

## SECTION 16

### ACCESS TO INFORMATION RULES

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#### **16.1 Legal rights to information**

**16.1.1** The Council welcomes public involvement in its work, and is committed to openness and transparency in its dealings with the public. The legal rights to information set out in this Section will be interpreted by the Council in that spirit.

**16.1.2** The law gives members of the public the right to attend meetings of Council bodies, and to obtain documents relating to those meetings and other information relating to the business of the Council. A summary of these legal rules is set out in this Section, but does not affect other specific rights to information set out elsewhere in this Constitution, or granted under the Freedom of Information Act 2000 or any other relevant law.

**16.1.3** These rules apply to all meetings of the Council, the Cabinet, the Scrutiny Board, ~~Community Partnerships~~, the Planning Board, the Licensing Board, the Standards Committee, the Audit Committee and any other committee or sub-committee of any of these, except where indicated below. They do not apply to working groups or to sub-committees of the Standards Committee dealing with the assessment or review of allegations of misconduct against councillors.

**16.1.4** Members of the Council have the same rights in relation to access to information as do members of the public, but also have the additional rights of access set out in Section 3 and in 16.7 and 16.8 below, and any other rights to which they are entitled by law.

## **16.2 Rights to attend meetings and access to documents in advance**

- 16.2.1** Members of the public may attend all meetings of any Council body to which these rules apply, except where confidential or exempt information is likely to be disclosed, and the provisions of Section 16.5 therefore apply.
- 16.2.2** The Council will give at least five clear working days notice of each meeting by posting details of the meeting at the Council offices and on the Council's website.
- 16.2.3** The Council will make copies of the agenda and reports for each meeting available for inspection at the Council's offices at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time that item was added. Where reports are prepared after the agenda has been sent out, they will be made available to the public as soon as they have been sent to members.
- 16.2.3** If a meeting is convened at short notice in accordance with the procedures set out for urgent decisions in Section 17, a copy of the agenda and associated reports shall be available for inspection from the time that the meeting is convened.
- 16.2.4** If a forthcoming meeting is considered likely to be closed to the public during a particular item, the Council is not obliged to disclose to the public in advance any reports or other papers which relate to that item. Such reports will be marked "Not for publication", and will specify the category of confidential or exempt information likely to be disclosed.

## **16.3 Access to documents after meetings**

- 16.3.1** The Council will make available copies of the following for public inspection 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 Cabinet. However, the Council is not obliged to disclose any part of the minutes relating to items discussed 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.

## **16.4 Background papers**

**16.4.1** The officer responsible for each report will set out in that report 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

This list need not include published works or documents which disclose exempt or confidential information (as defined in 16.5), nor in respect of Cabinet reports, the advice of a political adviser or assistant.

**16.4.2** The Council will make a copy of each of the documents on the list of background papers available for public inspection for four years after the date of the meeting.

**16.4.3** The Council will supply copies to any person on request of any documents which are open to public inspection under this Section, subject to a reasonable charge for photocopying, postage and any other costs incurred in supplying copies.

## **16.5 Exclusion of the public from meetings**

### **16.5.1 Confidential information – requirement to exclude public**

The public must by law 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:

(a) information given to the Council by a government department on terms which forbid its public disclosure; or

(b) information which is prohibited from disclosure by any enactment or court order

The agenda for the meeting will specify the item(s) to which this rule applies, and the category of confidential information likely to be disclosed.

### **16.5.2 Exempt information – discretion to exclude public**

Subject to the public interest test set out in 16.5.7 below, 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 as defined in 16.5.4 below would be disclosed. The public will only be excluded if the meeting passes a resolution to that effect. The agenda will specify the item(s) to which this rule applies, and the category of exempt information likely to be disclosed.

### **16.5.3 Human Rights Act 1998**

Where a 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 in Article 6.

### **16.5.4 Meaning of exempt information**

Exempt information means information falling into any of the following categories:

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 those of the Council).

*(NB: A "person" includes a company or other organisation, as well as an individual)*

4. Information relating to any consultations or negotiations, or contemplated consultation or negotiation, in connection with any labour relations matter arising between the Council and its employees or office holders.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the Council proposes
  - a) to give any statutory notice imposing requirements on any 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.

**16.5.5** Where a meeting of a standards committee, or sub-committee of a standards committee, is convened to consider a matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008 or referred under section 58(1)(c) of the Local Government Act 2000 (broadly, allegations of misconduct against members), the following categories of information are also exempt information:

8. Information which is subject to any obligation of confidentiality.
9. Information which relates in any way to matters concerning national security.
10. Information which is presented to a standards committee, or to a sub-committee of a standards committee, set up to consider a matter referred under the provisions of any of those sections.

**16.5.6** Information falling within any of categories 1-10 above is not exempt:

(a) if it is required to be registered under the Companies Act 1985 or under any of the other statutes specified in paragraph 8 of the Local Government (Access to Information) (Variation) Order 2006

(b) if it relates to proposed development for which the local authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

**16.5.7** Information which falls within categories 1-10 above is only exempt 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.

**16.5.8** The rules set out in this sub-section 16.5 do not apply to meetings of the Licensing Board or any of its sub-committees hearing applications under the Licensing Act 2003: see Appendix I for details of procedure at these meetings.

## **16.6 Record of decisions**

**16.6.1** After any meeting of the Cabinet or any of its committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include:

- (a) a statement of the reasons for each decision

- (b) any alternative options considered and rejected at that meeting
- (c) details of any conflict of interest declared in relation to the matter decided by any member of the decision-making body
- (d) a note of any dispensation granted by the Standards Committee in relation to any declared conflict of interest

**16.6.2** As soon as reasonably practicable after an executive decision has been taken by the Leader or by a Portfolio-holder, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, which will include:

- (a) a statement of the reasons for the decision
- (b) any alternative options considered and rejected
- (c) details of any conflict of interest declared in relation to the matter decided by any executive member consulted in relation to the decision
- (d) a note of any dispensation granted by the Standards Committee in relation to any such declared conflict of interest

**16.6.3** The Council will make available for public inspection all records prepared under 16.6.1 or 16.6.2 above for six years after the date of the decision, together with copies of all reports considered in relation to such decisions. This does not require the disclosure of exempt or confidential information or advice from a political adviser or assistant.

## **16.7 Access to documents for Scrutiny Board**

**16.7.1** Subject to 16.7.2 below, the Scrutiny Board will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet
- (b) any decision taken by an individual member of the Cabinet.

**16.7.2** The Scrutiny Board will not be entitled to:

- (a) any document that is in draft form;
- (b) 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; or
- (c) the advice of a political adviser or assistant.

## **16.8 Additional rights of access for members**

**16.8.1** All members will be entitled to inspect any document which is in the

possession or under the control of the Cabinet or its committees and contains material relating to any business transacted or to be transacted at any meeting, or to any executive decision made by an individual member of the Cabinet, unless either of the following applies:

- (a) the document contains exempt information as defined in 16.5.4 above, other than information coming within category 3 or 6 of that definition. If the information comes within category 3, members will not be entitled to inspect any part of the document which relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (b) the document contains the advice of a political adviser or assistant.

**16.8.2** 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 or its committees which relates to any Key Decision unless paragraph (a) or (b) above applies.

**16.8.3** These rights of a member are additional to the rights set out in Section 3.5.1 or any other right he/she may have under this Constitution or by law.