

ACCESS TO INFORMATION PROCEDURE RULES

1. RULE 1 - SCOPE

These rules apply to all meetings of the Council, the Overview and Scrutiny Commission, area Committees (if any), and regulatory Committees and public meetings of the Cabinet (together called meetings) other than the Appointments and Investigating Committee or Staff Appeals Board when it is dealing with the appointment and dismissal of individuals and disciplinary cases.

2. 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, nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

3. RULE 3 - RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules and in the Council Procedure Rules contained within this Constitution.

4. RULE 4 - NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting on the notice board outside the main entrance to the Town Hall in The Boulevard, Crawley (the designated office) and on the Council's website.

5. RULE 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 Town Hall, Crawley and 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 Head of Legal, Democracy and HR 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. RULE 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 Legal, Democracy and HR 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. RULE 7 - ACCESS TO MINUTES AND RECORDS OF DECISIONS

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

- (a) the records of decisions taken by the bodies to which these apply (together with reasons for Cabinet decisions) excluding any part of the record when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any part of the meeting not open to the public, where the record 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.

7.2. An officer will produce a written record of any non executive decision they have taken which was delegated to them either:

- (a) Under a specific express authorisation; or
- (b) Under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (i) Grant a permission or licence;
 - (ii) Affect the rights of an individual; or
 - (iii) Award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

The written record will be produced as soon as reasonably practicable after the decision has been taken and will contain the following:

- (a) The date the decision was taken;
- (b) A record of the decision taken along with the reasons for the decision;
- (c) Details of alternative options, if any, considered and rejected; and
- (d) The source of that delegation.

Records of executive decisions are referred to in Paragraph 21.3 of these Procedure Rules.

8. RULE 8 - BACKGROUND PAPERS

8.1. List of Background Papers

The officer preparing the report will set out in every report and record of decision a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report / decision or an important part of the report / decision is based; and
- (b) which have been relied on to a material extent in preparing the report / 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 / decisions, the advice of a Political Advisor).

8.2. Public Inspection of Background Papers

The Council will make available as soon as reasonably practicable 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.

In relation to a decision, the Council will make available on the Council's website and at the Town Hall, Crawley (at all reasonable hours) a copy of the background papers included within the list.

9. RULE 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 Town Hall, The Boulevard, Crawley. These rules constitute that written summary.

10. RULE 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. Such reports will be marked "not for publication", together with the category of information likely to be disclosed. Where possible any exempt information should be contained in an appendix to enable discussion of the main item to be held in public. Any resolution to exclude the public due to disclosure of exempt information must identify the part of the proceedings to which it applies and the description of exempt information being used. Such a decision to exclude the public is to be made by resolution of the relevant decision making body.

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.

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

10.4.1. Exempt information means information falling within the following 7 categories (subject to any condition).

Category	Condition
1. Information relating to any individual	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.
2. Information which is likely to reveal the identity of an individual	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.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>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.</p> <p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p> <p>Information within paragraph 3 is not exempt if it must be registered under various statutes, such as</p> <ul style="list-style-type: none"> (a) the Companies Act 2006; (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; <p>or</p> <ul style="list-style-type: none"> (f) the Charities Act 2011. <p>“Registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of 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 matters arising between the authority or a Minister of the Crown and	<p>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.</p> <p>“Labour relations matters” are</p> <ul style="list-style-type: none"> (a) as specified in paragraphs (a)

Category	Condition
<p>employees of, or officer-holders under, the authority</p>	<p>to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute, within the meaning of that Act; or</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>and for the purposes of 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</p> <p>“employee” means a person employed under a contract of service.</p> <p>“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.</p>
<p>5. Information in respect of which a claim to legal privilege could be maintained in legal proceedings</p>	<p>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.</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention,</p>	<p>Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the</p>

Category	Condition
investigation or prosecution of crime	exemption outweighs the public interest in disclosing the information.

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

11. RULE 11 - EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

11.1. If the Head of Legal, Democracy and HR thinks fit, the Council may exclude access by the public to reports which in their 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.

11.2. Paragraph 1.7 of the Leader and Cabinet Procedure Rules details arrangements for Cabinet meetings.

12. RULE 12 - APPLICATION OF RULES TO THE CABINET

12.1. Rules 13-24 below 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 16 (general exception) or Rule 17 (special urgency) apply. While a Cabinet meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

12.2. A key decision is defined in Article 12 of this Constitution.

13. RULE 13 - PROCEDURE BEFORE TAKING KEY DECISIONS

13.1. Subject to 13.2 a decision by Cabinet to hold a meeting, or part of a meeting in private may not be taken unless:

- (a) A notice has been published in the Forward Plan at least 28 clear days before the meeting in question and made available on the Council's website and at the Town Hall, Crawley. This notice is to include a statement of the reasons for the meeting being held in private;
- (b) A further notice is included on the agenda and published on the Council's website and at the Town Hall, Crawley five clear days before the meeting. This notice is to include:
 - (i) A statement of the reasons for the meeting to be held in private
 - (ii) Details of any representations received by the Cabinet about why the meeting should be open to the public
 - (iii) A statement of its response to any such representations

13.2. If a matter has not been included in accordance with Rule 13.1 then the decision to hold a meeting, or part of a meeting, in private may still be taken if the Cabinet obtains the agreement of the Chair and the Vice Chair of the Overview and Scrutiny

Commission (or in the Chair's absence the Mayor and in the Mayor's absence the Deputy Mayor) that the meeting is urgent and cannot reasonably be deferred. Should there not be consensus of views between the Chair and Vice Chair of the Overview and Scrutiny Commission, the view of the Chair will prevail. As soon as it is practicably possible a notice will be published on the Council's website and at the Town Hall, Crawley setting out the reason why the meeting is urgent and cannot be reasonably deferred.

14. RULE 14 - PUBLICITY IN CONNECTION WITH KEY DECISIONS

- 14.1. Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:
- (a) a notice has been published in the Forward Plan in connection with the matter in question;
 - (b) the notice referred to in (a) has been available for public inspection for at least 28 clear days at the Town Hall, Crawley and on the Council's website; and
 - (c) where the decision is to be taken at a meeting of the Cabinet or its Committees/Sub Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).
- 14.2. If a key decision to be taken by a Cabinet Member or by an Officer has appeared on the Forward Plan and the matter is referred to the Overview and Scrutiny Commission for consideration, then that key decision must not be taken until after the Commission has met to discuss the issue. If the matter is urgent, then the Chair of the Overview and Scrutiny Commission will be advised by the Head of Legal, Democracy and HR of the reason as to why it is impracticable to defer the decision until after the Overview and Scrutiny Commission has met.

15. RULE 15 - THE FORWARD PLAN OF KEY DECISIONS

15.1. Purpose of the Forward Plan

The Council's Forward Plan serves two purposes:

- (a) It contains details of all the key decisions that will be taken in the upcoming months, with at least 28 days notice.
- (b) It provides the Notices of which of those key decisions, and at which meetings, is likely be taken in Part B Business – (Closed from the public) along with the justification for this.

The Forward Plan will be updated a least on a monthly basis and will be available for public inspection at the Town Hall, Crawley and on the Council's website.

15.2. Contents of Forward Plan

The Forward Plan will generally contain matters which will be the subject of a key decision to be taken by the Leader/Cabinet/Cabinet Member, a Committee of the Cabinet, a Joint Committee (or Sub Committee thereof) or an area Committee (if any) in the course of the discharge of a Cabinet function.

It will give the following information:

- (a) That a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and a list of its Members;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) a list of the documents to be submitted to the decision taker for consideration;
- (f) Contact details for obtaining any documents listed, subject to any prohibition or restriction on their disclosure, copies of, or extracts from;
- (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.

15.3. Notices of Intention to Conduct Business in Private

A notice will be published in the Forward Plan in accordance with Rule 13 (Procedure Before Taking Key Decisions) if it is intended to hold a Cabinet meeting, or part of a meeting in private.

Confidential, exempt or particulars of the advice of a Political Advisor need not be included in the Forward Plan.

16. RULE 16 - GENERAL EXCEPTION

Subject to Rule 17 (special urgency), where the publication of the intention to make a key decision under Rule 15 is impracticable, that decision may only be made where:

- (a) the Head of Legal, Democracy and HR has been given notice of the matter about which the decision is to be made and the reasons why it has been impracticable to apply Rule 15 has been given in writing to the Chair of the Overview and Scrutiny Commission, or in their absence each Member of that Committee and made available at the Town Hall, Crawley and on the Council's website; and
- (b) at least five clear days have elapsed since the notice given in paragraph (a) was made available.

17. RULE 17 - SPECIAL URGENCY

- 17.1. Where the date by which a key decision must be made makes compliance with Rule 16 (general exception) impracticable the decision may only be made where the decision maker has obtained agreement from the Chair and Vice Chair of the Overview and Scrutiny Commission that the taking of the decision(s) is urgent and cannot be reasonably deferred (if there is no Chair of the Overview and Scrutiny Commission, or if the Chair of the Overview and Scrutiny Commission is unable to act, then the agreement of the Mayor, or in their absence, the Deputy Mayor will

suffice). Should there not be a consensus of view between the Chair and Vice Chair of the Overview and Scrutiny Commission, the view of the Chair will prevail.

- 17.2. As soon as reasonably practicable after the decision maker has obtained this agreement the decision maker must publish a notice in the Forward Plan setting out the reasons that the meeting is urgent and cannot be reasonably deferred which must be made available at the Town Hall, Crawley and on the Council's website.

18. RULE 18 - REPORT TO COUNCIL

18.1. When the Overview and Scrutiny Commission can require a report

Where the Overview and Scrutiny Commission thinks that an Executive decision has been taken which was not treated as a key decision and the Commission are of the opinion that the decision should have been treated as a key decision the Commission may require the Leader/Cabinet to submit a report to the Council within such reasonable time as the Commission specifies.

Such a report will include details of:

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Leader/Cabinet are of the opinion that the decision was not a key decision and the reasons for that opinion.

18.2. Cabinet reports to Full Council

The Leader/Cabinet will prepare a report for submission to the next available meeting of the Full Council. However, if the next meeting of the Council is within 5 clear working days of the request from the Commission, then the report may be submitted to the meeting after that. A report to the Full Council under this Rule must include details of the decision and the reasons for the decision, the decision maker by which the decision was made and if the Leader/Cabinet are of the opinion that the decision was not a key decision, the reasons for that decision

18.3. Quarterly Reports on Special Urgency Decisions

In any event the Leader will submit a quarterly report to the Full Council on the Cabinet decisions taken in the circumstances set out in Rule 17 (special urgency) or annually where there have been none. The report will include the particulars of each decision made and a summary of the matters in respect of which each decision was made.

19. RULE 19 - FORMAL MEETINGS OF THE CABINET TO BE HELD IN PUBLIC

All formal meetings of the Cabinet will be held in public except where information that is confidential or exempt from disclosure is being discussed as defined under paragraphs 10.1 and 10.2 respectively.

The Cabinet may meet informally in private for the purpose of being briefed by employees on matters which are to be considered at a formal meeting of the Cabinet.

20. RULE 20 - RECORD OF EXECUTIVE DECISIONS

As soon as reasonably practicable after any meeting of a decision making body at which an executive decision was made the Head of Legal, Democracy and HR, or the person presiding at the meeting, will produce a record of every decision made at that meeting. The record must include:

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) A record of any conflict of interest relating to the matter decided which is declared by any Member of the decision making body which made the decision; and
- (e) In respect of any declared conflict of interest, a note of any dispensation granted.

21. RULE 21 – EXECUTIVE DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND OFFICERS

21.1. Reports Intended to be Taken Into Account

Where an individual Member of the Cabinet receives a report which they intend to take into account in making any executive decision, then they will not make the decision until at least five clear days after receipt of that report.

21.2. Provision of Copies of Reports to the Overview and Scrutiny Commission

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

21.3. Record of Individual Decision

As soon as reasonably practicable after a Cabinet key decision or Significant Operational (non key) Decisions (see Article 12 – Decisions Making, for definitions) has been taken by an individual Member of the Cabinet or an executive decision taken by an officer which was delegated to them either:

- (a) Under a specific express authorisation; or
- (b) Under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (i) Grant a permission or licence;
 - (ii) Affect the rights of an individual; or
 - (iii) Award a contract or incur expenditure which, in either case, materially affects the Council's financial position,

they will prepare, or instruct the Head of Legal, Democracy and HR to prepare, a record of the decision, a statement including:

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected by the Member/officer when making the decision;
- (d) A record of any conflicts of interest declared by any Cabinet Member who is consulted by the Member/officer which relates to the decision; and
- (e) In respect of any declared conflict of interest, a note of any dispensation granted.

The provisions of Rules 7 and 8 (inspection of documents after meetings) and Scrutiny Procedure Rule 14 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 Adviser.

22. RULE 22 – RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE OVERVIEW AND SCRUTINY COMMISSION

22.1. Rights to Copies

Subject to Rule 22.2 below, a Member of the Overview and Scrutiny Commission will be entitled to a copy 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 that has been transacted at a formal meeting of the Cabinet (or its Committees); or
- (b) any decision taken by an individual Member of the Cabinet or an officer of the Council in accordance with executive arrangements.

Subject to 22.2, below where a Member of the Overview and Scrutiny Commission requests a document which falls within (a) or (b) this must be provided by the Cabinet as soon as reasonably practicable and in any case no later than 10 clear days after the request is received by the Cabinet.

22.2. Limit on Rights

No Member of the Overview and Scrutiny Commission will be entitled to:

- (a) any report that is in draft form other than those provisionally referred from the Forward Plan by the Overview and Scrutiny Commission;
- (b) any report or part of a report or background paper that contain exempt or confidential information, unless that information is relevant to:
 - a. an action or decision they are reviewing or scrutinising; or
 - b. any review contained in any programme of work of the Overview and Scrutiny Commission; or
- (c) a document or part of a document containing advice provided by the Political Advisor.

Where it is determined by the Cabinet that a Member of the Overview and Scrutiny Commission is not entitled to a copy of a document or part of any such document for a reason set out above it must provide the Overview and Scrutiny Commission with a written statement setting out its reasons for that decision.

23. RULE 23 - ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE COUNCIL

- 23.1. Subject to paragraph 23.3, all Members will be entitled to inspect any document which is in the possession of, or under the control of the Leader and Cabinet or its committees, and contains material relating to any business to be transacted at a public meeting. Such a document must be available for inspection by any Member of the Council at least five clear days before the meeting. Where the meeting is convened at shorter notice, these documents must be available for inspection when the meeting is convened and where an item is added to the agenda at shorter notice, the document must be available for inspection when the item is added to the agenda.
- 23.2. Subject to paragraph 23.3 all Members will be entitled to inspect any document which is in the possession of, or under the control of the Leader and Cabinet or its committees, and contains material relating to any business transacted at a private meeting or any decision made by an individual Cabinet Member or an officer in accordance with executive arrangements. Such a document must be available for inspection by any Member of the Council when the meeting concludes or immediately after the decision has been made and this must be within 24 hours.
- 23.3. Notwithstanding Rules 23.1 and 23.2, nothing in these Rules requires any document to be made available for inspection if either (a), (b) or (c) below applies:
- (a) It contains exempt information falling within paragraph 1, 2, 4, 5 and 7 of the categories of exempt information.
 - (b) It contains information falling within paragraph 3 of the categories of information which relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract.
 - (c) It contains the advice of a political advisor.
- 23.4. However, notwithstanding these rules, copies of all exempt reports to Cabinet will be sent to all Members of the Council. This also applies to exempt reports of the Council and its committees.
- 23.5. The contents of any document provided to Members which is marked as exempt shall be treated as such unless and until it becomes public in the ordinary course of the Council's business.
- 23.6. These rights of a Member set out in Rule 23 are additional to any other common law rights they may have.

24. REPORTING PROCEDURES OF A MEETING

- 24.1. Any person attending a meeting of the Council which is open to the public is permitted to report the proceedings. The Protocol on Use of Social Media, Photography, Filming and Recording at Meetings set out in Part 5 of this Constitution relates.
- 24.2. Reporting on proceedings at a meeting means:
- (a) Filming, photographing or making an audio recording of the proceedings at the meeting;

- (b) Using any other means for enabling people not present at the meeting to see or hear proceedings at the meeting as it takes place or later; or
- (c) Reporting or providing commentary on proceedings at the meeting, orally or in writing, so that the report or commentary is available to people not present, as the meeting takes place or later.

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

24.4. When the meeting is not open to the public, the Council may also prevent any person from reporting proceedings using methods:

- (a) Which can be used without that person's presence at the meeting; and
- (b) Which enable people not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.