

## **Part 4B: Access to Meetings and Information Procedure Rules.**

### **1. Scope**

- 1.1 These rules apply to all meetings of the Council, scrutiny committees, area committees, regulatory committees and meetings of the Council's Executive. They also apply to meetings of working parties of councillors unless specifically excluded by a working party's terms of reference. These are referred to collectively as "meetings" in these Rules.
- 1.2 The rules also apply to some decisions made by Council officers.
- 1.3 The rules cover the following:
  - (a) The rights of members of the public to attend meetings
  - (b) The rights of members of the public to record meetings
  - (c) The rights of members of the public to speak at meetings
  - (d) How the Council gives notice of meetings
  - (e) Public access to agendas, reports and background papers
  - (f) Publication of records of decisions
  - (g) Publicity given when key decisions are to be made

### **2. Additional rights to information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. In particular, these rules supplement the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. In the case of any conflict between these rules and wider rights, the wider rights will prevail.

### **3. Rights to attend meetings**

Members of the public may attend all meetings subject to these exceptions:

#### **3.1 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.

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.

#### **3.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings or parts of meetings during which it is likely that exempt information would be disclosed.

Exempt information means information falling within the 7 categories (subject to any condition) set out in **Appendix 1** to these Rules.

### **3.3 *Disorderly conduct or misbehaviour***

Members of the public may be excluded from meetings to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

### **3.4 *Notice of private meetings of the Executive***

This rule applies to “private meetings” of the Council’s Executive, committees of the Executive and certain other bodies (e.g. joint committees) meeting to make Executive decisions collectively. (It does not apply to meetings of scrutiny committees.) A “private meeting” is a meeting in respect of which a decision has been made to exclude the public from all or part. The following steps must be taken for private meetings:

- (a) At least 28 clear days before a private meeting the Council must make available at its offices notice of its intention to hold the meeting in private and must publish the notice on its website. The notice must include a statement of the reasons for holding the meeting in private.
- (b) At least 5 clear days before a private meeting, the Council must make available at its offices a further notice of its intention to hold the meeting in private and must publish the notice on its website. The notice must include a statement of the the reasons for holding the meeting in private, details of any representations received by the Council about why the meeting should be open to the public and a statement of its response to any such representations.
- (c) Where compliance with this rule is impractical by reason of its date, the meeting may only be held in private with the agreement of the chair of the relevant scrutiny committee (or, if the chair is unable to act, the Mayor) that the meeting is urgent and cannot reasonably be deferred. In these circumstances, the Council must make available at its offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and must publish the notice on its website.

## **4. Rights to record meetings**

The public may record (e.g. film, audio, tweet, blog) meetings which are open to the public.

The Chair of the meeting has the discretion to stop or suspend recording if in their opinion continuing to do so would disrupt proceedings at the meeting. The circumstances in which this might occur include :

- excessive noise in recording or setting up and re-siting equipment
- intrusive lighting and use of flash photography
- asking people to make repeat statements for the purposes of recording
- moving to areas outside the area designated for the public without the Chair’s consent

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Those recording meetings are strongly urged to respect the wish of any member of the public not to be recorded.

Agendas for, and signage at, meetings will make it clear that recording can take place. Anyone who does not wish to be recorded should let the Chair of the meeting know.

Recording and reporting the meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance; e.g. with the Human Rights Act, the Data Protection Act and the laws of libel, defamation and public order. Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.

### **5. Rights to speak at meetings**

The rights of members of the public to speak at Council meetings are set out in **Appendix 2** of these Rules.

### **6. How the Council gives notice of meetings**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at The Guildhall, Market Square, Cambridge and on its web site. Where the meeting is convened at shorter notice, details of the meeting shall be published when it is convened.

### **7. Access to agenda, reports and background papers before decisions**

- 7.1 The Council will make copies of the agenda and reports open to the public available for inspection at the Guildhall and on its website at least five clear days before the meeting. If an item is added to the agenda within five clear days of the meeting, the revised agenda will be open to inspection for the time the item was added to the agenda. If a report to a meeting is prepared after the agenda has been published, the Council shall make the report available to the public as soon as it is completed and sent to councillors.
- 7.2 Reports shall include a list of background papers. A copy of each background paper must be available for inspection at the Guildhall and on the Council's website. A background paper is a document which, in the author's opinion, discloses any facts or matters on which the report or an important part of the report is based, and that have been relied on to a material extent in preparing the report. Excluded from this are published works or documents which disclose exempt or confidential information
- 7.3 The Council will supply copies of agendas, reports and other documents supplied to councillors in connection with reports to any person on payment of a charge for postage and any other costs. This rule does not require the publication of confidential or exempt information.

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74. The Council may exclude access by the public to reports which, in the opinion of the Director responsible for the report, relate to items for which the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of exemption that applies to the information.

### **8. Access to minutes, records of decisions, reports and background papers after decisions**

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

- (a) the minutes of meetings, 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.

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.

#### **8.2 *Records of decisions by members of the Executive***

As soon as reasonably practicable after an executive decision has been taken by a member of the Executive, the Democratic Services Manager will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. It shall also include a record of any conflict of interest declared by a decision-maker and any note of dispensation granted by the Chief Executive. The Record of Decision shall be sent to all members of the appropriate overview and scrutiny committee(s) promptly.

The provisions of Rule 8.1 in respect of reports and background papers will also apply to decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information.

### **9. Records of decisions by officers**

#### **9.1 *Decisions taken on behalf of the Executive***

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 is consulted by the officer which relates to the decision; and

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- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

### **9.2 Decisions taken on behalf of the Council or its regulatory committees.**

This rule applies to a decision that would otherwise have been taken by the Council, or a committee, sub-committee of the Council or a joint committee in which the Council participates, but which has been delegated to a Council officer either—

- (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 or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

The written record must be produced as soon as reasonably practicable after the decision making officer has made the decision and must contain the following information—

- (a) the date the decision was taken;
- (b) a record of the decision taken along with reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where the decision is made under a specific express authorization, the names of any member who has declared a conflict of interest in relation to the decision.

The duty imposed by this section is satisfied where, in respect of a decision, a written record containing the required information is already produced in accordance with any other statutory requirement.

## **10. Rules relating to “key decisions”.**

### **10.1 Definition**

A key decision is an executive decision, which is likely—

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council'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 Cambridge.

A detailed definition is set out in paragraph 12.3.2 of Part 2 of this Constitution.

### **10.2 Publicity on connection with key decisions**

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- (1) Where a decision maker intends to make a key decision, that decision must not be made until a document has been published in accordance with paragraph (2), which states:
  - (a) that a key decision is to be made on behalf of the Council;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
  - (d) the date on which, or the period within which, the decision is to be made;
  - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
  - (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; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.
- (2) At least 28 clear days before a key decision is made, the document referred to in paragraph (1) must be made available for inspection by the public—
  - (a) at the Guildhall; and
  - (b) on the Council's website.
- (3) Where, in relation to any matter—
  - (a) the public may be excluded from the meeting at which the matter is to be discussed; or
  - (b) documents relating to the decision contain confidential or exempt information,

the document referred to in paragraph (1) must contain particulars of the matter but may not contain any confidential or exempt information.

### **10.3 General exception to publicity requirement**

If the publicity requirement in 9.2 has not been met, a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 9.4 (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 the publicity requirement has been met;
- (b) the Chief Executive has informed the chair and any group spokespersons of a relevant overview and scrutiny committee, or if there is no chair, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has available to the public at the Guildhall and on the Council's website a notice setting out reasons why compliance with the publicity requirement is impractical; and

- (d) at least 5 clear days have elapsed since the Chief Executive complied with (b) and (c).

#### **10.4. *Special urgency***

If by virtue of the date by which a decision must be taken Rule 9.3 (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 a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor or, in his/her absence, the Deputy Mayor will suffice.

#### **10.5 *Right of scrutiny committees to require a report to Council***

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- (a) publicised in accordance with Rule 10.2; or
- (b) the subject of the general exception procedure in Rule 10.3; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the Mayor/Deputy Mayor of the Council under Rule 10.4;

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 Monitoring Officer, who shall require such a report on behalf of the committee when so requested by a majority of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

#### **10.6 *Executive's report to Council on key decisions***

- (1) If required by a scrutiny committee under Rule 10.5, 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.
- (2) In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 10.4 (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.

#### **10.7 *Key decisions taken by individual members of the Executive***

**(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, subject to the need to make an urgent decision.

**(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 every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.. This rule does not require the publication of confidential or exempt information.

**11. Overview and scrutiny committee access to documents**

**11.1 Rights to copies**

Subject to Rule 11.2 below, an overview and 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:

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

**11.2 Limit on rights**

An overview and 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 scrutinize

**12. Additional rights of access to information for members**

**12.1 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 it contains exempt information falling within paragraphs 1,2,4,5 and 7 of the categories of exempt information and the information within paragraph 3 referring to any terms proposed by or to the authority in the course of negotiations for a contract.

**12.2 Nature of rights**

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

## **Appendix 1: Definition of “Exempt Information”**

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.

### **Conditions relating to exempt information**

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph 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.

Information 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.

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.

## **Interpretation of exempt information**

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"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;

"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).

## **Appendix 2: Public speaking rights**

### **1. *Public speaking rights at Council meetings and committees***

Set out below is the scheme that allows members of the public to speak at Cambridge City Council meetings.

If you have any questions on the scheme, please contact the Council's Committee Section at The Guildhall, email [democratic.services@cambridge.gov.uk](mailto:democratic.services@cambridge.gov.uk) telephone (01223) 457169, 457086, 457012 or 457015.

#### **To which bodies does the right to speak apply?**

Meetings of the full Council, all committees, sub-committees and working parties; with the exception of:

- Planning Committee (see below) and Licensing Sub-Committees and Taxi Licensing Sub-Committees, which have their own schemes for public speaking rights;
- Any working parties which are not open to the public;
- The Employment Appeals Sub-Committee

It also applies where an executive councillor is making a decision in public without the presence of a scrutiny committee. Where this is the case, references in this scheme to the Chair shall be read as referring to the executive councillor.

#### **Is it a right to ask questions or to make statements?**

Both.

#### **How should questions or statements be addressed?**

At Council meetings, to the Chair of the relevant committee, or to the relevant member of the Executive, as determined by the Mayor. At Committee meetings etc., to the Chair of the meeting or to the appropriate Executive Councillor if it relates to an Executive function. However, in both cases, the Chair or Executive Councillor may invite another member or an officer to respond. Questioners/speakers should begin by saying whether they are representing a person, a firm or an organisation, or whether they are speaking on behalf of themselves.

#### **Are questions and/or statements confined to matters on the agenda or permitted on all matters within the Committee's (or other body's) areas of responsibility?**

Questions may be asked, and statements may be made, in respect of all matters within the Committee's or other body's areas of responsibility.

#### **Is there a requirement for advance notification of a wish to speak or ask a question?**

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If the question or statement concerns a matter which is on the agenda for the meeting in question, then the speaker or questioner should register their intention to speak with the Committee Manager before the start of the meeting. If it concerns a matter which is not on the agenda, then notice of the question or of the subject matter must be given to the Committee Manager by 10.00 am on the working day preceding the meeting.

### **Are there time limits?**

Yes. Three minutes per speaker or questioner, with a further two minutes for a supplementary question or response. There is an overall time limit for public questioning and statements of 30 minutes, to include the time taken by responses to questions and statements. Each limit is extendable at the Chair's discretion.

### **Are there rules about the nature of questions and statements?**

The scheme includes the following restrictions:

- Questions and statements should not contain offensive or defamatory expressions;
- Questions and statements should not relate to the conduct of individual Council employees or to human resources matters (eg disciplinary proceedings or grievances);
- Questions and statements should not divulge confidential or exempt information.

The Chair or Executive Councillor may refuse to reply to a question, and may refuse to refer the question to another member or to an officer at his/her discretion. Examples of circumstances in which it might be appropriate to decline to reply to a question include:

- Where an answer would involve divulging confidential or exempt information. (In appropriate cases, a written response may be possible with the consent of individuals whose personal information is being protected);
- Where the question concerns actual or potential legal proceedings involving the Council;
- Where responding to a question would involve a disproportionate use of resources in compiling an answer;
- Where there has been insufficient time to research an answer before the meeting.

The Chair or Executive Councillor may refuse to permit a question or a statement if it (or something similar) has already been put or made to another meeting of a Council committee or other body. The Chair may also discourage repetition and limit rights of address if more than one member of the public wishes to make a similar point. The Chair may determine the order in which questions and statements may be put.

### **When in the meeting are questions or statements made?**

This is left to the discretion of the Chair but, ordinarily, questions and statements will be dealt with at the beginning of the meeting. However, where a statement or a question

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relates to a matter on the agenda it may be appropriate for it to be put immediately preceding the consideration of the item by the committee or other body.

### **Can there be any debate on questions or statements?**

The Chair may comment on a response to a question or a statement if it has been referred by him/her to another member or to an officer but there is to be no general debate. If a question or statement relates to an item on the agenda, points arising from it may be pursued when the item is under consideration. If an item is not on the agenda, members are entitled to request its inclusion at a future meeting.

### **What if there is any dispute about procedure or the interpretation or application of these rules?**

The Chair's decision is final.

## **2. *Public speaking at Planning Committee***

Members of the public, or applicants or their agents, who want to speak about an application which is to be considered at a meeting of the committee can do so if they have:

- In the case of members of the public, already submitted a written representation on an application; and
- Notified the Administrator by 12.00 noon on the day before the meeting.

A member of the public who has made a written representation on a planning application which is to be determined by the committee, will be notified in writing about the committee date and their public speaking rights in the week before the committee meeting.

### **At the Committee Meeting**

A list of public speakers is available at the meeting. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.

Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.

If more than one person wants to make a representation about the same application, then they should chose someone to act as a spokesperson. When several people wish to speak on the same application but wish to raise different issues, the Chair may agree to those speakers making representations. In these circumstances, less time may need to be given to each speaker.

The Chair will ask the speaker to come to the table at the beginning of the discussion of the report on the relevant application. The Chair will then invite them to speak following the Officer's introduction to the report on the application.

The speaker should address the Chair of the Committee, which is the normal convention for Committees.

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Speakers should remember to:

- Keep to 3 minutes or whatever other period has been agreed.
- Keep to the planning issues raised by the application.
- Highlight the main points they wish to raise and be as brief and concise as possible.
- Be courteous.
- At the end of public speaking, the Committee will discuss and determine the planning application.

*If a speaker is attending the meeting to speak about a particular matter which Councillors are considering on that day, the Chair of the meeting will arrange for the relevant item and associated report to be considered early in the meeting, so that the speaker can leave as soon as the debate on that matter has finished. Speakers can, of course, stay for the whole of the remaining public meeting if they wish.*

*The Public Participation Scheme is intended for Cambridge citizens and business people and not specifically employees in relation to issues directly affecting their employment by the Council. For further advice on this contact the relevant committee manager responsible for the meeting you are interested in.*