

Part Six - Public Participation

Section C - Access to Information Procedure Rules

Introduction

- 1.1 [The Council](#) is committed to the principles of openness and transparency as laid down in access to information legislation, such as the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 1.2 These procedure rules detail the specific rights that members of the public have to access information relating to the Council's decision making processes. These rules do not affect any of the additional rights that the public has set out elsewhere in this Constitution or the law.
- 1.3 In these rules the term "[clear working day](#)" excludes the date on which the notice of a meeting is published and the date on which the meeting is to be held and also excludes any weekends and public/bank holidays.
- 1.4 In these rules the term 'the public' includes members of the press.
- 1.5 The additional rights that [Elected Mayor](#) and [Councillors](#) have are set out in [Part 7, Section D](#) of this Constitution.

Scope

- 2.1 These rules apply to all meetings of the Council, including meetings of the [Cabinet](#), any [committees](#), sub-committees, panels and commissions which the Council may establish.

Right to attend meetings

- 3.1 The public may attend all meetings subject only to those exceptions specified in these rules.
- 3.2 Details of the rights of the public to record meetings of the Council are contained in the Protocol on Live Streaming/Recording Meetings as set out in [Part 6, Section F](#) of this Constitution.

Notice of meetings

- 4.1 Unless a meeting is called at shorter notice, the Council will give at least five clear working days' notice of any meeting by publishing details of the time and place of the meeting on its [website](#) and displaying a notice at Hackney Town Hall.

Access to agendas and reports before a meeting

- 5.1 Subject to any exception specified in these rules, the Council will make copies of the [agenda](#) and reports open to the public available for inspection at Hackney Town Hall and on the Council website at least five clear working days before the meeting.
- 5.2 Where the meeting is convened at shorter notice, copies of the agenda and reports shall be made available to the public from the time the meeting is called.
- 5.3 Where a report is not open to inspection by members of the public for five clear working days before the meeting, it can only be considered at the meeting if the Chair is of the opinion that it should be considered as a matter of urgency by reason of special circumstances. Those circumstances shall be specified in the minutes of the meeting.

Supply of copies

- 6.1 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 [Proper Officer](#) thinks fit, copies of any other documents supplied to the Elected Mayor and Councillors in connection with an item.
- to any member of the public on payment of the Council's reasonable charges for copying and postage.

Background papers

- 7.1 Every report will contain a list of those documents (called [background papers](#)) relating to the subject matter of the report which in the opinion of the report author and Proper Officer:
- (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
- 7.2 This does not include published works or documents which disclose [exempt](#) or [confidential information](#) or the advice of a [political advisor or assistant](#).

- 7.3 Any background papers will be retained by the Council and made available for inspection by the public for a period of four years beginning with the date of the meeting, or the date of the decision.

Exclusion of access by the public to meetings

Confidential information – requirement to exclude public

- 8.1 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.
- 8.2 “Confidential information” means information given to the Council by a Government Department on terms which forbid its disclosure or information which cannot be publicly disclosed by Court Order.

Exempt information – discretion to exclude public

- 8.3 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. Information 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.
- 8.4 Meaning of exempt information

“Exempt information” means information falling within one of following categories, subject to any condition:

CATEGORY	CONDITION
1. Information relating to an individual	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt: (a) where disclosure is prohibited by statute; or (b) where disclosure might involve providing personal information about individuals; or</p>

CATEGORY	CONDITION
	<p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>2. Information which is likely to reveal the identity of an individual</p>	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)</p> <p><i>'financial or business affairs' includes contemplated, as well as past or current, activities.</i></p> <p><i>This category will include commercial and contractual interests</i></p>	<p>Information is not exempt if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc</p> <p>Information is only exempt if and for so long as:</p> <p>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other</p>

CATEGORY	CONDITION
	<p>persons; or</p> <p>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or</p> <p>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a minister of the crown and employees of, or office-holders under, the authority</p> <p><i>'Labour relations matters' are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974</i></p> <p><i>i.e. matters which may be the subject of a trade dispute</i></p> <p><i>'employee' means a person employed under a contract of service</i></p> <p><i>'office-holder' means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any</i></p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <p>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

CATEGORY	CONDITION
<i>person who holds any such office or is an employee of the authority</i>	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Information is only exempt: (a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; (b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
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 on a person, or (b) to make an order or direction under any enactment	Information is exempt only if and so long as: (a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and (b) in all circumstances of the case, the public interest in not disclosing the information 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 only exempt if its disclosure would, or would be likely to, prejudice- (a) criminal investigations and proceedings; or (b) the apprehension or prosecution of offenders; or (c) the administration of justice; or (d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or (e) regulatory enforcement; or

CATEGORY	CONDITION
	(f) any civil proceedings; or (g) Health and safety; or (h) information obtained from confidential sources; and (i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.

Information which would be exempt under any of the categories listed above is not exempt 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.

Exclusion of access by the public to reports

- 9.1 The [Monitoring Officer](#) may exclude access to a report which in their opinion relates to items which will be considered when a meeting is likely not open to the public or was not open to the public. Such reports will be marked “not for publication” and the reason why this is the case.

Application of rules to the executive

- 10.1 The above rules apply to the Elected Mayor and Cabinet, its committees and individuals. In addition, where a [key decision](#) is to be made then the following procedure applies.

Procedure before making a key decision

- 11.1 A key decision is an Elected Mayor and Cabinet decision which is likely to:
- (a) Result in the Council incurring expenditure or the making of savings that is significant having regard to the Council’s budget for the service or function to which the decisions relates, or
 - (b) Be significant in terms of its effects on communities living or working in a [ward](#) comprising two or more wards in the area of the Council.
- 11.2 Every month the Council will publish a document that sets out each Key Decision that will be made on behalf of the Council. This document is known as the [Forward Plan](#) and will be kept updated on the Council’s website and will also be available for inspection by request at Hackney Town Hall.

11.3 The Forward Plan shall include:

- (a) The matter is in respect of which a decision is to be made;
- (b) The date on which, or the period within which, the decision is to be made;
- (c) Where the decision maker is an individual, their name and title, if any;
- (d) Where the decision maker is a decision-making body, its name and details of its membership;
- (e) Where the decision relates to confidential or exempt information, as defined above, a statement that the decision will be made in private;
- (f) A list of the documents submitted to the decision maker for consideration in respect of their decision;
- (g) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (h) That other documents relevant to those matters may be submitted to the decision maker;
- (i) The procedure for requesting details of those documents (if any) as they become available.

11.4 In addition, it will contain the following:

- (a) A unique reference number;
- (b) A brief summary of the need for the decision and the impact of its implementation;
- (c) Details of the Wards affected by the decision.

11.5 A key decision will not normally be made unless:

- (a) Notice of the decision has been published on the Forward Plan;
- (b) At least twenty eight clear days have elapsed since the publication of the Forward Plan;

- (c) Where the decision is to be made at a meeting of the Elected Mayor and Cabinet or its committees, notice of the meeting has been given in accordance with Rule 5 (notice of meetings).

General Exception

- 11.6 If it is not possible to provide twenty eight clear days' notice of a decision on the Forward Plan because the decision must be made by such a date that it would be impractical to defer it, then the decision may still be made if:
- (a) The Monitoring Officer has been informed of the reasons for urgency and is satisfied that the reasons meet the criteria for an urgent decision;
 - (b) The Monitoring Officer has informed the Chair of the [Scrutiny Panel](#), or, if there is no such person or if the Chair is unable to act, the Speaker of the proposed decision and the reasons for urgency;
 - (c) The Monitoring Officer has arranged for a notice of the date and nature of the forthcoming decision and the reasons for urgency on the Council's website and made a copy available for inspection at Hackney Town Hall; and
 - (d) At least five clear days have elapsed since the Monitoring Officer has complied with the requirement to inform and place a notification.
- 11.7 If the Monitoring Officer is not available to act, then the Deputy Monitoring Officer shall act in their place. If both the Monitoring Officer and Deputy Monitoring Officer are not available to act, then the [Chief Executive](#) or [s151 Officer](#) shall act in their places.

Special Urgency

- 11.8 Where an urgent key decision is required, but compliance with the general exception rules is impractical, then the decision shall only be made where the decision maker obtains the agreement of the Chair of the Scrutiny Panel that the making of the decision is urgent and cannot reasonably be deferred.
- 11.9 If there is no Chair of the relevant Scrutiny Panel, or if the Chair is unable to act, then the agreement of the Speaker or in their absence the Deputy Speaker must be sought.
- 11.10 As soon as it is reasonably practicable after the decision maker has obtained the necessary agreement, the Monitoring Officer must arrange for a notice of the date and nature of the forthcoming decision and the reasons for special

urgency on the Council's website and make a copy available for inspection at Hackney Town Hall.

- 11.11 The Elected Mayor will submit a twice-yearly report to [Full Council](#) on any cabinet decisions which have been made under the special urgency provisions. This report will include the number of decisions made and a summary of the matters in respect of which each decision was made.
- 11.12 The Monitoring Officer will submit a twice-yearly report to Full Council on delegated key decisions made under the special urgency provisions. This report will include the number of decisions so made and a summary of the matters in respect of which each decision was made.

Private meetings of the Cabinet or its Committees

- 11.13 A private meeting of the Cabinet or one of its Committees is a meeting, or part of a meeting, during which the public are excluded during an item of business relating to confidential or exempt information.
- 11.14 A private meeting is also a meeting where a Councillor(s), or members, of the public have been excluded in order to maintain orderly conduct or prevent misbehaviour.
- 11.15 Prior to a private meeting being held and in the case of a key decision, the Forward Plan will identify which items are likely to be considered by the Cabinet or one of its Committees, and shall include a statement of the reasons for the meeting being held in private. This will not apply where a meeting is required to exclude persons in order to maintain orderly conduct or prevent misbehaviour.
- 11.16 At least 5 clear working days before a private meeting takes place, a notice will be published on the Council website and made available at Hackney Town Hall. This notice shall include:
- (a) A statement of the reasons for the meeting to be held in private;
 - (b) Details of any representations received concerning why the meeting should be held in public, and a statement of the response to any such representations.
- 11.17 This notice will be included as part of the published agenda for the meeting.
- 11.18 If it is not practicable to comply with the above rules, the Monitoring Officer may seek the agreement of the Chair of the relevant Scrutiny Commission Panel to that part of the meeting being held in private.

- 11.19 If there is no Chair of the relevant Scrutiny Commission, or if the Chair is unable to act, then the agreement of the Speaker or in their absence the Deputy Speaker will suffice.
- 11.20 If the Chair of the Scrutiny Commission agrees that the decision is urgent and cannot reasonably be deferred and ought to be considered in private, the Monitoring Officer will make available at Hackney Town Hall and on the Council's website a notice setting out this decision and the reasons for it.

Recording of Executive Decisions

- 11.21 As soon as is reasonably practicable after a meeting of Cabinet or one of its Committees, the Monitoring Officer shall ensure that a written statement is produced in respect of every executive decision made at that meeting which includes:
- (a) A record of the decision including the date it was made;
 - (b) A record of the reasons for the decision;
 - (c) Details of any alternative options considered and rejected at the meeting by the decision-making body at the meeting when the decision was made;
 - (d) A record of any conflict of interest declared by any Councillor of the decision-making body which made the decision; and
 - (e) In respect of any declared conflict of interest, a note of any relevant dispensation granted by the Chief Executive or Monitoring Officer.
- 11.22 Where the Mayor's [Scheme of Delegation](#) permits, a decision may not be made by an individual [Councillor of the Cabinet](#) unless a written report has been prepared. Such individual decisions may only be made in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee (unless they waive that requirement) and the Officer whose responsibility it is to record the decision. As soon as is reasonably practicable after an individual Councillor of the Cabinet has made a decision, the Monitoring Officer shall ensure that a written statement is produced which includes the same matters as referred to above.
- 11.23 Where an Officer acts under the Scheme of Delegation to make an executive decision, then as soon as is reasonably practicable after the Officer has made a decision they shall notify the Monitoring Officer and produce a written statement which includes the same matters as referred to above.

Recording of Non-Executive Decisions

11.24 As soon as is reasonably practicable after a meeting of non-executive Committee etc, the Monitoring Officer shall ensure that a written statement is produced in respect of every executive decision made at that meeting which includes:

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the non executive decision;
- (c) Details of any alternative options considered and rejected at the meeting by the decision-making body at the meeting when the decision was made;
- (d) A record of any conflict of interest declared by any Councillor of the decision-making body which made the decision; and
- (e) In respect of any declared conflict of interest, a note of any relevant dispensation granted by the Chief Executive or Monitoring Officer.

11.25 Where an Officer acts under the Scheme of Delegation to make a non-executive decision, then as soon as is reasonably practicable after the Officer has made a decision they shall notify the Monitoring Officer and produce a written statement which includes the same matters as referred to above.

11.26 The requirement to produce a written record of any decision, including those taken under delegated powers, shall comply with the Openness of Local Government Bodies Regulations 2014.