

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Commission, the Standards Committee and Regulatory Committees and public meetings of the Cabinet (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 MEETING

The Council will give at least five clear days notice of any meetings by posting details of the meeting at the Town Hall, St. Helens.

5. ACCESS TO AGENDA AND REPORTS BEFORE 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 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.

A meeting may be called at shorter notice in exceptional circumstances, but the agenda and reports must be made available for public inspection from the time the meeting is convened.

6. **SUPPLY OF COPIES**

The Council will supply copies of any agenda, reports and background papers which are open to public inspection, 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 the opinion of the officer responsible for the report:-

- (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 does not include published works or those which disclose exempt or confidential information (as defined in Rule 10), and in respect of Cabinet reports, the advice of a political adviser.

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 1988 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 public 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 7 categories (subject to any condition):-

	Category	Condition
1.	Information relating to any individual	Information is not exempt unless it relates to, and is recognisable as, referring to a particular individual.
2.	Information which is likely to reveal the identity of an	Information is not exempt unless it is likely to be recognisable as referring

	Category	Condition
	individual	to a particular individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information is not exempt if it must be registered under various statutes.
4.	Information relating to any 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	Information within Paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the Authority in those or any other consultations or negotiations in connection with a labour relations matter. "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.
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	Information within Paragraph 6 is exempt only if and so long as 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.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

Information falling within any of Paragraph 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.

9.5 EXEMPT ITEMS AT CABINET MEETINGS

- (a) At least 28 clear days before a Cabinet meeting is held which may exclude the public for all or part of its business, a notice must be published on the Council's web site stating the intention to hold a meeting in Private and giving the reasons for the meeting to be held in private. The notice will also be made available at the Town Hall Reception.

At least 5 clear days before a Cabinet meeting which may exclude the public is held, a further notice must be published on the Council's web site and made available at the Town Hall Reception stating the following:

- (i) the reasons for the meeting to be held in private;
 - (ii) details of any representations received about why the meeting should be open to the public; and
 - (iii) a statement of the response to any such representations.
- (b) Where the deadlines outlined above have not been met the Cabinet can only take an exempt item if:
- (i) the Chairman of the Overview and Scrutiny Commission has been informed;
 - (ii) in the absence of the Overview and Scrutiny Chair the Mayor must be informed;
 - (iii) in the absence of both listed in (i) and (ii) the Deputy Mayor must be informed

and if the relevant person referred to in (i), (ii) or (iii) has agreed that the matter is urgent and cannot reasonably be deferred.

A notice to that effect will be made available and published on the Council Website.

10. **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the officer responsible for the report 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.

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

Rules 12-22 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) apply. If the Cabinet or its Committees meet to discuss a key decision to be taken collectively, with an officer present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1-10 unless Rule 14 (General Exception) or Rule 15 (Special Urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

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 Public Notice of Key Decisions) has been published in connection with the matter in question;
- (b) at least 3 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. **PUBLIC NOTICE OF KEY DECISIONS**

13.1 Period of Public Notice

A Public Notice of Key Decisions will be given at least 28 clear days before a Key Decision is made.

13.2 Contents of Public Notice

The Public Notice will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:-

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

14. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the Public Notice of Key Decisions, then subject to Rule 15 (Special Urgency), the decision may still be taken if:-

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Public Notice;
- (b) the Chief Executive has informed the Chair of the Overview and Scrutiny Commission, 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;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Chief Executive complied with (b) and (c).

Where such a decision is taken collectively, it must be taken at a public meeting.

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 Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Commission/Committee that the taking of the decision cannot be reasonably deferred. If the Chair of the relevant Overview and Scrutiny Commission/Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor, will suffice.

16. **REPORT TO COUNCIL**

16.1 When the Overview and Scrutiny Commission/Committee can require a Report

If the Overview and Scrutiny Commission/Committee thinks that a key decision has been taken which was not:-

- (a) included in the Public Notice of Key Decisions; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Commission/Committee Chair, or the Mayor/Deputy Mayor of the Council under Rule 15

the Committee may require the Cabinet 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 Chief Executive, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Commission/ Committee.

16.2 Cabinet's 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 7 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 submit quarterly reports to the Council 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 so 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, whether held in public or private, the Chief Executive or, where he/she was not present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable and within five working days. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

18. **CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.

19. **NOTICE OF PRIVATE MEETING OF THE CABINET**

Members of the Cabinet or its Committees will be entitled to receive five clear working days notice of a private meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

20. **ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

Cabinet Members

- (a) Only members of the Cabinet will receive notice of a private meeting of the Cabinet.
- (b) Only members of the Cabinet are entitled to attend the Cabinet unless otherwise invited by the Leader. Only members of the Cabinet may vote.
- (c) All members of the Cabinet are entitled to attend a private meeting of the Cabinet.

Overview and Scrutiny Commission/Committee Members

- (d) Members other than Cabinet Members will not be entitled to attend private meetings of the Cabinet.

Officers

- (e) The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees, are entitled to attend any meeting of the Cabinet and its Committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- (f) A private Cabinet meeting may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.

In all of the above, the provisions of Rule 17 (Recording and Publicising Decisions) will apply.

21. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

21.1 Reports intended to be taken into Account

Where an individual member of the Cabinet or officer receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days after receipt of that report.

21.2 Provision of Copies of Reports to 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 and Scrutiny Commission/Committee as soon as reasonably practicable and, where appropriate, make it publicly available at the same time.

21.3 Record of Individual Decision

As soon as reasonably practicable after a key 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 Chief Executive to prepare, 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.

22. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

22.1 In addition to the rights of Members of the Council under Section 100F of the 1972 Act and under Regulations 16 and 17 of the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations

2012, but subject to paragraph 2 below, the following persons shall be entitled on application to the Chief Executive, to inspect any documents or have access to other information of the following descriptions:

- (a) any Member of the Council or other Member (whether voting or not) of any Committee or Sub-Committee; any document in the possession or under the control of the Authority in relation to which a Committee/ Sub-Committee of which he/she is a member may discharge a function of the Authority or advise a body which appointed them;
- (b) any Member of the Council; any document or other recorded information in the possession or under the control of the Authority, access to which is necessary for the proper discharge of his/her functions as a Member of the Council provided that:
 - (i) no person shall be entitled to inspect any document or have access to any information relating to any matter in which he/she has a personal

or prejudicial interest and which would have prohibited the Member(s) from speaking and voting on a matter at a meeting;

- (ii) a person may be refused the right to inspect a document which it is not necessary for him/her to inspect for the purposes of the proper discharge of his/her function as a Member of the Committee or Sub-Committee in question, if there is good reason why such inspection should be refused;
- (iii) access to information not in the form of a document need not be given where the cost of providing the access is unreasonably high or during such period as the giving of access would unreasonably disrupt the work of the Authority.

22.2 In the case of any document other than a document to which the rights under Section 100F of the 1972 Act apply and in any case of information which is not in the form of a document, if the Chief Executive considers that access to any document or other information is not necessary for the proper discharge of the functions (as a Member of the Council or as a Member of a Committee or Sub-Committee as the case may be) of the person requesting such access, and there is good reason why access should be refused, he/she may refuse the person concerned access to the document in question.

22.3 Where a person inspects a document under the rights conferred by Section 100F of the 1972 Act or this Procedure Rule and the Authority may lawfully make a copy of that document, he/she shall be entitled on request to be given a copy of that document provided that:

- a) a reasonable charge shall be made for the copy unless the Chief Executive otherwise directs;
- b) a copy may be refused if the Chief Executive considers that it is impracticable to make a copy.

- 22.4 A Member of the Council may attend, as an observer, any meeting of a Committee or Sub-Committee, of which he/she is not a member, whether in public or private business and the attendance of that member at that meeting may be recorded in the minutes.
- 22.5 With the agreement of the person presiding at a meeting of a Committee or Sub-Committee, any member attending as in 22.4 above may be allowed to speak on any item before the Committee/Sub-Committee, but not vote, such agreement to be sought prior to the commencement of that meeting.