

Access to Information Procedure Rules

RULE 1 SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees, Area Forums, the Standards Committee, regulatory committees and public meetings of the executive (together called meetings).

RULE 2 ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

RULE 3 RIGHT TO ATTEND MEETINGS

Members of the press and public may attend all meetings subject only to the exceptions in these rules.

RULE 4 QUESTIONS OR STATEMENTS BY THE PUBLIC

- 4.1 The Council has a period to enable the public to ask questions or make statements at the start of meetings of the Council and meetings of the executive. A period of 15 minutes is set-aside for members of the public to ask questions or make statements on any matters for which the Committee is responsible.
- 4.2 The purpose of the question time is to enable the public to express their concerns and receive a response directly from the leader, a member of the executive, the Chairman of a committee, other councillors or officers of the Council.
- 4.3 The question time is kept as informal as possible but there are guidelines in order to make the system as fair and easy to operate as possible. A time limit of three minutes is allowed for each speaker and two working days' notice to the Chief Executive is required in writing or by email.
- 4.4 Most meetings are held at the Council Offices, London Road, Saffron Walden and commence at 7.30pm, and public questions are dealt with at the start of meetings. The following meetings incorporate a question and answer session:
 - Council
 - Cabinet
 - Scrutiny Committee
 - Performance and Audit Committee

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- Licensing and Environmental Health Committee other than when dealing with individual cases
 - Standards Committee other than when dealing with individual cases
- 4.5 The Planning Committee allows members of the public to speak on planning applications. The procedure is set out in Part 5 of the Constitution.
- 4.6 Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.
- 4.7 A question may only be asked if notice has been given by delivering it in writing or by email to the proper officer no later than 12pm two working days before the day of the meeting. Each question must give the name and address of the questioner.
- 4.8 At any one meeting no person may submit more than two questions and no more than two such questions may be asked on behalf of one organisation.
- 4.9 The proper officer may reject a question if it:
- 4.9.1 is not about a matter for which the local authority has a responsibility or which affects the district;
 - 4.9.2 is defamatory, frivolous or offensive;
 - 4.9.3 is substantially the same as a question which has been put at a meeting in the past six months; or
 - 4.9.4 requires the disclosure of confidential or exempt information
- 4.10 The proper officer will enter each question/statement in a book open to public inspection and will immediately send a copy of the question to the leader or other councillor to whom it is to be put. Rejected questions will include reasons for rejection.
- 4.11 Copies of all questions/and statements accepted will be circulated to all members and will be made available to the public attending the meeting.
- 4.12 The Chairman will invite the questioner to put the question to the Council, or member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may

ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

- 4.13 A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 4.9 above.
- 4.14 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.
- 4.15 No discussion will take place on any question.

RULE 5 NOTICES OF MEETING

The council will give at least five clear working days notice of any meeting by posting details of the meeting at the Council Offices, London Road, Saffron Walden, Essex, CB11 4ER ("the designated office").

RULE 6 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 will be open to inspection for the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors.

RULE 7 SUPPLY OF COPIES

The Council will supply copies of:

- 7.1 any agenda and reports which are open to public inspection;
- 7.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 7.3 unless an exemption under the Freedom of Information Act 2000 the Environmental Information Regulations 2004 or any other legislation which may require disclosure of information applies, 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.

RULE 8 ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

- 8.1 the minutes of the meeting or records of decisions taken by the Council or any of its committees excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 8.2 the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 8.3 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;
- 8.4 the agenda for the meeting; and
- 8.5 reports relating to items when the meeting was open to the public

RULE 9 BACKGROUND PAPERS

9.1 List of background papers

The proper officer 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:

- 9.1.1 disclose any facts or matters on which the report or an important part of the report is based; and
 - 9.1.2 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 11) and, in respect of executive reports, the advice of a political advisor.
- 9.2 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.

RULE 10 SUMMARY OF PUBLIC'S RIGHTS

A written summary of public rights to attend meetings and to inspect and copy documents is kept at and is available to the public at the Council Offices, London Road, Saffron Walden, Essex, CB11 4ER and is available on the Council's website. Details are also set out in a leaflet available to the public.

RULE 11 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

- 11.1 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.
- 11.2 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.
- 11.3 Where the meeting will determine any persons 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.
- 11.4 The Licensing and Environmental Health Committee may exclude the public from all or part of a meeting where the Committee is of the opinion that the public interest in so doing outweighs the public interest in the hearing or that part of the hearing taking part in public (Licensing Act 2003 (Hearings) Regulations regulation 14). This includes parties to the hearing and those representing them. In general it is considered desirable that the part of the meeting when members debate applications before announcing a decision should take place in the absence of the public.
- 11.5 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.
- 11.6 Exempt information means information falling within the following categories:
 - 11.6.1 Information relating to any individual.
 - 11.6.2 Information which is likely to reveal the identity of an individual.

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- 11.6.3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 11.6.4 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.
- 11.6.5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceeding.
- 11.6.6 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
- 11.6.7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 11.7 Information falling with paragraph 11.6.3 above is not exempt information if it is required to be registered under an Act of Parliament.
- 11.8 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.
- 11.9 Where information would be exempt by virtue of paragraphs 11.6.1 to 11.6.7 above and is not prevented from being exempt by virtue of paragraphs 11.7 and 11.8 above then it 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.
- 11.10 For the purposes of paragraphs 11.6 to 11.9 above
- 11.10.1 "Employee" means a person employed under a contract of service.

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11.10.2 “Financial or business affairs” includes contemplated, as well as past or current, activities.

11.10.3 “Labour relations matter” means any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute relating to any such matter.

11.10.4 “Office Holder” in relation to the authority 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.

11.10.5 References to “the authority” are a reference to Full Council, the executive or as the case may be committees or sub-committees of the Council.

11.11 If the proper officer 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.

RULE 12 APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 - 21 apply to the executive and its committees. The executive or its committees must also comply with Rules 1 - 11 unless otherwise provided for. In the event of a conflict between Rules 13 - 21 and Rules 1 – 11 in respect of executive decisions then Rules 13 - 21 shall prevail.

RULE 13 PROCEDURE BEFORE TAKING KEY DECISIONS AS DEFINED IN ARTICLE 13.3 OF THE CONSTITUTION

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

13.1 a notice has been published in at the Council Offices and on the Council’s website at least 28 days before the decision is made which states:-

13.1.1 That a key decision is to be made on behalf of the Council

13.1.2 The matter in respect of which the decision is to be made

13.1.3 Where the decision maker is an individual , that individual’s name

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- and title (if any) and where the decision maker is a decision making body the name of that body and a list of its members
- 13.1.4 The date on which, or the period within which, the decision is to be made
- 13.1.5 A list of the documents submitted to the decision maker for consideration in relation to the matter
- 13.1.6 The address from which any documents listed can be obtained
- 13.1.7 That other documents relevant to those matters may be submitted to the decision maker
- 13.1.8 The procedure for requesting details of those documents as they become available
- 13.2 Where in relation to any matter the public may be excluded from the meeting at which a matter is to be discussed or documents need not be disclosed under these Rules the notice under Rule 13.1 must contain details of the matter but must not contain any confidential or exempt information or particulars of the advice of any political advisor or assistant.

RULE 14 THE FORWARD PLAN

- 14.1 Forward plans 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 plan.
- 14.2 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 executive, a committee of the executive, individual members of the executive, officers, Area Forums or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan.

14.3

RULE 15 GENERAL EXCEPTION

Where publication of the intention to make a key decision under Rule 13.1 then subject to Rule 16 (special urgency), the decision may only be made where:

- 15.1 the proper 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;

- 15.2 the proper officer has made copies of that notice available to the public at the offices of the Council and has published it on the Council's website; and
- 15.3 at least five clear days have elapsed since the proper officer complied with Rule 15.2

RULE 16 SPECIAL URGENCY

- 16.1 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 maker obtains the agreement of the Chairman of a relevant overview and scrutiny committee or if there is none or the Chairman of that Committee is unable to act, the Chairman of the Council or, if there is none, the Vice Chairman of the Council that the making of the decision is urgent and cannot be reasonably deferred.
- 16.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 that the making of the decision is urgent and cannot be reasonably deferred he must publish a notice at the Council Offices and on the Council's website setting out the reasons why the meeting is urgent and cannot reasonably be deferred

RULE 17 REPORT TO COUNCIL

- 17.1 Where an executive decision has been made which was not treated as a key decision but the relevant overview and scrutiny committee are of the opinion should have been treated as a key decision the overview and scrutiny committee may require the Executive to submit a report to the Council within such period as the Council may specify
- 17.2 A report requested under Rule 17.1 shall contain:-
 - 17.2.1 the decision and the reasons for it
 - 17.2.2 the decision maker by which the decision was made
 - 17.2.3 if the Executive are of the opinion that the decision was not a key decision the reasons for that opinion
- 17.3 The Executive Leader shall submit to the Council a report at such frequency as the Council shall determine but not less than annually giving details of each executive decision taken since the preparation of the last such report where the making of the decision was agreed as urgent in accordance with Rule 16 such report to include particulars of each decision made and a summary of the matters in respect of which each decision was made

RULE 18 RECORD OF DECISIONS

- 18.1 After any meeting of the executive or any of its committees, whether held in public or private, the proper officer 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.
- 18.2 After an executive decision has been made by an individual member or an officer the member or officer will produce a record of that decision as soon as practicable
- 18.3 The record produced under Rules 18.1 and 18.2 will include:-
- 18.3.1 the decision including the date it was made
- 18.3.2 the reasons for the decision
- 18.3.3 details of any alternative options considered and rejected at that meeting.
- 18.3.4 details of any conflict of interests in relation to the matter decided which was declared by any member of the body making the decision or, in the case of an individual or officer decision, by any executive member who is consulted by the decision maker which relates to the decision
- 18.3.5 in respect of any declared conflict details of any dispensation granted
- 18.4 Records prepared in accordance with this Rule and any reports considered at meetings or by individual members or by officers relating to executive decisions taken shall be available for inspection by the public at the Council Offices and will be published on the Council's website as soon as reasonably practicable

RULE 19 ACCESS TO MEETINGS

- 19.1 Save for as provided in Rules 11.1 and 11.2 all meetings of the Executive and its committees will be held in public
- 19.2 Nothing in Rule 19.1 prevents the exercise of a lawful power to exclude a member or members of the public in order to maintain orderly conduct or to prevent misbehaviour at a meeting
- 19.3 A meeting which will be held in whole or in part in the absence of the public under Rule 11.1 or Rule 11.2 is referred to as a private meeting
- 19.4 At least 28 clear days before a private meeting notice of the intention to hold a private meeting must be published at the Council Offices and on the Council's website
- 19.5 A notice under Rule 19.4 must include a statement of the reasons for the meeting to be held in private
- 19.6 At least 5 clear days before a private meeting a further notice must be published at the Council Offices and on its website
- 19.7 A notice under Rule 19.6 must include:-
- 19.7.1 a statement of the reasons for the meeting to be held in private

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- 19.7.2 details of any representations received about why the meeting should be held in public
- 19.7.3 details of the response to such representations
- 19.8 Where the date by which the meeting must be held makes compliance with Rules 19.4 – 19.7 impracticable the meeting may only be held in private if it is agreed with the chairman of the relevant overview and scrutiny committee or, if there is none or he is unable to act, the chairman of the Council or, if there is none, the Vice Chairman of the Council that the meeting is urgent and cannot reasonably be deferred.
- 19.9 In the event of an agreement being reached under Rule 19.8 the Council shall as soon as reasonably practicable publish at the Council Offices and on its website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

RULE 20 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

- 20.1 This Rule is without prejudice to any other rights of access to information that members may have under the Constitution or by law
- 20.2 Any member may inspect any documents in the possession or control of the Executive which contains material relating to business transacted at a public meeting
- 20.3 Documents referred to in Rule 20.2 shall be available for inspection by any member for at least 5 clear days before the meeting or, if the item is added to the agenda at shorter notice, from the time the item is added to the agenda
- 20.4 Documents in the possession or control of the Executive which contain material relating to business transacted at a private meeting of the Executive (as defined in Rule 19.3) or relating to any decision made by an individual member or an officer shall be available for inspection by any member when the meeting concludes or when the executive decision by an individual member has been made
- 20.5 Rule 20.4 does not entitle a member to inspect advice provided by a political adviser or assistant or exempt information other than information of the nature referred to in:-
 - 20.5.1 Rule 11.6.3 (except to the extent that it relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract)
 - 20.5.2 Rule 11.6.

RULE 21 OVERVIEW AND SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS

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- 21.1 Subject to Rule 21.3, 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 executive and which contains material relating to:
- 21.1.1 any business transacted at a of the executive or its committees; or
 - 21.1.2 any executive decision taken by an individual member of the executive or
 - 21.1.3 any executive decision taken by an officer of the Council
- 21.2 Subject to Rule 21.3 where a member of an overview and scrutiny committee requests any document which falls within Rule 21.1 I shall be supplied as soon as is reasonably practicable and in any event within 10 clear days
- 21.3 No member of an overview and scrutiny committee shall be entitled to a copy of:-
- 21.3.1 a document containing exempt or confidential information unless that information is relevant to an action or decision that the member is reviewing or scrutinising or to any review contained in any programme of work of such a committee or sub-committee of such a committee
 - 21.3.2 advice of a political adviser or assistant
- 21.4 Where the executive determines that a member of an overview or scrutiny committee is not entitled to a document or part of a document for a reason set out in Rule 21.3 it must provide the overview and scrutiny committee with written reasons for that decision