or
- (b) the subject of the general exception procedure at Rule 15 above; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Council (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 power to require a report rests with the committee, but is also delegated to the Chief Operating Officer, who shall require such a report on behalf of the committee when so requested by the Chairman or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and 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 Annual reports on special urgency decisions**

In any event the Leader will submit annually reports to the Council on the decisions taken by the Cabinet or a member of the Cabinet in the circumstances set out in Rule 16 (special urgency). The report will include particulars of each decision made and a summary of the matters in respect of which each decision was made.



## 18. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Operating Officer 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

The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.

## 20. NOTICE OF PRIVATE MEETING OF THE CABINET

20.1 A private meeting is where members of the public are excluded when it is likely that 'confidential' or 'exempt' information would be disclosed.

20.2 At least 28 clear days before a private meeting, the forward plan will be published giving notice of the intention to hold a meeting or part of it in private and the reasons for it.

20.3 At least 5 clear days before a private meeting, an agenda will be published providing further notice of the intention to hold the meeting or part of it in private and the reasons for it, including details of any representation received about why the meeting should be open to the public and a copy of any response.

20.4 If sufficient notice has not been given as set out in 20.2 and 20.3 the meeting may only be held in private if, the meeting is urgent and cannot reasonably be deferred, and with the agreement of

- (a) the Chairman of the Executive Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chairman is unable to act, the Mayor or the Deputy Mayor.

Following agreement a notice must be published at the Council Offices and on its website setting out these reasons.

Members of the Cabinet or its committees 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.

## 21. ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET

- a) All members of the Cabinet will be served notice of all private meetings of committees of the Cabinet, whether or not they are members of that committee.

- b) All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.
- c) The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Chief Operating Officer has been given reasonable notice that a meeting is to take place.
- d) A private Cabinet meeting may only take place in the presence of the Chief Operating Officer or her nominee with responsibility for recording and publicising the decisions.

## **22. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET/OFFICERS**

### **22.1 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 decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

### **22.2 Provision of copies of reports to Overview and Scrutiny Committees**

On giving such reports to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### **22.3 Record of individual decisions (Members and Officers)**

As soon as reasonably practicable after a decision has been taken by an individual member of the Cabinet or officer, he/she will prepare, or, in the case of a Member, instruct the relevant Head of Service 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 and individual officers and any report or a relevant part of a report considered by the individual making the decision with any background papers will be made available for inspection and published on the Council's website. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, an Overview and 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
- (b) any decision taken by an individual member of the Cabinet.

### **23.2 Limit on rights**

An Overview and Scrutiny Committee 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 adviser.

### **23.3 Requests for copies**

The Cabinet must provide a member of Overview and Scrutiny Committee with the document as soon as reasonably practicable and in any case no later than 10 clear days after receiving the request.

## **24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **24.1 Material relating to previous business**

All members will be entitled to inspect any document 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 private meeting within 24 hours unless either:

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the descriptions of exempt information; or
- (b) it contains the advice of a political adviser.

Documents falling within paragraphs 3 and 6 of the descriptions of exempt information are open to inspection by Members except:

- (c) to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the negotiations for a contract.

### **24.2 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 paragraph (a) or (b) above applies.

### 24.3 **Nature of rights**

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