

2. ACCESS TO INFORMATION PROCEDURE RULES

1. INTRODUCTION AND SCOPE

1.1 The Council's Access to Information Procedure Rules can be regarded as a written summary of the public rights in relation to;

- Notice of council meetings;
- Attendance at council meetings;
- Inspection of documents;
- Information about decisions planned to be made by the Council;
- Records of decisions that have been made by the Council; and
- Access to recorded information held by the Council under the Freedom of Information Act.

1.2 These rules also set out the additional rights of access to documents by elected Members of the Council.

1.3 Part 1 of this document applies to all meetings of the full Council, the Cabinet, Committees and Policy and Project Advisory Board, which are open to the public.

1.4 Part 2 of this document sets out the additional provisions that relate to Cabinet decision making, including key decisions.

1.5 Part 3 sets out the types of decisions recorded by officers.

1.6 Part 4 sets out additional provisions that relate to Members' access to documents and Part 5 outlines the general rights of access to information under the Freedom of Information Act 2000.

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

PART 1 – SUMMARY OF PUBLIC RIGHTS RELATED TO COUNCIL MEETINGS

2. Access to documents

2.1 Documents related to council meetings will normally be published on the Council's website and are available for inspection at the Council Offices, Farnborough Road, Farnborough (Telephone (01252) 398398) between the hours of 8.30 am and 5.00 pm (4.30 pm Fridays) on weekdays (not Saturdays).

2.2 By Act of Parliament, or Statutory Instrument, or pursuant to the Standing Orders of either House of Parliament, documents may be required to be deposited with an appointed officer. A person interested in any such

document may inspect it. Requests should be made to the Head of Democracy and Community.

3. Rights to attend, report and film meetings

- 3.1 Members of the public may attend all meetings subject to the exceptions set out in paragraph 9 below.
- 3.2 The Council will provide reasonable facilities for any member of the public to report on the proceedings of all meetings that are open to the public. Members of the public are permitted to film, audio record, take photographs, make a webcast of the meeting (broadcast the meeting on the internet) and use social media provided that those activities do not disrupt the conduct of the meeting.
- 3.3 At meetings attended by the public, the Chairman may remind that filming and recording is permitted, however filming and photography should not be directed towards or be focussed on the members of the public attending the meeting.
- 3.4 The person presiding at a meeting may order that filming, photography or recording must stop if it is being disruptive to the conduct of the meeting or is being directed towards members of the public.

4. Notice of meetings

- 4.1 The Council will give at least five working days' notice (excluding weekends and bank holidays) of any principal meetings of the Council by posting details on the Council's website and at the Council Offices, Farnborough Road, Farnborough (the designated office).

5. Access to agenda and reports before the meeting

- 5.1 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 will be open to inspection from the time when the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Head of Democracy and Community shall make each such report available to the public as soon as the report is completed and sent to Members of the Council. Copies of agendas and reports will also be available to view on the Council's website.

6. Supply of copies

- 6.1 The Council will supply copies of:
 - any agenda and reports which are open to public inspection;
 - any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- if the Head of Democracy and Community 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.

- 6.2 No fee is charged for inspecting any of the documents referred to in this statement. A fee may be charged by the Council for any copies or extracts from a document at its standard rate, which is reviewed periodically.
- 6.3 Minutes will be available when finalised and printed, even if they have not yet been formally approved at a subsequent meeting.
- 6.4 A reasonable number of copies of agenda and reports must be made available for the public present at a meeting. Agendas and reports must also be available on request to the media.

7. **Access to minutes and agendas after the meeting**

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

- 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;
- 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;
- the agenda for the meeting; and
- reports relating to items when the meeting was open to the public.

8. **Background papers listed in reports**

- 8.1 The report author 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:

- disclose any facts or matters on which the report or an important part of the report is based; and
- 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 9) and in respect of executive reports containing 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 public access to meetings

Confidential information – requirement to exclude public

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

Exempt information – discretion to exclude public

- 9.2 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.

Exempt information means information falling within the following categories (subject to any condition):

Category	Conditions/Interpretation
1. Information relating to any individual	This means any individual person and relates back to the Data Protection Act 1998.
2. Information which is likely to reveal the identity of an individual	This also relates to the Data Protection Act.
3. Information relating to the financial or business affairs of any particular person (including the Authority holding that information)	The 'financial or business affairs' include past, present and contemplated activities. Information within paragraph 3 is not exempt if it is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Act 1965 – 1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event.
4. Information relating to any consultations or negotiations, or	'Employee' means a person employed under a contract of service with the

<p>contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>Council and would therefore include a consultant or a temporary member of staff employed through an agency or a company.</p> <p>'Labour relations matters' means any matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</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>Information 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</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

- 9.3 Information which falls within any of the paragraphs 1 to 7 above is exempt 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.
- 9.4 The regulations also specifically provide that information is not exempt 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.

Exclusion of access by the public to reports

- 9.5 If, in the opinion of the Head of Democracy and Community certain reports relate to items during which, in accordance with Rule 9, the meeting is likely to be closed to members of the public, the Council may exclude access by the public to the relevant documents. Such reports will be marked “not for publication” together with the category of information likely to be disclosed.

PART 2 – ADDITIONAL PROVISIONS RELATED TO EXECUTIVE (CABINET) DECISION MAKING

The following provisions are in addition to the rules set out in Part 1.

10. Cabinet work programme

- 10.1 The Head of Democracy and Community shall publish a Work Programme for the Cabinet, which will be available at the Council Offices and published on the Council’s website. The Work Programme will include future executive matters to be decided by the Cabinet including notice of items to be considered in private and notice of key decisions (see below).

11. Notice of Items to be considered in private

- 11.1 The Council will give 28 days notice of any Cabinet meeting, or part of a Cabinet Meeting, at which a report(s) will be considered in private. The notice will be published as part of the Cabinet’s work programme, which will be published on the Council’s website and will be available at the Council Offices. The notice will set out the title or topic of the Report(s) to be considered in private and the reasons for the public to be excluded.
- 11.2 Further notice of any matters to be considered in private will be given at least five clear days before the meeting, as part of the Cabinet agenda. The notice will include the reasons for the public to be excluded, and details of any representations received about why the meeting should be open to the public, and a statement of response to any such representations.

12. Notice of Key Decisions (see Constitution Part 2 para 3.12)

- 12.1 The Council will give 28 days’ notice of any Key Decisions to be taken by the Cabinet, a Cabinet sub-committee, Member of the Cabinet or Officer under delegation arrangements. The Notice will be published as part of the Cabinet’s work programme, which will be published on the Council’s website and will be available at the Council Offices.
- 12.2 The Notice will include details of the decision to be made, name or title of the decision making body or person, date of decision or period which it will be made, documents submitted to the decision making for consideration, address of where copies of documents can be obtained and information that other documents may be submitted to the decision maker and the procedure for requesting copies of them.

13. Notice requirements in respect of decisions by Individual Members of the Cabinet

- 13.1 Where an individual Member of the Cabinet receives a report which he or she intends to take into account in making any decision, then he or she will not make the decision until at least five clear days after receipt of that report.
- 13.2 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 chairman of the Overview and Scrutiny Committee as soon as reasonably practicable and make it publicly available at the same time.

14. Notice of Cabinet meetings to be published on the Council's website

Notice of Cabinet meetings, and every report for Cabinet decision, will be published on the Council's website at least five clear days before the meeting, or where the meeting is convened at shorter notice, at the time that the meeting is convened. Background Papers listed at the end of Cabinet reports shall be published on the Council's website five clear working days before the meeting.

15. Records of Cabinet decisions made at meetings

The Head of Democracy and Community shall produce a written record of all executive decisions, including key decisions, made at a Cabinet meeting or any Cabinet Sub-Committee. The record shall include a statement of the reasons for each decision, details of any alternative options considered and rejected, and any interests declared, or dispensations granted. The Head of Democracy and Community shall determine the form of the record, but this can be the minutes of the meeting.

16. Publication of records of decisions made at Cabinet meetings

All decision notices related to Cabinet Meetings shall be available for public inspection at the Council's offices and published on the Council's website as soon as reasonably practicable, and normally within three days of a decision being made.

17. Retention of records of executive decisions including Key Decisions

A copy of any report or part report relevant to a key decision will be open to inspection by the public for six years from the date the decision was made. Documents containing confidential or exempt information or the advice of a political adviser need not be disclosed. If a document is not disclosed because it contains exempt information, the Head of Democracy and Community will prepare a statement. The statement will describe the category of exempt information and will be open to inspection for six years from the date of the meeting.

18. General exception and special urgency

In the case that a key decision, or matter to be considered in private, is urgent and cannot reasonably be deferred, provisions are in place to enable the decision to be taken, subject to certain conditions. A schedule of the

permitted arrangements for general exception and special urgency is set out in the Appendix to these rules.

PART 3 – RECORDS OF DECISIONS MADE BY AN INDIVIDUAL MEMBER OR OFFICER

19. Records of Executive Decisions made by individual Cabinet Members

A written record shall be produced of any executive decisions, including key decisions, made by individual Cabinet Members, which will be published on the Council's website. For each decision, the record shall cover the date made, reasons for the decision, details of any alternative options considered and rejected, and any interests declared or dispensations granted.

20. Records of Decisions made by Officers

The requirement to publish records of decisions made by officers relates to both executive and non-executive matters.

The Council will publish records of significant decisions made by officers under delegated powers as set out below:

- Key decisions (Part 2, para 3.12)
- One-off decisions delegated to an officer at a Cabinet or Committee meeting
- Decisions delegated to an officer to be taken in consultation with a Cabinet Member or Chairman
- Decisions relating to significant property and asset management matters where the purchase, disposal, refurbishment, maintenance or repair is above £100,000, and for leases with a rental value over £100,000 per year.
- Matters which are the subject of urgent action
- Decisions which grant permissions or licenses (including planning/building control/listed buildings)

However, this shall not include:

- Administrative decisions taken as a result of day-to-day operation of the service
- Decisions where whole or part of the record contains confidential or exempt information

21. Records of decisions made by officers under paragraph 20 above will be published on the Council's website, as soon as reasonably practicable, after the decision is made, For each decision, the record shall include the date of the decision, details of the decision including the reasons and, where appropriate, details of any alternative options considered and rejected and any interests declared or dispensations granted.

22. In line with principles of good governance, Heads of Service shall also keep records of other operational decisions taken by them to provide an appropriate audit trail and clear evidence of decisions taken.

PART 4 – ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS BY MEMBERS

23. **Material relating to executive decisions**

All Members will be entitled to inspect any document relating to business previously decided by the Cabinet, a Cabinet Member or officer under the Scheme of Delegation for Executive Matters, unless it contains exempt information.

However, exempt documents are required to be available if the information falls within paragraphs (3) or (6) of paragraph 9.2 above, except to the extent that the information relates to any terms proposed, or to be proposed, by or to the Council in the course of negotiations for a contract.

24. **Material relating to Key Decisions**

All Members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless Access to Information Rule 22 above applies.

25. **Rights to access documents – Overview and Scrutiny Committee**

Subject to Access to Information Rule 25 below, Members of the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet, or any committee of the Cabinet, and:

- (a) contains material relating to any business transacted at a meeting of the Cabinet or its committees; or
- (c) Relates to any decision taken by an individual Member of the Cabinet, or officer in accordance with executive arrangements; or
- (d) contains exempt or confidential information when it is relevant to an action or decision it is reviewing or scrutinising, or intends to scrutinise; when officers are aware of the existence of relevant exempt or confidential documents they will be required to advise the Overview and Scrutiny Committee of their existence.

The Overview and Scrutiny Committee has a right to request information, relevant to the exercise of its functions, from the responsible authorities. The identification of individuals, except where essential, or information that would prejudice the operation(s) of the responsible authorities is not included in this provision.

26. **Limit on rights**

The Overview and Scrutiny Committee will not be entitled to any document that is in draft form.

27. When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not treated as being a key decision, the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. This report must include details of the decision, and the reasons for the opinion that the decision was not a key decision. The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the appropriate Lead Officer who shall require such a report on behalf of the Committee when so requested by the chairman or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Committee.

28. Nature of rights

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

29. Cabinet's report to Council

Where the Cabinet is required to prepare a report for submission to the Council, it shall be made to the next available meeting. However, if the next meeting of the Council is within fourteen days of receipt of the written notice, or the resolution of the Overview and Scrutiny 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 of the Council is of the opinion that it was not a key decision, the reasons for that opinion.

30. Reports on special urgency decisions

The Leader of the Council will report on executive decisions taken in the circumstances set out in Access to Information Rule 18 (special urgency) through the Cabinet's Reports to Council.

31. Attendance at meetings which are closed to the public

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.

Members other than Cabinet Members will not be entitled to attend private meetings of the Cabinet and its committees, unless invited to do so by the Leader of the Council or the chairman of the appropriate committee.

The Head of Paid Service, the Executive Head of Finance 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 Head of Democracy and Community has been given reasonable notice that a meeting is to take place and the appropriate notice served.

PART 5 – GENERAL RIGHTS OF ACCESS TO INFORMATION – THE FREEDOM OF INFORMATION ACT 2000

32. Rushmoor’s Publication Scheme

The Freedom of Information Act gives a general right of access to all types of recorded information held by the Council. Any person who makes a request to the Council for information must be informed whether the Council holds that information, and subject to exemptions, must be supplied with that information.

The Council’s Publication Scheme details most of the Council’s published material and can be accessed on the Council’s website at www.rushmoor.gov.uk.

The Scheme is a guide to the information routinely published by the Council. It is not a list of the actual publications, since this will change as new material is published but rather it is a description of the classes or types of information published. It does not include information that the Council holds, but which is produced by third parties.

With a few exceptions, all of the Council’s publications can be downloaded from the Rushmoor website. They are also available in hard copy from the Council’s offices. The Information Governance Officer may be contacted for further information at:

Rushmoor Borough Council
Council Offices
Farnborough Road, Farnborough
Hants GU14 7JU
Tel 01252 398399

33. Requests for Information not Included in the Publication Scheme

Requests for information under the Freedom of Information Act, which have not already been published in the Scheme, must be made in writing (including email) and sent to the Council’s Freedom of Information Officer. The Council may charge for providing the information requested.

34. Information not to be published under the Scheme

A great deal of the information that the Council holds is personal and private to individuals (which includes our employees or former employees) and will not be published. The individual concerned, however, may be able to obtain that information from the Council’s Data Protection Officer by making a separate application under the Data Protection Act.

Further guidance on information that is exempt from publication is included, by class of information, within the Publication Scheme. Examples include:

- Work in progress (draft reports, for example) need not be disclosed
- Information subject to a data-sharing protocol
- commercially sensitive information which, if released, would not be in the public interest.

35. **Byelaws**

A copy of any byelaws made by the Council are open to inspection by the public, and any person may purchase a copy. Requests relating to the Council's byelaws should be made to the Corporate Manager – Legal Services.

APPENDIX**ARRANGEMENTS FOR URGENCY AND EXCEPTIONS**

The following table sets out the provisions for dealing with exceptions and urgent matters, where there is a clear need for urgency and where it has not been possible to meet the expected normal timescales for notice and publication of agendas and reports.

	Circumstance	Provisions
1.	As a matter of urgency, a decision is required before the Cabinet or a Committee next meets and the matter in question has not been delegated.	<p>For non-key decisions:</p> <p>The Chief Executive, or appropriate Executive Director or Head of Service, shall have power to act in consultation with the Leader of the Council and appropriate Cabinet Member or appropriate Chairman.</p> <p>(Prior to the decision, consultation discussion should take place with the Executive Leadership Team and legal services as necessary).</p> <p>Following the decision, a Record of Decision Form to be completed, and published on the Council's website (unless exempt).</p> <p>The decision taken and the reason for the urgency shall be reported to the next meeting of the Cabinet or the appropriate Committee.</p> <p>For key decisions:</p> <p>The Chief Executive, or appropriate Executive Director or Head of Service, shall have power to act in consultation with the Leader of the Council and appropriate Cabinet Member.</p> <p>In addition, the provisions in either paragraph 2 or 3 below must be applied depending on the timescales for the decision.</p> <p>(Prior to the decision, the Executive Leadership Team should be informed)</p>

2.	<p>A key decision must be decided by the Cabinet, a Cabinet Member or Officer within 28 days - but allowing five clear working days' notice.</p>	<ol style="list-style-type: none"> 1. The decision may only be made when the Chairman of the Overview and Scrutiny Committee has been informed by notice, in writing, of the matter about which the decision is to be made, and the reasons why 28 days' notice cannot be given. 2. Notice of the key decision to be published on the website, and giving reasons why 28 days' notice could not be given. <p>For key decisions made by an Officer or Cabinet Member:</p> <ol style="list-style-type: none"> 3. Following the decision, a Record of Decision Form to be completed, and published on the website (unless exempt) 4. A report to the Cabinet to be prepared informing of the action taken.
3.	<p>A key decision must be decided by the Cabinet, a Cabinet Member or Officer urgently with less than five clear working days' notice</p>	<ol style="list-style-type: none"> 1. The decision may only be made with the agreement of the Chairman of the Overview and Scrutiny Committee that the meeting/matter is urgent and cannot reasonably be deferred. If the Committee Chairman is unable to act, the Mayor's agreement must be sought, and if he/she is unable to act, the Deputy Mayor's approval should be sought. 2. Following agreement, a notice of the key decision is to be published on the website and giving reasons why the decision is urgent and cannot reasonably be deferred. <p>For key decisions made by an Officer or Cabinet Member</p> <ol style="list-style-type: none"> 3. Following the decision, a Record of Decision Form to be completed, and published on the website (unless exempt) 4. A report to the Cabinet to be prepared informing of the action taken.

4.	A matter must be decided urgently by the Cabinet, in private , within 28 days and cannot reasonably be deferred.	<ol style="list-style-type: none"> 1. The meeting can only be held in private with the agreement of the Chairman of the Overview and Scrutiny Committee that the meeting/matter is urgent and cannot reasonably be deferred. If the Committee Chairman is unable to act, the Mayor's agreement must be sought, and if he/she is unable to act, the Deputy Mayor's approval should be sought. 2. Following agreement, a notice must be published on the website with the reasons why the meeting is urgent and cannot reasonably be deferred.
5.	Any Urgent Business to be raised at a Cabinet or Committee Meeting (but excluding key decisions or matters to be decided by the Cabinet in private).	<p>Urgent matters proposed to be raised at a meeting should be notified to the Chief Executive and Head of Democracy and Community no later than noon on the day of the meeting.</p> <p>For an urgent item to be added to the agenda, the Chairman's approval must be sought, and the reason for the urgency must be recorded in the minutes of the meeting.</p>

NOTES:**(1) Civil Emergencies**

The Chief Executive has powers under section 138 of the Local Government Act 1972 in the event of a civil emergency or disaster and may authorise another officer to exercise these powers on his/her behalf

(2) Key Decisions

Key decisions are 'executive decisions', which are likely to:

- result in the Council incurring expenditure or making savings which are significant in as much as they will have a material effect on the level of Council tax or balances or contingencies in relation to the Council's overall budget; or
- be significant in terms of its effects on communities living or working on an area comprising two or more wards within the Borough.

Expenditure or savings of £100,000 is considered to be significant for the purposes of recording key decisions. However, for the acquisition or disposal of property or leases the threshold for key decisions is £250,000.

A decision taker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.

(3) Call-in

Call-in procedures shall not apply where an executive decision taken by the Cabinet, a Cabinet Member or officer is urgent i.e. if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. Provisions for this are set out in Para. 19 of the Overview and Scrutiny Procedure Rules.

(4) Urgent Decisions outside of the Budget and Policy Framework

In accordance with the Budget and Policy Framework in Part 4, the Cabinet, Cabinet Members or officers may take a decision which is outside of the budget or policy framework if it is urgent or not practical to convene a quorate meeting of the Council.

The following provisions apply:

- Agreement needed from the Chairman of the Overview and Scrutiny Committee (OSC) that the decision is a matter of urgency
- The record of the decision to state the reason why it was not practical to convene a quorate meeting and confirming the Chairman of the OSC's agreement
- Following the decision, the decision taker to provide a full report to the next available Council meeting explaining why the decision was taken, why it was urgent, and why it was not practical to arrange a meeting of the Council.