

Part Four, Section D

Access to Information Procedure Rules

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all formal meetings and decisions of the Council, its Committees, and Sub-Committees and to the Executive (that is, the Leader, Individual Cabinet Members and the Cabinet) and its Committees. The Council complies with the Equality Act 2010.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or by law for example under the Freedom of Information or Data Protection Acts.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all formal meetings of the Council, its Committees and Sub-Committees and the Cabinet and its Committees, 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 (unless the meeting is convened at shorter notice under the Council's urgency procedures) by posting details of the meeting at Haringey Civic Centre, High Road, Wood Green N22 8LE (the "designated office") and on the Council's website (www.haringey.gov.uk).

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 and on the website at least five clear days before the meeting. If an item is added to the agenda later under the council's urgency procedures, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

6. SUPPLY OF COPIES

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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 Democratic Services Manager thinks fit, copies of any other documents supplied to councillors in connection with an item to any person or to a newspaper on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES AND DOCUMENTS 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 Cabinet) 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.

8.2 Background Papers do not include published works or those which disclose exempt or confidential information (as defined in Rule 10), or the advice of a political adviser.

8.3 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers at the designated office and on the 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 and be available to the public at the designated office and on the website.

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 the disclosure of which is prohibited by or under any enactment or by the order of a court.

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

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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 under 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 – (i) falls within any of paragraphs 1-7 above; and (ii) is not prevented from being exempt under (a) or (b) above is exempt information if and so long as, in the opinion of the Monitoring Officer, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Monitoring Officer 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.

12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 – 24 apply to the Executive (that is, the Leader, individual Cabinet Members and the Cabinet) and its Committees. The Leader may take any executive decision in place of, or between meetings of, the Cabinet, including decisions that have become urgent, in accordance with Rules 16 and 17 below, and the Leader may also

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allocate any executive decision whether urgent or not to the Cabinet Member having the relevant portfolio responsibilities, or to a Committee of the Cabinet.

If the Leader, an Individual Cabinet Member or the Cabinet or its Committees take a key decision then the procedure must by law also comply with Rules 1 – 15 unless Rule 16 (general exception) or Rule 17 (special urgency) apply.

A key decision is defined as:

An executive decision which is likely:-

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

In terms of the first part of the definition commitment of award of contracts in excess of £500k, virements between directorate revenue cash limits in excess of £250k and virements between programme areas within directorate capital budgets will be key decisions.

Rules 1 – 15 will apply to all key decisions made by the Executive unless Rule 16 (general exception) or Rule 17 (special urgency) applies. This requirement does not include meetings, whose principal purpose is for officers to brief members.

In practice the Council has decided that meetings of the Cabinet and its Committees will generally comply with Rules 1-15 irrespective of whether the items to be discussed are key decisions.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:

- (a) at least 28 clear days before a key decision is made, a notice (called here a Forward Plan) has been made available for inspection by the public at the designated office and on the website in connection with the matter in question;
- (b) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. PROCEDURE PRIOR TO PRIVATE MEETINGS OF CABINET OR A CABINET COMMITTEE

14.1 A 'private meeting' means a meeting or part of a meeting of the Cabinet or a Cabinet Committee during which the public are excluded in accordance with Rule 10 (exclusion of access by the public to meetings).

14.2 Subject to Rule 18, a private meeting may not take place unless:

- (a) At least 28 clear days before the scheduled meeting a notice (called the forward plan) has been made available for inspection by the public at the designated office and on the website;
- (b) At least 5 clear days before the scheduled meeting a further notice has been made available for inspection by the public at the designated office and on the website which shall include any representations made as to why any item specified in the notice given under paragraph (a) above should be open to the public together with the Council's response.

15. THE FORWARD PLAN

15.1 The 28 clear days notices before a key decision is made (Rule 13) and before a private meeting may be held (Rule 14) are combined and together form the Forward Plan.

15.2 Period of forward plan

The Forward Plan will be published at the beginning of each month and will contain particulars of key decisions likely to be taken and private meetings likely to be held over the following three months.

15.3 Contents of forward plan

The Forward Plan will contain matters which are likely to be subject of a key decision to be taken by the Executive (the Leader, Individual Cabinet Members, the Cabinet or a Committee of the Cabinet) in the course of the discharge of an executive function during the period covered by the plan. It will also contain details of likely private meetings of the Cabinet or a Cabinet Committee. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) That a key decision is to be made;
- (b) The matter in respect of which a decision is to be made;

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- (c) Where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and details of membership;
- (d) The date on which or the period within which, the decision will be taken;
- (e) A list of the documents submitted to the decision maker 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) That other documents relevant to those matters may be submitted to the decision maker; and
- (h) The procedure for requesting details of those documents (if any) as they become available;
- (i) Whether a meeting will be held in public or private and a statement of the reasons for a meeting to be held in private.

16. GENERAL EXCEPTION (KEY DECISIONS)

Where the publication of the intention to make a key decision under Rule 13 is impracticable, then subject to Rule 17 (special urgency), the decision may still be taken if:

- (a) the Democratic Services Manager has informed the Chair of a relevant Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (b) the Democratic Services Manager has made copies of that notice available to the public at the designated office and on the website; and
- (c) at least 5 clear days have elapsed since the proper officer made available the notice referred to in paragraph (b) above.

17. SPECIAL URGENCY (KEY DECISIONS)

- 17.1** Where the date by which a key decision must be made makes compliance with Rule 16 impracticable, the decision may only be made if the decision maker (an individual or the chair of the body making the decision), obtains the agreement of the chair of a relevant Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred.

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17.2 If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor or in his/her absence the Deputy Mayor will suffice.

17.3 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 17.1 or 17.2 to take a key decision the Democratic Services Manager shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the designated office and on the website.

17.4 The Leader may take any urgent key or non-key decision and may also allocate any urgent key or non-key decision to the Cabinet Member having the relevant portfolio responsibilities, or to a Committee of the Cabinet. Urgent decisions may also be taken at the Cabinet meeting if appropriate.

18. URGENCY (PRIVATE MEETINGS)

18.1 Where the date by which a meeting must be held makes compliance with Rule 14 impracticable, the meeting may only be held where the decision-making body had obtained agreement from the Chair of a relevant Overview and Scrutiny Committee that meeting is urgent and cannot reasonably be deferred.

18.2 If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

18.3 As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 18.1 or 18.2 to hold a private meeting the Democratic Services Manager shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the designated office and on the website.

19. REPORT TO COUNCIL

19.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee thinks that a key decision has been made and:

- (a) was not treated as being a key decision; and
- (b) a relevant Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision the

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Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.

- (c) The power to require a report rests with the Committee, but is also delegated to the Democratic Services Manager, who shall require such a report on behalf of the Committee when so requested by the Chair of any 5 members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

19.2 Cabinet's report to Council

In the above circumstances, the Cabinet 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 must include details of:

- (i) The decision and the reasons for the decision;
- (ii) The decision maker by which the decision was made; and
- (iii) If the executive are of the opinion that the decision was not a key decision, the reasons for that opinion.

19.3 Reports on special urgency decisions

In any event, the Leader will submit a report to the Council at least annually on the Cabinet decisions taken in the circumstances set out in Rule 17 (special urgency) during the period since the last report was submitted to Council. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

20. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Democratic Services Manager will produce a report recording every decision taken at that meeting as soon as practicable. The report will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

Written statements of officers' exercise of delegated powers will be completed and where appropriate published and made available for public inspection at the Civic Centre and on the Council's website.

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21. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

As stated above in Rule 12 the Council has decided that Cabinet or its Committees will meet in public irrespective of whether the items to be discussed are key decisions, subject to the exclusion of the public and press for confidential and exempt items.

22. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

22.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a public report which he/she intends to take into account in making any decision, then he/she will not make the decision until the report had been available for public inspection for at least 5 clear days except in the case of urgent decision taken in accordance with the Council's urgency procedures.

22.2 Provision of copies of reports to Overview 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 Chair and Vice Chair of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and where appropriate make it publicly available at the same time.

22.3 Record of individual decision

- (a) As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.
- (b) Such written statement together with any report considered by the individual member of officer and relevant to the decision recorded shall be made available for public inspection at the designated office and on the website.
- (c) The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information.

23. OVERVIEW AND SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS

23.1 Individual Members' rights to copies

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Subject to Rule 23.2 below, a member of an Overview and Scrutiny Committee (including its Sub-Committees) will be entitled, on request as soon as reasonably practicable and in any case no later than ten clear days after a request has been received, to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

- (a) any business that has been transacted at a meeting of a decision-making body of the Council; or
- (b) any decision that has been made by an individual member of the Cabinet; or
- (c) any executive decision that has been made by an officer.

23.2 Limit on above rights

A member of an Overview and Scrutiny Committee (or Sub Committee) will not be entitled to:

- (a) any document or part of a document as contains exempt or confidential information unless that information is relevant to
 - (i) an action or decision that that member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a committee or sub-committee.

23.3 Where the executive determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document or part of a document for a reason set out in Rule 23.2, it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

23.4 Rights of Chairs, Vice Chairs and other members to agenda and reports.

The Chairs and Vice Chairs of the relevant Overview and Scrutiny Committee and Sub-Committees will be supplied with the agenda/reports of the Cabinet and Cabinet Committees, and reports to Cabinet Members, to the extent that these relate to matters which are subject to a current Scrutiny Review, at the same time as they are issued to the Cabinet, Cabinet Committee or Cabinet Member in question. Other members of the relevant Overview and Scrutiny Committee will be supplied with such papers on request.

23.5 Limit on above rights

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The Chair, Vice Chair or member of the relevant Overview and Scrutiny Committee shall not be entitled to:

- (a) 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
- (b) the advice of a political adviser.

24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

24.1 Material relating to previous business

Subject to Rules 24.5 and 24.6 below, any document which is in the possession or under the control of the executive and contains the material relating to any business to be transacted at a public meeting must be available for inspection by any member.

24.2 Any document which is required by paragraph 24.1 to be available for inspection by any member 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 a document must be available for inspection when the meeting is convened; and
- (b) Where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 24.1 in relation to that item, must be available for inspection when the item is added to the agenda.

24.3 Subject to Rules 24.5 and 24.6, any document which is in the possession or under the control of the Executive of the local authority and contains material relating to any business transacted at a private meeting, any decision made by an individual member, or any decision made by an officer, must be available for inspection by any member when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been made.

24.4 Any document which is required by Rule 24.3 to be available for inspection by any member must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

24.5 Rules 24.1 and 24.3 do not require a document to be available for inspection if it appears to the Democratic Services Manager that it discloses exempt information of a description falling with Rule 10.4 above.

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24.6 Notwithstanding Rule 24.5, Rules 24.1 and 24.3 do require the document to be available for inspection if the information is information of a description for the time being falling within

(a) paragraph 3 of Rule 10.4 (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

(b) paragraph 6 of Rule 10.4

24.7 Where it appears to Democratic Services Manager that compliance with Rules 24.1 or 24.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that rule will not apply to that document or part.

24.8 The rights conferred by Rules 24.1 and 24.3 are in addition to any other rights that a member may have.

24.9 Material relating to key decisions

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 Executive which relates to any key decision unless paragraph 24.1 above applies.

24.10 Nature of rights

These rights of a member are additional to any other right he/she may have.