

## **ANNEX 4 - ACCESS TO INFORMATION RULES**

### **1. Scope**

These rules apply to all meetings of the Council, Committees, and the Executive. Special rules apply to meetings of Panels and Topic Groups; these are set out in Annex 11.

These rules do not affect any specific rights of access to information given elsewhere in this Constitution or by law.

### **2. Right to attend meetings**

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

### **3. Notice of meetings**

The Council will give at least 5 clear working days' notice of any meeting by posting details in Main Reception at County Hall Hertford and on its website.

### **4. Access to Agenda & Reports**

The Council will make copies of the agenda and reports open to the public available for inspection at County Hall and on its website at least 5 clear working days before the meeting, or where the meeting is convened at shorter notice, at the time that the meeting is convened. If an item is added to the agenda after it has been published, the revised agenda will be open to inspection from the time the item was added. Where reports are prepared after the Summons has been sent out each report will be made available to the public as soon as it has been sent to Councillors.

### **5. Copies**

The Council will supply copies of any agendas and reports which are open to public inspection to any person on payment of a reasonable charge for postage and other costs.

### **6. Access to Minutes**

The Council will make available copies of the following for 6 years after a meeting:

- a) the Minutes excluding any part relating to proceedings when meeting was not open to the public
- b) the Minutes relating to any meeting or part of a meeting which was not open to the public subject to the exclusion of any part of

the minutes which discloses confidential or exempt information, or, where, as a result of such exclusion, the Minutes open to inspection would not provide a reasonably fair and coherent record, a summary of any proceedings not open to the public

- c) the agenda
- d) reports relating to items considered when the meeting was open to the public.

## **7. Background Papers**

- 7.1 In every report there will be a list of background papers, i.e. papers which
  - a) disclose any matters on which the report or an important part of it is based and
  - b) have been relied on to a material extent in compiling the report.
- 7.2 This list will not include published works or those which disclose confidential or exempt information.
- 7.3 In relation to Executive Decisions, a copy of the background papers will be made available for inspection by the public at County Hall and on the Council's website when the report to which they relate is published.
- 7.4 A copy of each of the documents on the list will be available for public inspection for 4 years after the date of the meeting.

## **8. Exclusion of Access by the Public**

### **8.1 Confidential Information**

The public must be excluded from meetings whenever it is likely that "confidential information" will be disclosed. "Confidential Information" means information given to the Council in confidence by a Government Department; or which cannot be disclosed to the public because of a Court Order. The public are not entitled to access to documents which contain confidential information.

### **8.2 Exempt information.**

The public may be excluded from a meeting whenever it is likely that exempt information is likely to be disclosed. The Council may also exclude access to documents which contain exempt information.

The Categories of exempt information are:-

- 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 Council).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the Council proposes –
  - (a) to give a legal notice imposing requirements on a person; or
  - (b) to make a legal order or direction.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**NB**

- (a) Information under 3 above is NOT exempt if it is required to be registered under various companies, friendly societies and charities Acts.
- (b) Information under any of the above categories is NOT exempt if it relates to proposed development for which the Council may grant itself planning permission.
- (c) Information under any of the above categories is ONLY 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.

**9. Procedure prior to private meetings**

- 9.1 A private meeting means a meeting, or part of a meeting, of the Executive during which the public and press are to be excluded.
- 9.2 At least 28 clear days before a private meeting the Executive must:
  - (a) make available at County Hall, Hertford, a notice of its intention to hold the meeting in private and the reasons for this, and
  - (b) publish that notice on the Council's website

- 9.3 At least 5 clear days before a private meeting, the Executive must:
- (a) make available at County Hall, Hertford a further notice of its intention to hold the meeting in private, and
  - (b) publish that notice on the Council's website.
- 9.4 The notice mentioned in paragraph 9.3 must include:
- (a) a statement of the reasons for the meeting to be held in private
  - (b) details of the representations received about why the meeting should be open to the public, and
  - (c) a statement in response to any such reason.
- 9.5 If by virtue of the date on which the meeting must be held, compliance with paragraphs 9.2 – 9.4 is impracticable, then the meeting can only be held in private where the Executive obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/ her absence the Vice-Chairman, will suffice.
- 9.6 As soon as reasonably practicable after the Executive has obtained agreement as mentioned in 9.5 it must:
- (a) make available at County Hall, Hertford a notice setting out the reasons that the meeting is urgent and cannot reasonable be deferred; and
  - (b) publish the notice referred to in (a) above on the Council's website.

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

Subject to Rule 12 (general exception) and Rule 13 (special urgency), a Key Decision may not be taken unless:

- (a) a Forward Plan has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of any report which is to be taken into consideration by the decision maker;
- (c) where the decision is to be taken at a meeting of the Executive, notice of the meeting has been given in accordance with Rule 3 (notice of meetings).

## **11. The Forward Plan**

### **11.1 *Period of Forward Plan***

Forward Plans will be prepared to cover a period of four months, beginning with the first day of any month. They will be updated 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. There will be deemed incorporated into each Forward plan any decisions from the preceding Plan which were not taken within the preceding month as anticipated.

### **11.2 *Contents of Forward Plan***

The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a Key Decision to be taken by the Executive, or officers, 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) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision-taker is an individual, his/her name and title, if any and where the decision-taker is a body, its name and details of membership;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) a list of the documents submitted to the decision-taker for consideration in relation to the matter;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker;
- (h) the procedure for requesting details of those documents (if any) as they become available.

11.3 The Forward Plan must be published at least 28 clear days before the start of the period covered. The Forward Plan will be available for inspection by the Public at County Hall, Hertford and on the Council's website.

- 11.4 An addition may be published to a Forward Plan provided that there is at least 28 clear days from (and including) the date of publication of the relevant addition to the date that the decision is taken.
- 11.5 Exempt information need not be included in a Forward Plan, but, if it is, the reason for the exemption will be stated. Confidential information may not be included in a Forward Plan.

## **12. General Exception**

- 12.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 13 (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 there is not sufficient time to issue an addendum to the current Forward Plan;
  - (b) the Director of Law & Governance has informed the Chairman and the two Vice-Chairmen of the Overview and Scrutiny Committee (or if there is no Chairman of the Overview and Scrutiny Committee each member of the Overview and Scrutiny Committee) and the relevant Opposition service spokesmen in writing, by notice, of the matter to which the decision is to be made;
  - (c) the Director of Law & Governance 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 days have elapsed since the Director of Law & Governance complied with (c).
- 12.2 As soon as reasonably practicable after the Director of Law & Governance has complied with paragraph 12.1 above he/ she must:
- (a) make available at County Hall, Hertford, a notice setting out why compliance with paragraph 11 was impracticable; and
  - (b) publish the notice referred to in (a) above on the Council's website.

## **13. Special Urgency**

- 13.1 If by virtue of the date by which a decision must be taken Rule 12 (general exception) cannot be followed, then the decision can only be taken if the decision-maker (i.e. the Chief Officer or the Leader of the Council on behalf of the Executive), obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of

the decision is urgent and cannot be reasonably deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman, will suffice.

- 13.2 The person asked to give consent shall consult the relevant Opposition service spokesmen before doing so.
- 13.3 As soon as reasonably practicable after the decision-maker has obtained agreement under paragraph 13.1 the decision-maker must:
- (a) make available at County Hall, Hertford, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred; and
  - (b) publish the notice referred to in (a) above on the Council's website.

#### **14. Report to Council**

##### **14.1 *When Overview and Scrutiny Committee can require a report***

If the Overview and 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 in Rule 12; or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman or the Chairman/Vice-Chairman of the Council under Rule 13

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies.

The Executive will then prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 5 clear working 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 reason for the decision, the individual or body making the decision, and if the Executive is of the opinion that it was not a Key Decision, the reasons for the opinion.

##### **14.2 *Reports on special urgency decisions***

The Leader of the Council will report to each Council meeting any decisions taken under Rule 13 since the last Council meeting. The report will include particulars of each decision made under Rule 13 (if

any) and a summary of the matters in respect of which each decision was made.

## **15. Record of Decisions**

15.1 After each meeting of the Executive, the Director of Law & Governance will produce a statement of every decision taken at that meeting as soon as practicable.

15.2 The statement referred to in paragraph 15.1 must include:

- (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 Executive at the meeting at which the decision was made
- (d) a record of any conflict of interest relating to the matter decided which was declared by any member of the Executive: and
- (e) in respect of any declared conflict of interest, and note of any dispensation granted by the Chief Executive (as Head of Paid Service).

15.3 As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer must produce a written statement which must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who was consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Chief Executive (as Head of Paid Service).

15.4 As soon as reasonably practicable after an officer has made a decision which is a relevant non- executive decision as defined in 15.5 below, the officer must produce a written statement which must include:

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

- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) the name of any Councillor who has declared a conflict of interest in relation to the decision.

15.5 A “relevant non-executive decision” is a non-executive decision made:

- (a) under a specific express authorisation; or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract, incur expenditure or effect savings which in any of these cases materially affects the Council’s financial position (see para 15.6 below)

15.6 For the purposes of 15.5 above the Council’s financial position will be regarded as being materially affected if the value of the contract or, as the case may be, the amount of the expenditure or savings is £500,000 or more

15.7 The Director of Law & Governance will ensure that a copy of the statements mentioned in paragraphs 15.2, 15.3 and 15.4 are available for inspection by members of the public as soon as reasonably practicable at County Hall, Hertford and on the Council’s website.

15.8 The Director of Law & Governance will on a weekly basis send to every Councillor a record of all key executive decisions made by officers in the preceding week (the ‘Record of Officer Key Decisions’). No such officer key decision can be implemented prior to publication of the Record of Officer Key Decisions without the consent of the Chief Executive. Following the publication of the Record of Officer Key Decisions the provisions of Standing Order 8 of Annex 9 (Standing Orders for Scrutiny Committees – Call-In) shall apply.