

## Appendix 3

### Draft Changes to the Constitution

## ACCESS TO INFORMATION RULES

### Scope

1. These rules apply to all meetings of the Council and its committees and sub-committees and meetings of the Cabinet and committees established by the Leader or the Cabinet except where specified (together these meetings are herein referred to as "meetings"). They also apply where specified to decisions made by officers, the Leader and Cabinet Members.
2. Nothing in these rules shall be treated as limiting or diminishing any rights conferred on the public, members of the Council or co-opted or independent members by any of the Standing Orders or other rules in the Constitution or the law.

### Access to minutes and papers after a decision has been taken

15. The Council will make available for inspection during normal office hours and on the Council's website, copies of the following for at least six years after a decision has been taken:
  - (a) the minutes of any meeting and, in the case of any Key Decision, the record of the decision required to be prepared pursuant to these Rules (but excluding any minute or record which discloses any exempt or confidential information);
  - (b) a summary of any proceedings in a meeting not open to the public where the minutes or record 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 and reports considered by individual decision makers.

### Key Decisions

26. A decision taken by Cabinet or a Cabinet Committee, the Leader or a Cabinet Member or an officer exercising an executive function under delegated powers will be a Key Decision if the decision is likely to:
  - (a) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (b) be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the

### Consequences of a decision being classed as a Key Decision.

30. Subject to the rules on urgency (see paragraph 39), a Key Decision may not be taken (by the Cabinet, a Cabinet Committee, the Leader or a Cabinet Member or officers) in respect of any matter unless the matter in question has been publicised in the Forward Plan and unless the reports to be considered by the decision maker have been available for public inspection for at least 5 clear days prior to the date on which the decision is made and copied to the Chair of the relevant Scrutiny Committee.

- ~~31. If the Cabinet or a Cabinet Committee meet with an officer present (other than a political assistant appointed under section 9 of the Local Government and Housing Act 1989) to discuss a matter relating to a decision included in the current Forward Plan within 28 days of the date according to the Forward Plan by which the matter is to be decided, or to discuss a matter in respect of which notice has been served under Rule 38 then the meeting shall be held in public. This requirement does not apply to meetings whose principal purpose is for officers to brief members e.g. the Leader's Briefing.~~

**Comment [ND1]:** This provision arises from out of date legislation and is no longer relevant.

### Urgency

39. If the Cabinet, Cabinet Committees, the Leader or Cabinet Member, or officers are proposing to take a Key Decision which is not included in the Forward Plan then:
- (a) The decision may only be taken if:-
- 1.1. the decision is required to be taken by such a date that it is impracticable, in the opinion of the Chief Executive or a nominated deputy, to defer the decision until it has been included in the Forward Plan in accordance with the Access to Information Rules and timescales;

### Record of Executive Decisions

43. In addition to the List of Executive Decisions prepared by the Head of Executive and Member Services under Standing Orders, the Head of Executive and Member Services will, as soon as reasonably practicable after a public meeting of the Cabinet or a Cabinet Committee, produce a record of every decision taken at that meeting which shall include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any conflict of interest declared by any member and any dispensation granted.
44. As soon as reasonably practicable after any decision has been taken by the Leader or a Cabinet Member a record of that decision shall be prepared by a representative of the Head of Executive and Member Services setting out the information listed above. Such decisions may only be taken in the presence of a relevant officer able to advise the Leader or Cabinet Member concerning the content of the report and in the presence of a representative of the Head of Executive and Member Services.
45. As soon as reasonably practicable after an executive decision has been taken by an officer a record of that decision shall be prepared by the relevant officer setting out the information listed above and shall be forthwith submitted to the Head of Executive and Member Services. An executive decision by an officer is a decision which is a Key Decision, or a decision which is delegated to an officer by the Cabinet or by a Cabinet Committee.



# RESPONSIBILITY FOR FUNCTIONS

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- 1.4 The Leader has agreed to delegate all executive functions to the Cabinet except those which he/she has delegated as set out in this Part 3 of the Constitution.
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## 7. Responsibility for the discharge of executive functions

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- 7.1 The Leader delegates to the Cabinet all executive functions except those which he/she has delegated to individual Cabinet Members or to officers as set out in this Constitution. The Cabinet has established a Committee; the Barham Park Trust Committee, to decide matters relating to the Trust. The Cabinet has agreed to delegate such functions to the Barham Park Trust Committee as are set out in the Constitution in Part 4 (Terms of Reference).

- 7.6 Individual Cabinet Members may delegate their executive functions to an officer.

- 7.7 If the Leader makes any changes to the allocation of functions and delegations he/she shall either:

- (i) Report the change to the Council or;
- (ii) Notify the Monitoring Officer in writing of the change

And no change shall be effective until either (i) or (ii) has been complied with. The Monitoring Officer shall as soon as practicable report any change notified to him/her to Full Council.

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## 13. Decisions by individual Members

At the present time the Leader has not delegated authority to members to make any individual decisions. The Leader has delegated the following functions to Cabinet Members to be exercised within their portfolio area and in consultation with the Leader: