

PART 4.1

ACCESS TO INFORMATION PROCEDURE RULES

PART 1 APPLICABLE TO MEMBERS OF THE PUBLIC

Note:

Councillors have the benefit of these rights (by virtue of being members of the public) alongside those additional rights of access as detailed in Part 2 below.

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 Officers to brief Councillors.
- 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 as are open to the public on its website.

Any background papers referred to within the reports will be made available (electronically) upon request.

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.

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 be made available (in draft / unconfirmed form) as soon as possible after the 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 of

previous decision making, governance and meeting documentation 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, although a separate decision notice will usually be issued as soon as possible after the meeting.

9. FORWARD PLAN

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

PART 2

APPLICABLE TO COUNCILLORS

These rights of access are in addition to those in Part 1 above.

10. GENERAL POSITION

Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law. (reproduced from para 2.2.2 of Articles 2).

11. ADDITIONAL RIGHTS OF ACCESS

All Councillors 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.

12. CALENDAR BRIEF

Councillors will receive notice of all key decisions taken by the Council by way of a weekly Calendar Brief publication.

13. EXTENDED RIGHTS OF ACCESS

Statutory provisions

- 13.1 As detailed in the Local Government (Access to Information) Act 1985 (which is Section 100F of the Local Government Act 1972).
- 13.2 Section 100F provides that all Councillors will be entitled to inspect any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee unless it contains exempt information falling within paragraphs 1-2 or 4-7 of the statutory categories of exempt information (as set out in the appendix below).
- 13.3 The Local Government Act 2000, executive arrangements are specified to be subject to the same provisions as set out in 13.2 above.
- 13.4 It is a matter of fact as to whether or not the information is 'in the possession or under the control of the Council'. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, Officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person.

Common law principles

- 13.5 In addition to the statutory provisions, any Councillor has a right to inspect Council documents so far as their access to the documents is reasonably

necessary to enable the Councillor properly to perform their duties as a Member of the Council.

- 13.6 Access to information will vary from Councillor to Councillor. The Monitoring Officer has the power to decide on a case by case basis a Councillor's common law right to access documents. There is a right of appeal to the Chief Executive in instances where the request is denied. The Monitoring Officer (and Chief Executive on appeal) may refuse such a request where there are grounds to suspect that the motive of the Councillor making the request is indirect, improper or ulterior.
- 13.7 It is the Council's practice to allow Group Leaders to access exempted information upon request.
- 13.8 The law does not entitle a Councillor to go on a "roving or a fishing expedition" or to receive every working document that Officers have access to or may have had access to in the past.
- 13.9 Councillors remain subject to any duty of confidentiality that might apply to any document. A breach of confidence by a Member is actionable by way of a complaint to the Council's Monitoring Officer. If the breach is serious enough, the person whose confidence has been betrayed may also bring a civil action against the Member (and/or the Council) for damages.

14. COMMITTEES

- 14.1 As stated above in 13.5, any Councillor has a right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Councillor properly to perform their duties as a Member of the Council. The entitlement of a relevant Committee Member to inspect documents relating to any decision which the Committee is concerned with shall be considered accordingly.

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.