

APPENDIX A – Part 4 Access to Information Procedure Rules

A Access to Information Procedure Rules

1 General

- 1.1 These rules apply to all meetings of the Shadow Council, its Committees and Sub-Committees and to public meetings of the Shadow Executive Committee.
- 1.2 In these Rules the word “meeting” means a meeting or meetings of any of these bodies unless specified otherwise.
- 1.3 These rules do not affect any other specific rights to information contained elsewhere in this Constitution or the law.
- 1.4 Members of the public may attend all public meetings subject to the exceptions contained in these Rules.
- 1.5 Members of the press and public are also entitled to film, audio record and report on meetings of the Shadow Council, Committees and Shadow Executive Committee, except in circumstances where the public have been excluded as permitted by law. Any such filming, audio recording or reporting shall be in accordance with any guidelines published by the Shadow Council on its website or made available at the meeting.

2 Notice of Meetings

- 2.1 The Shadow Council will give, wherever possible, at least five clear working days’ notice of any such meeting by publicising, including by electronic means, relevant details.
- 2.2 A copy of the official notice will also be published on the Shadow Council’s website.

3 Agenda and Supporting Papers – Rights of Access

- 3.1 Copies of the Agenda and supporting papers will be made available on the Shadow Council’s website, for inspection by the public at least five clear working days before the meeting. Where an item is added to an Agenda at a later date, a supplementary agenda will be made available, with any supporting papers, to the public as soon as possible.
- 3.2 The Shadow Council will supply on request copies of any agenda and reports which are open to public inspection, and if the Monitoring Officer thinks fit, copies of any further documents supplied to Shadow Councillors relating to that item.
- 3.3 The Shadow Council may require any person to make a payment in advance covering postage and actual costs incurred connected to the supply of the papers in Rule 3.2 above.

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4 Access to Decision Records, Minutes, Agenda and Supporting Papers after a meeting

4.1 The Shadow Council will make electronically available, for a period of six years from the date of the meeting:

- (a) the minutes of the meeting where, unless these rules or the Constitution minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
- (b) the records of decisions taken, together with reasons by the Shadow Executive Committee, excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
- (c) where information relating to a decision is considered in private, a summary of the proceedings to provide a reasonably fair and coherent record will be provided excluding any information which is of a confidential or exempt nature; and
- (d) the agenda and supporting papers covering items which were considered when the public were entitled to be present.

5 Background Documents

5.1 The Officer, in whose name an item is to be submitted for decision, will set out in the agenda a list of the background documents which in his/her opinion:

- (a) relates to the subject matter of the item in question;
- (b) discloses any facts or matters on which the agenda item or an important part of it has been based; and
- (c) has been relied upon to a material extent in preparing the agenda item.

5.2 The Officer, in whose name an item is to be submitted for decision, will set out in the agenda a list of background documents which in his/her opinion:

- (a) relates to the subject matter of the item in question;
- (b) discloses any facts or matters on which the agenda item or an important part of it has been based; and
- (c) has been relied upon to a material extent in preparing the agenda item.

5.3 Background documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made.

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6 Definition of Confidential and Exempt Information

- 6.1 For the purposes of these Rules the definitions of confidential and exempt information are set out below.
- 6.2 Confidential information means information supplied or given to the Shadow Council by a Government Department on terms which forbid its disclosure to the public or is information which cannot be disclosed to the public by Order of the Courts.
- 6.3 Exempt information is information falling within any of the categories set out in Appendix 1 subject to the conditions noted in that Appendix.

7 Exclusion of the Public from Meetings

Confidential Information – Requirement to Exclude

- 7.1 The public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that confidential information, as described in Rule 6.2 above will be disclosed.

Exempt Information – Discretion to Exclude

- 7.2 In the case of exempt information, the public may be excluded from a meeting where Rule 6.3 and Appendix 1 applies.

8 No public right of access to agenda papers

- 8.1 The Monitoring Officer, where he/she considers it necessary, may refuse access by the public to any agenda or supporting papers which in his/her opinion relate to items during which, in accordance with Rule 7 above, the meeting is not to be open to the public. Any such papers will be clearly marked “Not for Publication” and will contain the category of information to be disclosed as set out in Appendix 1 to these Rules. Similar provisions apply to the disclosures of documents related to decisions of the Shadow Council, including the Shadow Executive Committee.

9 The Shadow Executive Committee: Application of these Rules

- 9.1 Rules 10 to 20 will apply to the Shadow Executive Committee and any Committees or Sub-Committees which it may establish from time to time.
- 9.2 Where the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee meet to discuss a Key Decision, with an officer or officers present, within 28 days of the date according to the Forward Plan by which it is to be decided, then the Shadow Executive Committee must comply with Rules 1 to 8 above unless Rule 12 (general exception) or 13 (special urgency) apply. This requirement does not apply where the sole purpose of the meeting is for officers to brief Shadow Councillors.

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10 Procedure before taking a Key Decision

- 10.1 Subject to Rules 12 or 13, a Key Decision cannot be taken unless:
- (a) a notice (“the Forward Plan”) has been published in connection with the matter in question and made available to the public at the main office of the Shadow Council;
 - (b) at least 28 clear calendar days have elapsed since publication of the Forward Plan;
 - (c) where the decision is to be taken at a meeting of the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee, public notice of the meeting has been given under Rule 2 above.

11 The Forward Plan

- 11.1 The Forward Plan will be prepared on behalf of the Leader on a monthly basis to cover a four-month period beginning with the first day of any month. The Forward Plan will be rolled forward and published each month to cover the four-month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Forward Plan. In this case Rule 12 or 13 below will apply.
- 11.2 The Forward Plan will contain such matters considered to be Key Decisions to be taken during the period covered by the Forward Plan.
- 11.3 The Forward Plan will describe in respect of each matter the following particulars:
- (a) the matter relating to the decision to be made;
 - (b) the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
 - (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 to make representations to the Shadow Executive Committee or decision taker about the matter before the decision is made, and the date by which those steps must be taken.
 - (g) a list of the documents to be submitted to the decision taker for consideration in relation to the matter;

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- (h) 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;
- (i) that other documents relevant to the matter may be submitted to the decision taker; and
- (j) the procedure for requesting details of those documents (if any) as they become available.

11.4 Where in relation to any matter where the public may be excluded from a public meeting under Rule 7, or documents relating to the decision need not be disclosed to the public, the Forward Plan must contain the particulars of the matter, but may not contain any confidential information, exempt information or particulars of the advice of a political adviser or assistant.

12 General exception for Key Decisions

12.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to Rule 13, the decision may still be taken if:

- (a) the decision has to be taken by such a date that it is impracticable to defer the decision until it can be included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Monitoring Officer has informed the Chairman of the Overview and 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 Monitoring Officer has made copies of that notice available to the public at the main office of the Shadow Council; and
- (d) at least five clear working days have elapsed since the Monitoring Officer complied with his/her obligations under this paragraph.

12.2 Where such a decision is taken by the Shadow Executive Committee, it must be taken in public subject to any requirements relating to the disclosure of confidential or exempt information and the exclusion of the public.

13 Special urgency for Key Decisions

13.1 If by virtue of the date by which a Key Decision must be taken, the requirements of Rule 12 above cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the Chairman of the body taking the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee or if he/she is unable to act, then the agreement of the Chairman of the Shadow Council, or in his/her absence the Vice Chairman will suffice.

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- 13.2 In addition to the requirement for the Chairman to agree to the matter being dealt with as urgent business, the Chairman of the Overview and Scrutiny Committee will be consulted, and may comment, on the subject matter of the decision itself.

14 Report to Shadow Council

- 14.1 If the Overview and Scrutiny Committee is of the opinion 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 under Rule 12 above; or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Shadow Council under Rule 13 above:

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

- 14.2 In response to any requirement under Rule 14.1 above, the Shadow Executive Committee will prepare a report for submission to the next available meeting of the Shadow Council. However, if the next meeting of the Shadow Council is within 7 clear working days of the resolution of the Committee, then the report may be submitted to the subsequent meeting. The report to the Shadow Council will set out particulars of the decision, the individual or body taking the decision, and if the Shadow Executive Committee is of the opinion that it was not a Key Decision, the reasons for that opinion.

15 Record of decisions of the Shadow Executive Committee

- 15.1 After any meeting of the Shadow Executive Committee or any of its Committees or Sub-Committees, whether held in public or private, the Monitoring Officer or their nominee, or where no officer was present, the person presiding at the meeting, will normally produce as soon as practicable an electronic record of every decision taken at that meeting. The record will include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision taker;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision taker; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

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16 Meeting of the Shadow Executive Committee in private

- 16.1 Where a meeting of the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee, is to be held in private under these Rules, at least 28 clear days before the meeting, the Shadow Executive Committee shall make available at the main office of the Shadow Council a notice of its intention to hold a meeting in private giving reasons as to why the meeting is to be held in private.
- 16.2 At least five clear working days before the meeting, the Shadow Executive Committee must make available at the main office of the Shadow Council a further notice of its intention to hold a meeting in private containing: the reasons as to why the meeting is to be held in private; details any representation received by the Shadow Executive Committee about why the meeting should be open to the public; and a statement of the Shadow Executive Committee's response to any such representations.
- 16.3 Copies of the notices required by Rules 17.1 and 17.3 shall be sent to the Chairman of the Overview and Scrutiny Committee.
- 16.4 Where the date by which a private meeting must be held makes compliance with Rules 17.1 and 17.2 impracticable, the meeting may only be held in private where the Shadow Executive Committee has obtained agreement from:
- (a) the Chairman of the Overview and Scrutiny Committee; or
 - (b) if there is no such person, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chairman of the Shadow Council; or
 - (c) where there is no Chairman of either the Overview and Scrutiny Committee or of the Shadow Council able to act, the Vice-Chairman of the Shadow Council.

17 Attendance at private meetings of the Shadow Executive Committee

- 17.1 Any Member of the Shadow Executive Committee may attend a private meeting of a Committee or Sub-Committee of the Shadow Executive Committee whether or not they are members of that body unless the body determines otherwise.
- 17.2 Any Shadow Executive Committee member who is not a member of such a Committee or Sub-Committee shall be entitled to speak with the consent of the person presiding but not to vote.

18 Officer attendance at Shadow Executive Committee Meetings

- 18.1 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees, are entitled to attend any meeting of the Shadow Executive Committee. The Shadow Executive Committee cannot meet unless the Monitoring Officer has been given reasonable notice that a meeting is to take

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place. This provision also applies to Committees and Sub-Committees of the Shadow Executive Committee.

- 18.2 A private meeting of the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee, may only take place in the presence of the Monitoring Officer or his/her nominee, who shall have responsibility for recording and publicising any decisions.

19 Decisions by Members of the Shadow Executive Committee

- 19.1 Where an individual member of the Shadow Executive Committee receives a report, which he/she intends to take into account in making any Key Decision for which they have delegated authority, then he/she will not make the decision until at least five clear working days after receipt of that report.

- 19.2 On giving of such a report to a member of the Shadow Executive Committee, the person who prepared the report will give a copy of it to the Chair of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

- 19.3 As soon as reasonably practicable after an executive decision has been taken by a delegated member of the Shadow Executive Committee, a written record of the decision must be produced which must include the following:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the Member;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any Member of the Shadow Executive Committee who is consulted by the Member which relates to the decision; and
- (e) the provisions of Rules 4 and 5 will also apply to the making of decisions by Executive Committee Members.

20 Record of Executive and non-Executive decisions taken by Officers

- 20.1 As soon as reasonably practicable after an officer has made a decision which is an Executive decision (i.e. the responsibility of the Shadow Executive Committee) a written statement will be prepared including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any Executive Member who is consulted by the officer which relates to the decision; and

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- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Monitoring Officer.
- 20.2 Any record prepared in accordance with Rule 21.1 and any report considered by the officer and relevant to the decision will be available for public inspection at the main office of the Shadow Council and on the Shadow Council's website.
- 20.3 Rules 21.1 to 21.2 do not apply to day-to-day administrative or operational decisions of the Shadow Council taken by officers in connection with the discharge of functions which are the responsibility of the Shadow Executive Committee.
- 20.4 As soon as reasonably practicable after an officer has made a decision under an express delegation from the Shadow Council, its Committees, Sub-Committees or any Joint Committee in which the Shadow Council is involved or under a general delegation from one of these bodies where the effect of the decision is to grant a permission or licence, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects the Shadow Council's position a written statement will be prepared including:
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the officer when making the decision; and
 - (d) a record of the name of any Shadow Councillor or local government body who has declared an interest (for decisions taken under an express delegation).
- 20.5 Any record prepared in accordance with Rule 21.4 together with any background papers considered by the officer and relevant to the decision will be available for public inspection at the main office of the Shadow Council and on the Shadow Council's website.
- 20.6 Rules 21.4 to 21.5 do not apply to:
 - (a) routine administrative and organisational decisions;
 - (b) decisions on operational matters such as day-to-day variations in services;
 - (c) decisions if the whole or part of the record contains confidential or exempt information; and
 - (d) decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

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21 Access to documents – Overview and Scrutiny Committee

- 21.1 Subject to Rule 22.4 below, any member of the Overview and Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Leader and/or the Shadow Executive Committee including its Committees and Sub-Committees and which contains material relating to:
- (a) any business transacted at a public or private meeting of the Shadow Executive Committee including any of its Committees and Sub-Committees;
 - (b) any decision taken by an individual member of the Shadow Executive Committee; or
 - (c) any Executive decision taken by an officer in accordance with Part 3 of this Constitution.
- 21.2 Where a member of the Overview and Scrutiny Committee (including its Sub-Committees) requests a document which falls within Rule 22.1 the Leader must provide that document as soon as reasonably practicable and in any case no later than 10 clear working days after the Leader receives the request.
- 21.3 Subject to Rule 22.4 the Chairman of the Overview and Scrutiny Committee is entitled to see papers in relation to private decisions of the Shadow Executive Committee before the decision is made.
- 21.4 Where the Leader so determines, a member of the Overview and Scrutiny Committee will not be entitled to:
- (a) any document that is in draft form;
 - (b) any such document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision he/she is reviewing or scrutinising or any review contained in any programme of work of the Committee;
 - (c) the advice of a political advisor.

Where the Leader determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, for the reasons set out above the Leader must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

22 Additional rights of access for Shadow Councillors

- 22.1 All Shadow Councillors will be entitled to inspect any document which is in the possession or under the control of the Leader and or the Shadow Executive Committee including its Committees or Sub-Committees and contains material relating to any business to be transacted at a public meeting; any business previously transacted at a private meeting; any decision made by an individual Member; or an Executive decision by an officer unless in the opinion of the Monitoring Officer it contains exempt information falling within the categories of

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exempt information as set out in the Appendix; or it contains the advice of a political advisor.

- 22.2 All Shadow Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Shadow Executive Committee including its Committees and Sub-Committees which relates to any Key Decision unless Rule 22.1 above applies.
- 22.3 In relation to public meetings, where a document is required to be available for inspection by all Shadow Councillors under Rule 23.1 it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.
- 22.4 In relation to private meetings, decisions made by an individual Member or Executive decisions made by an officer, where a document is required to be available for inspection by all Shadow Councillors under Rule 23.1 must be available with 1 working day of the meeting concluding or where an Executive decision is made by an individual Member or an officer within 1 working day of the decision being made.
- 22.5 These rights of a Shadow Councillor are additional to any right he/she may have.

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Appendix 1 – Descriptions of Exempt Information

Exempt information means information falling within the following categories (subject to any qualification):

- (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 of legal professional privilege could be maintained in legal proceedings.
- (6) Information which reveals that the authority proposes –
 - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) To make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Qualifications

Information falling within the above descriptions is not exempt information if it is required to be registered under:

- (a) The Companies Acts (as defined in section 2 of the Companies Act 2006);
- (b) The Friendly Societies Act 1974;
- (c) The Friendly Societies Act 1992;
- (d) The Co-operative and Community Benefit Societies Act 2014;
- (e) The Building Societies Act 1986; or
- (f) The Charities Act 2011.

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

Information which –

- (a) Falls within any of the descriptions above; and

Is not prevented from being exempt by the previous two qualifications is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.