

## The Constitution - Part Three - Chapter 1 - Access to information procedure rules

### Scope

- 1.1 These rules will apply to all meetings of the Council, the Scrutiny Panels, Committees and meetings held in public of the Executive (together called meetings).

### Additional Rights to Information

- 1.2 These rules do not affect rights to information contained elsewhere in this Constitution or the law.

### Rights to Attend Meetings

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

### Notices of Meetings

- 1.4 The Council will give at least five clear working days' notice of any meeting by publishing details of the meeting at the Civic Offices, Civic Way, Fareham, Hampshire and the Fareham Borough Council website.

### Access to Agendas and Reports before Meetings

- 1.5 The Council will make copies of the relevant agenda and reports, that are open to the public, available for inspection at the designated office at least five clear working days before a meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time that item was added to the 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.

### Supply of Copies

- 1.6 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

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- c) if the Chief Executive Officer thinks fit, copies of any other documents supplied to members in connection with an item to any person on payment of a charge for postage and any other costs.

### Access to minutes etc. After the meeting

- 1.7 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 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;
  - 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.

### Background papers

#### List of background papers

- 1.8 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:
- 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 do not include published works or those which disclose exempt or confidential information (as defined in Rule 1.11) and in respect of Executive reports, the advice of a political adviser.

#### Public inspection of background papers

- 1.9 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.

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### Summary of public's rights

- 1.10 A written summary of the public's rights to attend meetings and to inspect and copy documents is available for inspection at the Civic Offices, Civic Way, Fareham, Hampshire.

### Exclusion of access by the public to meetings

#### Confidential information – requirement to exclude public

- 1.11 The public will 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.

#### Meaning of confidential information

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

#### Exempt information – discretion to exclude public

- 1.13 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 European Convention of Human Rights 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.

#### Meaning of exempt information

- 1.14 Exempt information as defined by the Local Government Act 1972 (as amended) means information falling within the categories set out in the Appendix to this Chapter (subject to any condition).

### Exclusion of access by the public to reports

- 1.15 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 Rules 1.11 and 1.12, 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.

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### Application of rules to the Executive

1.16 Rules 1.1-1.15 above shall apply to meetings of the Executive and its Committees in relation to 'key decisions', as defined in the Council's Constitution if they:

- a) meet to take a key decision; or
- b) meet with an officer, other than a political adviser present, to discuss a key decision to be taken collectively within 28 days of the date, according to the notice of key decisions, by which it is to be decided; or
- c) ~~meet to take a decision under a or b above which includes exempt information provided that 28 days' notice has been provided in accordance with the Notice of Key Decisions.~~

except for those cases where the sole purpose of the meeting is for officers to brief members, or the provisions of either of the exceptions in these rules or for urgent decisions apply.

### Additional rights of access for members

#### Material relating to previous business

1.17 All members will be entitled to inspect any document which is in the possession, or under the control, of the Executive or its Committees and contains material relating to any business previously transacted at a private meeting unless it either:

- a) contains exempt information falling within paragraphs 1.1 to 1.6, 1.9, 1.11, 1.13 and 1.14 of the categories of exempt information; or
- b) contains the advice of a political adviser.

#### Material relating to key decisions

1.18 All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession of or under the control of the Executive, or its committees, which relates to any Key Decision unless paragraph 1.17 (a) or (b) above applies.

#### Nature of rights

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

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#### Descriptions of exempt information

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).
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.
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.

#### Qualifications

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under
  - a. the Companies Act 1985;
  - b. the Friendly Societies Act 1974;
  - c. the Friendly Societies Act 1992;
  - d. the Industrial and Provident Societies Acts 1965 to 1978;
  - e. the Building Societies Act 1986; or
  - f. the Charities Act 1993.
9. 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[9].
10. Information which
  - a. falls within any of paragraphs 1 to 7 above; and
  - b. is not prevented from being exempt by virtue of paragraph 8 or 9 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. (reference: The Local Government (Access to Information) (Variation) Order 2006)