

PART 4

(B) ACCESS TO INFORMATION PROCEDURE RULES

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AIPR1 SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committees and Sub-Committees, Township Committees and Sub-Committees, the Standards Committee, the Regulatory Committee, Employment Committee, Appointment Committee, Disciplinary Committee, Appeals Committees, public meetings of the Cabinet and Committees of the Cabinet (together called meetings).

Where these procedure rules refer to an Officer or a Head of Service, such reference shall be taken to include a secondee to or an employee of the Impact Partnership when authorised to act on behalf of the Council, or to a Manager of the Impact Partnership at an equivalent level when acting on behalf of the Council.

AIPR2 ADDITIONAL RIGHTS TO INFORMATION

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

AIPR3 RIGHTS TO ATTEND MEETINGS

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

AIPR4 NOTICES OF MEETING

The Council shall give at least five clear days' notice of any meeting by posting details of the meeting at the Town Hall, Rochdale and, as appropriate, the venue where the meeting will take place.

AIPR5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council shall 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 from the time the item was added to the agenda.

AIPR6 SUPPLY OF COPIES

The Council shall 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 on the agenda and

- (c) If the Borough Solicitor 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.

AIPR7 ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council shall 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 Executive, 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.

AIPR8 BACKGROUND PAPERS

8.1 List of background papers

The Borough Solicitor 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 or 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 Borough Solicitor shall 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.

AIPR9 SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Rochdale Town Hall and at the Council's Information Points and Libraries.

AIPR10 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 Exempt Information – public interest test

Information which falls within any of the paragraphs 1-7 at 10.5 below, and is not prevented from being exempt by virtue of any of the conditions listed below, 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.

10.4 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.

10.5 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any condition listed below):-

	Category	Interpretation
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)	"Financial or business affairs" includes contemplated, as well as past or current, activities. "Person" includes both incorporated and unincorporated associations of persons and, as such, an unincorporated charity falls within the definition of person as well as a company.

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 officer-holders under, the authority	"Employee" means a person employed under a contract of service. "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 the at Act); or (b) any dispute about a matter falling within paragraph (a) above; and, for the purposes of this definition, the enactments mentioned at (a) above, with the necessary modifications, shall apply to officer-holders under the authority as they apply 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 hold any such office or is an employee of the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6	Information which, if disclosed to the public, would reveal 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	"Person" includes both incorporated and unincorporated associations of persons and, as such, an unincorporated charity falls within the definition of person as well as a company.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

and in respect of a meeting of the Standards Committee, or a Sub-Committee of a Standards Committee, convened to consider a matter under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000

	Category	Interpretation
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 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	

Conditions

- a) Information falling within any paragraph above is not exempt information by virtue of that paragraph if that information is required to have been made available to the public by virtue of any other law.
- b) Information falling within paragraph 3 is not exempt information by virtue of this paragraph if it is required to be registered under:-
 - (a) the Companies Act 1985
 - (b) the Friendly Societies Acts 1974 and 1982
 - (c) the Industrial and Provident Societies Act 1965 to 1978
 - (d) the Building Societies Act 1986 or
 - (a) the Charities Act 1993

"Registered" in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).
- c) Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph 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.

AIPR11 **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Chief Executive 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.

AIPR12 **APPLICATION OF RULES TO EXECUTIVE DECISIONS**

Rules AIPR13 – 24 apply to the executive decisions. If the Executive meets to take a Key Decision then it should comply with Rules AIPR1 – 11 unless Rule AIPR15 (general exception) or Rule AIPR16 (special urgency) apply. A Key Decision is as defined in [Article 13.03](#) of this Constitution.

If the Executive meets to discuss a Key Decision to be taken collectively, with an Officer present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it should comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is [as defined in [Article 13.03](#) of this Constitution]. This requirement does not include meetings, whose sole purpose is for Officers to brief Members.

AIPR13 PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule AIPR15 (general exception) and Rule AIPR16 (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 Executive, notice of the meeting has been given in accordance with Rule AIPR4 (notice of meetings).

AIPR14 THE FORWARD PLAN

14.1 Period of Forward Plan

Forward Plans shall be prepared by the Chief Executive 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 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 shall contain matters which will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, Township Committees, Township Sub-Committees or Officers in the course of the discharge of an executive function during the period covered by the Forward Plan. It shall 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 a body, its name and details of membership and where the decision taker is an individual, his or her name and title, if any
- (c) The date on which, or the period within which, the decision will be taken

- (d) The identity of any 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 Officer 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 any documents submitted to the decision taker for consideration in relation to the matter
- (h) An indication of the Officer responsible for preparing the report.

The Forward Plan must be published at least 14 days before the start of the period covered. The Chief Executive shall 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 shall be prepared on a monthly basis
- (c) That the Forward Plan shall contain details of the Key Decisions to be made for the four month period following its publication
- (d) That each Forward Plan shall be available for inspection at reasonable hours free of charge at the Council's offices
- (e) That each Forward Plan shall contain a list of any documents submitted to the Executive or Officers for consideration in relation to the Key Decisions on the Forward 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 the Executive or Officers
- (h) The procedure for requesting details of any documents 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 shall not be included.

AIPR15 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 AIPR16 (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 Chief Executive has informed the Chair of the Performance Scrutiny Committee or, if there is no such person, each Member of that Committee, by notice in writing of the matter to which the decision is to be made
- (c) The Chief Executive 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 Chief Executive complied with (a) and (b) above

Where such a decision is taken collectively, it must be taken in public unless the decision contains confidential or exempt information.

AIPR16 SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule AIPR15 (general exception) cannot be followed, then the decision can only be taken if the Chief Executive, or his or her nominee, after consulting the Chair or Vice-Chair of the Performance Scrutiny Committee, or the Chair or Vice-Chair of an alternate relevant Overview and Scrutiny Committee should the Chair or Vice-Chair of the Performance Scrutiny Committee be unable to act, agrees that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chair or Vice-Chair of an Overview and Scrutiny Committee, then the Mayor, or in his or her absence, the Deputy Mayor shall be consulted.

AIPR17 REPORT TO COUNCIL

17.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee is of the opinion 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 a relevant Overview and Scrutiny Committee Chair or Vice-Chair, or the Mayor or Deputy Mayor under Rule AIPR16

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 Chief Executive, who shall require such a report on behalf of the Committee when so requested by the Chairman or any five Members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

17.2 **Executive's report to Council**

The Executive shall 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 Committee, then the report may be submitted to the meeting after that. The report to Council shall set out particulars of the decision, the body or individual making the decision, and, if the Leader, or in his or her absence the Deputy 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, or in his or her absence, the Deputy Leader, shall submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule AIPR16 (special urgency) in the preceding three months. The report shall include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

AIPR18 **RECORD OF EXECUTIVE DECISIONS TAKEN AT MEETINGS**

After any meeting of the Executive, whether held in public or private, the Chief Executive or, where no Officer was present, the person presiding at the meeting shall produce a record of every decision taken at that meeting as soon as practicable. The record shall include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, together with a record of any conflict of interest declared by any Member of the decision making body. In respect of any declared conflict of interest, the record shall contain a note of any dispensation granted by the Standards Committee.

AIPR19 **DECISIONS BY INDIVIDUAL MEMBERS AND OFFICERS**

19.1 Subject to Rule AIPR16 (Special Urgency) where an individual Member or Officer receives a report which he or she intends to take into account in making a Key Decision, then he or she shall not take the decision until the report has been available for public inspection for at least three clear days.

19.2 The Officer making the decision referred to in AIPR19, or in the event of a Member making such a decision the relevant Executive Director or Head of Service, shall ensure that the Chief Executive makes the report publicly available as soon as reasonably practicable after the Officer receives it. The

Chief Executive shall also ensure that the report contains a list of background papers and that they are also publicly available. The person who submitted the report shall, as soon as reasonably practicable, supply a copy to the Chair of any relevant Overview and Scrutiny Committee, or if there is no such person, to every Member of a relevant Overview and Scrutiny Committee.

19.3 As soon as reasonably practicable after a Member or an Officer has made a decision that is a Key Decision, the Officer shall produce a written statement that shall include:-

- A record of the decision and the reasons for it
- Details of any alternative options considered and rejected
- A record of any conflict of interest declared by an Executive Member who was consulted by the Officer who made the decision
- In respect of any declared conflict of interest, a note of any dispensation granted by the Standards Committee

19.4 The written statement prepared in accordance with Rule AIPR19.3 shall be available for public inspection as soon as is reasonably practicable.

19.5 Confidential information shall not be disclosed under these procedures and there is no requirement for the disclosure of exempt information.

AIPR20 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

20.2 Executive meetings relating to matters which are not Key Decisions shall be held in public except where the consideration of matters in public would lead to the disclosure of personal, confidential or exempt information.

AIPR21 NOTICE OF PRIVATE EXECUTIVE MEETINGS

21.1 Members of the Executive shall 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.

AIPR22 ATTENDANCE AT PRIVATE EXECUTIVE MEETINGS

22.1 All Members of the Executive shall be served notice of all private meetings of the Executive.

22.2 Notice of private meetings of the Executive shall be served on the Chairs of all Overview and Scrutiny Committees, at the same time as notice is served on Members of the Executive. Where a matter under consideration at a private meeting of the Executive is within the remit of an Overview and Scrutiny Committee, the Chair of that Committee, or in his or her absence, the Vice-Chair, may attend that private meeting with the consent of the Chair, but not speak unless those present agree.

22.3 The Chief Executive, the Borough Solicitor and the Executive Director (Resources) or their nominees are entitled to attend any meeting of the Executive. The Executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.

22.4 The provisions of Rule AIPR18 apply to the recording of decisions at private Executive meetings.

AIPR23 **MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES TO HAVE ACCESS TO DOCUMENTS**

23.1 Subject to Rule AIPR23.2, a Member of an Overview and Scrutiny Committee shall be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:-

- Any business that has been transacted at a public or private meeting of the Executive
- Any Key Decision that has been taken by an Officer

23.2 A Member of an Overview and Scrutiny Committee shall not be entitled to:-

- Any document that is in draft form
- Any part of a document that contains confidential or exempt information, unless that information is relevant to an action or decision he or she is reviewing or scrutinising or which is relevant to any review to be undertaken in accordance with the Overview and Scrutiny Work Programme.

AIPR24 **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

24.1 In addition to any other right he or she may have, Members are entitled to inspect:-

- (i) any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a public or private meeting of the Executive unless it contains exempt information other than information relating to paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) or to paragraph 6 of the categories of exempt information.
- (ii) any document (except a document in draft form) which is in the possession or under the control of the Executive which relates to any Key Decision unless it contains exempt information other than information relating to paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) or to paragraph 6 of the categories of exempt information.