

Part 2 – The Articles

Chapter 17 – Access to Information

1. Scope

- 1.1 These rules apply to all meetings of the Council established under Section 101 of the Local Government Act 1972, Sections 11, 21 or 53 of the Local Government Act 2000 and Section 194 of the Health and Social Care Act 2012. This includes the Assembly, Ceremonial Council, Cabinet, Health and Wellbeing Board, Select Committees and Regulatory Boards.

2. Additional Rights and Information

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

3. Rights to Attend Meetings

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

4. Notice of Meetings

- 4.1 The Council will give at least five clear days notice of any meeting. For the purposes of calculating the notice period, the day on which the notice is given and the day of the meeting shall be disregarded.

5. Access to Agenda and Reports before the Meeting

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Centre, Dagenham and on the Council's website 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 the item is added.
- 5.2 Where a report is prepared after the notice of the meeting has been sent out, it shall be made available to the public as soon as it is completed and made available to Councillors.

6. Supply of Copies

- 6.1 On request, 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 Monitoring Officer thinks fit, any other documents supplied to Councillors in connection with an item.

to any person on payment of a charge for postage and any other reasonable costs (if appropriate).

7. Access to Minutes and Reports after Meetings

- 7.1 The Council will make available copies of the following documents for six years after a meeting:
- (a) the minutes of the meeting or record of decisions taken, 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 do not provide a reasonably fair coherent record;
 - (c) the agenda for the meeting; and
 - (d) reports relating to items where the meeting was open to the public.

8. Background Papers

- 8.1 Every report will list those documents relating to the subject matter of the report, which, in the author's opinion:
- (a) disclose any facts or matters upon which the report, or part of it, was based ; and
 - (b) have been relied upon to a material extent in preparing the report.
- 8.2 This will not include published works or those which disclose exempt or confidential information and, in respect of Cabinet reports, any advice of a political adviser.
- 8.3 Background papers are available for public inspection for four years after the date of the meeting. A copy of each background paper will be available for inspection at the Council's offices and on the Council's website.

9. Summary of Public's Rights

- 9.1 In addition to the information contained in this chapter, a summary of the public's rights to attend meetings and to inspect and copy documents is set out in Part 1, paragraph 6 of the Constitution.

10. Exclusion of Access by the Public to Meetings

- 10.1 Section 100A of the Local Government Act 1972 relates to the public's rights to attend council meetings and includes provisions whereby the public must or may be excluded from a meeting where either confidential or exempt information is to be considered.

Confidential Information

- 10.2 The public has (legally) to be excluded from meetings whenever it is likely that confidential information will be disclosed.

- 10.3 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot, by Court Order, be publicly disclosed

Exempt Information

- 10.4 The public may be excluded from meetings whenever it is likely that exempt information will be disclosed.
- 10.5 Exempt information means information falling within one or more of the ten categories set out in **Appendix 1** to this Chapter, in accordance with Part I of Schedule 12A to the Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006.
- 10.6 Information is not exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- 10.7 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 in that Article.

11. Exclusion of Access by the Public to Reports

- 11.1 If the Monitoring 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 above, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" and explain the category of information likely to be disclosed.

12. Procedure before taking Key Decisions

- 12.1 Subject to paragraph 14 (General Exception) and paragraph 15 (Special Urgency), a key decision may not be taken unless:-
- (a) a Forward Plan has been published in connection with the matter in question; and
 - (b) at least 28 clear days have elapsed since the publication of the Forward Plan; and
 - (c) notice of the meeting has been given in accordance with paragraph 4 above.

13. The Forward Plan

- 13.1 The Forward Plan will contain details of all key decisions due to be taken in the months ahead by the Cabinet, the Health and Wellbeing Board or such other body or individual responsible for the discharge of an executive function.
- 13.2 The Forward Plan will be published at least 28 clear days before the date that a key decision is to be taken and will be published on the Council's website.

- 13.3 Wherever possible, the Forward Plan will also include available details of non-key decisions that will be taken by the Cabinet and the Health and Wellbeing Board during the period covered.
- 13.3 The Forward Plan will, as far as possible, describe the following particulars for each item, together with information on how a person can make representations and the deadline for doing so:
- (a) the subject matter;
 - (b) the name of the Member meeting or Chief Officer who will be taking the decision;
 - (c) the estimated date when a decision will be taken;
 - (d) any groups/persons who will be consulted before taking the decision;
 - (e) how any such consultations will be carried out;
 - (f) a list of the relevant documents which will be submitted to the decision taker for consideration in relation to the matter;
 - (g) whether all or part of the report is expected to contain confidential or exempt information which will prevent it being made public, and the reason why with regard to paragraph 10 above. This is to provide members of the public the opportunity to make representations against the intention of a matter being considered in private.
- 13.4 Where any matter involves the consideration of confidential or exempt information or the advice of a political adviser or assistant, a summary of the matter shall be included in the Forward Plan but the exempt or confidential information or the advice, as the case may be, need not be included.

14. General Exception

- 14.1 If a key matter has not been included in the Forward Plan, then subject to paragraph 15 (Special Urgency), the decision may still be taken if:-
- (a) it must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan;
 - (b) the Monitoring Officer has given the Lead Member of the relevant Select Committee, or in his/her absence the Deputy Lead Member, written notice of the matter to which the decision is to be made, including reasons why compliance with the normal requirements is not practical;
 - (c) copies of the notice are made available for public inspection; and
 - (d) at least five clear days have elapsed since (b) and (c) have been complied with.

15. Special Urgency

- 15.1 If by virtue of the date by which a decision must be taken paragraph 14 (General Exception) cannot be followed, then the decision can only be taken if the Lead Member of the relevant Select Committee has given his/her agreement that the matter is very urgent and cannot be reasonably deferred. In the absence of the Lead Member, the Deputy Lead Member shall act and in the absence of both the agreement of the Chair of the Assembly shall be obtained.

16. Report to the Assembly

- 16.1 If any Select Committee agrees that a key decision which falls within its remit has been taken which was not:

- (a) included in the Forward Plan;
- (b) the subject of the General Exception procedure; or
- (c) the subject of the Special Urgency procedure;

then that Select Committee may require the Cabinet to submit a report to the Assembly within such reasonable time as the Select Committee specifies. The Chief Executive may also require such a report on behalf of the Select Committee when so requested by the Lead Member or in their absence, their Deputy. Alternatively, the requirement may be raised by a resolution passed at a meeting of the Select Committee.

- 16.2 The Cabinet will prepare a report for submission to the next available meeting of the Assembly. However, if the next meeting of the Assembly is within five working days of receipt of a written notice or the resolution of the relevant Select Committee, then the report may be submitted to the subsequent Assembly meeting. The report to Assembly will set out the particulars of the decision, who was responsible for making the decision and, if the opinion was that it was not a key decision, the reasons for that opinion.

17. Additional Rights of Access for Members

- 17.1 Councillors are entitled on a “need to know” basis to receive documents and information on request where it is clear that the Councillor concerned requires the documentation or information because of their position within the Council or by virtue of their membership of a committee or sub-committee.
- 17.2 In addition, Councillors have a separate statutory right to inspect documents relating to any business to be transacted at a meeting of the Cabinet within 28 days of the meeting and provided that the documents are within the possession of the Cabinet.
- 17.3 Documents and information shall be made available on request by officers to Councillors unless:
- a) there is a clearly and properly justifiable reason for declining access;

- b) the Councillor in question cannot establish a legal right to the information or documentation;
 - c) the document contains the advice of a political adviser;
 - d) the document is in draft form.
- 17.4 Councillors will only be entitled to receive such information and documents under their statutory right if it is not exempt or confidential in accordance with the provisions of the Access to Information legislation. However, they may nevertheless be entitled under their common law “need to know” rights.
- 17.5 If information is requested which is not readily available, or will require significant resources to produce, officers are advised to seek guidance from the Monitoring Officer before providing the information.
- 17.6 These rights of a Councillor are additional to any other rights he/she may have.

APPENDIX 1

Exempt Information

Category	Condition
1. Information relating to any individual	Information is 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
2. Information that is likely to reveal the identity of an individual	Information is 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
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>1. Information is 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</p> <p>2. Information is not exempt if it is required to be registered under:</p> <ul style="list-style-type: none"> • Companies Act 1985; • Friendly Societies Acts 1974 and 1992; • Industrial and Provident Societies Acts 1965 to 1978; • Building Societies Act 1986; • Charities Act 1993. <p>3. The rights of access by Members are contained in section 100A to K of the 1972 Act</p>
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 Officer-holders under the Authority	Information is 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
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Information is 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

Category	Condition
	disclosing the information
6. Information that reveals that the authority proposes: a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment.	Information is 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
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is 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