



Report of:	Meeting	Date	Item No.
The Leader of the Council (Cllr Peter Gibson) and the Corporate Director of Resources	Council	18 October 2012	11

EXECUTIVE MEETING ARRANGEMENTS: CONSTITUTION AMENDMENTS

1. Purpose of Report

- 1.1 To enable changes to be made to the Constitution to take account of new legislation.

2. Outcomes

- 2.1 Effective governance arrangements and decision-making procedures.

3. Recommendations

- 3.1 That the proposed changes to the Access to Information Procedure Rules, in Part 4.02 of the Constitution, shown as track changes in Appendix 1, be approved.

- 3.2 That the Corporate Director of Resources be authorised to replace reference to the Forward Plan with the "Schedule of Executive Decisions" throughout the Constitution and to make any other changes required as a consequence of the new Regulations.

- 3.3 That an additional paragraph be inserted in the list of delegations to the Chief Executive in Part 7.02 of the Constitution, as follows:

"(13) To determine whether or not to grant a dispensation to enable an individual Cabinet member with a conflict of interest to be consulted on a Cabinet decision."

4. Background

- 4.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 were laid before Parliament on 15 August and came into effect on 10 September 2012. They revoke the

2000, 2002 and 2006 Access to Information Regulations, although many of those provisions form part of the new regulations. They impose various new requirements, relating to:

- the notice of executive meetings and decisions;
- the holding of executive meetings in private; and
- the recording of executive decisions.

- 4.2** The new regulations relate only to Executive meetings and decisions, i.e. processes for making decisions by the Cabinet, individual Portfolio Holders and, potentially, officers with delegated powers. They do **not** affect regulatory (Planning, Licensing, Audit) or other committees (Overview and Scrutiny, Employment and Appeals).
- 4.3** The new regulations make no changes to the requirement in the Local Government Act 1972 to publish agendas and reports for public meetings five clear days (seven calendar days) before the meeting and to make them made available for public inspection at the Council offices and on the Council's website.
- 4.4** The Government has stated that the regulations are intended to increase transparency and accountability. However, various local government organisations, including the Local Government Association, the Association of Council Secretaries and Solicitors (ACSeS), the Association of Democratic Services Officers (ADSO), the Society of Local Authority Chief Executives and the Centre for Public Scrutiny, have expressed doubt about whether those aims will be achieved. Concern has also been expressed that the drafting of some of the new provisions is unclear, causing considerable uncertainty within the sector about arrangements for the implementation of the new provisions.
- 4.5** The main area of uncertainty concerns the definition of "executive decisions" and in particular, the ambiguity of the requirements for the recording of decisions made by officers. A counsel's opinion obtained by ACSeS's has advised that the regulations, as drafted, clearly require any decisions (not just key decisions) made by individual officers that are "closely connected to the discharge of executive functions" to be recorded. Many practitioners have said that such an interpretation would be unworkable. The District Council's Network has stated, for example, that this would mean that *"every decision, including the purchase of paper clips or a decision to write a letter in response to a complaint about a level of service"* would have to be recorded and published. However, a representative of the Department for Communities and Local Government (DCLG) has subsequently stated, in response to such concerns, that the regulations "do not apply to officer decisions". One or two of the larger unitary Councils, where officers fairly frequently make significant executive decisions, including key decisions, are introducing procedures to record and publish such decisions. Most other Council's, particularly

districts, are disregarding the counsel's opinion as impracticable and are not planning to record any officer decisions for the time being. As all executive decisions of any significance in Wyre are made either by the Cabinet or individual Portfolio Holders, no changes to the arrangements for making and recording such decisions are planned.

- 4.6** Another issue on which there was, initially, some misunderstanding involved "private" meetings of the executive. Provision was made in the Local Government Act 2000 for meetings of the Cabinet to be held in private and this is reflected in the Council's Constitution. However, no such meetings have ever been held in Wyre. There are also separate provisions, which apply to all council and committee meetings (not just executive meetings) that enable the press and public to be excluded from meetings whilst certain categories of "exempt information" are discussed and these remain unchanged - apart from the additional notice requirement, referred to in paragraph 5.1 below

5. Key Issues and Proposals

(a) Notice of Executive Meetings

- 5.1** There is a new requirement (Regulation 5) to give notice at least 28 days before an executive meeting of the intention to hold such a meeting fully or partly in private. The regulations provide an opportunity for members of the public or other councillors to object or to make representations about why the meeting should be open to the public. Further notice of the intentions to hold the meeting in private must then be published 5 clear days before the meeting, setting out any representations received about why the meeting should be open to the public and the response of the executive to those representations. Specific ways of marking reports that are exempt are also prescribed (Regulation 7(5)). Arrangements, including adjustments to report deadlines, have already been made to ensure that these requirements are met.

(b) Key Decisions and what was previously referred to as the Forward Plan

- 5.2** The new regulations remove the requirement to publish, 14 days before the start of each month, a document called the "Forward Plan" listing "key decisions" to be considered in the forthcoming 4 month period. Nevertheless, the concept of "key decisions" is retained and continue to be defined as an executive decision which is likely:
- to result in the Council incurring significant expenditure or savings (currently £50,000 or more at Wyre); or
 - to have significant effects on communities living or working in two or more wards.
- 5.3** There is a new requirement (Regulation 9) to publish, at least 28 days before a decision is made, the following information on each key decision:
- details of the decision to be made;

- the name and title of the decision maker(s);
- the date on which, or the period within which, the decision is to be made;
- the documents to be submitted to the decision-maker for consideration and details of how to obtain copies;
- a note that other documents relevant to the decision may be submitted to the decision-maker and details of how to obtain copies when they become available.

This information is essentially the same information required under the old arrangements, except that the reference to any consultation to be undertaken prior to each decision has been deleted.

5.4 As an interim measure, steps have been taken to amend the contents of the Forward Plan to comply with the new requirements. In order to differentiate between the old and the new arrangements, it proposed that a document called the “Schedule of Executive Decisions” be published in a slightly different format. It will contain a list of key decisions to be taken by the Cabinet at its next meeting or by a Portfolio Holder. Consistent with the additional notice requirements in Regulation 9, referred to above, information will also be included on the Schedule to indicate which items are likely to include “exempt information” and therefore to be considered in confidential session. Whilst the Schedule will be used to ensure that the minimum 28 day notice period is met, it will be a “live” document, which will be updated whenever new information is available, not a static document updated only on a monthly basis, as was previously the case with the Forward Plan.

5.5 The current general exception and special urgency provisions, involving a requirement to obtain the approval of the Chairman of the Overview and Scrutiny Committee or, in her/his absence, the Mayor, and to publish the reasons for urgency still apply. However, there is an additional requirement to publish reasons why compliance with the 28 day notice period is impracticable. There is also a new requirement to submit a report to Council at least annually, stating the number of occasions on which such items have been considered, even if there are none. It is proposed that this will be addressed as part of the annual report of the Overview and Scrutiny Committee. (Currently, there is a requirement to report quarterly on any such circumstances, but only when they have arisen).

(c) Background Papers

5.6 There is a new requirement (Regulation 15) for all background papers listed in executive reports to be published on the Council’s website, as well as the current requirement to make them available for inspection on request. Report authors have been informed of this additional requirement and arrangements have been made for the publication of such documents.

(d) Recording of executive decisions

5.7 The regulations strengthen the requirement to give reasons for decisions, including options considered but rejected. For Wyre, this will not involve much change but, the guidance to report authors will be updated to ensure that reasons for proposed decisions and options considered and rejected prior to making recommendations are set out in reports. In future the minutes of Cabinet meetings and Portfolio Holder Decisions will also refer, where necessary, to any options identified in the report.

(e) Members rights of access to information

5.8 The rights of access of individual councillors and overview and scrutiny committees to information considered by the Executive are broadly unchanged, although the new regulations have introduced timescales within which certain categories of information must be provided and a requirement to provide a written explanation if the whole or part of a document is not released. However, in practice, this will have no real impact at Wyre because, there are no private executive meetings and all councillors already routinely have access to reports considered by the Cabinet.

(f) Reporting of executive proceedings

5.9 There is a new requirement (Regulation 4(6)), to “*provide reasonable facilities for any person attending a meeting for the purpose of reporting to take their report*”. This extends the current requirement to provide facilities to accredited members of the press to other media representatives and to members of the public. The DCLG press release, issued when the regulations were published, stated that “*this will make it easier for new social media reporting of council executive meetings thereby opening proceedings up to internet bloggers, tweeting and hyper-local news forums*”. Wyre’s Constitution is currently silent on this subject but, in practice any request to record or film meetings would be reported to the Chairman and the request would be put to the meeting to decide whether or not to permit it. It is proposed that an additional paragraph (set out in Appendix 1) be included in the Access to Information Procedure Rules referring to that arrangement and, in the spirit of the intention of the new regulations, there will be a presumption to approve a request unless there are reasons not to.

(g) Dispensations

5.10 The regulations also refer, somewhat ambiguously, to a provision for the Head of the Paid Service to grant dispensations to Executive Members who have a “conflict of interest”. However, the Localism Act 2011 grants the power to grant dispensations to the Council and does not specify that the function should be carried out by the Head of the Paid Service. This Council, like most others, has delegated this function to the Standards Committee. The counsel’s opinion obtained by ACSeS advises that

councils do not need to amend their procedures generally for the grant of dispensations but, that they should consider whether to make specific provisions for granting dispensations to individual executive members being consulted on a decision who might have a conflict of interest (not necessarily a pecuniary interest). Currently, in a situation where a Wyre Cabinet Member had an interest in an issue, any report on that issue would be submitted to a meeting of the full Cabinet for decision, rather than the individual Portfolio Holder. If a majority of the Cabinet members had an interest, a dispensation request would be considered by the Standards Committee. It is proposed that both those practices should continue. It may, nevertheless, be expedient to grant an additional delegation to the Chief Executive, if he considers the circumstances justify it, to enable him to grant a dispensation to an individual Cabinet member to enable that Cabinet member to be consulted on a particular decision.

IMPLICATIONS	
Finance	None arising directly from this report.
Legal	The changes proposed in this report will ensure that the Council's procedures comply with the requirements of the Local Authorities (Executive Arrangements) Meetings and Access to Information) (England) Regulations 2012.
Community Safety	None arising directly from this report.
Equality and Diversity	None arising directly from this report.
Sustainability	None arising directly from this report.
Health and Safety	None arising directly from this report.
Risk Management	The proposed changes will minimise the risk of any decisions being taken unlawfully.
Asset Management	None arising directly from this report.
Climate Change	None arising directly from this report.

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List of Background Papers:		
Name of Document	Date	Where available for inspection
None	-	-

LIST OF APPENDICES

Appendix 1 Proposed revisions to the Access to Information Procedure Rules:

APPENDIX 1**Access to Information Procedure Rules****1. Scope**

Unless specifically stated These Rules apply to all meetings of the Council, the Overview and Scrutiny Committee, the Standards Committee, the Audit Committee and regulatory Committees and public meetings of the Cabinet (together called 'meetings').

2. Additional Rights to Information

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

3. Rights to Attend Meetings

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

4. Notice of Meeting

The Council will give 28 days notice of Cabinet meetings.

The Council will give at least five clear days notice of any other meetings by posting details of the meeting at the Civic Centre, Breck Road, Poulton-le-Fylde.

5. Access to Agenda and Reports before the Meeting

The Council will make copies of the Agenda and reports open to the public available on the website and for inspection at the designated office at least five clear days before the meeting. If an item is added to the Agenda later, the revised Agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the Agenda.

6. Supply Of Copies

The Council will supply copies of:

- (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) where appropriate, any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. **Access to Minutes etc. after the Meeting**

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

- (a) the Minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, 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.

8. **Background Papers**

8.1 **List of Background Papers**

Report authors will set out in every report a list of those documents (called "background papers") relating to the subject matter of the report which in his/her 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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 **~~Public~~ Inspection of ~~and Publication~~ 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. [Copies of background papers listed in reports to the Cabinet and individual Portfolio Holders will also be published on the Council's website.](#)

9. **Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Centre, Breck Road, Poulton-le-Fylde.

10. **Exclusion of Access by the Public to Meetings**

10.1 **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.

10.2 Exempt Information - Discretion to Exclude Public

The public may 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 exempt information would 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.

10.3 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 which cannot be publicly disclosed by Court Order.

10.4 Meaning of Exempt Information

Exempt information means information falling within the following 7 categories subject to any qualifications set out in Paragraph B below.

A.	Categories
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: <ul style="list-style-type: none"> 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.
- a) Information which is subject to any obligation of confidentiality
 - b) Information which relates in any way to matters concerning national security
 - c) Information presented to a Standards Committee, or to a Sub Committee of a Standards Committee, set up to consider any matter under Regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under Section 58(1)(e) of the Local Government Act, 2000.

B. Qualifications

1. Information relating to the financial or business affairs of any particular person or the Council (category 3) is not exempt 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 Act 1965 to 1978;
 - e) the Building Societies Act 1986; or
 - f) the Charities Act 1993.

2. Information is not exempt information:
- if it relates to a proposed development for which the Council as local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and County Planning General Regulations 1992.

3. Information which falls within any of the 7 categories listed above (and is not prevented from being exempt by virtue of the qualifications in paragraphs (1) and (2) above) is exempt information only 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.

NOTE: These categories and exemptions ~~are set out in reflect amendments to~~ Schedule 12A of the Local Government Act, 1972 ~~as amended~~ implemented by the Local Government (Access to Information) (Variation) Order, 2006 (SI No. 88 2006).

11. Exclusion of Access by the Public to Reports

If the Chief Executive thinks fit, the Council may exclude access by the public and media representatives to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Application of Rules to the Cabinet and Portfolio Holders

Rules 13-~~23~~24 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 14.03 of this Constitution.

13. Procedure Before Taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless notice of the intention to make a decision has been given in the Schedule of Executive Decisions at least 28 days prior to the decision being made.

- a) ~~a notice (called here a "Forward Plan") has been published in connection with the matter in question;~~
- b) ~~at least 5 clear days have elapsed since the publication of the Forward Plan; and~~
- c) ~~where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).~~

14. The Forward Plan Schedule of Executive Decisions

The "Schedule of Executive Decisions" will contain a list of all known forthcoming key decisions (as defined in Article 14.03 of this Constitution) to be taken by Cabinet or individual Portfolio Holders.

It will also include any items which are likely to involve the consideration of "confidential" or "exempt" information as defined in paragraph 10.4 of these Procedure Rules and for which the public and press are likely to be excluded from the meeting, together with the reasons for their exclusion. Details of how to make representations to request that an item is considered in public will also be made available.

The Schedule of Executive Decisions ~~will be published as the Council's website~~ will cover a minimum period of 28 days and will fulfil the required minimum 28 days' notice of the intention to make a key decision as set out in Rule 13 above. The Schedule will be updated and republished whenever new information becomes available.

Providing that full details are available, the Schedule of Executive Decisions will contain the following information:

- a) the subject or matter in respect of which a decision is to be made;
- b) the name and title, if any, of the decision taker (if he/she is an individual), and where the decision taker is a body, its name and details of membership;
- c) the date on which, or the period within which, it is expected that the decision will be taken.

14.1 Period of 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.~~

14.2 Contents of Forward Plan

~~The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:~~

- a) ~~the subject or 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 Cabinet 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;~~
- g) ~~a list of the documents submitted to the decision taker for consideration in relation to the matter; and~~

- h) ~~the procedure for requesting details.~~

14.3 Publication of the Forward Plan

~~The Forward Plan must be published at least 14 days before the start of the period covered. Exempt information need not be included in a Forward Plan and confidential information cannot be included.~~

14.4 Publication of an Annual Notice

~~The Chief Executive 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 of 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 date 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.~~

15. General Exception

If a matter which is likely to be a key decision has not been included in the Schedule of Executive Decisions Forward Plan, then, subject to Rule 16 (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 ~~for 28 days 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 Chief Executive has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each Member of that Committee in writing of the matter on which the decision is to be made, [including reasons why compliance with the requirement to provide at least 28 days notice was not practicable](#);
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least three clear days have elapsed since the Chief Executive complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

16. **Special Urgency**

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 Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or if the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor, will suffice. ~~The Leader A report will be submitted at least annually quarterly reports~~ to the Council ~~listing any on the~~ Cabinet 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.

17. **Key Decisions – Contraventions**

17.1 **When the Overview and Scrutiny Committee Can Require a Report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- a) included in the [Schedule of Executive Decisions-Forward Plan](#); or
- b) the subject of a general exception procedure; or
- c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Mayor/Deputy Mayor under Rule 16;

the Committee may require the Cabinet to 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 Proper Officer, who shall require such a report on behalf of the Committee when so requested (by the Chairman or any five Members). Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

17.2 Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven 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.

18. Record of Decisions

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Chief Executive, their representative or the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include [the name of the decision making body, a record of any declaration of a conflict of interest or Disclosable Pecuniary Interest, a note of any dispensation given to a member of the Cabinet,](#) a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. Cabinet Meetings relating to Matters which are not Key Decisions

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

20. Notice of Private Meeting of the Cabinet

[Where the Cabinet is likely to consider an item that contains exempt or confidential information and will require the public to be excluded from the meeting to prevent disclosure of that information, it must include that item in the Schedule of Executive Decisions at least 28 days prior to the meeting, together with the reasons for considering it in private and how representations can be made requesting that it be considered in public.](#)

[If any such representations are received they will be published on the Council's web site, together with the response of the Executive, 5 clear days before the meeting. If the item is still to be considered in private, the reasons for excluding the press and public will be re-stated on the agenda.](#)

~~Members of the Cabinet 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.~~

~~Notice and papers will be served on all other Members of the Council as a matter of course.~~

21. Decisions by Individual Members of the Cabinet

21.1 Reports Intended to be Taken into Account

Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making a key decision, then he/she will not make the decision until at least five clear days after receipt of that report.

21.2 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 Chairman of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

21.3 Record of Individual Decision

As soon as reasonably practicable after a Cabinet decision has been taken by an individual Member of the Cabinet or a key decision has been taken by an Officer, he/she will prepare, or instruct the –Chief Executive or their representative to prepare, a record of the decision, [\(including the title of the decision maker and the date of the decision\)](#) a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 (Access to Minutes after the Meeting) and 8 (Public inspection of background papers after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

22. Overview and Scrutiny Committees Access to Documents

22.1 Rights to Copies

Subject to Rule 22.2 below, the 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 Cabinet 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].
- (b) any decision taken by an individual Member of the Cabinet.

[Such documents must be provided as soon as practicable but no later than 10 days after the request is received.](#)

22.2 Limit on Rights

The 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 scrutinise; or
- (c) the advice of a political adviser.

If the Executive determines that a member of a scrutiny committee is not entitled to a copy of a document or part of a document it must provide the scrutiny committee with a written statement setting out its reasons for that decision.

23. Additional Rights of Access for Members

23.1 Material Relating to Previous Business

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

23.2 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 Cabinet or its Committees which relates to any key decision unless paragraph (a) or (b) above applies.

23.3 Nature of Rights

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

24 Reporting of Executive Meetings

Reasonable facilities will be provided to any person attending a cabinet meeting for the purpose of reporting to take their report. Any such person wishing to record or film a meeting must make a request to do so to the Corporate Director of Resources prior to the start of the meeting. The Leader of the Council (or the person Chairing) will ask the meeting to decide whether or not to permit it but, there will be a presumption to approve it unless there are reasons not to.