

Access to Information Procedure Rules

1. Scope

Option 1: Executive Arrangements

These rules apply to all meetings of the Council, Scrutiny Committee, Area Committees, Standards Committee, Regulation Committee, and the District 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.

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 Offices, Brympton Way and on its website (www.southsomerset.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 and available for inspection at the Council Offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection for the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Democratic Services Specialist 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 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 Democratic Services Specialist 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, 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

All report authors 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 will be kept at and available to the public at the Council Offices, Brympton Way as part of the Council's Constitution.

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 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.

10.3 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

The following categories of information are exempt from the requirement to make publicly available information reported to any meetings of the Council, its committees or the Executive. Information in the categories below 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 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

Category	Additional Qualification
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).	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—</p> <ul style="list-style-type: none"> (a) the Companies Act 1985[3]; (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 <p>Financial or business affairs includes contemplated, as well as past or current activities.</p> <p>"registered" in relation to information required to be registered under the Building Societies Act 1986[11], means recorded in the public file of any building society (within the meaning of that Act).</p>
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	<p>"employee" means a person employed under a contract of service;</p> <p>"labour relations matter" means—</p> <ul style="list-style-type: none"> (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[10] (matters which may be the subject of a trade dispute, within

	<p>the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above;</p> <p>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;</p> <p>"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;</p>
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.	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable

11. Exclusion of Access by the Public to Reports

If the Democratic Services Specialist 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

Rules 13 – 24 apply to the District Executive and its committees. If the Executive 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. In accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 a "key decision" means an executive decision which is likely:

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

If the District Executive 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 3 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 Executive 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 of the Council 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 Executive, a committee of the Executive, 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 submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Democratic Services Specialist 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 Democratic Services Specialist 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 Democratic Services Specialist has made copies of that notice available to the public at the offices of the Council; and

- (d) at least 5 clear days have elapsed since the Democratic Services Specialist 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 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 Chairman of the Council, or in his/her absence the Vice Chairman 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 Chairman/Vice Chairman of the Council under Rule 16;

the Committee may require the Executive 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 Democratic Services Specialist, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

17.2 District Executive's report to Council

The Executive 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 District 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 District Executive or any of its committees, whether held in public or private, the Democratic Services Specialist 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. Meetings of the District Executive to be held in public

Meetings of the District Executive and its committee 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 or 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 or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

19A. Notice of Private Meetings of the District Executive

19A.1 Members of the District Executive 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.

19A.2 At least 28 clear days before a private meeting, the decision-making body must:-

19A.2.1 make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and

19A.2.2 publish that notice on the Council's website.

19A.3 At least five clear days before a private meeting, the decision-making body must:-

19A.3.1 make available at the offices of the Council a further notice of its intention to hold the meeting in private; and

19A.3.2 publish that notice on the Council's website.

19A.4 Notice under paragraph 19A.3 must include:-

19A.4.1 a statement of the reasons for the meeting to be held in private

19A.4.2 details of any representations received by the decision-making body about why the meeting should be open to the public; and

19A.4.3 a statement of its response to any such representations.

19A.5 Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:-

19A.5.1 the Chair of the Scrutiny Committee; or

19A.5.2 if there is no such person, or if the Chair of the Scrutiny Committee is unable to act, the Chairman of the Council; or

19A.5.3 where there is no chair of either the Scrutiny Committee or of the Council, the Vice Chairman of the Council,

that the meeting is urgent and cannot reasonably be deferred.

19A.6 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 19A.5 to hold a private meeting, it must

19A.6.1 make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and

19A.6.2 publish that notice on the Council's website.

20. Decisions by Individual Members of the Executive

20.1 Reports intended to be taken into account

Where an individual member of the Executive 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 5 clear days after receipt of that report.

20.2 Provision of copies of reports to Overview and Scrutiny Committees

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 Executive or a key decision has been taken by an officer, he/she will 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 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. Scrutiny Committee Access to Documents

21.1 Rights to copies

Subject to Rule 21.2 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 Executive or its committees and which contains material relating to any business transacted at a public or private meeting of the Executive or its committees.

21.2 Limit on rights

A 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;

22. Additional Rights of Access For Members

22.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 3 and 6 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

22.2 Material relating to key decisions

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 Executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

22.3 Nature of rights

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