

PART 4
Rules of Procedure
Access to Information Procedure Rules

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Access to Information Procedure Rules

1 Scope

These rules apply to all meetings of the Council, Scrutiny Committee and its Panels, area committees (if any), the Audit and Standards Committee and regulatory committees and 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 Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at Lewes District Council offices at Southover House, Southover Road, Lewes, BN7 1AB.

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 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 Council's senior legal 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 report 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) 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), or the advice of a political advisor.

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 will be kept at and available to the public at Southover House, Southover Road, Lewes, East Sussex, BN7 1AB.

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 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.

10.3 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 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.

10.4 Meaning of Exempt Information

Exempt information means information falling within the following categories (subject to the conditions shown):

Category of Exempt Information	Condition
1. Information relating to any individual.	See conditions 9 and 10 below.
2. Information which is likely to reveal the identity of an individual.	See conditions 9 and 10 below.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	See conditions 8, 9, 10 and 12 below.

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.	See conditions 9, 10, 11 and 12 below.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	See conditions 9 and 10 below.
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.	See conditions 9, 10 and 12 below.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	See conditions 9 and 10 below.

The following additional exempt information reasons apply in respect of the proceedings of Audit and Standards Committees (and their sub-committees):

Category
7A. Information which is subject to any obligation of confidentiality.
7B. Information which relates in any way to matters concerning national security.
7C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

Category

8. Information is not exempt information if it is required to be registered under:

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

“Financial or business affairs” includes contemplated as well as past or current activities.

9. Information is not exempt information 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 Country Planning General Regulations 1992.

10. Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. “Labour relations matter” means:

- (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
- (b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“Office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.

“Employee” means a person employed under a contract of service.

Category
12. "The authority" is a reference to the council or a committee or sub-committee of the council or a joint committee of more than one council.

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 Cabinet

Rules 13 – 20 apply to the Cabinet and its committees and to Cabinet Members and officers if they are making key decisions. 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.

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 five 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 (notices 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 (save in election years). 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 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 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 (if any) submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 28 days before the start of the period covered. The Council's senior legal 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.

14.3 Every councillor will be sent a copy of the forward plan by e-mail as soon as it is published.

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 (immediacy provision), 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 Head of Democratic Services has informed 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 Head of Democratic Services has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear days have elapsed since the Head of Democratic Services complied with (a) and (b).

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

16 Immediacy Provision

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 of the Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair 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 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 the Scrutiny Committee Chair, or the Chair/Vice-Chair 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 Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Council's senior legal officer, who shall require such a report on behalf of the Committee when so requested by the Chair or by any three of the Committee's 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 seven 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 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 (immediacy provision) 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 private, the Head of Democratic Services 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 a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19 Cabinet Meetings

All Cabinet meetings will be held in public.

20 Decisions by Individual Members of the Cabinet

20.1 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 after receipt of that report.

20.2 Provision of Copies of Reports to the 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 the Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

20.3 Record of Individual Decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Head of Democratic Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. 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.

21 Scrutiny Committee and its Panels – Access to Documents

21.1 Rights to Copies

Subject to Rule 21.2 below, the Scrutiny Committee or its Panels will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees or which was considered by the Cabinet or any of its committees at previous meetings and which contains material relating to

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

21.2 Limit on Rights

The Scrutiny Committee or its Panels 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.