

G. ACCESS TO INFORMATION PROCEDURE RULES

1 Scope

Save as mentioned below, these rules apply to all meetings of the Council, overview and scrutiny committees, area committees if any, the Standards Committee and meetings of any committee or sub committee appointed by the Council, as well as meetings of the Executive and any committee of it as set out in this Part G, (together called meetings). The rules set out in this Section shall not apply to meetings of the Licensing Committee or sub-committees which shall be governed by Regulations made under Section 9 of the Licensing Act 2003 and any future rules determined by the Licensing Committee under that Section. Additional access to information rules pertaining only to executive decision making are dealt with at paragraph 12 below.

2 Additional rights to information

These rules do not detract from any more specific right to information contained elsewhere in this constitution or the law

3 Right of public to attend meetings

Any member of the public may attend all meetings of the Council and its Executive 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 the Town Hall, Catford London SE6 4RU (the designated office) and where possible on its web page.

5 Access to agenda 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 will be open to inspection for the time that the item was added to the agenda.

An item of business may only be considered at a public meeting:-

- (a) in accordance with Rule C24 (broadly where a copy of the agenda or part of the agenda including the item has been available for inspection for at least 5 clear days before the meeting) or
- (b) in accordance with Rule C25 – Urgency.

However this provision does not allow a key executive decision to be taken if it has not been included in the Council's key decision plan, unless Rule 18 (urgency) or 19 (special urgency applies).

Where reports are completed after the summons has been sent out, the proper officer will make such report available to the public as soon as the report is completed and sent to the Mayor and/or councillors as appropriate.

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

if the proper officer thinks fit, copies of any other documents supplied to councillors and/or the Mayor in connection with an item to any person on payment of a reasonable charge

7 Access to minutes etc. after the meeting

For 6 years after a meeting, the Council will make available for public inspection, copies of the following:-

- (a) the minutes of the meeting, to include the record of decisions taken, together with reasons, any options considered and rejected and details of any declarations of conflict of interest and any dispensation granted in relation to that conflict, excluding any part of the minutes of proceedings when the meeting was not open to the public or which would disclose exempt or confidential information.
- (b) a summary of proceedings when the meeting was 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
- (d) reports relating to items when the meeting was open to the public

8 Background papers

The author will set out in every report a list of 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 the preparation of the report.

This requirement does not apply to published works or those which disclose confidential or exempt information.

Background reports will be available for public inspection for four years after the date of the meeting at which a report referring to them was considered.

9 Summary of public rights

- (1) A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Town Hall, Catford, SE6 4RU or such other place as the Council decides from time to time.
- (2) Where documents are open to public inspection they will be available at all reasonable office hours at the Council's offices and on its website if it has one, and in relation to background documents referred to in a report, on payment of the Council's reasonable fee.
- (3) The public right to inspect a document includes the right to copy all or part of it and to require a copy of the whole or part on payment of the Council's reasonable fee for postage, copying or other transmission.
- (4) Any member of the public may in any publicly available medium reproduce or provide commentary in relation to any document available for public inspection under regulations applying specifically to executive decisions and documents, save that this does not authorise any breach of the copyright of any person other than the Council by a member of the public.
- (5) The rights conferred by this Paragraph 9 are additional to any other rights.

10 Exclusion of the public from meetings

- (a) Confidential information

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 is 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. (see Appendix 1)

- (b) Exempt information

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. (See Appendix 1)

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights establishes a presumption that the meeting will be held in public unless a private hearing is appropriate and lawful.

Exempt information is information falling within one of the categories set out in Appendix 1 under the heading "Exempt Information". However, information which would otherwise be exempt will not be exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 Town and Country Planning General Regulations 1992.

11 Exclusion of Access by the Public to Reports

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items, during which, in accordance with rule 10 (exempt and confidential information) the meeting is not likely to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12 Application of the access to information rules to the Executive

In addition to those rules set out above, the following rules 13 to 19 apply to meetings of the following decision making bodies:

- The executive
- A Committees of the Executive
- A joint committee where all the members are members of a local authority executive and it exercises executive functions, and sub committees of such a joint committee
- An area committee of the executive

13 Public meetings of the Executive

The Executive will meet in public except to the extent that any of the conditions set out in paragraphs (a), (b) or (c) apply, in which case the public must be excluded

- (a) It is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;

- (b) The decision making body passes a resolution to exclude the public during that item where it is likely in view of the nature of the item of business that if members of the public were present during that item, exempt information would be disclosed to them; or
- (c) A lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting

Any resolution under (b) above must state the part of the proceedings from which the public are to be excluded and state by reference to Schedule 12A Local Government Act 1972 the description of exempt information giving rise to the exclusion of the public.

14 Procedure prior to public meeting of the Executive

- (a) The proper officer will display at the Town Hall and on the Council's website notice of the time and place of the meeting for at least 5 clear days, or if the meeting is convened at shorter notice, from the time it is convened.
- (b) An item of business can only be considered at a public meeting where a copy of the agenda or part of the agenda including the item has been available for inspection for 5 clear days before the meeting, or if the meeting is convened at shorter notice from the time the meeting was convened.
- (c) The agenda and reports for the meeting must be available for inspection by the public at the Town Hall and on the Council's website for five clear days prior to the meeting (or if the meeting is convened at shorter notice from the time it is convened, or if the item is added to the agenda, when the item is added to the agenda).
- (d) The proper officer may exclude from any report available for inspection any part which relates only to confidential or exempt information. If a report for consideration at a public meeting contains such matters, every copy will be marked "not for publication" and will state the reason, namely either that it contains confidential information or exempt information, by reference to the particular ground(s) in Schedule 12A Local Government Act 1972.
- (e) The public shall not be entitled to access to any report until a copy is available to the members of the decision making body.
- (f) A reasonable number of copies of reports will be available for the use of members of the public present when meetings are open to the public.
- (g) Subject to exceptions relating to confidential and exempt information, where a request is made by a member of the public or on behalf of a

newspaper, the Council will supply a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting and such further statements or particulars as are necessary to indicate the matters on the agenda and, so far as the proper officer thinks fit, any other documents given to members in connection with the item

Confidential and exempt information have the meanings set out in Appendix 1.

15 Reporting at public meetings of the executive

While meetings are open to the public any person attending the meeting for the purpose of reporting the proceedings is, so far as reasonably practicable, to be afforded reasonable facilities for taking their report. However no person may take any photograph of any proceedings or use any means to enable persons not present to see or hear any proceedings (whether at the time or later) or the making of any oral report on any proceedings as they take place without the consent of the person presiding at the meeting

16 Procedure prior to private meetings of executive decision making bodies

(a) 1st private meeting notice

At least 28 clear days before the private meeting, the proper officer will make available at the Town Hall a notice of intention to hold the meeting in private and publish that notice on its website. That notice will contain a statement of why the meeting is to be held in private.

(b) 2nd private meeting notice

At least 5 clear days before the meeting the proper officer will make available at the Town Hall and publish on the website a notice which will include a statement of the reasons for the meeting to be held in private, details of any representations received about why it should be open to the public and a statement of its response to those representations.

(c) Urgency

Where the date by which a meeting must be held makes compliance with paragraph 15 (a) and/or (b) impracticable, the private meeting may only be held if the Chair of the Overview and Scrutiny Committee agrees that the meeting is urgent and cannot reasonably be deferred. If there is no Chair of Overview and Scrutiny or he/she is unable to act, the Chair of Council may agree. If there is no Chair of either Overview and Scrutiny or Council, the Vice Chair of Council may agree.

(d) Notice of urgency

Where the Chair of the Overview and Scrutiny Committee gives agreement in accordance with paragraph 15 (c) above, the proper officer will, as soon as reasonably practicable, make available at the Town Hall and publish on the Council's website, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred

17 Key Decisions

(a) Definition

Key decisions are those defined as such at Article 16.

(b) Decisions to be publicised

Subject to Rule 18 (urgency) and Rule 19 (special urgency), a key decision may not be taken unless the matter has been included in the Council's key decision plan, which must be available for public inspection at the Town Hall and on the Council's website for 28 clear days before a key decision is made.

(c) Contents of the key decision plan

The key decision plan will contain the following particulars in so far as the information is available or might reasonably be obtained:-

- (1) That a key decision is to be made;
- (2) The matter in respect of which the key decision is to be made;
- (3) Where the decision maker is an individual, his/her name, his/her title if any, and, where the decision maker is a decision making body, its name and a list of all its members;
- (4) The date on which, or the period within which, the decision is to be made;
- (5) A list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which a key decision is to be made;
- (6) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (7) That other documents relevant to the those matters may be submitted to the decision maker; and
- (8) The procedure for requesting details of those documents (if any) as they become available.

Exempt and confidential information will not be included in the forward plan.

18 General Exception - Urgency

- 18.1 If a matter which is likely to be a key decision has not been included in the key decision plan, then subject to Rule 19 (special urgency) the decision may only be taken if:-
- (a) the proper officer has informed the Chair of the Business Panel, or if there is no such person each member of the Business Panel, in writing, by notice, of the matter in respect of which the decision is to be made; and
 - (b) the proper officer has made copies of that notice available to the public at the offices of the Council and published it on the Council's website if it has one; and
 - (c) at least 5 clear days have elapsed since the proper officer complied with (a) and (b) above.
- 18.2 As soon as reasonably practicable, the proper officer will publish at the offices of the Council and on the Council's website if it has one, a notice setting out the reasons why it was not possible to comply with the requirement to include the matter in the key decision plan.

19 Special Urgency

- (a) If by virtue of the date by which a key decision must be made, Rule 18 above cannot be followed, then the decision may only be taken if the Chair of the Business Panel agrees that the taking of the decision is urgent and cannot reasonably be deferred. If there is no Chair of the Business Panel, or if there is but they are unable to act, then the agreement of the Chair of Council, or if there is neither a Chair of Business Panel nor Council, the Vice Chair of Council may agree.
- (b) If agreement is given under para 19(1) above, the proper officer will make available at the Council offices, and publish on its website if it has one, a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.
- (c) The Mayor will prepare and submit to the Council at quarterly intervals a report containing details of each executive decision taken during the preceding three months where the making of the decision was agreed as urgent in accordance with Rule 19. This report must contain particulars of each decision made, and a summary of the matters in respect of which each decision was made.

20 Overview and scrutiny rights in relation to the forward plan and urgency decisions

- (a) If the Business Panel thinks that a key decision has been made which was not included in the forward plan or properly decided in accordance with Rule 18 or 19, then the Business Panel may require the Executive to submit a report to the Council within such reasonable time as the Business Panel specifies.
- (b) If an Executive report is required in accordance with (a) above, the Executive will then prepare a report for Council setting out the decision, the identity of the individual or body making the decision, and if the Executive is of the opinion that it was not a key decision, the reasons for that view.
- (c) The Executive report will be submitted to the next Council meeting, unless the request is made by the Business Panel within 10 working days of that Council meeting, in which case it may report to the following Council meeting.
- (d) Notice of private executive meetings

If the Executive meets in private, the Mayor and all members will be entitled to receive 5 clear days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. The notice of the meeting and relevant papers will also be served on the Chair of the Business Panel and all select committee chairs at the same time, or if there is no Chair, all members of the relevant Business Panel or select committee.

All members of the Executive will be served with notice of all private meetings of any committee of the executive, whether or not they are members of that committee.

21 Right to attend and speak at meetings of the executive

Members of the Executive will be able to attend any meeting of the Executive. Members of the Executive may only attend meetings of any committee of the Executive if they are a member of that committee. Any member of the Executive is entitled to speak at any meeting of a committee of the executive if they are a member of that committee, or invited to do so by the person presiding.

Any member of the Council is entitled to attend a public meeting of the Executive and may attend a private meeting of the Executive with the consent of the person presiding and may speak if that person consents.

The Head of Paid Service, Chief Finance Officer and Monitoring Officer and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the proper officer has been given reasonable notice that the meeting is to take place. A

meeting of the Executive may not take place to take any decision unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or their nominee are present. The meeting may only take a decision if there is an officer present with responsibility for recording and publicising the decision.

People who are neither Councillors nor officers may attend private executive meetings at the invitation of the person presiding, and may speak with their consent.

22 Record of decisions

As soon as reasonably practicable after any meeting of the executive or any of its committees, the proper officer will produce a record of every decision taken at that meeting. Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken at any meeting unless the proper officer or their nominee is present. The record will include for each decision made:-

- (a) a record of the decision and the date on which it was made;
- (b) a record of the reasons for the decision;
- (c) any alternative options considered and rejected at the meeting;
- (d) a record of any conflict of interest declared in relation to the matter by any member of the decision making body; and
- (e) any dispensation relating to any declared conflict of interest

23 Basis for consideration by executive

- (a) When the Executive makes a decision of any sort, whether collectively, through the Mayor, a committee of the Executive, or through an individual member or officer, it may only do so on the basis of a written report which deals with a consideration of options available, service, corporate, financial, legal and all relevant considerations.
- (b) When the Executive, whether collectively, through the Mayor, a committee of the Executive or an individual member or officer, seeks to make a decision, it may only do so in the presence of the Head of Paid Service, Chief Finance Officer, or the Monitoring Officer or their nominee(s) and an officer authorised to make a record of, and publish the decision.
- (c) Executive decisions will only be deemed to have been made when they have been recorded and publicised in accordance with this constitution.

- (d) When any officer report is submitted to the Executive for consideration at a meeting of the Executive or any of its committees, (whether or not a decision is likely to be the result of considering the report,) that report will contain all service, corporate, financial and legal considerations. Reports submitted to the Mayor or individual members or officers of the Executive with the intention that they should be the basis on which a decision is taken, shall be similarly drafted.

24 Decisions by individual members of the Executive

- (a) All decisions taken individually by the Mayor alone or by individual members of the Executive, must be based on written reports. Those reports must contain all service, corporate, legal and financial implications.
- (b) When an officer prepares a report which is to be given to the Mayor or an individual member for decision, he/she must first give a copy of that report to the proper officer.
- (c) The proper officer will submit the report to the individual decision maker, and serve a copy on every member of the relevant Business Panel and any other relevant overview and scrutiny committee (or select committee) chair, and subject to exemptions relating to reports containing confidential and/or exempt information make it publicly available as soon as reasonably practicable. At the same time, notice will be served on the Chief Executive, Chief Finance Officer and Monitoring Officer.
- (d) The individual decision maker may not make any key decision unless a period of five clear days has elapsed since the service of the report on the decision maker, the relevant Business Panel and relevant overview and scrutiny committee and select committee chairs and the public
- (e) Individual decisions may only be made by the Mayor or individual members of the Executive in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee (unless they waive that requirement) and the proper officer whose responsibility it is to record the decision.
- (f) As soon as reasonably practicable after the decision has been made, but in any event within 2 working days of the decision, the proper officer will prepare a written statement of the decision including the following prescribed information:-
- A record of the decision including the date it was made,
 - a statement of the reasons for the decision

- details of any alternative options considered and rejected at the time by the member when he/she made the decision
 - a record of any conflict of interest declared by any executive member who has been consulted by the member in relation to the decision
 - in respect of any declared conflict of interest, a note of any dispensation granted.
- (g) The decision will not be deemed to have been made until the record has been made and publicised in accordance with this constitution.
- (h) Nothing in these rules relating to the taking of decisions by individual members shall require them to disclose confidential or exempt information as defined in Appendix 1 to the public.

25 Executive decisions by individual officers

- (a) The Mayor, the Executive or committees of it may delegate decision making to an officer. Where they do so, the officer may only take an executive decision on the basis of a written report. That report must contain key service, corporate, financial and legal considerations.
- (b) The person who supplies a copy of the report to the officer making the decision, must first supply a copy to the proper officer
- (c) The decision making officer must inform the proper officer immediately any decision has been taken and provide to them a written statement of the decision for publication containing all the details set out below:
- (d) The record will contain:-
- a record of the decision and the date it is made;
 - a record of the reasons for the decision;
 - details of any alternative options considered and rejected by the officer making the decision;
 - a record of any conflict of interest declared by any executive member who is consulted by the officer making the decision; and
 - details of any dispensation in relation to any such conflict of interest
- (e) The decision will only be deemed to have been made once the record is published in accordance with this constitution.
- (f) Nothing in these rules relating to the taking of decisions by individual officers shall require them to disclose confidential or exempt information as defined in Appendix 1 to the public.

26 Access to documents following executive decisions

- (a) Subject to exceptions relating to confidential and exempt information (see paragraph 10) after an executive decision has been made, irrespective of whether by an individual or a decision making body, the proper officer will ensure that the record of the decision and any report considered in reaching the decision is made available for inspection by the public at the offices of the Council and on the Council's website if it has one.
- (b) Where a request is made on behalf of a newspaper for a copy of any documents available for public inspection those documents must be supplied on payment by the newspaper of the Council's copying or other necessary transmission charge.

27 Inspection of background papers

Subject to exceptions relating to confidential and exempt information (see paragraph 10) when a report is made available for public inspection either before or after an executive decision is made, it must include a list of the background papers to the report and at least one copy of each of those background papers must be available for inspection at the offices of the Council and on the Council's website if it has one.

28 Members' access to documents

28 (1) All members

- (a) Material relating to business to be transacted

Subject to paragraphs (c) and (d) below, any document which is:-

- in the possession or under the control of the executive and
- which contains material relating to any business to be transacted at a public meeting

shall be available for inspection by any member of the Council for a period of at least 5 clear days before that meeting except that where

- the meeting is convened at shorter notice when the document must be available for inspection when the meeting is convened; and
 - where the item is added to the agenda at shorter notice the document must be available for inspection when the item is added
- (b) Material relating to previous business

Subject to paragraphs (c) and (d) below, any document which is

- in the possession or under the control of the executive and
 - contains material relating to business transacted at a private meeting, or an executive decision made by an individual member or officer must be available for inspection by any member of the Council when the meeting concludes, or in the case of a decision made by an individual, immediately after the decision is made, and in any event within 24 hours of the conclusion of the meeting/ decision being made.
- (c) Paragraphs (a) and (b) 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 falling within Part 1 of Schedule 12A to the Local Government Act 1972 which appears at Appendix 1.
- (d) Despite paragraph (c), documents must be available for inspection by members if the exempt information is information falling within:
- paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) or
 - paragraph 6 of Schedule 12A to the Act
- (e) Where it appears to the proper officer that compliance with paragraph (a) or (b) in relation to a document or part of a document would involve the disclosure of the advice of a political adviser or assistant that paragraph shall not apply as regards that document or part.
- (f) These rights are additional to any rights a member may have.

28(2) **Overview and Scrutiny members**

- (a) Subject to Rule 28 (2) (c), any member of the overview and scrutiny committee (including its select committees) will be entitled to copies of any document which is in the possession or control of the Mayor, the executive or any of its committees, if it contains material relating to
- any business which has been transacted at a public or private meeting of the executive; or
 - any decision taken by a individual member of the executive
 - any decision that has been taken by an officer in accordance with executive arrangements.

- (b) Where a member of the Overview and Scrutiny Committee requests a document falling within (a) above, the Executive must supply a copy as soon as reasonably practicable and in any event within 10 days of the request. If the Executive decides that the member is not entitled to a copy of the document, written reasons must be given to the overview and scrutiny committee.
- (c) Overview and Scrutiny Committee members shall not be entitled to a copy of a document that contains exempt or confidential information unless it is relevant to an action or decision he/she is scrutinising or reviewing, or is contained in any programme of work of an overview and scrutiny committee or sub-committee. Neither are they entitled to any document or part of a document that contains the advice of a political adviser. An overview and scrutiny member is not entitled to a report that is in draft.

29 Failure to comply with key decision requirements

- (1) Where an executive decision has been made and:
 - was not treated as being a key decision; and
 - the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision,

the Overview and Scrutiny Committee may require the decision maker to submit a report to the full Council within a reasonable period.

- (2) A report under paragraph (1) shall include details of:
 - the decision and the reasons for the decision;
 - the decision making body by which, or the individual by whom, the decision was made
 - if the executive is of the view that it is not a key decision, the reasons for that opinion

30 Limit on rights

An overview and scrutiny committee member will not be entitled to:-

- any document that is in draft form
- any document or part of a document that contains exempt or confidential information unless the information is relevant to an action or decision they are reviewing or scrutinising or intend to review or scrutinise; or
- the advice of a political assistant or adviser.

31 Confidential information, exempt information and the advice of political assistant or adviser

- (a) Nothing in these rules requires the disclosure of a document or part of a document to the public if in the opinion of the proper officer it may contain confidential or is likely to contain exempt information or the advice of a political adviser or assistant.

