

Part 4E

Access to Information Procedure Rules

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1. Scope

Derivation -

These rules implement the requirements of Sections 100A to K and Schedule 12 of the Local Government Act 1972, Sections 9G and 9 GA of the Local Government Act 2000, and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Rules 1 -10 apply to all formal meetings of the Council.

Rules 11 - 21 apply only to meetings of the Executive, Executive Committees and executive decisions taken by individual Members of the Executive or by Officers but do not apply to meetings of Consultative Forums or Advisory Panels.

2. Additional Rights to Information

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

3. Rights to Attend Meetings

Members of the public and representatives of the Press may attend all meetings subject only to the exceptions in these rules. Members of the public and representatives of the Press may also attend when an individual Member of the Executive is determining a matter that is a Key Decision.

4. Reporting of meetings

The reporting of meetings is permitted except where the press and public are excluded under these rules.

5. Notice of Meetings

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Hounslow House, 7 Bath Road, Hounslow, TW3 3EB. A similar notice will be given of when an individual Member of the Executive is to take a Key Decision. Key Decisions can only be taken by the Leader except where the Executive has delegated the decision to an individual Portfolio Holder.

At least 28 clear calendar days before a Key Decision is made, a Key Decision Schedule (known as Forward Plan) must be available for inspection by the public at the offices of the Council and on the Council's website.

At least 28 clear calendar days before a private Executive meeting, the Council must make available, a notice of its intention to hold the meeting in private and published on the Council's website. This notice will be included in the Key Decision Schedule and will apply to both Key and Non-Key Decisions to be taken. The notice must include a statement of the reasons for the meeting to be held in private.

At least 5 clear days before a private meeting, the Council must make available, a further notice of its intention to hold the meeting in private and publish the notice on the Council's website. This notice must include: a statement of the reasons for the meeting to be held in private; details of any representations received by the Council about why the meeting should be open to the public and a statement of its response to any such representations.

6. Access to Agenda and Reports before the Meeting

The Council will make copies of those agenda and reports which are open to the public available for inspection, at least five clear working days before the meeting.

Where the meeting is convened at shorter notice than set out above, copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

Where an item is added to an agenda, copies of which are open to inspection by the public, copies of any report for the meeting relating to the item shall be available from the time the item is added to the agenda. Nothing in this rule requires copies of any agenda item or report to be open to inspection by the public until copies are available to Councillors. Copies of agendas must be made available at the meeting.

7. Late Reports

If there is a requirement to add an agenda item to an agenda after the statutory deadline for publication, that item may only be considered if the Chair agrees by virtue of the special circumstances set out either in the report or on the supplemental agenda, that the item should be considered as a matter of urgency and specified in the minutes of the meeting. If the report involves a Key Decision, please also see additional rules below.

This rule does not apply to Meetings of the full Council where the person presiding at the meeting is exercising any power or duty of the Mayor.

Where a report is prepared after the agenda has been sent out the Monitoring Officer shall make the report available to the public as soon as the report is completed and sent to Councilor's.

8. Access to Minutes and Committee Documents after the Meeting

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

- (a) The minutes of meetings (or the record of all decisions taken at a meeting, together with the reasons, for all meetings of the Executive), excluding any part of the minutes of proceedings when the meeting was not open to the public and which disclose exempt or confidential information;
- (b) A summary of any proceedings not open to the public when the minutes open to inspection do not provide a reasonably clear and coherent record
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

9. Background Papers

9.1. List of Background Papers

The Chief Officer responsible for the drafting of a report (or in the case of joint reports, the first named Chief Officer) shall set out in the report a list of those documents (called the 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 will not include in such list published works or those which disclose exempt or confidential information (as defined in below) and in respect of reports to a meeting of the Executive, any advice given by a political adviser.

9.2. Public Inspection of Background Papers

The Council will make available for public inspection for at least four years after the date of the meeting a copy of each of the documents on the list of background papers. Where possible where the background papers are mentioned in the report, there will be an electronic link on the Council's website to where the document can be found.

10. Summary of the Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents is included in the Articles of this Constitution.

11. Exclusion of Access by the Public and Press to Meetings

11.1. Confidential Information – requirement to exclude the public from a meeting

The public and press 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.

11.2. Exempt Information – discretion to exclude the public and press from a meeting

The public and press 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.

11.3. 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.

11.4. . Meaning of Exempt Information

Exempt information means information falling within the following seven categories (subject to the relevant condition)

Category	Condition
1. Information relating to any individual	Information falling within paragraph 1 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.
2 Information which is likely to reveal the identity of an individual	Information falling within paragraph 2 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.

<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p>“Financial or business affairs” includes contemplated as well as past or current activities.</p>	<p>Information falling within paragraph 3 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.</p> <p>Information falling within paragraph 3 is not exempt information if it is required to be registered under:</p> <ul style="list-style-type: none"> the Companies Act 1985 the Friendly Societies Act 1974 the Friendly Societies Act 1992 the Industrial and Provident Societies Act 1965 to 1978 the Building Societies Act 1986 the Charities Act 1993
<p>4. Information relation 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.</p>	<p>Information falling within paragraph 4 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemptions outweighs the public interest in disclosing the information.</p> <p>“Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act or any dispute about a matter within this paragraph.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information falling within paragraph 5 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.</p>
<p>6. Information which reveals that the authority proposes</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person;</p> <p>or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Information falling within paragraph 6 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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information falling within paragraph 7 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.</p>

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

12. Procedure before taking Key Decisions

Subject to the rules on ‘general exception’ and ‘special urgency’ in this document, a Key Decision may not be taken unless:

- (a) a document (called here the “Key Decision Schedule”) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Key Decision Schedule (also known as the Forward Plan),
- (c) where the decision is to be taken at a meeting of the Executive, a notice of the meeting has been given in accordance with the rule above on ‘notice of meetings’ above and a written report providing all relevant and necessary information has been considered by the body taking the decision; and
- (d) where the decision is to be taken by an individual Member of the Executive at least five clear working days have elapsed following receipt of the report required below and notice of the consideration of a Key Decision has been given under the rule on ‘notice of meetings’ above and in accordance with (b) above.

13. The Key Decision Schedule (“KDS”)

13.1. Period of the Key Decision Schedule

The KDS will be prepared by the Chief Executive or nominated officer to cover a period of three months and published 28 clear days prior to the decision being taken by that meeting.

The KDS must be published at least 28 clear days before the date of the meeting taking that Key Decision.

13.2. Contents of the Key Decision Schedule

The KDS will contain matters which the Monitoring Officer believes will be the subject of a Key Decision to be taken by the Executive or under joint arrangements. Only items which relate to the discharge of an Executive function must be included, but other items may be included. It will describe the following particulars in so far as the information is available:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, their name and title, if any, and where the decision taker is a body, its name and a list of its Members;
- (c) the date on which, or the period within which, the decision is to be made;
- (d) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the Key decision is to be made;
- (e) how copies or extracts of any documents may be acquired, subject to any prohibition or restriction on their disclosure.

14. General Exception

If a matter which is likely to be a Key Decision has not been included in the Key Decision Schedule, then subject to the rule on ‘special urgency’, the decision may still be taken if:

- (a) the Monitoring Officer (Proper Officer) has informed by written notice the Chair of the Overview and Scrutiny Committee, or if there is no such person, each Member of that Committee, by notice in writing of the matter to which the decision is to be made;
- (b) the Monitoring Officer has made available to the public a copy of that notice; and
- (c) at least five clear working days have elapsed following the day on which the Monitoring Officer complied with (b).

Any such decision taken by the Executive must be taken in public unless it relates to a matter which is confidential or exempt pursuant to the rules above.

15. Special Urgency

If by virtue of the date by which a decision must be taken in the rule below on 'general exception' cannot be followed, then the decision can only be taken if the decision maker (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 is urgent and cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or if that Chair is unable to act, then the agreement of the Mayor, or in their absence the agreement of the Deputy Mayor is required.

Any such decision taken by the Executive must be taken in public unless it relates to a matter, which is confidential or exempt pursuant to the rules above.

As soon as reasonably practicable after agreement has been obtained, the decision maker must make available a notice setting out the reasons for urgency.

16. Requirement for a Report to be made to Council

16.1. Request from the Overview and Scrutiny Committee

If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not included in the Key Decision Schedule, they may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The report must include details of the decision and the reasons for it, the name of the decision maker and the Executive's reasons for its opinion that the decision was not key.

16.2. The timing of the report to Council

The Executive will prepare a report for submission to the Council at such intervals as may be determined by the Council. The report to Council will set out particulars of each decision, and a summary of the matters in respect of which each decision was made. The Leader must submit at least one report on special urgency annually, unless otherwise determined by the Council.

16.3. Requirement for reporting on special urgency decisions

In any event the Leader of the Council will report to the Council on any Executive decisions taken in the circumstances set out in the rules on 'special urgency' since the last Council meeting. 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. Record of Decisions

After the meeting of the Executive or any of its Executive (Cabinet) Committees, Advisory Panels or Consultative Forums, the Monitoring Officer or a Chief Officer present, will produce as soon as practicable and make available for inspection by members of the public and on the Council's website:

- (a) a record of the decisions taken;
- (b) a statement of the reasons for each decision; and
- (c) any alternative options considered and rejected at that meeting
- (d) a record of any conflict of interest declared by any Executive Members and a note of any dispensation granted.

18. Key Decisions taken by Individual Members of the Executive or by Officers

18.1. Reports

A Key Decision shall not be taken by an individual Member of the Executive or by an Officer until twenty eight clear days after the publication of the Key Decision Schedule and five clear working days have elapsed from receipt of a report which includes relevant and necessary information for the making of the decision.

18.2. Provision of copies of reports to the Overview and Scrutiny Committee

On the giving of such a report to an individual decision maker, the person preparing the report will at the same time give a copy to the Chair of the Overview and Scrutiny Committee and make it publicly available.

18.3. Notice of the Decision

Notice of the taking of a Key Decision by an individual Member or Officer shall be given in the same way as a notice of a meeting of the Executive. Members of the public and representatives of the Press may attend the taking of a Key Decision by an individual Member.

19. Record of Individual Decisions

As soon as reasonably practicable after any Executive decision has been taken by an individual Member or after a Key Decision has been taken by an Officer they will instruct the Monitoring Officer or the relevant Executive Director or Director to prepare a record of the decision, a statement of the reasons for it, any alternative options considered and rejected in accordance with these rules, a record of any conflict of interest declared by any Executive Member and in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

20. Inspection of Documents and Background Papers

The provisions of the rules above on 'access to documents after meetings' and 'background papers' will also apply to the making of decisions by individual Members of the Executive and Key Decisions by Officers. This does not require the disclosure of exempt or confidential information.

21. Overview and Scrutiny Committee – Access to Documents

21.1. Members of 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, Executive (Cabinet) Committee, a Portfolio Holder, Advisory Panel or Consultative Forum and which contains material relating to:

- (a) any business transacted at a meeting of the Executive, Executive (Cabinet) Committee, Advisory Panel or Consultative Forum; or
- (b) any decision taken by a individual Member of the Executive;
- (c) any decision that has been made by an officer of the authority in accordance with Executive Arrangements.

21.2. These documents should be provided by the Executive as soon as reasonably practicable and no later than 10 clear days from the Executive receiving the request.

21.3 No Member of the Overview and Scrutiny Committee is entitled to a copy of any such document as contains exempt or confidential information unless the information is relevant to:

- (a) An action or decision that the Member is reviewing or scrutinising.
- (b) Any review contained in any programme of work of the Overview and Scrutiny Committee.

No Member of the Overview and Scrutiny Committee is entitled to any such document as contains advice from a political adviser.

21.4. Where the Executive determines that a Member of the Overview and Scrutiny Committee is not entitled to a copy of a document (for reasons set out above) it must provide a written statement of the decision to the Overview and Scrutiny Committee.