

Woking Borough Council

# Access to Information Procedure Rules

Shaping the *future* of our borough



## **Access to Information Procedure Rules**

### **1. Scope**

- 1.1. These Procedure Rules allow the public rights of access to meetings and information to reflect the Council's commitment to its residents of being open and accountable. These rules apply to all meetings of the Council, the Executive and Committees (together called meetings) unless otherwise specified in this Constitution or by legislation.

### **2. Additional Rights To Information**

- 2.1. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. Rights To Attend Meetings**

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

### **4. Notices Of Meeting**

- 4.1. The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Offices, Gloucester Square, Woking (the designated office) and on its website. Where the meeting is convened at shorter notice, the notice shall be given at the time the meeting is convened.

### **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. 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.

### **6. Supply Of Copies**

- 6.1. The Council will supply copies of:

- any agenda and reports which are open to public inspection;
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- any further statements or particulars necessary to indicate the nature of the items in the agenda; and
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- if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item.
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to any person on payment of a charge for postage and any other costs.

### **7. Access To Minutes Etc After The Meeting**

- 7.1. The Council will, as soon as reasonably practicable, arrange for electronic publication and 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, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
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- 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;
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- the agenda for the meeting; and
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- reports relating to items when the meeting was open to the public.
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## **8. Background Papers**

### **List of Background Papers**

- 8.1. The Proper Officer 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 10).
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### **Public Inspection of Background Papers**

- 8.2. 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. Summary Of Public's Rights**

- 9.1. This written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL.

## **10. Exclusion Of Access By The Public To Meetings**

### **Confidential Information – Requirement to Exclude Public**

- 10.1. 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.

### **Exempt Information – Discretion to Exclude Public**

- 10.2. The public may be excluded from meetings or parts thereof 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 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.

### **Meaning of Confidential Information**

- 10.3. 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.

### **Meaning of Exempt Information**

- 10.4. Exempt information means information falling within the following 7 categories (subject to any qualification):

- Information relating to any individual.

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- Information which is likely to reveal the identity of an individual.

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- Information relating to the financial or business affairs of any particular person (including the authority holding that information).

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- 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.

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- Information in respect of which a claim to professional privilege could be maintained in legal proceedings.

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- 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.

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- Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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### **Qualifications**

- Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts of 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993.

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- Information falling within any of paragraphs 1-7 is not exempt by virtue of those paragraphs 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.

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- Information which (a) falls within any of paragraphs 1-7 above and (b) is not prevented from being exempt by virtue of qualifications 1 or 2 above 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.
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## **11. Exclusion Of Access By The Public To Reports**

- 11.1. 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. Application Of Rules To The Executive**

**Rules 13 – 22** apply to the Executive and its Committees (in addition to Rules 1-11).

## **13. Procedure Before Taking Key Decisions**

- 13.1. Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision, as defined in Article 11.03 of this Constitution, may not be taken unless:

- a document (called a “forward plan”) has been published in connection with the matter in question; and
  - at least twenty-eight clear days (which may include Saturdays, Sundays and public holidays) have elapsed since the publication of the forward plan and the date of the meeting at which the key decision is to be made.
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## **14. The Forward Plan**

### **Period of Forward Plan**

- 14.1. Forward plans will be prepared to cover a period of four months, beginning with the first day of any month. A forward plan will be prepared in respect of each meeting of the Executive.

### **Contents of Forward Plan**

- 14.2. The forward plan will contain matters which the Proper Officer has reason to believe will be subject of a key decision to be taken by the Leader/Executive, a Committee of the Executive, individual members of the Executive, officers, area committees 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 in so far as the information is available or might reasonably be obtained:

- that a key decision is to be made on behalf of the Council;
  - the matter in respect of which the decision is to be made;
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- where the decision maker is an individual, his/her name and title, if any and where the decision taker is a decision-making body, its name and a list of its members;
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- the date on which, or the period within which, the decision is to be made;
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- a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
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- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
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- that other documents relevant to those matters may be submitted to the decision maker; and
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- the procedure for requesting details of those documents (if any) as they become available.
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Exempt information and confidential information may not be included in a forward plan.

## **15. General Exception**

15.1. Where the publication of a forward plan in respect of a key decision is impracticable, that decision may only be made:

- where the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee or, if there is no such person, each member of the Overview and Scrutiny Committee, by notice in writing of the matter about which the decision is to be made;
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- where the Proper Officer has made available at the Civic Offices for inspection by the public, and published on the Council's website, a copy of the notice given under sub-paragraph (a) above; and
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- after five clear days have elapsed following the day on which the Proper Officer made available the notice referred to in sub-paragraph (b) above.
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15.2. As soon as reasonably practicable after complying with sub-paragraphs (a) and (b) above, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why it was impracticable to include the item in a forward plan.

## **16. Special Urgency**

16.1. Where the date by which a key decision must be made makes compliance with Rule 15 (General Exception) impracticable, the decision may only be made where the decision maker has obtained agreement from:

- the Chairman of the Overview and Scrutiny Committee; or
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- if there is no such person, or the Chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or
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- where there is no Chairman of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,
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that the making of the decision is urgent and cannot reasonably be deferred.

- 16.2. As soon as reasonably practicable after the decision maker has obtained agreement under the applicable sub-paragraph above, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why the meeting was urgent and could not reasonably be deferred.

## **17. REPORT TO COUNCIL**

### **When an Overview and Scrutiny Committee Can Require a Report**

- 17.1. If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:
- included in the forward plan; or
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- the subject of the general exception procedure under Rule 15; or
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- the subject of the special urgency procedure under Rule 16;
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the Committee may require the Leader/Executive 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 Proper Officer, 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 Committee.

### **Executive's Report to Council**

- 17.2. The Leader/Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven 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/Executive is of the opinion that it was not a key decision the reasons for that opinion.

### **Annual Reports on Special Urgency Decisions**

- 17.3. In any event, the Leader/Executive will submit annual reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding year. The report will include the number of decisions so taken,

particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

## **18. Record Of Decisions**

18.1. After any meeting of the Executive or any of its Committees, the Proper Officer will produce a record of every decision taken at that meeting as soon as reasonably practicable. The record will include:

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

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- ii) a record of the reasons for the decision;

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- iii) details of any alternative options considered and rejected at the meeting;

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- iv) a record of any conflict of interest relating to the matter decided which is declared at the meeting by any Member of the Executive or any of its Committees; and

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- v) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

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## **19. Decisions By Individual Members Of The Executive/Individual Members Exercising Powers In Relation To Their Wards**

19.1. Decisions by individual Members shall comply with the relevant provisions of the Executive Procedure Rules.

## **20. Overview And Scrutiny Committee Access To Documents**

### **Rights to Copies**

20.1. Subject to Rule 20.2 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:

- any business transacted at a meeting of the Executive or its Committees;

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- any decision taken by an individual member; or

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- any executive decision by an Officer acting under powers delegated by the Leader/Executive.

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### **Limit on Rights**

20.2. The Overview and Scrutiny Committee will not be entitled to:

- any document that is in draft form, or

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- any part of a document that contains exempt or confidential information, unless that information is relevant to (i) an action or decision they are reviewing or

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scrutinising or intend to scrutinise or (ii) any review contained in any programme of work of the Overview and Scrutiny Committee.

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## **21. Additional Rights Of Access For Members**

### **Rights to Copies**

21.1. Subject to Rule 21.2 below, all Members will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:

- any business transacted at a meeting of the Executive or its Committees;

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  - any decision taken by an individual member; or

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  - any executive decision by an Officer acting under powers delegated by the Leader/Executive.
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### **Limit on Rights**

21.2. Members will not be entitled to:

- i) any document that is in draft form; or

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  - ii) any document that contains exempt information as defined in paragraphs 10.4(1), (2) (3) 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, (4), (5) and (7) of these Access to Information Procedure Rules.
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### **Nature of Rights**

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

## **22. Part II Meetings Of The Executive**

22.1. At least twenty-eight clear days' notice (which may include Saturdays, Sundays and public holidays) must be given before the Executive meets in private (i.e. on a Part II basis). Such notice shall give the reasons for the meeting being held in private, and shall be available for public inspection at the Civic Offices and on the Council's website.

22.2. At least five clear days before the private meeting of the Executive, a further notice of the intention to hold a private meeting shall be published at the Civic Offices and on the Council's website. Such notice shall give the reasons for the meeting being held in private, details of any representations received about why the meeting should be open to the public and a statement in response to any such representations.

22.3. Where the date by which a meeting must be held makes compliance with paragraphs 22.1 and 22.2 impracticable, the meeting may only be held in private if agreement has been obtained from:

- the Chairman of the Overview and Scrutiny Committee; or

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- if there is no such person, or the Chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or

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- where there is no Chairman of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,

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that the meeting is urgent and cannot reasonably be deferred.

22.4. As soon as reasonably practicable after the agreement required under paragraph 22.3 has been obtained, the Proper Officer shall make available at the Civic Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why the meeting was urgent and could not reasonably be deferred.