

ACCESS TO INFORMATION PROCEDURE RULES

1 Scope

These rules apply to all meetings of the Council and its committees as set out in Articles 4, 6 and 7 of Part 2 of this constitution and to public meetings of the Cabinet (together called meetings).

They are complementary to the statutory rights of access to information conferred by Sections 100A to H and schedule 12A of the Local Government Act 1972, as amended, the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended.

2 Definition of “clear days”

In these Rules, “clear days” means a normal working day, excluding:

- (a) the day of publication in hard copy
- (b) the day of the meeting
- (c) Saturday and Sunday
- (d) Public or bank holidays
- (e) Other days when the Council’s offices are closed (other than in circumstances that could not reasonably have been foreseen)

3 Access to agenda, minutes and reports before meeting

The Council will post electronic versions of the agenda on its website, the minutes of the previous meeting and any subsequent special meeting(s) (if available) and such reports as are open to the public. A paper copy of these documents will be available for inspection at Havering Town Hall at least five clear days before the meeting.

If a report is published later than the agenda or an item is added to the agenda, that report and any revised agenda will be made available to the public for inspection at the same time as it is sent to Members of the Council. Such agendas and reports will be added to the Council’s website as soon as possible. This rule does not apply to meetings of the Cabinet (because the law does not permit late or additional reports).

4 Supply of copies

The Council will supply to any person on request 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

- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

A charge for postage and any other costs may be made for the supply of all such documents.

The agenda, draft minutes, minutes and reports of every meeting open to the public will be available on the Council's internet website (www.havering.gov.uk) and may be freely downloaded from there (subject to any copyright restrictions that may exist and shall be noted on the website where relevant).

5 Access to minutes etc. after meeting

The minutes of a meeting will not normally be available until they are published in unconfirmed form with the agenda for the following meeting.

Electronic copies of documents will be available on the Council's website. The Council reserves the right to place documents in an electronic archive from which copies will be made available on request.

6 Exclusion of access by the public to meetings

All Council meetings, including those of the Cabinet, will be open to the public but the Council reserves the right to exclude the public when entitled to do so by law if confidential or exempt information is to be considered (see the Appendix for categories of confidential and exempt information).

7 Application of rules to the Cabinet meetings

In general, these Rules apply to Cabinet Meetings other than those whose sole purpose is for members of staff to brief members.

8 Record of decisions of Cabinet

The law requires that, as soon as practicable after any meeting of the Cabinet, whether held in public or private, a record must be made of every decision taken at that meeting, including a statement of the reasons for each decision and of any alternative options considered and rejected at that meeting.

The minutes of a meeting will usually constitute this record of decisions.

9 Cabinet meetings relating to matters that are not key decisions

The Cabinet will decide whether meetings relating to matters that are not key decisions will be held in public or private. The general presumption will be in favour of meetings being held in public.

10 Decisions by individual Cabinet members or officers

In order to comply with the legal requirements, the following procedure will be followed for Key Executive Decisions to be taken by individual Cabinet Members and by officers.

- (a) As soon as the need for a Key Decision has been identified, it must be included in the Forward Plan. The Decision must not be taken before the month indicated in the Forward Plan.
- (b) If the Decision relates to exempt information in its entirety, it may be taken at any time during the month indicated in the Forward Plan.
- (c) In all other cases, at least seven working days before the date on which the Decision is due to be taken, the author of the intended Decision must send a copy of it (in both hardcopy for signature and electronically, preferably in PDF format), clearly indicating the date on or after which the Decision may be taken:
 - (i) In the case of a decision to be taken by an individual Cabinet Member, to that Member;
 - (ii) In the case of a decision to be taken by a SLT Director, Second Tier Manager or Senior Manager having delegated authority, to that officer; and
 - (iii) In each case, a copy of the intended Decision must be sent electronically (preferably in PDF format) to the Head of Democratic Services. On receiving the intended Decision, the Head of Democratic Services will arrange for it to be posted to the Council's website.
- (d) Once the five clear day period before which the Decision cannot be taken has expired – or in the case of an exempt decision, on receiving it - the individual Cabinet Member or officer may proceed to make the Decision.
- (e) When the Decision has been made, the signed, original Decision Form will be provided to the Head of Democratic Services for logging and, unless or to the extent that it is not, exempt, publication.

11 **Overview and Scrutiny- access to documents**

(a) **Rights to copies**

Subject to rule 11(b) below, the Overview and Scrutiny Board and Sub-Committees will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to

- (i) any business transacted at a meeting of the Cabinet, or
- (ii) any decision taken by an individual Cabinet member.

(b) **Limit on rights**

An Overview and Scrutiny Board or Sub-Committee will not be entitled to:

- (i) any document that is in draft form, or
- (ii) 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.

12 **Additional rights of access for members**

(a) **Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted at a meeting unless it contains exempt information falling within paragraphs 1 to 7 of the statutory categories of exempt information.

(b) **Material relating to key decisions**

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 Cabinet which relates to any key decision unless rule 12(a) applies.

(c) **Nature of rights**

The members' rights set out in this rule are additional to any other right a member may have.

13 **Decisions taken by an officer following consultation with the Chairman of the relevant committee**

An officer may make a non-executive decision after consultation with the Chairman of a Committee to deal with issues which are within the terms of reference of the Committee concerned and are:

- (a) Comparatively minor but nonetheless require Member level input
- (b) Settling details once the Committee has approved an issue in principle
- (c) Of such genuine urgency that there is not sufficient time to convene a meeting of the full committee

Such a decision is not subject to call-in; may be acted on as soon as it is signed; will be notified to members by way of Calendar Brief; and must be made by the completion and signature of the Consultation with Chairman form.

CONFIDENTIAL AND EXEMPT INFORMATION.**1. Confidential information – requirement to exclude public**

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 would be disclosed.

“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.

2. Exempt information – discretion to exclude public

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 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 below. The parties to a hearing will be able to remain throughout until the meeting adjourns to consider a decision.

Exempt information means information falling within the following categories:

Category	
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 to 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

Category	
	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.

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993

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

Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the above paragraphs

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.

The provisions of this legislation are modified in their application to meetings of the Cabinet as follows:

3. Cabinet:

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended, provide for additional requirements in respect of key decisions.

Generally, a meeting must be held in public where a key decision will be made or where there will be discussion of matters relating to a key decision to be made subsequently. Where a meeting is to be held in public there must be advance publication of agendas, reports and background papers for the meeting. Likewise, where key decisions are to be made by individuals the documents relating to these

decisions must be available to the public. In general, the terms of the Regulations are identical to those of the 1972 Act and, in particular, the Regulations use the Act's definitions of exempt information.