



## **SOUTH NORTHAMPTONSHIRE COUNCIL**

### **Part 6 – Access to Information Procedure Rules**

## **1. Scope**

These rules apply to all meetings of the full Council, Review and Development Committees, area committees (if any), the Standards Committee and regulatory committees and public meetings of the Cabinet (together called "meetings").

## **2. Additional Rights to Information**

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

## **3. Rights to Attend Meetings**

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

## **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 Council's offices at Springfields, Towcester ("the designated office"). Where a meeting is called at shorter notice the details of the meeting shall be so posted as soon as possible after the meeting is convened.

## **5. Access to Agenda and Reports Before the Meeting**

The Council shall make copies of the agenda and reports (excluding those reports containing confidential or exempt information within the meaning of rules 10.3 and 10.4 below) available for inspection at the designated office at least five clear days before the meeting to which they relate. If an item is added to the agenda later, the revised agenda shall be open to inspection from the time the item was added to the 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.

## **6. Supply of Copies**

The Council shall supply copies of:

- 6.1 any agenda and reports which are open to public inspection;
- 6.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 6.3 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.

The rights of access to such documents for Members is dealt with further below.

## **7. Access to Minutes etc After the Meeting**

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

- 7.1 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 except, in the case of exempt information, where the public interest in maintaining the exemption no longer outweighs the public interest in disclosing the relevant information;
- 7.2 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;
- 7.3 the agenda for the meeting; and

7.4 reports relating to items when the meeting was open to the public and when the meeting was closed to the public to avoid likely disclosure of exempt information and the public interest in maintaining the exemption no longer outweighs the public interest in disclosing the relevant information.

## **8. Background Papers**

### **8.1 List of Background Papers**

The Proper Officer shall 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:

8.1.1 disclose any facts or matters on which the report or an important part of the report is based; and

8.1.2 which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose confidential or exempt information (as defined in Rules 10.3 and 10.4 below) and in respect of Cabinet reports, the advice of any political adviser.

### **8.2 Public Inspection of Background Papers**

The Council shall make available for public inspection for six years after the date of the meeting one copy of each of the documents on the list of background papers including those which disclose exempt information where the public interest in maintaining the exemption no longer outweighs the public interest in disclosing the relevant information.

## **9. Summary of Public's Rights**

A 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 designated office.

## **10. Exclusion of Access to Meetings**

### **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.

Where the meeting shall determine any person's civil rights or obligations, or a potential decision may adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting shall 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 one or more of the following 7 categories:-

1. Information relating to any individual.
2. Information which is likely to reveal the identity of any 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 or 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.
  - 7A. Information which is subject to any obligation of confidentiality.\*
  - 7B. Information which relates in any way to matters affecting national security.\*
  - 7C. The deliberations of the Committee or sub-committee.\*

- \* Paragraphs 7A, 7B and 7C relate only to meetings of the Standards Committee and any of its sub-committees

Information falling within any of these paragraphs is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information falling within paragraph 3 is not exempt if it is statutorily required to be registered under, for example, the Companies Act 1985.

Information is not exempt if it relates to proposed development for which the Council can grant itself planning permission.

Information in respect of Applications made under the Licensing Act 2003 is not exempt unless the Proper Officer considers that the public interest in not disclosing that information outweighs the public interest in it being disclosed.

## **10.5 Members' Access to Meetings**

The right of a Member to attend a meeting of any Council body (excluding full Council) when confidential or exempt information is being discussed shall be determined in accordance with the law.

## **11. Exclusion of Access to Reports by the Public**

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 shall be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. Proposed Key Decisions**

This rule and rules 13-24 below apply to the Cabinet or any of its Sub-Committees.

If the Cabinet or any of its sub-committees meet formally in the presence of an officer or officers (other than any political adviser) and it is the reasonable belief of the Council Leader that:-

- 12.1 a key decision as defined by Article 13.3.2 will be made; or
- 12.2 a matter likely to be discussed relates to a proposed decision which is in the forward plan and is likely to be taken by the Cabinet within the next 28 days;  
or
- 12.3 a matter relating to a proposed key decision to be considered by the Cabinet will be discussed

the meeting must be held in public and it must comply with Rules 1-11 above unless Rule 15 (General Exception) or Rule 16 (Special Urgency) below apply. This requirement does not include meetings of Cabinet Members where the principal purpose of the meeting is for the Members to be briefed by officers.

### **13. Procedure before taking Key Decisions**

Subject to Rule 15 (General Exception) and Rule 16 (Special Urgency) below, a key decision may not be taken unless:

- 13.1 a notice (called here a "forward plan") has been published in connection with the matter in question;
- 13.2 at least 14 clear days have elapsed since the publication of the forward plan;  
and
- 13.3 where the decision is to be taken at a meeting of the Cabinet or any of its Sub-Committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings) above.

## **14. The Forward Plan**

### **14.1 Period of Forward Plan**

Forward plans shall be prepared by the Council Leader (after taking advice from the Head of Paid Service) to cover a period of four months, beginning with the first day of any month. They shall be prepared on a monthly basis and subsequent plans shall 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 shall contain matters which the Council Leader has reason to believe (after taking advice from the Head of Paid Service) will be the subject of a key decision to be made by the Cabinet, a sub-committee of the Cabinet, 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 shall describe the following particulars insofar as the information is available or might reasonably be obtained:

14.2.1 the matter in respect of which a decision is to be made;

14.2.2 where the decision-maker is an individual, his/her name and title, if any, and, where the decision-maker is a body, its name and details of membership;

14.2.3 the date on which, or the period within which, the decision will be made;

14.2.4 the identity of the principal groups whom the decision maker proposes to consult before taking the decision;

14.2.5 the means by which any such consultation is proposed to be undertaken;

14.2.6 the steps any person might take who wishes to make representations to the Cabinet or decision maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

14.2.7 a list of the documents submitted to the decision maker for consideration in relation to the matter.

### **14.3 Prior Notice of Forward Plan**

The forward plan must be published at least 14 days before the start of the period covered. The Proper Officer shall publish once a year a notice in at least one newspaper circulating in the Council's area stating:

14.3.1 that key decisions are to be made on behalf of the Council;

14.3.2 that a forward plan containing particulars of the matters on which decisions are to be made shall be prepared on a monthly basis;

14.3.3 that the plan will contain details, as far as is known, of the proposed key decisions to be considered for the four-month period following its publication;

14.3.4 that each plan shall be available for inspection at reasonable hours free of charge at the designated office and on the Council's web site;

14.3.5 that each plan shall contain a list of the documents to be submitted to the decision makers for consideration in relation to the key decisions in the plan;

14.3.6 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 are available;

14.3.7 that other documents may be submitted to decision makers;

14.3.8 the procedure for requesting details of documents (if any) as they become available; and

14.3.9 the dates in each month in the year on which each forward plan will be published and available to the public at the designated office.

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 the subject of a key decision has not been included in the forward plan the decision may still be made if:

15.1 the decision, to be effective, must be taken by such a date that it is impracticable to defer it until it has been included in the next forward plan and until that plan has come into effect;

15.2 the Proper Officer has informed the Chairman of a relevant Review and Development Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter in respect of which the decision is to be made;

15.3 the Proper Officer has made copies of that notice available to the public at the designated office; and

15.4 at least three clear days have elapsed since the Proper Officer complied with 15.1 and 15.2.

Where such a decision is made by the Cabinet, it must be made in public (subject to rule 10 above).

## **16. Special Urgency**

If by virtue of the date by which a proposed key decision, to be effective, must be taken Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the Chairman of the body making the decision obtains the agreement of the Chairman of a relevant Review and Development Committee that the making of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Review and Development Committee, or if the Chairman of each relevant Review and Development Committee is unable to act, then the agreement of the Vice-Chairman of the relevant Review and Development Committee shall suffice. The Chairman of the Review and Development Committee or the Vice-Chairman of the Committee shall take advice from the Head of Paid Service when carrying out this role and the reasons why the decision is specially urgent shall be recorded.

## **17. Reports to Council**

### **17.1 When a Committee can Require a Report**

If a relevant Review and Development Committee thinks that a key decision has been made which was not:

17.1.1 included in the forward plan; or

17.1.2 the subject of the general exception procedure under Rule 15 above; or

17.1.3 the subject of an agreement with a relevant Review and Development Committee Chairman, or the Chairman/Vice Chairman of the Council under Rule 16 above;

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 Proper Officer, who shall require such a

report on behalf of the relevant Committee by written notice to the Council Leader when so requested by the Chairman of the relevant Committee or any four non-Cabinet Members. Alternatively the requirement may be made by resolution passed at a meeting of the relevant Review and Development Committee. Other Committees and sub-committees of the Council can request the Cabinet to submit a report to Council on any matter relevant to the Committee or sub-committee's terms of reference.

### **17.2 Cabinet's Report to Council**

The Cabinet shall prepare a report for submission to the next available meeting of the Council. The report shall be presented by the Council Leader or, in his or her absence, the Deputy Leader. 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 shall set out particulars of the decision, the individual or body making the decision and, if the Council 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**

The Council Leader shall submit and present quarterly reports to the Council in the event that any Cabinet decisions were made in the circumstances set out in Rule 16 (Special Urgency) above in the preceding three months. The report shall include the number of decisions so made and a summary of the matters in respect of which those decisions were made.

## **18. Cabinet Meetings Relating to Matters which are not Key Decisions**

18.1 The Cabinet shall decide whether meetings relating to matters which are not key decisions shall be held in public or in private.

- 18.2 Members of the Cabinet or any of its sub-committees shall be entitled to receive five clear days notice of a meeting to be held in public or private unless it is convened at shorter notice as a matter of urgency. All members, whether Cabinet members or not, shall be sent, or given access to, the agenda and reports except where the Council Leader (having taken advice from the Head of Paid Service) decides otherwise.
- 18.3 All members of the Cabinet shall be served with notice of all public and private meetings of sub-committees of the Cabinet, whether or not they are members of that sub-committee.
- 18.4 All members of the Cabinet are entitled to attend a private meeting of any sub-committee of the Cabinet and speak.
- 18.5 Members other than Cabinet Members will not be entitled to attend private meetings of the Cabinet and its sub-committees without the consent of the Council Leader.
- 18.6 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees, are entitled to attend any meeting of the Cabinet and its sub-committees. The Cabinet and its sub-committees may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- 18.7 A private 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.

## **19. Decisions by Cabinet**

After any meeting of the Cabinet or any of its sub-committees, whether held in public or private, the Proper Officer will produce a record of every decision made 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.

## **20. Decisions by Officers**

As soon as reasonably practicable after a key decision has been made by a duly authorised officer, he/she shall prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The disclosure of exempt or confidential information, or advice from any political assistant, is not required.

## **21. Access to Documents by Review and Development Committees**

### **21.1 Rights to Copies**

Subject to Rule 21.2 below, a Review and Development Committee (including its sub-committees) shall be entitled to copies of any document which is in the possession or control of the Cabinet or its sub-committees and which contains material relating to any business previously transacted at a public or private meeting of the Cabinet or its sub-committees.

### **21.2 Limit on Rights**

A Review and Development Committee shall not be entitled to:

21.2.1 any document that is in draft form;

21.2.2 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

21.2.3 the advice of any political adviser.

## **22. Additional Rights of Access for Members**

### **22.1 Material Relating to Previous Business**

All Members shall be entitled to inspect any document which is in the possession or under the control of the Cabinet or its sub-committees and contains material relating to any business previously transacted at a private meeting unless:-

22.1.1 it contains exempt information falling within Paragraphs 1 to 5 and 7 of the categories of exempt information except, in the case of paragraph 3, where the information does not relate to the terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or

22.1.2 it contains the advice of any political adviser; or

22.1.3 it is in draft form.

### **22.2 Material Relating to Key Decisions**

All Members of the Council shall 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 sub-committees which relates to any key decision unless Paragraph 22.1.1 or 22.1.2 above applies.

### **22.3 Nature of Rights**

These rights of a Member are additional to any other right he/she may have under the common law, such as those which arise from the Member's "need to know". Further information on this is contained in the Protocol on Councillor/Officer relations in Part 12 of this constitution.