

# A1 Appendix

## AMENDMENTS FLOWING FROM REVIEW OF CONSTITUTION PART 5 (CREAM) – RULES OF PROCEDURE (ACCESS TO INFORMATION PROCEDURE RULES) (CABINET)

No.	Constitution Ref.	Existing Wording	Proposed New Wording	Reason for Change
1	Rule 8.2 (Public Inspection of Background Papers)	The Council will make available for public inspection, for four years after the date of the meeting, one copy of each of the documents on the list of background papers.	<p><i>Retain wording under “existing wording” which applies to Cabinet and Committees etc and add the following two new paragraphs specifically in relation to meetings of the Cabinet:</i></p> <p><i>8.2.1 Public reports must include not only a list of background papers but at least one copy of each of the documents in the list for public inspection at the Council’s main offices (i.e. the Town Hall, Station Road, Clacton-on-Sea) and on the Council’s website.</i></p> <p><i>8.2.2 The Council may now charge “a reasonable fee” for access to background papers to be inspected at the Council’s offices.</i></p>	<p><b>Statutory Changes</b> imposed upon all local authorities in England where executive arrangements are applied under the provisions of the Local Government Act 2000.</p> <p>New regulations come into effect on 10 September 2012 and revoke the 2000, 2002 and 2006 Access to Information regulations, although many of those provisions form part of the new regulations.</p> <p>The regulations govern public access to meetings, and information relating to executive decisions only – that is, decisions made by the whole Cabinet, individual Portfolio Holders, Cabinet sub-committees, joint committees and sub-committees of executive members with responsibility to discharge executive functions, and executive decisions taken by officers.</p>

2	Rule 9 (Summary of Public's Rights)	Reference to Westleigh House, Carnarvon Road, Clacton-on-Sea.	<i>To be amended to refer to the Town Hall, Station Road, Clacton-on-Sea.</i>	As above
3	Rule 13 (Procedure Before Taking Key Decisions)	<p>Subject to Rule 15 and Rule 16, a key decision may not be taken unless:</p> <p>(a) A notice (the Forward Plan) has been published in connection with the matter in question;</p> <p>(b) At least 3 clear days have elapsed since the publication of the Forward Plan; and</p> <p>(c) Where the decision is to be taken at a meeting of the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).</p>	<p><i>The following details must be published at least 28 clear days before a <b>key</b> decision is to be taken:</i></p> <p><i>(a) That a key decision is to be made, and details of the matter;</i></p> <p><i>(b) The decision-maker's name and title, or, if a body, its name and full membership;</i></p> <p><i>(c) The date on which, or period during which, the decision is to be made;</i></p> <p><i>(d) The documents to be submitted to the decision-maker for consideration and details of how to receive copies; and</i></p> <p><i>(e) A note that other documents relevant to the decision may be submitted to the decision-maker and details of how to receive copies.</i></p> <p><i>There is no longer any requirement to give details of consultation undertaken or how a member of the public may make representations to the decision-maker or proper officer.</i></p>	As above

4.	Rule 14 (The Forward Plan)	Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.	<p><i>14 The Forward Plan</i></p> <p><i>14.1 The Council shall maintain a Forward Plan to include any key and other decisions to be taken over the next two months. It will be prepared on a monthly basis and subsequent Forward Plans will cover a period beginning with the first day of the second month covered in the preceding plan.</i></p> <p><i>14.2 Each Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive, individual members of the Executive, or officers in the course of the discharge of an executive function during the period covered by the Forward Plan. It will also contain matters which are not the subject of a key decision, where these are known.</i></p> <p><i>It will describe the following particulars insofar as the information is available or might reasonably be obtained:</i></p> <p><i>(a) The matter in respect of which a decision is to be made;</i></p> <p><i>(b) Where the decision-taker is an individual, his or her name and title, if any, and where the decision-taker is a body, its name and details of membership;</i></p>	As above
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			<p>(c) <i>The date on which, or the period within which, the decision will be taken; and</i></p> <p>(d) <i>A list of the documents submitted to the decision-taker for consideration in relation to the matter.</i></p> <p>14.3 <i>The Forward Plan will be published approximately 14 days before the start of the period covered. The Head of Corporate Services will publish, once a year, a notice in at least one newspaper circulating in the area, stating:</i></p> <p>(i) <i>That key, and other decisions are to be taken on behalf of the Council;</i></p> <p>(ii) <i>That a Forward Plan containing details of the matters on which decisions are to be taken will be prepared on a monthly basis;</i></p> <p>(iii) <i>That the Forward Plan will contain details of the key, and other decisions likely to be made for the two month period following its publication;</i></p> <p>(iv) <i>That where key decisions are to be made and/or meetings of the Executive are to be held in private, (1) a notice giving 28 days of this shall be published to allow for any representations, and (2) a further notice giving 5 days of this shall be</i></p>	
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			<p><i>published to include any representations received, together with the reasons given, in relation to private considerations, as to why the matter is being considered in private.</i></p> <p><i>(v) That each Forward Plan will be available for inspection at reasonable hours, free of charge, at the Council's Offices;</i></p> <p><i>(vi) That each Forward Plan will contain a list of the documents submitted to the decision-takers for consideration in relation to the key, and other decisions on the Forward Plan;</i></p> <p><i>(vii) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, and document listed in the Forward Plan is available.</i></p> <p><i>(viii) That other documents may be submitted to decision-takers;</i></p> <p><i>(ix) The procedure for requesting details of documents (if any) as they become available; and</i></p> <p><i>(x) The approximate (week-ending) dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's Offices.</i></p>	
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5	Rule 15 (General Exception)	<p>If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 16, the decision may still be taken if:</p> <p>(a) The decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next forward plan relates;</p> <p>(b) The Executive Corporate Support Manager (Head of Corporate Services) has notified the Chairman of the relevant Overview and Scrutiny Committee of the matter in respect of which the decision is to be made;</p> <p>(c) The Executive Corporate Support Manager (Head of Corporate Services) has made copies of that notice available to the public at the offices of the Council; and</p> <p>(d) At least 5 clear working days have elapsed since the Executive Corporate Support Manager (Head of Corporate Services) complied with (b) and (c).</p>	<p><b>Exempt information need not be included in a Forward Plan and confidential information cannot be included.</b></p> <p><i>If the timetable referred to in Rule 13 above is impracticable, a key decision can still be taken if:</i></p> <p>(a) <i>The proper officer has <b>informed</b> the Chairman of the relevant Overview and Scrutiny Committee in writing of the details of the decision to be made (or, if the Chairman is unable to act, each member of the relevant Committee);</i></p> <p>(b) <i>Notice is given of the details of the decision to be made and the reasons why it is impracticable to give 28 clear days' notice; and</i></p> <p>(c) <i>At least five clear working days have elapsed between notice being given and the decision being taken.</i></p>	As above
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6	Rule 16 (Special Urgency)	<p>Where such a decision is taken collectively, it must be taken in public.</p> <p>If by virtue of the date by which a decision must be taken Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the decision-taker (if an individual) or the Chairman of the Body making the decision, obtains the agreement of the Chairman of the relevant overview and scrutiny committee that the taking of the decision cannot reasonably be deferred. In the absence of the Chairman of the relevant overview and scrutiny committee, the Vice-Chairman of that overview and scrutiny committee's consent shall be required. In the absence of both, the Chairman of the Council's consent shall be required and in their absence the Vice-Chairman of the Council's consent.</p>	<p><i>If the general exception rule is impracticable, the key decision can still be taken if the decision-maker has <b>received the permission</b> of the Chairman of the relevant Overview and Scrutiny Committee, or if he or she is unable to act, the Chairman or Vice-Chairman of the Council and has published a notice stating that a decision is urgent and the reasons why it cannot reasonably be deferred.</i></p>	As above
7	Rule 17 (Report to Council)	<p>17 REPORT TO COUNCIL</p> <p>17.1 When an Overview and Scrutiny Committee can Require a Report</p> <p>If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:</p> <p>(a) included in the forward plan; or</p> <p>(b) the subject of the general exception procedure; or</p>	<p>17 <i>Report to Council and Rights of Overview and Scrutiny Members</i></p> <p><i>NEW 17.2 Rights of Overview and Scrutiny Members (current Rule 17.2 and 17.3 to be renumbered)</i></p> <p><i>Upon request from a member of an overview and scrutiny committee, the Cabinet must make available any material concerning business relating to past decisions. This must be provided as soon as reasonably practicable and no later than 10 clear days after the request is</i></p>	As above

		<p>(c) the subject of an agreement under Rule 16;</p> <p>the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies.</p> <p>The power to require a report rests with the Committee, but is also delegated to the Head of Corporate Services, who shall require such a report on behalf of the Committee when so requested by the Chairman. Alternatively the requirement may be made by resolution passed at a meeting of an Overview and Scrutiny Committee.</p> <p>17.2 Executive's Report to Council</p> <p>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.</p> <p>17.3 Reports on Special Urgency Decisions</p> <p>The Leader will submit a report to the next practicable ordinary meeting of Council on the executive decisions taken in the circumstances set out in Rule 16 since the previous such report. The report will include</p>	<p><i>made.</i></p> <p><i>Exempt information does not need to be provided unless it relates to an action or decision that the member is scrutinising, or to any review in a relevant overview and scrutiny committee's work programme. Overview and Scrutiny members are not entitled to any exempt material which contains advice provided by a political adviser or assistant.</i></p> <p><i>If the Cabinet determines that material will not be provided, it must set out, in writing, its reasons for that decision.</i></p>	
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8	Rule 18 (Record of Decisions)	<p>the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.</p> <p>After any meeting of the Executive, whether held in public or private, the Executive Corporate Support Manager (Head of Corporate Services) or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.</p>	<p><i>Records of <b>any</b> Executive decisions, including those taken by officers, must state:</i></p> <ul style="list-style-type: none"> <li><i>(a) The decision taken and the date it was made;</i></li> <li><i>(b) The reasons;</i></li> <li><i>(c) Details of options considered and rejected and the reasons why they were rejected;</i></li> <li><i>(d) Declarations of interest and details of any dispensations granted in respect of interests.</i></li> </ul> <p><b><i>But not details of any consultation.</i></b></p> <p><i>The regulations specifically state that details of any dispensations granted by the “<b>head of paid service</b>” from any “declared conflict of interest” must be included in the decision record. The Localism Act 2011 says only that authorities may grant dispensations from interests, but leaves the process to individual authorities; it does not specifically require that dispensations be granted by the head of paid service.</i></p>	As above
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