

# **Access to Information Procedure Rules**

## **1. Scope**

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

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

## **4. Notices of Meetings**

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

## **6. Supply of Copies**

## **7. Access to the Minutes after the Meeting**

## **8. Background Papers**

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

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

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

## **10. Exclusion of Access by the Public to Meetings**

### **10.1 Confidential Information - Requirement to Exclude Public**

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

### **10.3 Meaning of Confidential Information**

### **10.4 Meaning of Exempt Information**

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

## **12. Application of Rules to the Cabinet**

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

## **14. The Forward Plan**

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

### **14.2 Contents of the Forward Plan**

## **15. General Exception**

## **16. Special Urgency**

## **17. Report to Council**

### **17.1 When Scrutiny Committee Can Require a Report**

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

### **17.3 Reports on Special Urgency Decisions**

## **18. Record of Decisions**

## **19. Cabinet Meetings Relating to Matters that are not Key Decisions**

## **20. Attendance at Private Meetings of the Cabinet**

## **21. Decisions by Individual Members of the Cabinet**

21.1 Reports intended to be taken into Account

21.2 Provision of Copies of Reports to Scrutiny Committee

21.3 Consultation

21.4 Record of Individual Decisions

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

22.1 Material Relating to Previous Business

22.2 Nature of Rights

## **23. Additional rights of access to documents for members of Overview and Scrutiny Committees**

23.1 Rights to Copies

23.2 Limit on Rights

## 1. **Scope**

These rules apply to all meetings of the Council, Overview and Scrutiny committees, the Standards Committee, Audit Committee, Health and Wellbeing Board and regulatory committees (including Planning Committee) and public meetings of the Cabinet (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.

## 3. **Rights to attend Meetings**

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

## 4. **Notices of Meetings**

### 4.1 Public Meetings

- (a) The Council will give at least 5 clear days notice of any meeting by posting details of the meeting on the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk)) and at the Civic Offices, Euclid Street, Swindon.
- (b) Urgent Business – If a matter is considered by the Monitoring Officer to be so significantly urgent and unexpected that a decision must be taken and that it is not possible to provide 5 clear days notice of the date of the meeting at which the decision must be taken, then with the agreement of the Chair of the body concerned, the Monitoring Officer is authorised to call such a meeting, subject to the agenda and reports being available to the public at the time at which the meeting is convened.

### 4.2 Private Meetings or Parts of Meetings Where the Public Are To Be Excluded

- (a) The Council will give at least twenty eight clear days' notice of any meeting of the Cabinet or a committee of the Cabinet that is likely to consider confidential or exempt information by providing details of the meeting on the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk)) and at the Civic Offices, Euclid Street, Swindon. This notice will give details of why the Council intends to hold the meeting in private.
- (b) The Council will give a further notice of its intention to hold part of a meeting in private at least five clear days before the

meeting. The notice must include reasons for the meeting to be held in private together with details of any representations that have been received about why the meeting should be open to the public; and a statement of the Council's response to such representations.

- (c) Special Urgency – If the date by which a meeting must be held means it is not practicable to give the notices set out (a) and (b) above, the meeting can only take place in private if the Chair of the Scrutiny Committee (or in his /her absence the Mayor or in the absence of both the Deputy Mayor) agrees that the meeting is urgent and it is not reasonable to defer it.

## **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 on the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk)) and at the Civic Offices, Euclid Street, Swindon at least five clear days before the meeting. If an item is added to the agenda later 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 will supply copies of:

- (a) any agenda and reports that 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 Monitoring 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 other justified costs.

## **7. Access to Minutes after the Meeting**

The Council will make available, including on its website, copies of the following for six years after a meeting:

- (a) the minutes of the meeting (or record of decisions taken together with reasons, for all meetings of the Cabinet, decisions taken by Cabinet Members under delegated powers or officers when making a decision that is an executive decision) excluding any part of the minutes or proceedings which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes (or record of decisions) 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 author 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) that have been relied on to a material extent in preparing the report.

but does not include published works or those that disclose exempt or confidential information (as defined in Rule 10) (and in respect of Cabinet reports, the advice of any political advisor).

### **8.2 Public Inspection of Background papers**

The Council will make available for public inspection, including on its website, for four years after the date of the meeting a copy of each of the documents on the list of background papers.

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

These rules are a written summary of the public's rights to attend meetings and to inspect and copy documents.

## **10. Exclusion of Access by the Public 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 a meeting 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.

### 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 7 categories (subject to any condition):

Category		Qualification
1.	Information relating to any individual	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
2.	Information which is likely to reveal the identity of an individual	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
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>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</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"><li>(a) the Companies Act 1985</li><li>(b) the Friendly Societies Act 1974</li><li>(c) the Friendly Societies Act 1992</li><li>(d) the Industrial and Provident Societies Acts 1965 to 1978</li><li>(e) the Building Societies Act 1986</li><li>(f) the Charities Act 1993</li></ul>
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	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

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

Information falling within any of paragraphs 1 to 7 is not exempt 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.

Information falling within any of paragraphs 1 to 7 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. **Exclusion of Access by the Public to Reports**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to the whole or any part of a report 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 or parts of reports will be marked “Not for Publication” together with the category of information likely to be disclosed.

## 12. **Application of Rules to the Cabinet**

Rules 13 – 23 apply to the Cabinet (including any Cabinet Sub-Committees or Panels and any Cabinet joint committees or sub-committees). If the Cabinet meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 13 of the Constitution.

If the Cabinet meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 clear days of the public notice of the decision to be taken, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 13 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief Councillors.

## 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 has been published in connection with the matter in question (This may be by its inclusion on the Cabinet Work Programme / Forward Plan); This notice will set out:-
  - the matter in respect of which a decision is to be made;
  - where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of its membership;
  - the date on which, or period during which, the decision is to be taken;
  - a list of documents submitted to the decision taker for consideration in relation to the matter and details of how to inspect copies of these documents;
  - a note that other documents relevant to the decision may be submitted to the decision-maker and details how to inspect copies of these documents;
- (b) at least 28 clear days have elapsed since the publication of the notice / Cabinet Work Programme; 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 Cabinet Work Programme / Forward Plan**

### 14.1 Period of Cabinet Work Programme / Forward Plan

A Cabinet Work Programme / Forward plan will normally be prepared



by the Leader of the Council to cover a period of twelve months, beginning with the first day of any month. They will be prepared on at least a monthly basis.

#### 14.2 Contents of Cabinet Work Programme / Forward Plan

The Cabinet Work Programme / Forward Plan will contain matters that the Leader of the Council has reason to believe will be subject of a key decision and any decision that is to be considered in private to be taken by the Cabinet, (or a committee of the Cabinet, or individual members of the Cabinet), officers or under joint arrangements in the course of the discharge of a 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 portfolio, 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, and the date of the notice and or of its inclusion on the Cabinet Work Programme / Forward Plan;
- (d) the steps any person might take who wishes to make representations to the Cabinet 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
- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (f) The address and /or website details of where the documents are available
- (g) A statement that other documents may be submitted to the decision maker
- (h) The procedure for obtaining access to additional documents

The Cabinet Work Programme / Forward Plan must be published at least 28 clear days before any key decision or item to be considered in private is considered by the Cabinet.

Exempt information need not be included in a Cabinet Work Programme /Forward Plan and confidential information cannot be included.

## 15. **General Exception**

If a matter that is likely to be a key decision (as defined in Article 13 of the Constitution) has not been included in the Cabinet Work Programme /Forward Plan and/or the 28 clear days' notice has not been given, 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 Cabinet Work Programme /Forward Plan/ 28 clear days' notice given;
- (b) the Monitoring Officer has served notice on the Chair of the 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 Monitoring Officer has made copies of that notice available to the public at the offices of the Council and on its website; and
- (d) at least 5 clear days have elapsed since the Monitoring Officer complied with (a) and (b).

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

## 16. **Special Urgency**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of the Scrutiny Committee, or if the chair is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

## 17. **Report to Council**

### 17.1 When the Scrutiny Committee can require a report

If the Scrutiny Committee thinks that a key decision (as defined in Article 13 of the Council's Constitution) has been taken which was not:

- (a) the subject of the required 28 days' notice period or included in the Cabinet Work Programme / Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chair of Scrutiny

Committee, or the Mayor/Deputy Mayor of the Council under Rule 16;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by (the Chair or any 4 members). Alternatively the requirement may be raised by resolution passed at a meeting of the 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 Scrutiny 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 Reports on Special Urgency decisions**

In any event reports will be made to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding cycle of meetings. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. This may be undertaken by way of the minutes of the Cabinet or by the Notice of Decision if by an individual Cabinet Member. The Leader will make an annual report to Council on all urgent key decisions that have been taken during that period.

#### **18. Record of Decisions made at meetings**

After any meeting of the Cabinet or decision-making body, whether held in public or private, the Monitoring 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 (or minute) will refer to the reasons for each decision and any alternative options considered and rejected at that meeting either directly or by reference to the report. It will also include a record of any conflict of interest declared by a Cabinet Member that relates to the decision and a note of any dispensation granted by the Head of Paid Service in respect of any declared conflict of interest. This will be available on the Council's website.

#### **19. Cabinet Meetings Relating to Matters that are not Key Decisions**

Meetings where the Cabinet will make decisions relating to matters that

are not key decisions must be held in public except to the extent that the public are excluded under Rule 10.

**20. Attendance at Private Meetings of the Cabinet**

- (a) All Councillors will be served notice of all private meetings of committees of the Cabinet, whether or not they are members of that committee.
- (b) All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.

**21. Decision by Individual Members of the Cabinet** (Where delegated powers have been given to Individual Members)

These need not be exercised in public but must only be exercised having taken into account a report prepared by the relevant Officer, known as a Cabinet Member Decision Note and subject to any notice being given as required under Rule 4. Cabinet Member Decision Notes will be published on the Council's website except where the report contains information that is excluded under Rule 10.

**21.1 Reports intended to be taken into account**

Where an individual Cabinet Member receives a report which he/she intends to take into account in making any delegated decision, then he/she will not make the decision until at least 5 clear days after receipt of that report and a copy published on the Council's website except where the report contains information that is excluded under Rule 10.

**21.2 Provision of copies of reports to Scrutiny Committee**

- (a) Subject to (b) below, the Overview and Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Cabinet and any cabinet committees and which contains material relating to
  - (i) any business transacted at a public or private meeting of that committee; or
  - (ii) any decision taken under delegated powers.
- (b) Limit on rights - The Overview and Scrutiny Committees will not be entitled to:
  - (i) any part of a document which 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
  - (ii) the advice of a political advisor.

- (c) Requests for documents by the Overview and Scrutiny Committees must be sent in writing to the Monitoring Officer at the Civic Offices and the requested documents will be supplied no later than 10 clear days after the request has been received.

### **21.3 Consultation**

Cabinet Members should only exercise delegated powers following consultation with Shadow Group Spokespersons, and Ward Councillors where appropriate. This consultation should be by way of circulation of a Cabinet Member Decision Note which will specify when comments should be received in order that they can be taken into account by the Cabinet Member when making the decision.

### **21.4 Record of Individual Decisions**

- (a) As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet, he/she will prepare, or instruct the Monitoring Officer to prepare, a record of the decision. This will include
- a record of the decision including the date it was made;
  - a record of the reasons for the decision;
  - details of any alternative options considered and rejected by the decision-maker at the meeting at which the decision was made;
  - a record of any conflict of interest declared by any executive member consulted by the member which relates to the decision; and
  - in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service

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.

- (b) A decision by a Cabinet Member should be published to all Councillors by way of the Members Bulletin and by way of the Council's Website. The decision may not be implemented until such time that a five-day 'Call-in' period has expired which date shall be specified in the Bulletin and which date shall be calculated from the publication date.

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

- 22.1 All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its sub / joint-committees and contains material relating to any business to be

transacted at a public meeting at least five clear days before that meeting, unless either (a) or (b) below applies:

- (a) where the meeting has been convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, such a document must be available for inspection when the item is added to the agenda.

## **22.2 Material relating to Previous Business**

All Councillors and non-elected members will be entitled to inspect any document which is in the possession or under the control of the Cabinet (or its committees) and contains material relating to any business previously transacted at a private meeting or any executive decision made by an individual member or officer in accordance with executive arrangements, within 24 hours of the meeting or decision being made, unless either (a), (b) or (c) below applies:-

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information
- (b) It contains information falling within paragraph 3 of the categories of exempt information which relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (c) it contains the advice of a political adviser.

## **22.3 Nature of rights**

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

## **23. Additional rights of access to documents for members of Overview and Scrutiny Committees**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, Overview and Scrutiny Committees(including their Sub-Committees and Task groups) will be entitled to copies of any document which is in the possession or control of the Cabinet, [or its committees] and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet (or its committees); or
- (b) any decision taken by an individual member of the Cabinet.

- (c) any decision that has been made by an officer of the authority in accordance with executive arrangements

and such document must be provided as soon as reasonably practicable and in any case within 10 clear days of the request being received by the Monitoring Officer.

## 23.2 Limit on Rights

The Overview and Scrutiny Committees (including their Sub-Committees and Task Groups) will not be entitled to:

- (a) 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
- (b) the advice of a political advisor.

and where a decision has been made that a member of an overview and scrutiny committee is not entitled to a copy of a document then the overview and scrutiny committee must be provided with a written statement setting out the reasons for that decision.