

# **Access to Information Procedure Rules**

(Note: Where an \* appears it denotes a statutory requirement)

## **1. SCOPE**

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Board, area committees (if any), the Standards Committee and regulatory committees and public meetings of the Executive (together called meetings) and certain rules apply to the decisions of Individual Members and Officers.
- 1.2 The rules set out in this Section shall not apply to meetings of the Licensing Committee or sub-committees which shall be governed by Regulations made under Section 9 of the Licensing Act 2003 and any future rules determined by the Licensing Committee under that Section.
- 1.3 These rules also cover public rights of access to information, in relation to Council and Executive functions, and Members' rights of access to information.

## **2. ADDITIONAL RIGHTS TO INFORMATION**

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

## **3. RIGHTS OF THE PUBLIC TO ATTEND MEETINGS**

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

## **4. NOTICES OF MEETING \***

- 4.1 The Council will give at least five clear working days-notice of any meeting by posting details of the meeting on the public notice board inside the main reception of the Town Hall and on its website – [www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk).
- 4.2 Where it is necessary to hold a meeting, or part of a meeting in private and exclude the press and public in order to consider exempt or confidential information, (whether during the whole or part of the proceedings at the meeting) the reasons will be specified in the resolution to exclude the press and public. The reasons will depend on the nature of the business to be transacted.

## **5. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE \***

- 5.1 Under the statutory instrument, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, there is now a requirement for Local Authorities to give at least 28 clear days' notice of its intention to hold a meeting in private.
- 5.2 The Local Authority must:
  - (a) make available on the public notice board of the relevant local authority a notice of its intention to hold the meeting in private; and
  - (b) publish that notice on the local authority's website;

- (c) The notice must include the reasons as to why the meeting is to be held in private;
- (d) Where a date which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chair of the Overview and Scrutiny Board, or where there is no such person, or the Chair of the Overview and Scrutiny Board is unable to act, agreement would be obtained from the Chair of the Council;
- (e) The Chair of the Overview and Scrutiny Board must be provided with a clear case as to why the meeting is urgent and cannot be reasonable deferred;
- (f) Once agreement has been sought, steps (a) – (c) must be followed;
- (g) Where the report contains confidential information as defined below the public must be excluded.
- (h) Members of the 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. The notice should set out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.

## **6. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

### **6.1 Notice and Attendance**

- (a) All members of the Executive will be served notice of all private meetings of the Executive or its committees, whether or not they are members of that committee.
- (b) All members of the Executive are entitled to attend a private meeting of any committee of the Executive.
- (c) Members other than Executive members will not be entitled to attend private meetings of the Executive, and its committees without the prior agreement of the Elected Mayor or Chair.

### **6.2 Officer Involvement**

- (a) The Head of the Paid Service, the Chief Finance Officer, the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- (b) A private Executive meeting may only take place in the presence of the Proper Officer or their nominee with responsibility for recording and publicising the decisions

## **7 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

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

**8. ACCESS TO AGENDA AND REPORTS BEFORE MEETING (EXCEPT FOR PRIVATE EXECUTIVE MEETINGS – SEE RULE 5) \***

8.1. A summons to attend Council meetings will be emailed to members at least 5 clear working days before the meeting.

8.2 The Council will make copies of the agenda open to the public available for inspection at the main reception of the Town Hall and on its website [www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk) not less than five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

8.3 The Council will make copies of the reports available on its website [www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk), and upon request to Democratic Services. Where reports are prepared after the agenda has been sent out, the Council shall make each such report available to the public, as above, as soon as the report is completed and sent to Councillors.

8.4. In respect of a meeting of the Executive, a committee of the Executive, or a meeting under joint arrangements in the course of the discharge of an executive function;

8.5 The Council will make available electronic copies of the agendas and reports to all members, as well as being made available on the Council website [www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk), unless the report is confidential or exempt (see para x) where it would only be made available to members of the Executive or the relevant committee, not less than five clear working days before the decision is taken.

**9. SUPPLY OF COPIES \***

9.1 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public

9.2 The Council will supply copies of the following to any person on payment of a charge for copying and postage.

- (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 Proper Officer thinks fit, copies of any other documents supplied to Members and the Elected Mayor in connection with an item to any person on payment of a charge for copying and postage.

Alternatively copies are available on the council website and can be downloaded free of charge:

Copies of documents supplied to members of the public, where the Council is the copyright holder, may be reproduced in any publically available medium.

## **10. ACCESS TO AGENDAS, REPORTS AND MINUTES AFTER MEETINGS\***

10.1 The Council will publish on its website and make available hard copies of the following documents for six years after the date of a meeting:-

- (a) the minutes of the meeting or, in the case of meetings of the Executive, records of decisions taken including the reasons for those decisions, excluding any part of the minutes, or record of decisions, 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.

## **11. BACKGROUND PAPERS \***

### **11.1 List of background papers**

The relevant officer, usually the author, will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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

This will exclude any published works or those which disclose exempt or confidential information (as defined in Rule 13) and/or in respect of reports to the Executive, the advice of a political advisor, or any draft report or document.

### **11.2 Public inspection of background papers**

The Council will make available, on request, for public inspection for four years after the date of the formal committee meeting one copy of each of the documents on the list of background papers.

## **12. SUMMARY OF PUBLIC'S RIGHTS \***

12.1 A written summary of the public's rights to attend meetings and to inspect and copy documents, as set out in these Rules, must be kept at and available to the public at the Council's principal offices. These Access to Information Procedure Rules constitute the written summary.

### **13. EXCLUSION OF ACCESS BY THE PUBLIC AND COUNCILLORS WHO ARE NOT MEMBERS OF A COMMITTEE TO MEETINGS \***

#### **13.1 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. Likewise, public access to reports and background papers will also be excluded.

#### **13.2 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

#### **13.3 Exempt information: discretion to exclude public**

The public or councillors who are not a member of the committee **may** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted that exempt information would be disclosed. Exempt information means information falling within the 7 categories outlined in 12A of the Local Government Act 1972 provided:

(a) the meeting resolves so to exclude the public or councillors who are not a member of the committee, and that resolution identifies the proceedings or part of the proceedings to which it applies, and

(b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (as outlined in Rule 14 below), the description of the exempt information giving rise to the exclusion of the public, and

(c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, public access to reports, background papers and minutes will also be excluded. Such reports will be marked 'Not for publication' together with the category of information likely to 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.

Once the decision to exclude the public has been made, the effect of passing of such a resolution is it removes the provision that the meeting is open to anyone but the membership of that committee and those persons expressly invited to attend. This decision includes Members of the Council who are not members of that committee. Each council will have its own protocol on how other members may or may not then be a party to that exempt discussion, but the law is clear that it does exclude any other member not part of that committee.

## 14. Meaning of exempt information

14.1 Exempt information means information falling within any of the categories set out in the following table, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 1972 (as amended).

14.2 Information falling within any of paragraphs 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

Category	Condition
1. Information relating to any individual.	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
2. Information which is likely to reveal the identity of an individual.	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>Information is only exempt if and for so long as:</p> <p>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other persons; or</p> <p>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or</p> <p>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<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 officer-holders under the authority.</p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <p>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is only exempt:</p> <p>(a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>



<b>Category</b>	<b>Condition</b>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is exempt only if and so long as:</p> <p>(a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and</p> <p>(b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice-</p> <p>(a) criminal investigations and proceedings; or</p> <p>(b) the apprehension or prosecution of offenders; or</p> <p>(c) the administration of justice; or</p> <p>(d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or</p> <p>(e) regulatory enforcement; or</p> <p>(f) any civil proceedings; or</p> <p>(g) Health and safety; or</p> <p>(h) information obtained from confidential sources; and</p> <p>(i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

### Meaning of exempt information (health scrutiny)

<b>Category</b>	<b>Condition</b>
<p>1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a relevant body.</p>	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.</p>
<p>2. Information relating to any particular occupier or former occupier of, or</p>	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.</p>

applicant for, accommodation provided by or at the expense of a relevant body.	
3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
5. The amount of any expenditure proposed to be incurred by a relevant body under any particular contract for the acquisition of property or the supply of goods and services.	Information is exempt if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with a relevant body in respect of the property, goods or services, whether the advantage would arise as against that body or as against other such persons.
6. Any terms proposed or to be proposed by or to a relevant body in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.	Information is exempt if and so long as disclosure to the public of the terms would prejudice a relevant body in those or any other negotiations concerning the property or goods or services.
7. The identity of a relevant body (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services.	
8. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between a relevant body or a Minister of the Crown and employees of, or office-holders under, a relevant body.	Information is exempt if and so long as disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph.
9. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with: (a) any legal proceedings by or against a relevant body, or (b) the determination of any matter affecting a relevant body, (whether, in either case, proceedings have been commenced or are in contemplation).	
10. Information relating to a particular person who is or was formerly included in, or is an applicant for inclusion in, a list	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.

of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Health Authority.	
11. Information relating to a particular person who is or was providing services, or has made a request to a Health Authority to become a person providing services, under arrangements under section 28C of the 1977 Act.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
12. Information relating to a particular person who is or was formerly performing personal medical services or personal dental services in accordance with arrangements under section 28C of the 1977 Act.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
13. Information relating to any particular employee, former employee, or applicant to become an employee, of a person referred to in paragraph 10, 11 or 12.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
14. Information relating to the physical or mental health of a particular individual.	

## 15. Disturbance

15.1 The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

## 16. ACCESS TO INFORMATION RULES TO THE EXECUTIVE \*

16.1 Rules 17 – 31 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 – 13 unless Rule 21 (general exception) or Rule 22 (special urgency) apply.

16.2 If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a mayoral/ political assistant present, within 28 days of the date according to the forward work programme by which it is to be decided, then it must also comply with Rules 1 – 13 unless Rule 21 (general exception) or Rule 22 (special urgency) apply.

16.3 A key decision is as defined in Article 12 Paragraph 12.3, of this Constitution.

16.4 This requirement does not include meetings, whose sole purpose is for officers to brief members.

## 17. PROCEDURE BEFORE TAKING KEY DECISIONS \*

17.1 Subject to Rule 21 (general exception) and Rule 22 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward work programme) has been published

in connection with the matter in question;

- (b) A Key Decision must be published 28 days prior to the decision being taken on the Council's Forward Plan. Where the publication of intention to take a Key Decision is impractical, the Chair of the Overview and Scrutiny Board must be informed.
- (c) at least 5 clear days have elapsed since the publication of the forward plan; and
- (d) 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).

## **18. THE FORWARD WORK PROGRAMME**

### **18.1 Period of forward work programme**

Forward plans will be prepared by the Elected Mayor to cover a period of at least four months, beginning with the first day of any month. The Forward Plan is a live document and published once any new Forward Plan item is added.

### **18.2 Contents of forward work programme.**

The forward work programme will contain matters which The Elected Mayor has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the work programme.

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, their 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 work programme now also contains matters which are non-key, however there is no deadline for these decisions to be published on the Forward Plan.

Exempt information need not be included in a forward work programme and confidential information cannot be included.

### **18.3 Material relating to forthcoming business**

- (a) All Members are 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 to be transacted at a public meeting unless
- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above; or
  - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above 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
  - (iii) it contains the advice of a political adviser or
  - (iv) it is a draft report or draft background paper
  - (v) it is not a report or a background paper as defined in these Rules
- (b) All Members are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or any of its committees or sub-committees unless
- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above or
  - (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above 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.

## **19. Material relating to Key Decisions**

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

## **20. Nature of rights**

20.1 These rights of a member are additional to any other right they may have.

## **21. GENERAL EXCEPTION \***

21.1 If a matter which is likely to be a key decision has not been included in the forward work programme, then subject to Rule 22 (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 work programme;
- b) the Proper Officer has informed the Chair of the Overview and Scrutiny Board, or in their absence the Chair of the relevant scrutiny panel, or if neither is available, each member of that Board or panel in writing, by notice, of the matter to which the decision is to be made;
- c) the Proper Officer 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 Proper Officer complied with (a) and (b).

## **22. SPECIAL URGENCY \***

22.1 If by virtue of the date by which a decision must be taken Rule 21 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Board or relevant scrutiny panel that the taking of the decision cannot be reasonably deferred. If there is no such Chair or if the Chair is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

## **23. RECORDS OF DECISIONS TAKEN AT MEETINGS \***

- 23.1 The Council will make available copies of the following to any person on payment of a charge for copying and postage for six years after a meeting.
- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all formal committee 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.

Alternatively copies are available on the council website and can be downloaded free of charge:

23.2 Copies of documents supplied to members of the public, where the Council is the copyright holder, may be reproduced in any publically available medium.

## **24. REPORTS TO COUNCIL \***

### **24.1 When the Overview and Scrutiny Board can require a report**

If the Overview and Scrutiny Board or a scrutiny panel thinks that a key decision has been taken which was not:

- (a) included in the forward work programme; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Board/panel, or the Chair or Vice Chair of the Council under Rule 16; the Board/panel may require the Executive to submit a report to the Council within such reasonable time as the Board/panel specifies. The power to require a report rests with the Board/panel, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Board/panel when so requested by the Chair or any 5 members. In respect of education matters this includes voting co-optees.

Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board/panel.

### **24.2 Mayor's report to Council**

The Elected Mayor may prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of receipt of the written notice, or the resolution of the Board/panel, 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 Elected Mayor is of the opinion that it was not a key decision the reasons for that opinion.

### **24.3 Quarterly reports on special urgency decisions**

In any event the Elected Mayor will submit quarterly reports to the Council on the 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.

The report will also contain details of urgent decisions taken in accordance with the Overview and Scrutiny Procedure Rules (Paragraph 8.10).

## **25. Records of decisions at Executive meetings**

25.1 After any meeting of the Executive the proper officer will, as soon as practicable, produce a written statement which must include:

- (a) the name of the decision-making body and a date of the decision;
- (b) A record of every decision taken and the reasons for those decisions;
- (c) Details of any alternative options;
- (d) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision making body;

## **26. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE \***

- 26.1 Where an individual Member of the Executive (a Portfolio Holder) intends to make a key decision, that decision must not be made unless it has been included in the Notice of Forthcoming Executive Decisions (see Rule 18 above) or the procedure set out in Rule 21 (general exception) or Rule 22 (special urgency) has been complied with.
- 26.2 A decision which is not a key decision may be taken without complying with the requirements in Rules 18, 21 or 22).
- 26.3 A Member of the Executive may only take an Executive Decision where s/he is authorised to do so in the Scheme of Delegations approved by the Mayor.
- 26.4 **Reports intended to be taken into account** - Where an individual member of the Executive receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least 5 clear days after receipt of that report.
- 26.5 As soon as practicable after an individual Member of the Executive has made an Executive decision, they must produce, or instruct the Proper Officer to produce, a written statement of that decision which must include the following information:-
- a record of the decision (including the date it was made)
  - a record of the reasons for the decision
  - details of any alternative options considered and rejected by the Member when making the decision
  - a record of any conflict of interest declared by the Member which relates to the decision; and
  - in respect of any declared conflict of interest a note of dispensation granted by the Chief Executive
- 26.6 A copy of any record produced in accordance with Rule 26.4 and any report considered by the Member which is relevant to the decision concerned must be made available for public inspection at the Council's offices and published on the Council's website as soon as reasonably practicable after the decision has been made.
- 26.7 Rule 26.5 does not authorise or require documents relating to the decision to be disclosed to the public where the documents contain confidential information or where, in the opinion of the Member making the decision, they disclose exempt information or the advice of a political assistant or adviser.

## **27. OVERVIEW AND SCRUTINY BOARDS ACCESS TO DOCUMENTS \***

### **27.1 Rights to copies**

Subject to Rule 27.2 below, the Overview and Scrutiny Board (including its panels) 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 public or private meeting of the Executive



or its committees; or

- (b) any decision taken by an individual member of the Executive.
- (c) any Executive decision that has been made by an officer of the Council under their delegated powers.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received

**27.2** Where the Monitoring Officer determines that Overview and Scrutiny boards are not entitled to a copy of the document that has been requested for the reasons set out above, the Executive must provide the relevant Scrutiny Committee with a written statement setting out the reasons for that decision.

## **28. Limit on rights**

28.1 An Overview and Scrutiny Board 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; or
- (c) the advice of a political or mayoral assistant.

## **29. Records of Decisions Taken By Officers**

29.1 As soon as reasonably practicable, but within 28 days, after a significant operational decision taken by an officer in relation to a Council function, the officer will produce a written record of the decision and arrange for its publication on the Council's website together with the report (if any) in relation to the decision made. The record will include:

- (a) a record of the decision including the date it was made;
- (b) A statement of the reasons for it;
- (c) Details of any alternative options considered and rejected by the officer at the time of making the decision; and
- (d) A record of any interest declared by an executive member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

29.2 Where an Officer intends to take a key decision, the decision making process for Executive Key Decisions must be followed. The item should be placed on the Executive Forward Plan, 28 clear days before the decision is taken. The decision should be published within 48 hours of the decision being taken.

29.3 Rule 31.5 does not authorise or require documents relating to the decision to be disclosed to the public where the documents contain confidential information or where, in the opinion of the Officer making the decision, they disclose exempt information or the advice of a political assistant.

### **30. Inspection and supply of documents**

- (a) Background papers that have been referred to within an Executive report must now be available for public inspection. These will be published on the Council's website at [www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk) and a hard copy will be made available at the Town Hall reception.
- (b) Confidential background papers are excluded from the rule.

### **31. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS \***

#### **Documents relating to council and committee business**

- 31.1 Subject to Rule 31.2 below, all Members of the Council are entitled to inspect any document which is in the possession or under the control of the Council and which contains material relating to any item of business to be dealt with at a meeting of the Council or a Committee or Sub-Committee.
- 31.2 Rule 31.1 above does not require any document to be open to inspection if it appears to the Proper Officer that it discloses exempt information, unless that information falls within one of the following categories:-
- Information relating to the financial or business affairs of any particular person, including the Council, except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract
  - Information which reveals that the Council proposes:-
  - to give under any enactment a notice or by virtue of which requirements are imposed on a person
  - to make an order or direction under any enactment Documents relating to executive business
- 31.3 Subject to Rule 31.5 below, any Member of the Council is entitled to inspect any document which is in the possession or under the control of the Executive and which contains material relating to any business to be transacted at a public meeting of the Executive unless, subject to Rule 31.5, the Proper Officer considers that the document discloses exempt information. Such documents must be available for inspection for at least 5 clear days before the meeting concerned except that:
- where the meeting is convened at shorter notice such a document must be available for inspection when the meeting is convened; and
  - where an item is added to the agenda at shorter notice, any document required to be available in relation to that item must be available when that item is added to the agenda.
- 31.4 Subject to Rule 31.5 below, all Members of the Council are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to:-

- any business transacted at a private meeting
- any decision made by an individual Member in accordance with the Council's Executive arrangements; or
- any decision made by an Officer in accordance with the Council's Executive Arrangements

when the meeting concludes or, where an Executive decision has been made by an individual Member or an Officer, immediately after the decision has been made, and in any event within 24 hours of the conclusion of the meeting, or the decision being made, as the case may be, unless the Proper Officer considers (subject to Rule 31.5 below) that the document discloses exempt information.

31.5 Rules 31.3 and 31.4 do not prohibit Members from inspecting documents containing the following categories of exempt information:-

- Information relating to the financial or business affairs of any particular person, including the Council, except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract
- Information which reveals that the Council proposes:-
  - to give under any enactment a notice under or by virtue of which requirements are imposed on a person
  - to make an order or direction under any enactment

31.6 Nothing in Rules 31.3 to 31.5 above requires any document or a part of any document to be available for inspection if it contains the advice of a mayoral/political adviser.