

# **Access to Information Procedure Rules**

## *References:*

*Sections 100A – H and schedule 12A Local Government Act 1972*

*Section 22 of The Local Government Act 2000*

*Chapter 7, DETR Guidance*

*The Local Authorities (Executive Arrangements)( Meetings and Access to Information) (England) Regulations 2012*

## **1. SCOPE**

These rules apply to all meetings and decisions of the Executive (Cabinet) and its Committees.

## **2. ADDITIONAL RIGHTS TO INFORMATION**

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

## **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

## **4. NOTICES OF MEETING**

The council will give at least five clear days notice of any meeting by posting details of the meeting at Westminster City Hall, Victoria Street, London, SW1 (the "designated office") or on its website at:

## **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Head of Legal and Democratic Services shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

## **6. SUPPLY OF COPIES**

The Council will supply 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; and

- (c) if the Head of Legal and Democratic Services thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

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

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

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The author of every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in his/her 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 does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political advisor.

### **8.2 Public inspection of background papers**

The Council will make available for public inspection at City Hall for four years after the date of the meeting one copy of each of the documents on the list of background papers. These documents shall also be placed on the City Council's website.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

These rules constitute the written summary of the public's rights to attend meetings and to inspect and copy documents which must be kept at and available to the public at Westminster City Hall, 64 Victoria Street, London, SW1.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 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.

### **10.2 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.

### **10.3 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.

### **10.4 Meaning of exempt information**

Exempt information means information falling within the following categories:

#### **Part 1**

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 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 which requirements are imposed upon 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.

## **Part 2**

### **Qualifications to the above exempt information:**

- (a) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required 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 – 1978 (e) the Building Societies Act 1986 (f) The Charities Act 1993.
- (b) 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.
- (c) Information which – (a) falls within any of paragraphs 1-7 above; and (b) is not prevented from being exempt by virtue of paragraph (a) or (b) above 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.

### **11. PROCEDURES PRIOR TO PRIVATE MEETINGS**

- (1) At least 28 clear days before a private meeting of the Cabinet or a Cabinet Committee or part thereof the Head of Legal and Democratic Services shall:
  - (a) make available at Westminster City Hall, a notice of its intention to hold the meeting, or part thereof in private; and
  - (b) publish that notice on the Council's website.
- (2) A notice published in accordance with (1) above must include the reasons for the meeting being held in private.
- (3) At least five clear days before a private meeting, the Head of Legal and Democratic Services on behalf of the Cabinet or Cabinet Committee must:
  - (a) make available at City Hall a further notice setting out the intention to hold a meeting or part thereof in private; and
  - (b) publish the notice on the Council's website.

The notice referred to above must include:

- (c) a statement of the reasons for the meeting.
- (d) details of any representations received about why the meeting should be open to the public; and a statement of its response to any such representations.

- (4) Where the date by which a meeting must be held makes compliance with the requirements in (1), (2) and (3) above impracticable, the meeting may only be held in private where the agreement from:

- (e) the Chairman of the relevant Policy and Scrutiny Committee; or
- (f) if there is no such person, or if the Chairman of the relevant Policy and Scrutiny Committee is unable to act the Lord Mayor

that the meeting or relevant part thereof is urgent and cannot reasonably be deferred.

- (5) As soon as reasonably practicable after a decision has been obtained in accordance with (4) above the Head of Legal and Democratic Services shall:

- (a) make available at the City Hall a notice setting out the reasons why relevant business is urgent and cannot reasonably be deferred and also include the notice on the website.

## **12. Publicity in Connection with Executive Decisions**

- (1) Where the Cabinet, a Cabinet Committee an Individual Cabinet Member or an Officer intends to make a Key Decision that decision must not be taken until details have been published in accordance with (2) below setting out:

- (a) that a Key Decision is to be made on behalf of the City Council.
- (b) the matter in respect of which the decision is to be made.
- (c) where the decision is to be taken by an individual Cabinet Member the name and title and if by the Cabinet or a Cabinet Committee a list of the Members;
- (d) the date on which, or the period within which, the decision is to be made.
- (e) a list if the documents to be submitted for consideration in relation to the matter in respect of which the Key Decision is to be made.
- (f) the address from which, subject to any prohibition or restriction on their disclosure copies of, or extracts from, any document listed is available.
- (g) any other documents relevant to those matters which may be submitted, and
- (h) the procedure for requesting details of those documents.

- (2) At least 28 clear days before a Key Decision is made, the document referred to in (1) above must be made available for inspection by the public:

- (a) at City Hall; and
- (b) on the website

### **13. General Exception**

- (1) Subject to 14 below, where the publication of the intention to make a Key Decision under 12 above is impracticable, that decision may only be made:
  - (a) where the Head of Legal and Democratic Services has informed the Chairman of the relevant Policy and Scrutiny Committee, or if there is no such person, each member of the relevant Policy and Scrutiny Committee in writing of the matter about which the decision is to be made.
  - (b) where the Head of Legal and Democratic Services has made available for inspection by the public and published on the website a copy of the notice issued pursuant to (a) above, and
  - (c) after five clear days have elapsed following the day on which the Head of Legal and Democratic Services had made available the notice referred to in (b) above.
- (2) As soon as reasonably practicable after the Head of Legal and Democratic Services has complied with (1) above he or she must:
  - (d) Make available at the City Hall a notice setting out the reasons why compliance with paragraph 12 above is impracticable and publish it on the website.

### **14. Cases of Special Urgency**

- (1) Where the date by which a Key Decision must be made, makes compliance with 12 above impracticable the decision may only be made where the Cabinet, Cabinet Committee, Individual Cabinet Member or Officer has obtained agreement from:
  - (a) the Chairman of the relevant Policy and Scrutiny Committee; or
  - (b) If there is no such person, or if they are unable to act, the Lord Mayor.
- (2) As soon as reasonably practicable after the decision maker has obtained agreement under (1) above the Head of Legal and Democratic Services must:
  - (a) make available at City Hall a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred; and
  - (b) on the website.

## **15. Recording of Executive Decisions made at Meetings**

- (1) As soon as reasonably practicable after a meeting of the Cabinet or a Cabinet Committee the Head of Legal and Democratic Services shall produce a written statement for every executive decision setting out:
  - (a) a record of the decision including the date on which it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the Cabinet or Cabinet Committee;
  - (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet or Cabinet Committee;
  - (e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

## **16. Recording of Executive Decisions made by Individual Cabinet Members and Officers**

- (1) As soon as reasonably practicable after an individual Cabinet Member has made an executive decision the Head of Legal and Democratic Services shall produce a written statement of that executive decision setting out:
  - (a) a record of the decision and the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the Cabinet Member;
  - (d) a record of any conflict of interest declared by any Cabinet Member consulted by the Cabinet Member, which relates to the decision;
  - (e) in respect of any conflict of interest, a note of any dispensation granted by the Chief Executive.
- (2) As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer shall produce a written statement which must include:
  - (a) a record of the decision and the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the officer when making the decision;

- (d) a record of any conflict of interest declared by any Cabinet Member consulted by the Cabinet Member, which relates to the decision;
  - (e) in respect of any conflict of interest, a note of any dispensation granted by the Chief Executive.
- (3) In respect of (1) and (2) above these shall be available for inspection by Members of the public at City Hall and placed on the website.

## **17. ACCESS BY THE PUBLIC TO REPORTS**

If the Head of Legal and Democratic Services thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **18. REPORT TO COUNCIL**

### **18.1 When a Policy and Scrutiny committee can require a report**

If an Policy and Scrutiny committee thinks that a key decision has been taken which was not:

- (a) treated as being a Key Decision.
- (b) The Policy and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable period as the Committee may specify. The report to include:
  - (i) the decision and the reason for the decision.
  - (ii) the decision maker by which the decision was made; and
  - (iii) if the Cabinet are of the opinion that the decision was not a Key Decision the reason for that opinion.

### **18.2 Executive's report to Council**

In the above circumstances, the executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.



### **18.3 Reports on special urgency decisions**

In any event the Leader will submit reports to the Council at least once per annum on the executive decisions taken in the circumstances set out in Rule 14 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **19. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### **19.1 Reports intended to be taken into account**

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until the report has been included in the List of Executive Decisions for at least 5 clear days, except in cases of special urgency as set out in 14 above.

## **20. Provision of copies of reports to Policy and Scrutiny committees**

On giving of such a report to an individual decision maker (whether or not it is a public report), the person who prepared the report will give a copy of it to the chairman and vice chairman of every relevant Policy and Scrutiny committee as soon as reasonably practicable, and where appropriate make it publicly available at the same time.

## **21. Additional Rights of Access to Documents for Members**

- (1) (i) Subject to (5) to (6), any document which:
  - (a) is in the possession or under the control of the Cabinet, and
  - (b) Contains material relating to any business to be transacted at a public meeting must be made available for inspection by any member of the Council.
- (2) Any document which is required by (1) above to be available for inspection by any member of the Council must be available for such inspection for at least five clear days before the meeting except that:
  - (a) Where the meeting is convened at shorter notice, such documents must be available for inspection when the meeting is convened; and
  - (b) Where an item is added to the agenda at shorter notice, such a document that would be required to be available under (a) above must be available for inspection when the item is added to the agenda.
- (3) Subject to paragraphs (5) and (6) below:
  - (c) Is in the possession or under the control of the Cabinet, and
  - (d) Contains material relating to:

- (i) any business transacted at a private meeting;
- (ii) any decision made by an individual Cabinet Member in accordance with executive arrangements;

or

- (iii) any executive decision made by an officer

Must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by a Cabinet Member of an officer immediately after the decision has been made.

- (4) Any document which is required by paragraph (3) above to be available for inspection by any member of the Council must be made available, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.
- (5) The requirements in 1 and 2 above do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description for the time being falling within Part 1 of Schedule 12A of the Local Government Act 1972.
- (6) Notwithstanding paragraph 5, paragraphs 1 and 3 do require the document to be available for inspection if the information is of a description for the time being falling within:
  - (a) Paragraph 3 of Schedule 12A to the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
  - (b) Paragraph 6 of Schedule 12A of the 1972 Act.

## **22. Additional Rights of Access to Documents for Members of Policy and Scrutiny Committees**

- (1) Subject to paragraph (3) below a member of a Policy and Scrutiny Committee is entitled to a copy of any document which:
  - (a) is in the possession or under the control of the Cabinet, and
  - (b) contains material relating to:
    - (i) any business that has been transacted at a meeting of a decision making body of the Council;
    - (ii) any decision that has been made by an individual Cabinet Member in accordance with executive arrangements;

- (iii) any decision that has been made by an officer in accordance with executive arrangements.
- (2) Subject to (3) below, where a member of a Policy and Scrutiny Committee requests a document which falls within (1) above they must be provided as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.
- (3) No member of a Policy and Scrutiny Committee is entitled to a copy:
  - (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:
    - (i) an action or decision that the Member is reviewing or scrutinising; or
    - (ii) any review contained in any programme of work of such a Committee or Sub-Committee.
- (4) Where the Cabinet determines that a member of a Policy and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in (1) or (3) above it must provide the Committee with a written statement setting out its reasons for that decision.

## **23. Inspection and Supply of Documents**

- (1) Any document required by any provision of these Regulations to be open to inspection by members of the public must be available for inspection:
  - (a) at all reasonable hours at City Hall;
  - (b) on the website.
- (2) Subject to paragraph (4), where a document is to be available for inspection by a person under any provision in these Regulations, the person may:
  - (a) make a copy of the whole or part of the document; or
  - (b) require the person having custody of the document to supply the person requiring inspection a copy of the whole or part of the document,

on payment by the person requiring the copy to the relevant local authority of postage, copying or other necessary charge for transmission.

- (3) Subject to paragraph (4), any member of the public may, in any publicly available medium, reproduce or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Regulations.
- (4) Paragraphs (2) and (3) do not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the relevant local authority, nothing done pursuant to that paragraph constitutes an infringement of the copyright.
- (5) Where any document required by these Regulations to be open to inspection by the public:
  - (a) is supplied to or available for inspection by members of the public; or
  - (b) is supplied for the benefit of any newspaper in pursuance of regulation 7(7) or 14(2),the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.
- (6) Any written record of an executive decision or any report required by Regulation 14 to be available for inspection by members of the public, must be retained by the relevant local authority and made available for inspection by the public for a period of at least six years beginning on the date on which the decision, to which the report or record relates, was made.
- (7) Any background papers required by Regulation 15 to be available for inspection by members of the public must be retained by the relevant local authority and be available for inspection by the public for a period of at least four years beginning on the date on which the decision, to which the background papers relate, was made.
- (8) The rights conferred on any person by these Regulations to inspect, copy or be supplied with documents are in addition to any such rights that person may have apart from those under these Regulations.

## **24. Application of these Provisions to all Member Level Executive Decisions**

As far as possible the Council will use its best endeavours to make all forthcoming Member level Cabinet decisions in accordance with the requirements of Section 12 above. However, only those matters deemed to be Key Decisions shall be required, if necessary, to comply with the requirements set out in Sections 14 and 15 above.