

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

Executive arrangements

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Local Joint Committees, the Standards Committee and Regulatory Committees and public meetings of the Executive (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.
- 3.2 If a member of the public or the press interrupts the proceedings at any meeting the Chair may warn him. If he continues the interruption and a warning has been given, the Chair may order his removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Chair may order that part to be cleared.
- 3.4 If the Chair considers the orderly dispatch of business impossible, he may without question adjourn the meeting.
- 3.5 The above powers of the Chair are in addition to any other power vested in him/her.

4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at The Shirehall, Abbey Foregate, Shrewsbury SY2 6ND (Designated Office) and on its website at www.shropshire.gov.uk.

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 designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer 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.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The Chief 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:

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

(b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

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. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at The Shirehall, Abbey Foregate, Shrewsbury SY2 6ND.

As the Constitution must be available to the public then these Rules constitute the written summary.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

The public may only be excluded under 10.1 and 10.2 for the part of parts of the meeting during which it is likely that confidential or exempt information would be divulged.

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

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 a decision to exclude the public is to be made by resolution of the relevant decision making body. 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 which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 **Meaning of exempt information**

Exempt information means information falling within the following seven categories, subject to the conditions in paragraph 10.5, and information is exempt if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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).
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.
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 of direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

10.5 **Category Condition**

Information falling within any of the seven categories is **not** exempt information by virtue of those categories if it is required to be registered under,

The Companies Acts (as defined in section 2 of the Companies Act 2006).

The Friendly Societies Act 1974

The Friendly Societies Act 1992

The Industrial and Provident Societies Acts 1965 to 1978

The Building Societies Act 1986

The Charities Act 1993

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 County Planning General Regulations 1992.

- 10.6 Where a resolution is passed excluding the public from a meeting, that exclusion shall not be deemed to apply to any Member of the Council but all Members will be expected to observe the confidentiality conventions.

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. APPLICATION OF RULES TO THE EXECUTIVE (CABINET)

Rules 13 – 22 apply to the Cabinet and its committees and where appropriate individual decisions of Portfolio Holders. 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 as defined in Article 13.3 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer 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. This requirement does not include meetings, whose sole purpose is for officers to brief Members.

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 28 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

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, beginning with the first day of any month. 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 Executive, officers, certain matters to be dealt with by the Area Planning 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:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (i) that other documents relevant to those matters may be submitted to the decision maker; and
- (j) the procedure for requesting those details (if any) as they become available.

The Forward Plan must be made available for inspection by the public at the Council's offices and on the Council's website.

The Forward Plan must be published at least 14 days before the start of the period covered. The Proper Officer 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 particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

15. GENERAL EXCEPTION

If a matter which 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 Proper Officer has informed the chair of a relevant Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;

- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (d) at least 5 clear working days have elapsed since the Proper Officer complied with (b) and (c).
- (e) as soon as reasonably practicable after the Proper Officer has complied with (a)-(d) above the Proper Officer must make available at the offices of the Council and publish on the Council's website the reasons why compliance with Rule 14 is impractical.

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

16. SPECIAL URGENCY

- 16.1 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 chair of the body making the decision, obtains the agreement of the chair of a relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant Scrutiny Committee, or if the chair of each relevant Scrutiny Committee is unable to act, then the agreement of the Speaker of the Council, or in his/her absence the Deputy Speaker will suffice.
- 16.2 As soon as reasonably practicable after the decision taker has obtained the agreement under Rule 16.1 the decision taker must make available at the offices of the Council and publish on the Council's website a note setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

17. REPORT TO COUNCIL

17.1 When a Scrutiny Committee can require a report

If a 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 Scrutiny Committee Chair, or the Speaker/Deputy Speaker of the Council under Rule 16;

the Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision taker, and the reasons if any for the Cabinet believing that the decision was a key decision.

The power to require a report rests with the Scrutiny Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of

the Scrutiny Committee when so requested by (the Chairman or any 5 members of the Scrutiny Committee). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

17.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 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. RECORD OF DECISIONS

After any meeting of the Cabinet, or any of its committees whether held in public or in private, the Proper Officer or, where no officer was present, 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:

- 18.1 a record of the decision including the date it was made;
- 18.2 a record of the reason for the decision;
- 18.3 details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made;
- 18.4 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
- 18.5 in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

19. MEMBER AND OFFICER ATTENDANCE AT PUBLIC MEETINGS OF THE CABINET

- 19.1 Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member of members of the public in order

to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part of parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

19.2 CABINET MEMBERS

All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.

19.3 LOCAL MEMBERS

- (a) Notice of public meetings of the Cabinet and its committees will be served on a Member where that matter concerns that Member's electoral division.
- (b) Where a matter under consideration at a public meeting of the Cabinet, or a committee of it, does cover a Member's electoral division, that Member may attend that meeting, or committee of it, with the consent of the person presiding and speak.

19.4 SCRUTINY COMMITTEE MEMBERS

- (a) Notice of public meetings of the Cabinet and its committees will be served on the Chairs of all Scrutiny Committees, at the same time as notice is served on Members of the Executive. Where a Scrutiny Committee does not have a Chair, the notice will be served on all the Members of that Scrutiny Committee.
- (b) Where a matter under consideration at a public meeting of the Cabinet, or a committee of it, is within the remit of a Scrutiny Committee, the Chair of that Scrutiny Committee or in his/her absence the Vice-Chair may attend that public meeting with the consent of the person presiding, and speak.

19.5 ALL MEMBERS

Any Member will be able to address the meeting for a maximum period of three minutes provided the comments remain relevant to the item on the agenda. The Chairman shall also afford a "right of audience" for Group Leaders or their Deputies. The Chairman does however retain the right to limit such contributions by Members if in his/her view the efficient conduct of the meeting is compromised.

19.6 OFFICERS

- (a) The Head of Paid Service, the Directors, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.

- (b) A public Cabinet meeting may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

20. NOTICE OF PRIVATE MEETINGS OF CABINET

- 20.1 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.
- 20.2 At least 28 days before a private meeting, the decision taking body must:-
 - (a) make available at the Council offices a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and
 - (b) publish that notice on the Council's website.
- 20.3 At least five clear days before a private meeting, the decision taking body must:-
 - (a) make available at the Council offices a further notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the Council's website.
- 20.4 A notice under paragraph 20.3 must include:-
 - (a) a statement of reasons for the meeting to be held in private
 - (b) details of any representations received by the decision taking body about why the meeting should be open to the public; and
 - (c) a statement of its response to any such representations.
- 20.5 Where the date by which a meeting must be held make compliance with this Rule impractical, the meeting may only be held in private where the decision taking body has obtained agreement from :-
 - (a) the Chair of a relevant Scrutiny Committee; or
 - (b) if there is no such person, or if the Chair of the relevant Scrutiny Committee is unable to act the Chairman of the Council; or
 - (c) where there is no chair of either the relevant Scrutiny Committee or of the Council, the vice Chairman of the Councilthat the meeting is urgent and cannot reasonably be deferred.
- 20.6 As soon as reasonably practicable after the decision taking body has obtained agreement under paragraph 20.5 to hold a private meeting, it must
 - (a) make available at the Council offices a notice setting out the reason why the meeting is urgent and cannot reasonably be deferred; and
 - (b) publish that notice on the Council's website.

21. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

21.1 Reports intended to be taken into account

Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days have elapsed following notification of the Portfolio Holder decision making session on the Council's website.

21.2 Provision of copies of reports to Scrutiny Committee

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of every relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

21.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Executive or a key decision has been taken by an officer, he/she will prepare, or instruct the Proper Officer to prepare a report containing:-

- (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 executive 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 dispensation granted by the Chief Executive.

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 Executive. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.

21.4 Inspection of documents following executive decisions

- (a) Subject to Rule 27, after a meeting of a decision taking body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the Proper Officer must ensure that a copy of:-

- (i) any records prepared in accordance with Rules 18 or 21; and
- (ii) any report considered at the meeting, or as the case may be, considered by the individual member or officer and relevant to the decision recorded in accordance with Rules 18 and 21 or, where only part of the report is relevant to such a decision, that part,

must be available for inspection by members of the public, as soon as reasonably practicable, at the Council offices, and on the Council's website.

- (b) Where a request on behalf of a newspaper is made for a copy of any of those documents available for public inspection under Rule 21.4 (a), those

documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charges for transmission.

21.5 Inspection of Background Papers

Subject to Rule 27, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5 and or Rule 21.4 at the same time:-

- (a) a copy of the list compiled by the Proper Officer of the background paper to the report or part of the report must be included in the report or, as the case may be, part of the report; and
- (b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the Council offices and on the Council's website.

22 SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 22.2 below, a 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 or to be transacted at a meeting of the Executive or its committees; or
- (b) any decision taken or to be taken by an individual member of the Cabinet
- (c) any decision taken by an Officer of the Council in accordance with executive arrangements.

22.2 Limit on rights

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; or
- (c) the advice of a political adviser.

23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

231 Material relating to previous business

- (a) All Members will be entitled to inspect any document (except those available only in draft form) 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 or to any decision made by a member of officer in accordance with executive arrangements unless either (a) or (b) below applies.
 - (i) it contains exempt information falling within paragraphs 1,2,4,5 or 7 of the categories of exempt information; or
 - (ii) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed by or to the Council in the course of negotiations for a contract; or
 - (iii) it contains the advice of a political adviser.
- (b) Any document required to be made available for inspection under Rule 22.1 must be made available when the meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

23.2 Material relating to business transacted at a Public Meeting

- (a) 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 contain material relating to any business transacted at a public meeting unless paragraph Rule 23.1 (a) (i), (ii) or (iii)) above applies.
- (b) Any document which is required by Rule 23.2 (a) to be available for inspection by any member of the Council must be available for inspection for at least five (5) clear days before the meeting except that:-
 - (i) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
 - (ii) where and item is added to the agenda at shorter notice, a document that would be required to be available under Rule 23.2 (a) in relation to that time, must be available for inspection when the item is added to the agenda.

24 Nature of rights

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

25. CONFIDENTIAL INFORMATION, EXEMPT INFORMATION AND ADVICE OF A POLITICAL ADVISER OR ASSISTANT

- 25.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

25.2 Nothing in these Rules:

- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if in the opinion of the Proper Officer that document or part of document contains or may contain confidential information; or
- (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if in the opinion of the Proper Officer, that document or part of document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

25.3 Where a member of the executive or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules:

- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
- (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

25.4 Nothing in these Rules requires a decision taking body to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.