

## **PART 4.1**

### **ACCESS TO INFORMATION PROCEDURE RULES APPLICABLE TO MEMBERS OF THE PUBLIC**

#### Note:

- Members have the benefit of these rights (by virtue of being members of the public) alongside those additional rights of access as detailed in [ ] of the Constitution which apply to all Members.
- Further additional rights for the benefit of the Overview and Scrutiny Committee, Audit Committee are detailed at [ ] of the Constitution.

#### **1. SCOPE**

- 1.1 These rules apply to all meetings of the Council and its committees (including joint committees) held under the auspices of the Local Government Act 1972 and to public meetings of the Cabinet (together called meetings).
- 1.2 These rules do not apply to meetings whose sole purpose is for members of staff to brief members.
- 1.3 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. DEFINITIONS**

- 2.1 In these Rules, “clear days” means a normal working day, excluding:
  - 2.1.1 the day of publication in hard copy
  - 2.1.2 the day of the meeting
  - 2.1.3 Saturday and Sunday
  - 2.1.4 Public or bank holidays
  - 2.1.5 Other days when the Council’s offices are closed (other than in circumstances that could not reasonably have been foreseen)

#### **3. GENERAL PRINCIPLE**

- 3.1 All Council meetings will be open to the public except where the public may be excluded in accordance with the law or the provisions of these rules.
- 3.2 The circumstances in which the public must or may be excluded from meetings are set out in Appendix A to this Part 4.1.

#### **4. NOTICES OF MEETING**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Havering Town Hall and on the Council website.

#### **5 ACCESS TO PAPERS BEFORE MEETINGS**

5.1 At least five clear days before the meeting, the Council will post electronic versions of:

5.1.1 the agenda and the minutes of the previous meeting and any subsequent special meeting(s) (if available);

5.1.2 such reports (including background papers) as are open to the public on its website.

5.2 A paper copy of these documents will be available for inspection at Havering Town Hall at least five clear days before the meeting.

5.3 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).

#### **6. SUPPLY OF COPIES**

6.1 The Council will supply to any person on request copies of:

6.1.1 any agenda and reports (including background papers) which are open to public inspection

6.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda

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

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

#### **7. ACCESS TO PAPERS AFTER MEETINGS**

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

- 7.2 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.

## **8 RECORD OF DECISIONS OF CABINET**

- 8.1 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.

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

## **9. FORWARD PLAN**

The Council has a statutory duty to publish all key decisions in its forward plan. This is a publicly accessible document.

**APPENDIX A  
EXCLUSION OF PUBLIC**

1. Confidential information – requirement to exclude public

- 1.1 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.
- 1.2 “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

- 2.1 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.
- 2.2 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.
- 2.3 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: to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or 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.

Category	

- 2.4 Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
- 1.4.1 the Companies Act 1985;
  - 1.4.2 the Friendly Societies Act 1974;
  - 1.4.3 the Friendly Societies Act 1992
  - 1.4.4 the Industrial and Provident Societies Acts 1965 to 1978;
  - 1.4.5 the Building Societies Act 1986; or
  - 1.4.6 the Charities Act 1993
- 2.5 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.
- 2.6 Information which—
- 2.6.1 falls within any of exemptions paragraphs 1 to 7 (within para. 2.3 of this appendix A) above; and
  - 2.6.2 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.

### 3. Cabinet

- 3.1 The provisions of this legislation are modified in their application to meetings of the Cabinet as follows:
- 3.2 The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, as amended, provide for additional requirements in respect of key decisions.
- 3.3 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.