

# 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 -11 apply to all formal meetings of the Council.

Rules 12 - 21 apply to meetings of the Cabinet, Cabinet Committees and executive decisions taken by individual Members of the Cabinet 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-

## 4. Reporting of meetings

The reporting of meetings is permitted except where the press and public are excluded under these rules. <sup>1</sup>

## 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 and on the Council's website. A similar notice will be given when an individual Member of the Cabinet is to take a Key Decision.

At least 28 clear calendar days before a formal private meeting of the Cabinet, the Council must make available a notice of its intention to hold the meeting in private and publish that notice on the Council's website. This notice will be included in the Forward Plan 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 formal 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 agendas 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.

## 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, the requirements of rules 14 and 15 shall also apply.

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 Cabinet), 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 Cabinet, 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. <sup>2</sup>

## 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.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	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

<p>“Financial or business affairs” includes contemplated as well as past or current activities.</p>	<p>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"> <li>the Companies Act 1985</li> <li>the Friendly Societies Act 1974</li> <li>the Friendly Societies Act 1992</li> <li>the Industrial and Provident Societies Act 1965 to 1978</li> <li>the Building Societies Act 1986</li> <li>the Charities Act 1993</li> </ul>
<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; 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. The Forward Plan

### 12.1. Period of the Forward Plan

The Forward Plan will be prepared by the Head of Democratic Services or nominated officer to cover a period of four months and will be updated on a monthly basis.

## 12.2. Contents of the Forward Plan

The Forward Plan will contain matters which the Monitoring Officer believes will be the subject of a Key Decision to be taken by the Cabinet, an individual Cabinet Member or an officer, 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.

## 13. Procedure before taking Key Decisions

Subject to rules 14 and 15 below, a Key Decision may not be taken unless:

- (a) details of the proposed decision have been included in the Forward Plan;
- (b) at least 28 clear days have elapsed since the publication of the Forward Plan in which those details appeared;
- (c) where the decision is to be taken at a meeting of the Cabinet, a notice of the meeting has been given in accordance with rule 5 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 Cabinet<sup>3</sup> or an officer, at least five clear working days have elapsed following publication of a notice that such a decision is to be taken, together with a report which includes relevant and necessary information for the making of the decision.

## 14. General Exception

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

- (a) the Monitoring 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).

## 15. Special Urgency

If by virtue of the date by which a decision must be taken, Rule 14 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.

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

Any urgent key decision taken by the Chief Executive in the case of an emergency in accordance with the Scheme of Delegation to Officers contained in Part 3C of this constitution will be exempt from Forward Plan requirements, though will be reported to the Chair of the relevant scrutiny committee subsequently.

## 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 Forward Plan, they may require the Cabinet 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 Cabinet's reasons for its opinion that the decision was not key.

### 16.2. The timing of the report to Council

The Cabinet 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 Cabinet 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 Cabinet or any of its Cabinet (Cabinet) Committees, 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 Cabinet Members and a note of any dispensation granted.

## 18. Record of Individual Decisions by Cabinet Members

As soon as reasonably practicable after any executive decision has been taken by an individual Member they will prepare or instruct the proper 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 Cabinet Member and in respect of any declared conflict of interest, a note of dispensation

granted by the Monitoring Officer.

## 19. Publishable Officer Decisions

### 19.1. Definition

An “Executive Decision” is one made in connection with the discharge of a function which is the responsibility of the executive, i.e., by or under authority from the Leader and Cabinet rather than from full Council or a Committee.

19.2. Many administrative and operational decisions to be taken by officers relate to their general management role in conducting the Council’s business and how they deal with their day-to-day work. This may amount to sums greater than that referred to below, particularly in relation to decisions taken on expenditure on individual children’s or adult social care packages. These decisions are not to be regarded as an Executive Decision and, as such, they will not need to be recorded and published in the way described here.

### 19.3. Criteria

An Executive Decision made by an officer is to be recorded where it is

- (a) a Key Decision;
- (b) a decision taken by an officer that would not otherwise be published and is :
  - (i) being taken under a specific express authorisation; or
  - (ii) being taken under a general authorisation to officers to take such decisions and the effect of the decision is to—
    - (1) grant a permission or licence;
    - (2) affect the rights of an individual; or
    - (3) award a contract or incur expenditure which, in either case, materially affects the Council’s financial position, for which purposes is taken to be a financial saving or expenditure of more than £250,000 and up to and including £500,000 for revenue expenditure or more than £500,000 and up to and including £1,000,000 1m for capital expenditure ;or
  - (iii) which is of such significance that the relevant Executive Director considers it should be published for transparency and accountability purposes.

### 19.4. Officer Decision Notice

An officer who takes an Executive Decision shall ensure that an ‘officer decision notice’ is prepared as a written record of their decision and that it contains:

- a) a record of the names and titles of the decision taker;
- b) a record of the decision including the date it was made;
- c) a statement of the reasons for the decision;
- d) details of any alternative options considered and rejected by the officer when making the decision;

- e) a record of any statement made by any Cabinet Member who is consulted by the officer, including any conflict of interest declared by that Cabinet Member which relates to the decision; and
- f) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service; and
- g) in respect of a Key Decision, a statement of urgency and that the decision is exempted from call-in where appropriate.

19.5. The Officer Decision Notice shall be delivered it to the Monitoring Officer (via Democratic Services), who shall publish the Decision Notice.

19.6. Any report or papers relied upon to reach the decision must also be provided to be made available for inspection by members of the public unless they contain exempt of confidential information as defined in Rule 11.

19.7. Unless the officer's decision is a Key Decision, an officer decision is not eligible for call-in

19.8. Executive Decisions by officers which are not Key Decisions shall be known as **Publishable Officer Decisions**.

## 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 Cabinet and Key Decisions by Officers. This does not require the disclosure of exempt or confidential information.

## 21. Additional Rights of Access for Members

21.1 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 **to be transacted** at a public meeting unless;

- (a) it contains exempt information falling within categories 1, 2, 4, 5, or 7 of exempt information; or
- (b) it falls within category 3 in so far as it is information relating to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract; or
- (c) it contains the advice of a political adviser or political assistant.

21.2 Documents to which members are entitled by virtue of rule 21 must be available for inspection by them at least five clear working days before the meeting unless the meeting is convened at shorter notice in which case it must be available when the meeting is convened. If the item is added to the agenda at shorter notice, the relevant document must be made available at the time when the item is added to the agenda.

21.3 All members will be entitled, within 24 hours of the conclusion of a Cabinet meeting held in private, or of a decision made by an individual Cabinet member or of the publication of a publishable officer decision, 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 transacted** at that private meeting or to the individual decision, unless the exceptions set out in rule 21.1 (a) (b) or (c) apply.

## 22. Overview and Scrutiny Committee – Access to Documents

- 22.1. 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 Cabinet, Cabinet Committee, or Cabinet Member and which contains material relating to:
- (a) any business transacted at a meeting of the Cabinet, Cabinet (Cabinet) Committee,<sup>4</sup>; or
  - (b) any decision taken by a individual Member of the Cabinet;
  - (c) any key decision that has been made by an officer or a publishable officer decision made under rule 19 above;
- 22.2. These documents should be provided by the Cabinet as soon as reasonably practicable and no later than 10 clear days from receiving the request.
- 22.3 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.
- 22.4. No Member of the Overview and Scrutiny Committee is entitled to any document which contains advice from a political adviser or assistant.
- 22.5 Where the Cabinet 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.

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<sup>4</sup> The regulations do not apply to non decision making bodies so references to advisory panels and consultative forums have been removed