

**PART C5****ACCESS TO INFORMATION PROCEDURE RULES****1. Scope**

1.1 These Rules apply to a meeting of the following:

1.1.1 The Council.

1.1.2 A public meeting of the Cabinet.

1.1.3 The Executive Commissioning Committee

1.1.4 The Overview and Scrutiny Management Committee and the commissions.

1.1.5 Area committees.

1.1.6 The Planning Committee.

1.1.7 The Licensing Committee.

1.1.8 The Health and Wellbeing Board.

1.1.9 The Audit Committee.

1.2 A meeting of any other committee established by the Council or sub-committee established by a committee is also subject to these Rules.

**2. Additional rights to information**

2.1 These rules do not affect any right to information contained elsewhere in this Constitution or as may be provided by law.

**3. Rights to attend meetings**

3.1 Members of the public may attend all public meetings subject only to the exceptions provided for in these Rules.

**4. Notice of meetings**

4.1 The Council will give at least five clear days notice of any public meeting by posting details of the meeting upon the Hull City Council website and making the details of the meeting available for inspection at the Guildhall, Alfred Gelder Street, Hull HU1 2AA.

**5. Access to agenda and reports before the meeting**

5.1 The Council will make copies of the agenda and any reports, unless

confidential or exempt, available for inspection on its website and available for inspection at the Guildhall at least five clear days before the meeting or in the case of any late item and report, as soon as practicable.

- 5.2 If an item is added to the agenda later, the revised agenda will be published on its website and open to inspection from the time the items are added to the agenda.

6. **Supply of copies**

- 6.1 The Council will supply copies of:

6.1.1 Any agenda and reports which are open to public inspection.

6.1.2 Any further statements or particulars necessary to indicate the nature of the items on the agenda.

6.1.3 Where the Monitoring Officer so determines, a copy of any other document supplied to a member of Council in connection with an agenda item.

- 6.2 The supply of a copy of a document under rule 6.1 above may be on payment of a charge to cover costs reasonably incurred by the Council.

7. **Access to minutes, etc. after the meeting**

- 7.1 The Council will make available copies of the following documents on its website and for public inspection at the Guildhall during the six years following a meeting:

7.1.1 The agenda for the meeting.

7.1.2 Reports for the meeting unless confidential or exempt.

7.1.3 The minutes of the meeting or record of decisions, together with reasons for those decisions.

7.1.4 A summary of the proceedings in respect of any confidential or exempt matters.

8. **Background papers**

List of background papers

- 8.1 The officer who is the author of a report shall 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:

8.1.1 Disclose any facts or matters on which the report or an

important part of the report is based.

8.1.2 Have been relied upon to a material extent in the preparation of the report.

8.2 Background papers, for the purposes of rule 8.1, do not include any published works or those which contain confidential or exempt information and, in the case of a report to the Cabinet, documents that contain the advice of a political advisor.

Public inspection of background papers

8.3 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents in the list of background papers.

9. **Summary of public rights**

9.1 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 Guildhall and in this respect this Constitution constitutes a written summary of those rights.

10. **Exclusion of access by the public to meetings**

Confidential information – requirement to exclude

10.1 The public shall 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.

Exempt information – discretion to exclude public

10.2 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.

10.3 Where at any meeting a question falls to be determined that affects any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights Act (the right to a fair trial) establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the following reasons:

10.3.1 In the interest of morals.

10.3.2 For the preservation of public order.

10.3.3 In the interests of national security.

Meaning of confidential information

- 10.4 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 order of a court.

Meaning of exempt information

- 10.5 Exempt information means information falling within one of the following categories subject to the following conditions:

CATEGORY	CONDITION
1. Information relating to any individual.	Information 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.
2. Information which is likely to reveal the identity of an individual.	Information 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.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. Financial or business affairs includes contemplated, as well as past or current activities.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the Council or a Minister of the Crown and employees of, or Officer-holders under the Council.	Information 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.  “Labour relations matters” are specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, and comprise matters which may be the subject of a trade dispute.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information 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.
6. Information which reveals that the Council proposes:  (a) to give under any enactment a notice under or by virtue of which	Information 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.

<p>requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information 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.</p>

Information falling within any of paragraphs 1 to 7 is not exempt by reason 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.

The report writer must specify the reasons why the public interest test is satisfied in respect of exempting a report.

**11. Exclusion of access by the public to reports**

11.1 Where the Monitoring Officer so determines, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with rule 10, the meeting is likely not to be open to the public. The report shall be marked “Not for Publication” together with the category of confidential or exempt information likely to be disclosed.

**12. Application of the rules to meetings of the Cabinet**

12.1 Rules 13-25 apply to the Cabinet and any committee of the Cabinet. Where the Cabinet or a committee meet to consider a key decision rules 1 to 11 also apply unless rule 15 (general exception) or rule 16 (special urgency) apply.

12.2 If the Cabinet or a committee meet to consider a key decision to be taken collectively by that body with an officer other than a political assistant present and within 28 days of the date according to the Forward Plan by which it is to be decided, rules 1 to 11 also apply, unless rule 15 (general exception) or rule 16 (special urgency) apply.

Briefing Meetings

12.3 The requirement to comply with these Procedural Rules does not include meetings or papers, whose sole purpose is for Officers to brief Members.

**13. Procedure before taking key decisions**

**13.1 Notice of Key Decision**

**Subject to Rule 15 (general exception) and Rule 16 (special**

**urgency), a key decision may not be taken unless:**

- 13.1.1 a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
- 13.1.2 at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and
- 13.1.3 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).

**13.2 Contents of Notice of Key Decision**

The Notice of Key Decision will state that a key decision is 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. It will describe the following particulars

- 13.2.1 the matter in respect of which the decision is to be made together with a summary explaining why a decision is required and the implications of the decision;
- 13.2.2 where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;
- 13.2.3 the date on which, or the period within which, the decision is to be made;
- 13.2.4 whether it is intended that the decision be made in public or in exempt session;
- 13.2.5 if it is intended that the decision be made in exempt session, the means by which any person who wishes to object to this proposal can object and the date by which such objection must be received;
- 13.2.6 a list of the documents to be submitted to the decision maker for consideration in relation to the matter;
- 13.2.7 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- 13.2.8 that other documents relevant to those matters may be submitted to the decision maker; and

13.2.9 the procedure for requesting details of those documents (if any) as they become available.

13.3 **Publication of the Notice of Key Decision**

The Notice of Key Decision must be made available for inspection by the public at Insert The Guildhall Alfred Gelder Street Hull HU1 2AA and on the Council's website.

14. **The Forward Plan**

That part of the Council's website through which Notices of Key Decisions are collectively published shall be known as the Council's Forward Plan.

15. **General exception**

15.1 If a Notice of a Key Decision has not been published in accordance with Rule 13, then subject to Rule 16 (special urgency), the decision may still be taken provided:

15.1.1 The decision will be taken in public or on the basis of a public report.

15.1.2 The decision must be taken by a date which makes it impracticable to publish a Notice of Key Decision.

15.1.3 The Monitoring Officer has given Notice of Key Decision to the Chair of the Overview and Scrutiny Management Committee, or where no such appointment has been made, each member of the Overview and Scrutiny Management Committee of the matter about which the decision is to be made.

15.1.4 The Monitoring Officer has made copies of the Notice of Key Decision available to the public at the Guildhall and on the Council's website together with reasons why compliance with Rule 13.1 is impractical.

15.1.5 At least five clear days have elapsed since the Monitoring Officer complied with 15.1.3.

16. **Special urgency**

16.1 Where by reason of the date by which a decision must be taken, compliance with rule 15 is not possible, the decision can only be taken if the officer preparing a report for the decision maker obtains:-

16.1.1 The prior written consent of the Chief Executive or the Monitoring Officer, and

16.1.2 the agreement of the Chair of the Overview and Scrutiny

Management Committee, or in his/her absence, the Deputy Chair or, in the absence of both, the agreement of two members of the Committee that the decision cannot reasonably be deferred.

- 16.2 Where the Chair is not available or no Chair has been appointed, the agreement of the Lord Mayor, or in his/her absence the Deputy Lord Mayor shall suffice

17. **Report to Council**

When the Overview and Scrutiny Management Committee or a commission can require a report

- 17.1 The Overview and Scrutiny Management Committee or a commission may require the Cabinet to submit a report to the Council within such reasonable time as may be specified where it determines that a key decision which was not the subject of a Notice of Key Decision has been taken and the requirements of neither rule 15 or rule 16 have been satisfied.
- 17.2 The power to require a report rests with the Committee or commission which may by resolution require a report. The Monitoring Officer shall also require a report on behalf of the Committee when requested by the Chair or any five members of Council.

Cabinet report to Council

- 17.3 The Cabinet will prepare a report for submission to the next available meeting of the Council. If the next meeting of the Council is within seven clear days of receipt of the written notice, or the date of the resolution of the committee, the report may be submitted to the next following meeting. The report to Council shall set out the particulars of the decision, the individual or body making the decision, and where the Leader of Council is of the opinion that it was not a key decision the reasons for that opinion.

Reports on special urgency decisions

- 17.4 The Leader of Council will submit a report to the meeting of Council which follows an executive decision taken in the circumstances set out in rule 16. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. **Records of decisions**

- 18.1 After any meeting of the Cabinet or any committee of the Cabinet, whether held in public or private, the Monitoring 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.

19. **Cabinet meetings relating to matters which are not key decisions**

19.1 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 Meetings of the Executive**

20.1 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.

20.2 At least 28 clear days before a private meeting of Cabinet or its committees, the decision-making body must:-

20.2.1 Publish on the Council's website within the Notice of Key Decision, notice of its intention to hold the meeting in private; and

20.2.2 Make the notice available at the officer of the Council.

20.3 At least five clear days before a private meeting, the decision-making body must:-

20.3.1 Publish on the Council's website a further notice of its intention to hold the meeting in private, and

20.3.2 make that notice available at the offices of the Council.

20.4 The notice under paragraph 20.2 must include:-

20.4.1 a statement of the reasons for the meeting to be held in private

20.4.2 20.1.1 details of any representations received by the decision-making body about why the meeting should be open to the public; and

20.4.3 a statement of response to any such representations.

20.5 Where an item is considered in exempt session within a meeting that is otherwise held in public, compliance with the requirements of this section will be treated as met where a notice has been published in accordance with paragraph 13.1 above and, where subsequently representations are received that the meeting should be open, a statement of response to those representations has also been published.

20.6 Where the date by which a meeting must be held makes compliance

with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:-

- 20.6.1 the Chair of the Overview and Scrutiny Management Committee; or
- 20.6.2 in his/her absence, the Deputy Chair or, in the absence of both, the agreement of two members of the Overview and Scrutiny Management Committee; or
- 20.6.3 Where the Chair is not available or no Chair has been appointed, the agreement of the Lord Mayor, or in his/her absence the Deputy Lord Mayor

that the meeting is urgent and cannot reasonably be deferred

- 20.7 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.5 to hold a private meeting, it must

- 20.7.1 the Chair of the Overview and Scrutiny Management Committee; or
- 20.7.2 make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- 20.7.3 publish that notice on the Council's website.

## 21. **Attendance at private meetings of the Cabinet**

### Cabinet members

- 21.1 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.
- 21.2 All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.

### Members of the Overview and Scrutiny Management Committee, commissions and other members

- 21.3 Notice of private meetings of the Cabinet and a committee of the Cabinet shall be served on the Chair of the Overview and Scrutiny Management Committee and a chair of a commission at the same time as notice is served on members of the Cabinet. Where the Overview and Scrutiny Management Committee or a commission does not have a chair, notice shall be served on all the members of that body.
- 21.4 Where a matter under consideration at a private meeting of the

Cabinet, or a committee of the Cabinet, is within the remit of the Overview and Scrutiny Management Committee or a commission, or other relevant committee the chair of that committee or, in his/her absence the deputy chair, may attend the private meeting and speak with the consent of the person presiding.

#### Officers

- 21.5 The Chief Executive, the Chief Finance Officer, the Monitoring Officer, and any nominee are entitled to attend any meeting of the Cabinet and a committee of the Cabinet. The Cabinet may not meet unless the Monitoring Officer has been given reasonable notice that a meeting is to take place.
- 21.6 A private meeting of the Cabinet may only take place in the presence of the Monitoring Officer or his/her nominee with responsibility for recording decisions and making them available to the public.
- 21.7 The provisions of rule 18 above apply to all decisions taken at a private meeting.

## 22. **Decisions of individual members of the Cabinet and officers**

### Reports to be taken into account

- 22.1 Where an individual member of the Cabinet or an officer intends to make an executive decision, which is not a key decision he/she must take into consideration the written advice of the appropriate officer(s) together with the comments of the Chief Finance Officer and the Monitoring Officer.
- 22.2 Where an individual member of the Cabinet or an officer intends to make a key decision, he/she must take into consideration a report written by the appropriate officer together with the comments of the Chief Financial Officer and the Monitoring Officer and the relevant Scrutiny Commission and he/she will not make the decision until at least five clear days have elapsed following receipt of the report.
- 22.3 The agreed format for reports and decision records shall be followed.

### Provision of copies of reports to the Overview and Scrutiny Management Committee or a commission

- 22.4 The provision of a report relating to a key decision to an individual decision maker, the officer who prepared the report will also provide a copy to the Chair of the Overview and Scrutiny Committee or chair of a commission, as may be appropriate and as soon as reasonably practicable, and make it available to the public at the same time.

### Record of individual decision

- 22.5 As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Monitoring Officer to prepare a decision notice incorporating:
- 22.5.1 the decision including the date it was made;
  - 22.5.2 the reasons for the decision;
  - 22.5.3 details of any alternative options considered and rejected by the decision-maker;
  - 22.5.4 a record of any conflict of interest relating to the matter decided which is declared by the decision-maker; and
  - 22.5.5 in respect of any declared conflict of interest, and a note of dispensation granted by the Monitoring Officer.
- 22.6 The provisions of rules 7 and 8 apply to decisions by individual members of the Cabinet, but do not require the disclosure of confidential or exempt information or advice from a political assistant.

#### Decision Records

- 22.7 Decision records shall be used in the following circumstances:
- 22.7.1 In respect of all key decisions taken by individual members and officers and all executive decision taken by the Leader and or Cabinet Members.
  - 22.7.2 Any authorisation provided to an officer concerning the discharge of a function pursuant to paragraph 16.5 of Part B of this Constitution.
  - 22.7.3 The award of a contract the value of which exceeds £50,000.
  - 22.7.4 The grant of any exemption from the Contract Procedure Rules in relation to which the value exceeds £50,000.

#### Officer authorisations

- 22.8 An officer must complete an officer authorisation form in the following circumstances:
- 22.8.1 Where a post is created, deleted or regraded
  - 22.8.2 Any variation to capital allocations and variations provided that the decision maker must record the consequences for the Capital Programme, and any additional costs can be met from

existing capital approvals

- 22.8.3 For the authorisation of entry into a contract with a value below £50,000.
- 22.8.4 For the disposal or purchase of houses or land.
- 22.8.5 For the authorisation of entry into a lease with an annual value below £50,000.
- 22.8.6 For the authorisation of prosecution, where the Town Clerk has advised that such proceedings are in the public interest.
- 22.8.7 For the authorisation of the initiation of legal proceedings.
- 22.8.8 For the authorisation of the placement of a child or adult in a placement which has an annual cost which exceeds £50,000, subject to the cost being within the budget allocation agreed for such placements by a decision of Cabinet annually.

23. **Overview and Scrutiny Management Committee and commission access to documents**

Rights to copies

- 23.1 The Overview and Scrutiny Management Committee and a commission shall, subject to rule 23.2 below, be entitled to copies of any document which is in the possession or control of the Cabinet or a committee of the Cabinet and which contains material relating to:
  - 23.1.1 Any business transacted at a public or private meeting of the Cabinet or a committee of the Cabinet
  - 23.1.2 Any decision taken by an individual member of the Cabinet.

Limit on rights

- 23.2 The Overview and Scrutiny Management Committee or a commission will not be entitled to:
  - 23.2.1 Any document that is in draft form;
  - 23.2.2 Any part of a document that contains confidential or exempt information, unless that information is relevant to an action or decision under review or scrutiny or intend to scrutinise;
  - 23.2.3 The advice of a political adviser.

24. **Additional rights of access for members**

Material relating to previous business

- 24.1 All members of Council are entitled to inspect any document which is in the possession or under the control of the Cabinet or a committee of the Cabinet and which contains material relating to any business transacted at a private meeting unless one or more of the following applies:
- 24.1.1 The document contains exempt information within the meaning of paragraphs 1, 2, 4, 5 or 7 of rule 10.5 above.
  - 24.1.2 The document contains exempt information under paragraph 3 of rule 10.5 above relating to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract.
  - 24.1.3 The document contains the advice of a political adviser.
- 24.2 Any document which is required by this Rule 24.1.1 to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that:
- 24.2.1 Where the meeting is convened at shorter notice, such a document must be available for such inspection when the meeting is convened; and
  - 24.2.2 Where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 24.1.1 in relation to that time, must be available for inspection when the item is added to the agenda.

Material relating to key decisions

- 24.3 All members of Council are entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or a committee of the Cabinet which relates to any key decision unless one or more of rules 24.1.1 to 24.1.3 above applies.

Nature of rights

- 24.4 These rights of a member are in addition to any other right he/she may have.

**25. Application to joint committees**

- 25.1 Where all of the members of a joint committee are members of the Cabinet in each of the participating authorities the access to information regime to be applied is the same as that applied to the Cabinet.

- 25.2 Where a joint committee comprises members who are not members of the Cabinet of any participating authority the access to information rules in Part VA of the Local Government Act 1972 shall apply.