





## **PART 4B**

### **Access to Information Procedure Rules**

#### **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, area committees (if any), the Standards and Constitutional Oversight Committee and regulatory committees and public meetings of the Cabinet and Executive Board (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. NOTICE OF MEETINGS**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Town Hall, Wallasey.

## **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 least five clear working 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) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with any 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**

Every report will contain 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 that list need not include published works or those which disclose exempt or

confidential information (as defined in Rule 9) and, in respect of Cabinet or Executive Board 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. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 9.1 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.

### 9.2 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.

### 9.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its disclosure or information which cannot be publicly disclosed by Court Order.

### 9.4 Meaning of exempt information

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

<b>CATEGORY</b>	<b>CONDITION</b>
1. Information relating to an individual	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.  Information is only exempt:  (a) where disclosure is prohibited by

	<p>statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>2. Information which is likely to reveal the identity of an individual</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)</p> <p><i>'financial or business affairs' includes contemplated, as well as past or current, activities</i></p> <p><i>This category will include commercial and contractual interests</i></p>	<p>Information is not exempt information if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc</p> <p>Information is only exempt if and for so long as:</p> <p>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other persons; or</p>

	<p>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or</p> <p>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>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 office-holders under, the authority</p> <p><i>‘Labour relations matters’ are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974 i.e. matters which may be the subject of a trade dispute</i></p> <p><i>‘employee’ means a person employed under a contract of service</i></p> <p><i>‘office-holder’ means the holder of any paid office appointments 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</i></p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <p>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information is only exempt:</p> <p>(a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council’s Legal Services and its client;</p>

	(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
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	Information is exempt only if and so long as: (a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and  (b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is only exempt if its disclosure would, or would be likely to, prejudice- (a) criminal investigations and proceedings; or (b) the apprehension or prosecution of offenders; or (c) the administration of justice; or (d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or (e) regulatory enforcement; or (f) any civil proceedings; or (g) Health and safety; or (h) information obtained from confidential sources; and (i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
In addition to the categories referred to above, the following categories will apply to the proceedings of the Standards and Constitutional Oversight Committee only in connection with the investigation and consideration of an allegation(s) of a breach of the Council's Member Code of Conduct	



<b>7A.</b> Information which is subject to any obligation of confidentiality	
<b>7B.</b> Information which relates in any way to matters concerning national security	Information is only exempt if its disclosure would, or would be likely to, prejudice- (a) matters concerning national security; and (b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
<b>7C.</b> The deliberations of the Standards Committee in reaching any finding on a matter relating to the conduct of an elected or Co- opted/Advisory Member and Parish/Town Councillors	

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. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Director: Governance and Assurance 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 9, 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. The report will explain why it is being treated as exempt.

#### **11. APPLICATION OF RULES TO THE CABINET**

Rules 12 - 19 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 - 10 unless Rule 14 (general exception) or Rule 15 (special urgency) applies.

A key decision is as defined in Article 13.3 of this Constitution.

#### **12. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 14 (general exception) and Rule 15 (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 28 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).

### **13. THE FORWARD PLAN**

13.1 The forward plan will be published on the Council's website and will be updated from time to time as required.

13.2 In respect of Key Decisions the forward plan will contain the following information:

- (a) that a key decision is to be made on behalf of the relevant local authority;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

### **14. GENERAL EXCEPTION**

(1) Subject to regulation 11, where the publication of the intention to make a key decision under regulation 9 is impracticable, that decision may only be made:

- (a) where the Director: Governance and Assurance informed the Chair of the relevant Overview and Scrutiny Committee or, if there is no such person, each member of the Committee by notice in writing, of the matter about which the decision is to be made;
- (b) where the Director: Governance and Assurance published on the Council's website a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after five clear working days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).

- (2) As soon as reasonably practicable after the Director: Governance and Assurance complied with paragraph (1), he or she must –
- (a) make available at the offices of the relevant local authority a notice setting out the reasons why compliance with Rule 12 is impracticable; and
  - (b) publish that notice on the Council's website.

## **15. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed then the decision can only be taken if the decision taker (if an individual) or the leader obtains the agreement of the chair of the relevant Overview and Scrutiny Committee or the Mayor that taking the decision cannot be reasonably deferred. If the chair or Mayor is unable to act, then the agreement of the Deputy Mayor will suffice.

## **16. REPORT TO COUNCIL**

### **16.1 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; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Mayor of the Council under Rule 15; 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 Director: Governance and Assurance, who shall require such a report on behalf of the committee when so requested by the chair or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

### **16.2 Cabinet 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 seven 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.

### **16.3 Quarterly Reports on Special Urgency Decisions**

In any event the Leader will in the report to the Council report on the Executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the

preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.

## **17. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, the Director: Governance and Assurance or 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.

## **18. DECISION BY INDIVIDUAL MEMBERS OF THE CABINET**

### **18.1 Record of individual decision**

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Cabinet or key decision has been taken by an officer, he/she will prepare, or instruct the Director: Governance and Assurance, 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.

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

### **19.1 Rights to copies**

Subject to Rule 19.2 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 meeting of the Cabinet or its committees;
- (b) any decision taken by an individual member of the Executive.

### **19.2 Limit on rights**

An Overview and Scrutiny Committee will not be entitled to:-

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

### **19.3 Nature of rights**

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