

PART 2 - ACCESS TO INFORMATION RULES**Contents**

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1. RULE 1 - SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committees (with some statutory exceptions), area Committees, the Standards Committee and regulatory Committees and public meetings of the Cabinet (together called meetings).

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.

3. RULE 3 - RIGHT TO ATTEND MEETINGS

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

4. RULE 4 - NOTICE OF MEETING

The Council will give at least five working days notice of any meeting by posting details of the meeting in public buildings, on its website, in newspapers and at its offices, unless the law provides otherwise in special circumstances.

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 Chatham Community Hub at least five working days before the meeting. Copies will also be sent to Gillingham Library and Strood Library. If an item is added to the agenda later, the revised agenda and additional reports will be open to inspection from the time the item was added to the agenda. Agendas and reports will also be published on the internet.

6. RULE 6 - SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) if the Chief Executive thinks appropriate, 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 reasonably incurred.

7. RULE 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 records of decisions taken, together with reasons, for all meetings of the Cabinet, 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;
- (d) reports relating to items when the meeting was open to the public.

8. RULE 8 - BACKGROUND PAPERS

8.1 List of background papers

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based;
- (b) 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 advisor.

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. RULE 9 - SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at the Chatham Community Hub, Gillingham Library and Strood Library and is available to the public.

10. RULE 10 - EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

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.

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.
- 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 (however expressed) which forbid its public disclosure or information which cannot be publicly disclosed under any enactment or by Court Order.

10.4 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.	
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act as set out in paragraph 8 of Schedule 12A of the Local Government Act 1972 (as amended). 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 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

Category	Condition
	section 218 of the Trade Unions and Labour Relations Act 1992, 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 while disclosure might give an opportunity to a person affected by the notice, order or direction to defeat the purpose 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.	

10.5 Information falling within any of paragraphs 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.

10.6 Information which falls within any of paragraphs 1 to 7 above and which is not prevented from being exempt by either the condition to paragraph 3 or paragraph 10.5 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.

10.7 In addition to the categories of exempt information set out in paragraph 10.4 above, the Standards Committee, and its sub-committees, of the Council shall also have the benefit of the provisions contained in the Relevant Authorities (Standards Committee) Regulations 2001 as amended.

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

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with 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.

12. RULE 12 - APPLICATION OF RULES TO THE CABINET

- 12.1 Rules 13 – 24 below apply to the Cabinet and any Cabinet Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with rules 1 – 11 unless rule 15 (general exception) or rule 16 (special urgency) apply. A key decision is defined in article 12.3 of this constitution.
- 12.2 If the Cabinet or its Committees meet to discuss a key decision to be taken collectively, with an employee other than a political assistant 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 – 11 unless rule 15 (general exception) or rule 16 (special urgency) apply. A key decision is as defined in article 12.3 of this constitution. This requirement does not include meetings, whose sole purpose is for employees to brief members.

13. RULE 13 - PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to rule 15 (general exception) and rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least three clear working 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).

14. RULE 14 - THE FORWARD PLAN**14.1 Period of forward plan**

Forward plans will be prepared by the Leader to cover a period of four months. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of forward plan

The forward plan 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, employees, area Committees or under joint arrangements in undertaking their responsibilities during the period covered by the plan. It will give the following details where the information is available or can be obtained:

- (a) the issue to be decided;
- (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, if any;
- (e) how such consultation will be done;
- (f) the steps anyone who wishes to comment can take, and the date by which they should comment;
- (g) a list of the documents to be submitted to the decision taker for consideration.

The forward plan will contain any proposals to change the level of employee delegations.

The forward plan must be published at least 10 working days before the start of the period covered. The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing details of these decisions will be prepared on a monthly basis for the four months ahead;
- (c) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices, and will contain the list of documents to be submitted, and where copies of the plan and the documents can be obtained;
- (d) that there may be more documents to come and how they may be obtained;
- (e) the dates on which updates to the forward plan will be published and made available.

Exempt information need not be included in a forward plan and confidential information cannot be included.

15. RULE 15 - GENERAL EXCEPTION

If a matter that is likely to be a key decision has not been included in the forward plan, then subject to rule 16 (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 forward plan and until the start of the first month to which the next forward plan relates;
- (b) the chairman and spokespersons of the relevant Overview and Scrutiny Committee have been informed or in their absence where written notice has been sent to each member of that Committee and a notice made available at the Chatham Community Hub, Gillingham Library and Strood Library;
- (c) at least five clear working days have elapsed since these steps have been taken.

Where such a decision is taken collectively, it must be taken in public unless exempt or confidential information is being considered.

16. RULE 16 - SPECIAL URGENCY

If, by virtue of the date by which a decision must be taken, rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual), or the chairman of the body making the decision, obtains the agreement of the chairman of the relevant Overview and Scrutiny Committee (or in that person's absence the Mayor and in the Mayor's absence the Deputy Mayor) that the taking of the decisions cannot be reasonably deferred.

17. RULE 17 - REPORT TO COUNCIL**17.1 When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee chairman under rule 16;

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. Alternatively the requirement may be raised by a resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

17.2 Cabinet 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 five working 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.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in rule 16 (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.

18. RULE 18 - RECORD OF DECISIONS

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Chief Executive or the person presiding at the meeting, 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 at that meeting.

19. RULE 19 - CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will hold all meetings in public except where exempt reports are to be considered.

20. RULE 20 - NOTICE OF MEETINGS OF THE CABINET

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.

Notice and papers will also be sent to all other members of the Council as requested and electronically where possible. Copies will also be made available at the Council's main administrative buildings and on the Council's website.

21. RULE 21 - ATTENDANCE AT MEETINGS OF THE CABINET

All members of the Council are entitled to attend all meetings of the Cabinet. Non-executive members may be allowed to address meetings of the Cabinet with the Cabinet's approval. Political assistants may also attend meetings of the Cabinet.

The Chief Executive, the Chief Finance Officer and the Monitoring Officer, together with any director who is a signatory to a report being considered by the Cabinet, and their nominees, are entitled to attend meetings of the Cabinet.

Non executive members wishing to speak should ask the Leader in advance for permission to speak to the Cabinet.

22. RULE 22 - DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

22.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report that he/she intends to take into account in making key decisions, the decisions will not come into force until five working days after the decision has been taken.

22.2 Provision of copies of reports to Overview and Scrutiny Committees

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 relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

22.3 Record of individual decisions

Within two working days of a Cabinet decision being taken by an individual member of the Cabinet, or a key decision being taken by an employee, he/she will prepare, or instruct employees 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. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

23. RULE 23 - OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

23.1 Rights to copies

Subject to rule 23.2 below, an Overview and Scrutiny Committee (including its Sub-Committees) will be entitled to copies 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 transacted at a meeting of the Cabinet or its Committees;
- (b) any decision taken by an individual member of the Cabinet.

23.2 Limit on rights

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise;
- (c) the advice of a political assistant.

24. RULE 24 - ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

24.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies:

- (a) it contains exempt information falling within paragraphs 3 and 6 of the categories of exempt information;
- (b) it contains the advice of a political adviser.

Copies of all exempt reports to Council will be provided to all members and copies of all exempt reports to regulatory Committees will be provided to all members of the relevant Committee. In addition, copies of all exempt reports to the Cabinet (or Cabinet Committees or an individual Cabinet member) will be sent to the chairman and Group spokespersons of the relevant Overview and Scrutiny Committee and to the Leaders of all party groups not represented on the Cabinet.

24.2 Material relating to key decisions

All members of the Council 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 paragraph (a) or (b) above applies.

24.3 Nature of rights

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

24.4 Significant decisions

A copy of all significant decisions will be circulated to members at least two days prior to the proposed date of implementation of that decision unless the urgency of that decision makes it impractical to do so.

References:

Sections 100A – H and schedule 12A Local Government Act 1972

Section 22 of The Local Government Act 2000

Chapter 7, DETR Guidance

