

ACCESS TO INFORMATION PROCEDURE RULES

1 General

- 1.1 These rules apply to all meetings of the Shadow Council, its Committees and Sub-Committees and public meetings of the Cabinet.
- 1.2 In these Rules the word “meeting” means a meeting or meetings of any of those bodies unless specifies otherwise.
- 1.3 These rules do not affect any other specific rights to information contained elsewhere in this Constitution or the law.
- 1.4 Members of the public may attend all public meetings subject to the exceptions contained in these Rules.

2 Notice of Meetings

- 2.1 The Shadow Council will give, wherever possible, at least five clear working days notice of any such meeting by publicising, including by electronic means, relevant details.
- 2.2 A copy of the official notice will be sent to main libraries and appropriate information points. The notice will also appear on the Shadow Council’s website.

3 Agenda and Supporting Papers - Rights of Access

- 3.1 Copies of the Agenda and supporting papers will be made available, wherever possible, for inspection by the public at least five clear working days before the meeting. Where an item is added to an Agenda at a later date, a supplementary agenda will be made available, with any supporting papers, to the public as soon as possible. An electronic version of the supplementary agenda and supporting papers will also be made available electronically to Shadow Councillors.
- 3.2 The Shadow Council will supply on request copies of any agenda and reports which are open to public inspection, and if the Interim/Appointed Monitoring Officer thinks fit, copies of any further documents supplied to Shadow Councillors relating to that item.
- 3.3 The Shadow Council may require any person to make a payment in advance covering postage and costs connected to the supply of the papers in 3.2 above.

4 Access to Decision Records, Minutes, Agenda and Supporting Papers after a meeting

4.1 The Shadow Council will make electronically available, for a period of six years from the date of the meeting:

- the minutes of the meeting where, under these rules or the Constitution Minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
- the records of decisions taken, together with reasons by the Cabinet, excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed.
- where information relating to a decision is considered in private, a summary of the proceedings to provide a reasonably fair and coherent record will be provided excluding any information which is of a confidential or exempt nature;
- the agenda and supporting papers covering items which were considered when the public were entitled to be present.

5 Background Documents

5.1 The Officer, in whose name an item is to be submitted for decision, will set out in the agenda a list of the background documents which in his/her opinion:

- relates to the subject matter of the item in question;
- discloses any facts or matters on which the agenda item or an important part of it has been based;
- has been relied upon to a material extent in preparing the agenda item.

5.2 The requirements in 5.1 above do not apply to or include any published works or any document in whole or in part which would disclose confidential or exempt information.

5.3 Background documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made.

6 Exclusion of the Public from Meetings

Confidential Information – Requirement to Exclude

- 6.1 The public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that confidential information, as described in 7.2 below, will be disclosed.

Exempt Information – Discretion to Exclude

- 6.2 In the case of exempt information, the public may be excluded from a meeting where the criteria in 7.3 and Appendix 1 applies.
- 6.3 Where a meeting will determine a person's civil rights or obligations or adversely affect their possessions, Article 6 of the Convention of Human Rights as applied by the Human Rights Act 1998 will apply to the extent that it establishes a presumption that a meeting will be held in public unless a private hearing is necessary for one of the reasons specified in the Act or in particular Article 6 of the Convention.

7 Definition of Confidential and Exempt Information

- 7.1 For the purposes of these Rules the definitions of confidential and exempt information are set out below.
- 7.2 **Confidential Information** means information supplied or given to the Shadow Council by a Government Department on terms which forbid its disclosure to the public or is information which cannot be disclosed to the public by Order of the Courts.
- 7.3 Exempt Information is information falling within any of the categories set out in Appendix 1 subject to the conditions noted in that Appendix.

8 No Public Right Of Access To Agenda Papers

- 8.1 The Interim/Appointed Monitoring Officer, where he/she considers it necessary, may refuse access by the public to any agenda or supporting papers which in his/her opinion relate to items during which, in accordance with paragraph 6 above, the meeting is likely not to be open to the public. Any such papers will be clearly marked "Not for Publication" and will contain the category of information to be disclosed as set out in Appendix 1 to these Rules. Similar provisions apply to the disclosures of documents related to decisions of the Shadow Council, including the Cabinet.

9 The Cabinet: Application of these Rules

- 9.1 Paragraphs 11 to 20 will apply to the Cabinet and any Committees or Sub-Committees which it may establish from time to time.
- 9.2 Where the Cabinet, including a Committee or Sub-Committee of the Cabinet meet to take a key decision (as defined) then paragraphs 1 to 8 above will apply except when paragraphs 12 or 13 are applicable. A key decision is defined in Article 13 of this Constitution.
- 9.3 Where the Cabinet, including a Committee or Sub-Committee of the Cabinet meet to discuss a key decision, with an officer or officers present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must comply with paragraphs 1 to 8 above unless paragraphs 12 (general exception) or 13 (special urgency) apply. This requirement does not apply where the sole purpose of the meeting is for officers to brief Members.

10 Procedure Prior to a Key Decision

- 10.1 Subject to paragraphs 12 or 13, a key decision cannot be taken unless
- notice has been given of the matter in question in the Forward Plan
 - at least three clear working days have elapsed since publication of the Forward Plan, and
 - where the decision is to be taken at a meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, notice of the meeting has been given under paragraph 2 above.

11 The Forward Plan

- 11.1 The Forward Plan will be prepared on behalf of the Leader of the Shadow Council on a monthly basis to cover a four month period beginning with the first day of any month. The Plan will be rolled forward and published each month to cover the four month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Plan. In this case paragraph 12 or 13 below will apply
- 11.2 The Plan will contain such matters as the Leader has reason to believe will be classified as a key decision to be taken by the Cabinet, a Committee or Sub-Committee of the Cabinet, an Officer in the course of the discharge of an Cabinet function during the period covered by the Plan.
- 11.3 The Plan will describe in respect of each matter the following particulars where the information is available or might reasonably be obtained:

- the matter relating to the decision to be made;
 - the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
 - the date on which, or the period within which, the decision will be taken;
 - the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
 - the means by which any such consultation is proposed to be undertaken;
 - the steps any person might take to make representations to the Cabinet or decision taker about the matter before the decision is made, and the date by which those steps must be taken; and
 - a list of the documents to be submitted to the decision taker for consideration in relation to the matter.
- 11.4 The Forward Plan will be published at least 14 days before the start of the period it is to cover.
- 11.5 The Interim/Appointed Monitoring Officer will publish, once a year, a notice in at least one newspaper circulating in the area, stating that:
- key decisions are to be taken on behalf of the Shadow Council;
 - a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
 - the plan will contain details of the key decisions to be made for the four month period following its publication;
 - each plan will be available for inspection at all reasonable hours free of charge at the Shadow Council's offices;
 - each plan will contain a list of the documents to be submitted to the decision takers for consideration in relation to the key decisions in the plan;
 - copies of, or extracts from, any document listed in the Forward Plan are available from the Interim/Appointed Monitoring Officer at the Shadow Council's offices, subject to any prohibition or restriction on their disclosure;
 - other documents may be submitted to decision takers;

- details of documents (if any) as they become available can be requested; and
 - the dates on each month in the following year on which each forward plan will be published and available to the public.
- 11.6 Confidential and exempt information will not be included in a Forward Plan.

12 General Exception for Key Decisions

- 12.1 If a matter which is likely to be a key decision has not been included in the Forward Plan then, subject to paragraph 13, the decision may still be taken if:
- the decision has to be taken by such a date that it is impracticable to defer the decision until it can be included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
 - the Interim/Appointed Monitoring Officer has informed the Chairman 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;
 - the Interim/Appointed Monitoring Officer has made copies of that notice available to the public at the offices of the Shadow Council; and
 - at least five clear working days have elapsed since the Interim/Appointed Monitoring Officer complied with his obligations under this paragraph.
- 12.2 Where such a decision is taken by the Cabinet, it must be taken in public subject to any requirements relating to the disclosure of confidential or exempt information and the exclusion of the public.

13 Special Urgency for Key Decisions

- 13.1 If by virtue of the date by which a key decision must be taken, the requirements of paragraph 12 above cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body taking the decision, obtains the agreement of the Chairman of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny Committee or if he or she is unable to act, then the agreement of the Chairman of the Shadow Council, or in his/her absence the Vice Chairman will suffice.

- 13.2 In addition to the requirement for the Chairman to agree to the matter being dealt with as urgent business, the Chairman and Spokespersons of the Scrutiny Committee will be consulted, and may comment, on the subject matter of the decision itself.

14 Report to Shadow Council

- 14.1 If the Scrutiny Committee is of the opinion that a key decision has been taken which was not:

- included in the forward plan; or
- the subject of the general exception procedure under paragraph 12 above; or
- the subject of an agreement with the Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Shadow Council under paragraph 13 above;

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

- 14.2 In response to any requirement under 14.1 above, the Cabinet will prepare a report for submission to the next available meeting of the Shadow Council. However, if the next meeting of the Shadow Council is within 7 days of the resolution of the Committee, then the report may be submitted to the subsequent meeting. The report to the Shadow Council will set out particulars of the decision, the individual or body taking the decision, and if the Cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

15 Record of Decisions

- 15.1 After any meeting of the Cabinet or any of its Committees or Sub-Committees, whether held in public or private, the Interim/Appointed Monitoring Officer will normally produce within two clear working days an electronic record of every decision taken at that meeting. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

16 Cabinet Meetings Relating to Matters which are not Key Decisions

- 16.1 The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.

17 Meeting of the Cabinet in Private

- 17.1 Where a meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, is to be held in private under these Rules, all Members of the Cabinet shall be entitled to be given three clear working days notice of the meeting, whether or not they are summoned to attend, unless the meeting is convened at shorter notice on urgency grounds.
- 17.2 A copy of the notice shall be sent to the Chairman of the Scrutiny Committee.

18 Attendance at Private Meetings of the Cabinet

- 18.1 Any Member of the Cabinet may attend a private meeting of a Committee or Sub-Committee of the Cabinet whether or not they are Members of that body unless the body determines otherwise.
- 18.2 Any Cabinet Member who is not a Member of such a Committee or Sub-Committee shall be entitled to speak with the consent of the person presiding but not to vote.

19 Officer attendance at Cabinet Meetings

- 19.1 The Head of the Paid Service, the Interim/Appointed Chief Finance Officer and the Interim/Appointed Monitoring Officer, or their nominees, are entitled to attend any meeting of the Cabinet. The Cabinet cannot meet unless the Interim/Appointed Monitoring Officer has been given reasonable notice that a meeting is to take place. This provision also applies to Committees and Sub-Committees of the Cabinet.
- 19.2 A private meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, may only take place in the presence of the Interim/Appointed Monitoring Officer or his nominee, who shall have responsibility for recording and publicising any decisions.
- 19.3 The provisions in paragraph 15 will apply.

20 Decisions by Individual Cabinet Members

- 20.1 There are currently no individual Cabinet member decision making powers.

21 Access to Documents - Scrutiny Committee

- 21.1 Subject to paragraph 21.2 below, a Member of the Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet including its Committees and Sub-Committees and which contains material relating to:

- any business transacted at a meeting of the Cabinet including any of its Committees and Sub-Committees; or
- any decision taken by an officer in accordance with Cabinet arrangements.

21.2 A Member of the Scrutiny Committee will not be entitled to a copy of:

- any document that is in draft form;
- any such document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision he/she is reviewing or scrutinising or any review contained in any programme of work of the Committee.

22 Additional Rights of Access 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 including its Committees or Sub-Committees and contains material relating to any business previously transacted at a meeting unless it contains exempt information falling within the categories of exempt information as set out in the Appendix.

22.2 All Members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet including its Committees and Sub-Committees which relates to any key decision unless paragraph 22.1 above applies.

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

DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

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).
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.
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.