

## **ANNEX 4 - ACCESS TO INFORMATION RULES**

### **1. Scope**

These rules apply to all meetings of the Council, Scrutiny Committees, Development Control and Casework Committees, the Standards Committee and the Executive. Special rules apply to meetings of Panels, Topic Groups and Best Value Review Groups; these are set out in Annex 10.

These rules do not affect any specific rights of access to information given elsewhere in this Constitution or by law.

### **2. Right to attend meetings**

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

### **3. Notice of meetings**

The Council will give at least 3 clear days' notice of any meeting by posting details in Reception at County Hall Hertford.

### **4. Access to Agenda & Reports**

The Council will make copies of the agenda and reports open to the public available for inspection at County Hall at least 3 clear 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. Where reports are prepared after the Summons has been sent out each report will be made available to the public as soon as it has been sent to Councillors.

### **5. Copies**

The Council will supply copies of any agendas and reports which are open to public inspection to any person on payment of a reasonable charge for postage and other costs.

### **6. Access to Minutes**

The Council will make available copies of the following for 6 years after a meeting:

- a) the Minutes excluding any part relating to proceedings when the meeting was not open to the public, or which disclose confidential or exempt information
- b) a summary of any proceedings not open to the public, when the Minutes open to inspection would not provide a reasonably fair and coherent record
- c) the agenda
- d) reports relating to items considered when the meeting was open to the public.

**7. Background Papers**

- 7.1 In every report there will be a list of background papers, i.e. papers which
- a) disclose any matters on which the report or an important part of it is based and
  - b) have been relied on to a material extent in compiling the report.
- 7.2 This list will not include published works or those which disclose confidential or exempt information.

A copy of each of the documents on the list will be available for public inspection for 4 years after the date of the meeting.

**8. Exclusion of Access by the Public**

- 8.1 Confidential Information. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. “Confidential Information” means information given to the Council in confidence by a Government Department; or which cannot be disclosed to the public because of a Court Order. The public are not entitled to access to documents which contain confidential information.
- 8.2 Exempt information. The public may be excluded from a meeting whenever it is likely that the exempt information is likely to be disclosed. The Council may also exclude access to documents which contain exempt information.

The following table shows the categories of exempt information, and the limitations (if any) on the definition in each category:

	<b>Category</b>	<b>Limitation</b>
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, the authority	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 individual in the roles indicated

	<b>Category</b>	<b>Limitation</b>
2.	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 magistrates' court committee or probation committee	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 individual in the roles indicated
3.	Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority	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 individual in the roles indicated
4.	Information relating to any particular applicant for, or recipient of any service provided by the authority	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 individual in the roles indicated
5.	Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority	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 individual in the roles indicated
6.	Information relating to the adoption, care, fostering or education of any particular child	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of Section 31 Children Act 1989
7.	Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable

	<b>Category</b>	<b>Limitation</b>
8.	The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons
9.	Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting and interest in or right over it)
10.	The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services	For the purposes of this paragraph “tender” includes a DLO/DSO written bid
11.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority	Information within paragraph 11 is only exempt if any for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter  “Labour relations matters” are as specified in paragraphs (a) to (g) of Section 29 (1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute

	<b>Category</b>	<b>Limitation</b>
12.	<p>Any instructions to Counsel and any opinion of Counsel (whether or not in connection with any proceeds) and any advice received, information obtained or action to be taken in connection with:</p> <p>(a) any legal proceedings by or against the authority; or</p> <p>(b) the determination of any matter affecting the authority;</p> <p>whether, in either case, proceedings have been commenced or are in contemplation</p>	
13.	<p>Information which, if disclosed to the public, would reveal 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 within paragraph 13 is exempt only if and so long as 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</p>
14.	<p>Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	
15.	<p>The identity of a protected informant</p>	<p>A “protected informant” means a person giving the authority information which tends to show that</p> <p>(a) a criminal offence;</p> <p>(b) a breach of statutory duty;</p> <p>(c) a breach of planning control;</p> <p>or</p> <p>(d) a nuisance</p>

## **9. Procedure before taking Key Decisions**

Subject to Rule 11 (general exception) and Rule 12 (special urgency), a Key Decision may not be taken unless:

- (a) a Forward Plan has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of any report which is to be taken into consideration by the decision maker;
- (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 3 (notice of meetings).

## **10. The Forward Plan**

### **10.1 Period of Forward Plan**

Forward Plans will be prepared on behalf of the Leader to cover a period of four months, beginning with the first day of any month. They will be updated 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.

### **10.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a Key Decision to be taken by the Executive, or officers, in the course of the discharge of an executive function during the period covered by the plan. 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, his/her 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 Plan must be published at least 14 days before the start of the period covered. The County Secretary will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that Key Decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each Plan will contain a list of the documents submitted to the decision-takers for consideration in relation to the Key Decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision-takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## **11. General Exception**

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 12 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the County Secretary has informed the chairman of the relevant Scrutiny Committee, or if there is no such person, each member of the committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the County Secretary has made copies of that notice available to the public at the offices of the Council; and

- (d) at least 3 clear days have elapsed since the County Secretary complied with (a) and (b).

## **12. Special Urgency**

If by virtue of the date by which a decision must be taken Rule 11 (general exception) cannot be followed, then the decision can only be taken if the decision-taker (i.e. the Chief Officer or Leader on behalf of the Executive), obtains the agreement of the chairman of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of the relevant Scrutiny Committee, or if the chairman of the relevant Scrutiny Committee is unable to act, then the agreement of the chairman of the Council, or in his/her absence the vice-chairman will suffice.

## **13. Report to Council**

### **13.1 When a Scrutiny Committee can require a report**

If a Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the relevant Scrutiny Committee chairman or the chairman/vice-chairman of the Council under Rule 12

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

### **13.2 Executive's report to Council**

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 the opinion.

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

The Leader will submit quarterly reports to the County Secretary on the executive decisions taken in the circumstances set out in Rule 12 (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 County Secretary will ensure that such reports are available for public inspection. The County Secretary shall report to each Council meeting any decisions taken under Rule 12 since the last Council meeting.

**14. Record of Decisions**

After any meeting of the Executive, the County Secretary will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.