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1. RULE 1 - SCOPE

These rules apply to meetings of the Council, Overview and Scrutiny Committees, area Committees (if any), the Councillor Conduct Committee and regulatory Committees and public meetings of the Cabinet (together called meetings) and delegated decisions taken by employees under the Employee Delegation Scheme (rule 24 applies).

2. RULE 2 - ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this constitution or the law, nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

3. RULE 3 - RIGHT TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules. Members of the press and public are also entitled to report on meetings of the Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

4. RULE 4 - NOTICE OF MEETING

The Council will give at least five clear 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 clear days before the meeting. Copies will also be sent to Gillingham Library and Strood Library. Where a meeting is convened at shorter notice a copy of the agenda and associated reports will be open to inspection from the time the meeting is convened. 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 council's website.

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.

A reasonable number of copies of the agenda and of the reports will be made available at the meeting.

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 by the bodies to which these apply (together with reasons for Cabinet decisions), excluding any part of the record when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any part of the meeting not open to the public, where the record open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting;
- (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 that is open to public inspection 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 assistant.

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.

In relation to Cabinet decisions the Council will make available on the council's website and at the council's offices (at all reasonable hours) a copy of the background papers included within the list.

9. RULE 9 - SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights (via this Constitution) to attend meetings and to inspect and copy documents is kept at the Chatham Community Hub and on the Council's website 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 will be contained in an appendix to enable discussion of the main item to be held in public. Any resolution to exclude the public due to disclosure of exempt information must identify the part of the proceedings to which it applies and the description of exempt information being used.
- 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	Qualification	Interpretation
1. Information relating to any individual	The exemption applies only 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 (see note on public interest at the end of the table).	
2. Information which is likely to reveal the identity of an individual.	The Public Interest Test Qualification applies, as in 1 above.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>The Public Interest Test Qualification applies, as in 1 above.</p> <p>"Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986 ["registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).]; or (f) the Charities Act 1993. 	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.

Category	Qualification	Interpretation
<p>4. Information relating to any consultations or negotiations, or contemplated 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.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>"labour relations matter" means—</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to "office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;</p> <p>"employee" means a person employed under a contract of service;</p> <p>"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;</p>

Category	Qualification	Interpretation
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	The Public Interest Test Qualification applies, as in 1 above.	
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.	The Public Interest Test Qualification applies, as in 1 above.	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub- committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The Public Interest Test Qualification applies, as in 1 above.	

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.

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 – 25 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 16 (general exception) or rule 17 (special urgency) apply. While a Cabinet meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

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

13. RULE 13 - PROCEDURE PRIOR TO A PRIVATE MEETING OF THE CABINET

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

(a) a notice has been published in the Forward Plan at least 28 clear days before the meeting in question and made available on the council's website and at Chatham Community Hub. This notice is to include a statement of the reasons for the meeting being held in private;

(b) a further notice is included on the agenda and published on the council's website and at Chatham Community Hub five clear days before the meeting. This notice is to include:

- i) a statement of the reasons for the meeting to be held in private
- ii) details of any representations received by the Cabinet about why the meeting should be open to the public
- iii) a statement of its response to any such representations.

13.2 If a matter has not been included in accordance with rule 13.1 then the decision to hold a meeting, or part of a meeting, in private may still be taken if the Cabinet obtains the agreement of the chairperson 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 meeting is urgent and cannot reasonably be deferred. As soon as it is practicably possible a notice will be published on the council's website and Chatham Community Hub setting out the reason why the meeting is urgent and cannot be reasonably deferred.

14. RULE 14 – PUBLICITY IN CONNECTION WITH KEY DECISIONS

14.1 Subject to rule 16 (general exception) and rule 17 (special urgency), a key decision may not be taken unless:

(a) a notice has been published in the Forward Plan in connection with the matter in question; and

- (b) the notice referred to in (a) has been available for public inspection for at least 28 clear days at Chatham Community Hub and on the Council's website; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees/Sub Committees, notice of the meeting has been given in accordance with rule 4 (notice of meetings).

15. RULE 15 - THE FORWARD PLAN OF KEY DECISIONS

15.1 Contents of forward plan

The forward plan will contain matters which will be the subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, area Committees or under joint arrangements in undertaking their responsibilities. It will give the following details:

- (a) that a key decision is to be made on behalf of Medway Council;
- (b) the matter in respect of which the decision is to be made;
- (c) 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 a list of its Members;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) a list of the documents to be submitted to the decision taker for consideration;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

The forward plan of key decisions must be published on the Council's website and made available at Chatham Community Hub at least 28 clear days before a decision is made.

Confidential, exempt information or particulars of the advice of a political assistant need not be included in the forward plan.

16. RULE 16 - GENERAL EXCEPTION

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

- (a) notice of the matter about which the decision is to be made and the reasons why it has been impracticable to apply Rule 15 has been given in writing to the chairperson and designated spokespersons of the relevant Overview and Scrutiny Committee or in their absence where written notice has been sent to each Member of that Committee and made available at the Chatham Community Hub and on the Council's website and
- (b) at least five clear days have elapsed since the notice given in paragraph (a) was made available.

17. RULE 17 - SPECIAL URGENCY

- 17.1 Where the date by which a key decision must be made makes compliance with Rule 16 (general exception) impracticable the decision may only be made where the decision maker has obtained agreement from the chairperson of the relevant Overview and Scrutiny Committee (or if there is no chairperson of the relevant overview and scrutiny committee the Mayor and in the Mayor's absence the Deputy Mayor) that the taking of the decision(s) is urgent and cannot reasonably be deferred.
- 17.2 As soon as reasonably practicable after the decision maker has obtained this agreement the decision maker must publish a notice in the Forward Plan setting out the reasons that the meeting is urgent and cannot be reasonably deferred which must be made available at Chatham Community Hub and on the Council's website.

18. RULE 18 - REPORT TO COUNCIL

18.1 When an Overview and Scrutiny Committee can require a report

Where a relevant Overview and Scrutiny Committee thinks that an executive decision has been made and was not treated as a key decision and the Committee are of the opinion that the decision should have been treated as a key decision the Committee may require the Leader/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 chairperson of the relevant Overview and Scrutiny Committee.

18.2 Cabinet report to Council

The Leader/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 clear days of the request from the Committee, then the report may be submitted to the meeting after that. A report to Council under this Rule must include details of the decision and the reasons for the decision, the decision maker by which the decision was made and if the Leader/Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

18.3 Reports on special urgency decisions

In any event the Leader will submit, a report to the Council on the Cabinet decisions taken in the circumstances set out in rule 17 (special urgency). The report will include the particulars of each decision made and a summary of the matters in respect of which each decision was made.

19. RULE 19 - RECORD OF DECISIONS

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

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

20. RULE 20 - CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will hold all meetings in public except where confidential or exempt information is to be considered.

21. RULE 21 - NOTICE OF MEETINGS OF THE CABINET

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

Where a meeting is convened at shorter notice a copy of the agenda and associated reports will be open to inspection from the time the meeting is convened. 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.

Notice and papers will also be sent to all other Members of the Council as requested and electronically where possible (where the member has presently consented to it being transmitted by this method). A member may consent to

receiving these papers by electronic communication by informing the Head of Democratic Services. Members' requests to change their method of receipt must be submitted in writing to the Head of Democratic Services in a prescribed format. A minimum of five clear working days must elapse from the date of receipt of such a request before it becomes effective.

Copies will also be made available at the Chatham Community Hub and on the Council's website.

22. RULE 22 - ATTENDANCE AT MEETINGS OF THE CABINET

22.1 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 Leader's approval in advance. Political assistants may also attend meetings of the Cabinet.

22.2 The Head of Paid Service, the Chief Operating 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.

23. RULE 23 - DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

23.1 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 clear days after the decision has been taken.

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

23.3 Record of individual decisions

As soon as reasonably practicable after a Cabinet decision being taken by an individual Member of the Cabinet he/she will prepare, or instruct employees to prepare, a record of the decision, a statement including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the Member when making the decision;

- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted by the Member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted.

The provisions of rules 7 and 8 (inspection of documents after meetings) 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.

- 23.4 Any record prepared in accordance with rule 23.3 and any report considered by the officer and relevant to the decision will be available for public inspection at Chatham Community Hub and on the Council's website.

24. RULE 24 - RECORD OF EXECUTIVE AND NON EXECUTIVE DECISIONS TAKEN BY OFFICERS

- 24.1 As soon as reasonably practicable after an officer has made a decision which is an executive decision (ie the responsibility of the Leader and Cabinet) a written statement will be prepared including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

- 24.2 Any record prepared in accordance with rule 24.1 and any report considered by the officer and relevant to the decision will be available for public inspection at Chatham Community Hub and on the Council's website.

- 24.3 Rules 24.1 to 24.3 do not apply to day to day administrative or operational decisions taken by officers in connection with the discharge of functions which are the responsibility of the Leader and Cabinet.

- 24.4 As soon as reasonably practicable after an officer has made a decision under an express delegation from the Council, its Committees, Sub Committees or any Joint Committee in which Medway is involved or under a general delegation from one of these bodies where the effect of the decision is to grant a permission or licence, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects the Council's position a written statement will be prepared including:

- (a) a record of the decision including the date it was made;

- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of the name of any Member of the Council or local government body who has declared an interest (for decisions taken under an express delegation).

24.5 Any record prepared in accordance with rule 24.4 together with any background papers considered by the officer and relevant to the decision will be available for public inspection at Chatham Community Hub and on the Council's website.

24.6 Rules 24.4 to 24.5 do not apply to:

- (a) routine administrative and organisational decisions;
- (b) decisions on operational matters such as day to day variations in services;
- (c) decisions if the whole or part of the record contains confidential or exempt information; and
- (d) decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

25. RULE 25 – RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES

25.1 Rights to copies

Subject to rule 25.2 below, a Member of an Overview and Scrutiny Committee will be entitled to a copy of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- (a) any business that has been transacted at a meeting of the Cabinet or its Committees;
- (b) any decision taken by an individual Member of the Cabinet or an officer of the Council in accordance with executive arrangements.

Subject to 25.2 below where a Member of an Overview and Scrutiny Committee requests a document which fall within (a) or (b) this must be provided by the Cabinet as soon as reasonably practicable and in any case no later than 10 clear days after the request is received by the Cabinet.

25.2 Limit on rights

No Member of an Overview and Scrutiny Committee will be entitled to:

- (a) any report that is in draft form;
- (b) any report or part of a report or background paper that contains exempt or confidential information, unless that information is relevant to
 - i) an action or decision they are reviewing or scrutinising or
 - ii) any review contained in any programme of work of that Overview and Scrutiny Committee or
- (c) a document or part of a document containing advice provided by a political assistant.

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

26. RULE 26 - ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE COUNCIL

- 26.1 Copies of all exempt reports to Council will be provided to all Members and copies of all exempt reports to Committees established by the Council will be provided to the Members of the Committee.
- 26.2 Subject to paragraph 26.4 any document which is in the possession of or under the control of the Leader and Cabinet and contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member of the Council at least five clear days before the meeting. Where the meeting is convened at shorter notice these documents must be available for inspection when the meeting is convened and where an item is added to the agenda at shorter notice the document must be available for inspection when the item is added to the agenda
- 26.3 Subject to paragraph 26.4 any document which is in the possession of, or under the control of the Leader and Cabinet and contains material relating to any business transacted at a private meeting or any decision made by an individual Member of the Cabinet or an officer in accordance with executive arrangements must be available for inspection by any Member of the Council when the meeting concludes or immediately after the decision has been made and this must be within 24 hours. However, copies of all exempt reports to Cabinet will be sent to all Members of the Council.
- 26.4 Notwithstanding Rules 26.2 and 26.3 the entitlement to access to documents does not extend to a document that contains exempt information unless the exemption solely relates to the financial or business affairs of any particular person (except where the information relates to any terms proposed by or to

the authority in the course of negotiations of contract), or where the exemption solely relates to information that reveals that the authority proposes to give under any enactment or notice under or by virtue of which requirements are imposed on a person or to make an order or direction under any enactment.

- 26.5 Nothing in these Rules requires the disclosure of confidential information that breaches the obligation of confidence.
- 26.6 Nothing in this Rule requires any document to be made available for inspection if it appears to the Proper Officer that it discloses the advice of a political assistant.
- 26.7 These rights of a Member set out in Rule 26 are additional to any other rights he/she may have.

References:

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

Section 22 of The Local Government Act 2000

Chapter 7, DETR Guidance

The Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012

Openness of Local Government Bodies Regulations 2014

