

ACCESS TO INFORMATION PROCEDURE RULES

1.	Scope
Rules 1 - 11 apply to all meetings of the Council, Overview and Scrutiny Committee, area committees, the Joint Standards Committee, regulatory and other committees and meetings of the executive (together called meetings). Additional provisions specific to the Executive are set out at Rules 12 – 26.	
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 set out at Rule 10 (Exclusion of access by the public to meetings).	
4.	Notice of Meetings
<p>The Council will give at least five ‘clear days’* notice of any meeting by posting details of the meeting on the website and at the Council Offices, Gibson Drive, Kings Hill (the designated office) and at the Council Offices, Tonbridge Castle, Tonbridge.</p> <p><small>**“clear days” refers to weekday working days and does not include the day of publication or the day of the meeting</small></p>	
In the case of a meeting of the Joint Standards Committee, written notice of the time and place of the meeting shall also be given by electronic means to every town and parish council in the Borough at least five clear days before that meeting or, if the meeting is convened at shorter notice, then at the time it is convened.	
5.	Access to Agenda and Reports before the Meeting
The Council will make copies of the agenda and reports to meetings open to the public available for inspection on the website and at the designated office at least five clear days before the meeting (and at the Tonbridge Castle office as soon as practicable thereafter). If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors.	

In the case of a meeting of the Joint Standards Committee, a copy of the agenda for a meeting and copies of any report for a meeting containing written notice of the time and place of the meeting shall also be sent electronically to every town and parish council in the Borough.	
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)	if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item
to any person via email with a link to the relevant part of the website or paper copies on payment of a charge for postage and any other costs.	
7.	Access to Minutes 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 executive), excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in Rule 10);
(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.
In addition, in the case of a meeting of the Joint Standards Committee, the Borough Council will send electronically to every town and parish council in the Borough copies of the documents referred to in paragraphs (a), (b) and (c) above.	
8.	Background Papers
8.1	<i>List of background papers</i>
The author of the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:	

(a)	disclose any facts or matters on which the report or an important part of the report is based; and
(b)	which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports or the advice of a political advisor.
8.2	<i>Public inspection of background papers</i>
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.	
9.	Summary of Public's Rights
This part of the Council's Constitution meets the requirement that 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 designated office. (It will also be kept and be available to the public at the Tonbridge Castle office).	
10.	Exclusion of Access by the Public to Meetings
The following paragraphs set out the circumstances in which the public may be excluded from meetings, as defined by the law. There is, however, a general presumption that meetings will be open to the public to attend.	
10.1	<i>Confidential information – requirement to exclude public</i>
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 (as defined below) would be disclosed.	
10.2	<i>Exempt information – discretion to exclude public</i>
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 (as defined below) 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	<i>Meaning of confidential information</i>
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 under any enactment or by an order of a court.	

10.4	<i>Meaning of exempt information</i>	
(a)	Exempt information means information falling within the categories set out below. These categories are subject to the stated conditions:	
(1)	Information relating to any individual.	
(2)	Information which is likely to reveal the identity of any individual.	
(3)	Information relating to the financial or business affairs of any particular person (including the authority holding that information):	
	Save that information is not exempt if it is required to be registered under:	
	-	The Companies Act 1985
	-	The Friendly Societies Act 1974
	-	The Friendly Societies Act 1992
	-	The Industrial and Provident Societies Acts 1965 to 1978
	-	The Buildings Societies Act 1986 or
	-	The Charities Act 1993
(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:	
	(i)	to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
	(ii)	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.	
(b)	Information is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.	

(c)	Information which:
	- Falls within any of the paragraphs (1) – (7) set out above; and
	- Is not prevented from being exempt by virtue of paragraph (b) above,
	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.
11.	Exclusion of Access by the Public to Reports
If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in their 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 Executive
Rules 1 – 11 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 13-14 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply.	
A key decision is as defined in Article 8.03(b) (Part 2) of this Constitution.	
If any meeting of the Executive or its committees, or any part thereof, is likely to be held in private, Rule 17 also applies. This requirement does not include meetings whose sole purpose is for officers to brief members.	
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:	
(a)	a Notice of Forthcoming Key Decisions has been published in connection with the matter in question at least 28 clear days before the key decision is made;
(b)	where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

14.	Notice of Forthcoming Key Decisions
14.1	<i>Contents of Notice of Forthcoming Key Decisions</i>
<p>The Notice of Forthcoming Key Decisions will contain matters which will be subject of a key decision to be taken by the Executive, a committee or area committee of the Executive, individual members of the Executive, officers, or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars in so far as the information is available or might reasonably be obtained:</p>	
(a)	the matter in respect of which a key decision is to be made;
(b)	where the decision maker is an individual, their name and title, if any and where the decision maker 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)	a list of the documents submitted to the decision maker for consideration in relation to the matter;
(e)	the address from which, subject to any prohibition or restriction on their disclosure, copies of or extracts from any document listed is available;
(f)	that other documents relevant to those matters may be submitted to the decision maker; and
(g)	the procedure for requesting details of those documents (if any) as they become available.
14.2	<i>Publication of Notice of Forthcoming Key Decisions</i>
<p>At least 28 clear days before a key decision is made, the Notice of Forthcoming Key Decisions must be made available for inspection by the public at the offices of the Council and on the website.</p>	
<p>The Notice of Forthcoming Key Decisions must contain particulars of the matter to be discussed but may not contain any confidential or exempt information.</p>	
15.	General Exception
<p>Subject to Rule 16 (Special Urgency), where the publication of the intention to make a key decision is impracticable, the decision may only be made if:</p>	
(a)	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, by notice, of the matter about which the decision is to be made and why compliance with Rule 14 is impracticable;

(b)	the Chief Executive has made a copy of that notice available to the public at the offices of the Council and published it on the website; and
(c)	at least five clear days have elapsed since the Chief Executive complied with (a) and (b).
16.	Special Urgency
<p>If by virtue of the date by which a key decision must be taken Rule 15 (General Exception) cannot be followed then the decision can only be taken if the decision maker obtains the agreement of the Chair of the Overview and Scrutiny Committee or, if they are unable to act, of the Mayor or Deputy Mayor [and the political group leaders] that the making of the decision is urgent and cannot reasonably be deferred.</p>	
<p>As soon as reasonably practicable after obtaining the above agreement, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred shall be made available to the public at the offices of the Council and published on the website.</p>	
<p>Emergency provisions for decision making during a period of serious and unexpected disruption are set out in Part 7 of the Constitution.</p>	
17.	Private Meetings or part thereof
<p>The following procedures apply to decisions made by the executive, a committee or area committee of the executive, or under joint arrangements in the course of the discharge of an executive function where it is intended to hold a meeting or part thereof in private.</p>	
<p>At least 28 clear days before a decision is made at a private meeting of the executive or part thereof, a notice of intention to hold the meeting in private shall be made available to the public at the offices of the Council and published on the website. The notice must state why the meeting will be held in private.</p>	
<p>At least five 'clear days'* before a private meeting a further notice of intention to hold the meeting or part thereof in private shall be made available to the public at the offices of the Council and published on the website. This requirement would ordinarily be fulfilled by publication of the meeting agenda. The notice must include a statement of the reasons for the meeting or part thereof to be held in private; details of any representations received about why the meeting or part thereof should be open to the public; and a statement of response to any such representations.</p>	
<p>*"clear days" refers to weekday working days and does not include the day of publication or the day of the meeting</p>	
<p>Where the date by which a meeting must be held makes compliance with the procedure above impracticable, the meeting or part thereof may only be held in private where agreement that the meeting is urgent and cannot reasonably be deferred has been obtained from the Chair of the Overview and Scrutiny</p>	

Committee or, if they are unable to act, from the Mayor or Deputy Mayor.	
As soon as reasonably practicable after obtaining the above agreement, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred shall be made available to the public at the offices of the Council and published on the website.	
18.	Report to Council
<i>18.1</i>	<i>When the Overview and Scrutiny Committee can require a report</i>
If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:	
(a)	included in the notice of forthcoming key decisions; or
(b)	the subject of the general exception procedure; or
(c)	the subject of an agreement that it may be treated as urgent under Rule 16;
the committee may require the executive to submit a 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 Chief Executive, who shall require such a report on behalf of the committee when so requested by the Chair. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.	
<i>18.2</i>	<i>Executive's report to Council</i>
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 seven working 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.	
<i>18.3</i>	<i>Annual reports on special urgency decisions</i>
In any event the leader will submit annual reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.	
19.	Record of Decisions
After any meeting of the Executive or any committee of the Executive, the Chief Executive will produce a record of every decision taken at that meeting as soon as reasonably practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that	

meeting.	
20.	Decisions by Officers
As soon as reasonably practicable after a decision has been taken by an officer which is required to be recorded in writing under the Openness of Local Government Bodies Regulations 2014, they will prepare, or arrange for the preparation of, a record of the decision (including the date it was taken), a statement of the reasons for it, any alternative options considered and rejected and the names of any member(s) of the Council who has declared a conflict of interest in relation to the decision.	
21.	Executive meetings relating to Matters which are not Key Decisions
With the exception of matters falling within Rule 10 above, all meetings of the executive will be held in public, whether or not the meeting relates to matters which are key decisions.	
22.	Notice of the Meetings of the Executive
Members of the executive or a committee of the executive will be entitled to receive five clear days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.	
The agenda and reports of any such meeting will also be circulated to all other members of the Council at the same time as they are circulated to members of the executive, unless:	
(a)	any individual member indicates that they do not wish to receive specified papers;
(b)	a report contains information or advice which the Council is unable to supply to members not involved in the making of a decision because of any statutory provision or the terms of any agreement.
23.	Member and Officer Attendance at meetings of the Executive
Members of the Council who are not members of the Executive may attend meetings of the Executive and any committees of the Executive. With the agreement of the Leader any such member may address the executive on any item on the agenda, but may not vote.	
Notwithstanding the above, Members of the Council who are not members of the executive may attend a meeting of the executive to which a Petition has been referred in accordance with rules 5.21 to 5.24 of the Council and Committee Procedure Rules. Members shall be entitled to address the meeting on the matters raised in the Petition provided that no speech may exceed five minutes without the consent of the Chair.	
The Chief Executive, the Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the executive or a committee	

of the executive.	
24.	Decisions by Individual Members of the Executive
24.1	<i>Reports intended to be taken into account</i>
Where an individual member of the executive receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least five clear days after receipt of that report.	
24.2	<i>Provision of copies of reports to other Members</i>
Any report prepared for an individual decision maker will be circulated to all relevant members of the Council in accordance with the Rules for the making of decisions by Executive Members set out in this Part of the Constitution, subject to the exceptions referred to in Rule 22 above. The report will also be available to the public in accordance with these Rules.	
24.3	<i>Record of individual decisions</i>
As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive, the Chief Executive will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.	
25.	Overview and Scrutiny Committee's Access to Documents
25.1	<i>Rights to copies</i>
Subject to Rule 25.2 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 executive or its committees and which contains material relating to:	
(a)	any business transacted at a meeting of the executive or its committees; or
(b)	any decision taken by an individual member of the executive or any 'key decision' taken by an officer
25.2	<i>Limit on rights</i>
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.
26.	Additional Rights of Access for Members
26.1	<i>Material relating to previous business</i>
All members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business previously transacted unless either (a) or (b) below applies:	
(a)	it contains exempt information falling within paragraphs (1), (2), (4), (5) and (7) of the categories of exempt information; or
(b)	it contains the advice of a political adviser
26.2	<i>Material relating to key decisions</i>
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 executive or its committees which relates to any key decision unless paragraph 26.1 (a) or (b) above applies.	
26.3	<i>Nature of rights</i>
These rights of a member are additional to any other right they may have.	