

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.B - Access to Information Procedure Rules

### I. Access to information procedure rules: Council, Council non-executive committees and Scrutiny and Overview Committee

#### 1 SCOPE

These rules apply to all meetings of the Council, the Scrutiny and Overview Committee and all other non-executive Committees and any non-executive Sub-Committees which together are referred to hereafter as “non-executive meetings”.

#### 2 ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

#### 3 RIGHTS TO ATTEND MEETINGS

Members of the public and media may attend all non-executive meetings of the Council, Committees and Sub-Committees subject only to the exceptions in these rules.

#### 4. NOTICE OF MEETINGS

The Council Solicitor shall, on behalf of the Authority give at least five clear working days' notice of any meeting (unless called at a later time) by posting details of the meeting at Bernard Weatherill House (8 Mint Walk, Croydon) and on the Council's website.

#### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council Solicitor shall, on behalf of the Authority, make copies of the agenda and reports open to the public and press available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon at least five clear working days before the meeting or as soon as available if later. These documents will also be posted on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

If an item is added to the agenda later, as an item of urgent business at the direction of the Chair, the Council Solicitor shall make each such report available to the public and press and open to inspection as soon as the report is available to Members attending the meeting.

## **6 SUPPLY OF COPIES**

The Authority shall supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any background documents identified in the report;

to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Authority shall make available copies of the following for six years after a meeting listed in paragraph 1 of these rules:

- (a) the minutes of the meeting, or records of decisions taken together with reasons, 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 the 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**

### **List of Background Papers**

The Lead Officer named at the head of every report shall set out at the end of every report a list of those documents (under the heading Background Papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report.

The List of Background Papers shall not include published works or those which disclose exempt or confidential information as defined in rule 10 below.

## **Public Inspection of Background Papers**

Every Executive Director shall make arrangements to ensure that documents referred to in any report written by them or by a member of their staff are available for inspection for four years after the date of the non-executive meeting concerned. One copy of each of the background documents listed shall be retained for this purpose.

### **9. SUMMARY OF PUBLIC'S RIGHTS**

These Rules, as part of the Constitution of the Council, shall be regarded as the written summary of the public's rights to attend non-executive meetings and to inspect and copy documents. These Rules together with the whole Constitution are available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, and shall be available on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

### **10. EXCLUSION OF ACCESS BY THE PUBLIC TO NON-EXECUTIVE MEETINGS**

#### **Confidential Information – Requirement to Exclude Public**

The public must be excluded from non-executive 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.

#### **Exempt Information – Discretion to Exclude Public**

The public may be excluded from non-executive 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.

Where the non-executive meeting shall 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 non-executive meeting shall be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

#### **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 which cannot be publicly disclosed by Court Order.

## **Meaning of Exempt Information**

Exempt information means information falling within the categories set out in Part 1 of Schedule 12a of the Local Government Act 1972 (as amended) and as reproduced in Appendix 1 attached to these rules.

Information falling within those categories is not exempt by virtue of that paragraph if it relates to proposed development for which the Council as local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## **Licensing Sub-Committee**

At any meeting of a Licensing Sub-Committee convened for the purpose of a hearing under the provisions of the Licensing Act 2003, the Press and Public may be excluded at any time to enable the Sub-Committee to deliberate in private on any matter.

## **11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Council Solicitor thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the non-executive meeting is likely not to be open to the public. Such reports shall be marked "Not for publication" together with the category of information likely to be disclosed.

## **II. Access to information procedure rules: Leader, Cabinet and Cabinet Committees and sub-committees**

### **12 SCOPE**

These rules apply to all meetings of the Cabinet, Cabinet Committees and all other executive Committees, executive Committees and executive Joint Committees which together are referred to hereafter as "executive meetings".

For the purposes of these Rules "executive decision" means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority.

A decision is regarded as being "in connection with the discharge of a function which is the responsibility of the executive" if it is closely connected to the discharge of the executive function in question and not merely an administrative action.

For the purposes of these Rules "decision maker" means the decision making body by which or the individual by whom an executive decision is made.

### **13 GENERAL PROVISIONS RELATING TO INFORMATION AND REPORTING OF MEETINGS**

- 13.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.
- 13.2 Nothing in these Rules—
- (a) authorises or requires a local authority to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information; or
  - (b) requires a local authority to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.
- 13.3 Where a member of the executive or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules—
- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
  - (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.
- 13.4 For the purposes of these Rules:
- 13.4.1 Reporting on proceedings at a meeting means-
- (a) Filming, photography, or making an audio recording of the proceedings at the meeting;
  - (b) Using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later; or
  - (c) Reporting or providing commentary on proceedings at the meeting, orally or in writing, so that the report or commentary is available to a person not present, as the meeting takes place or later.

13.4.2 Whilst the meeting is open to the public, any person attending is permitted to report the proceedings;

13.4.3 Subject to 13.4.4,

- A person who attends the meeting to report the proceedings may use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities; and
- Publication and dissemination of the report may take place at the time of the meeting or occur after the meeting.

13.4.4 Paragraphs 13.4.1 - 13.4.3 above do not permit the oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting. In addition, any reporting is subject to the Chair's power to require that any person terminate their reporting if such reporting is distracting, disruptive or contrary to the good order or conduct of the meeting.

13.4.4 Where the public are excluded from a meeting pursuant to these Rules, no person may report on the proceedings using methods which can be used without that person's presence at the meeting or which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later;

13.5 These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

## **14. RIGHTS TO ATTEND EXECUTIVE MEETINGS**

Members of the public and media may attend all executive meetings of the Cabinet and Executive Committees, Sub-Committees and Joint Committees subject only to the exceptions in these rules.

## **15 NOTICE OF PUBLIC EXECUTIVE MEETINGS**

The Council Solicitor shall, on behalf of the Authority give at least five clear working days' notice of any executive meeting (unless called at a later time) by posting details of the executive meeting at Bernard Weatherill House (8 Mint Walk, Croydon) and on the Council's website

## **16 ACCESS TO AGENDA AND REPORTS BEFORE PUBLIC EXECUTIVE MEETINGS**

The Council Solicitor shall, on behalf of the Authority, make copies of the agenda and reports open to the public and press available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon at least five clear working days before the executive meeting or as soon as available if later. These

documents will also be posted on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

If an item is added to the agenda later, as an item of urgent business at the direction of the Chair, the Council Solicitor shall make each such report available to the public and press and open to inspection as soon as the report is available to Members attending the executive meeting.

## **17. NOTICE OF PRIVATE EXECUTIVE MEETINGS**

At least twenty eight clear days before a private executive meeting the Council Solicitor shall, on behalf of the Authority, make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon and on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)), a notice of intention to hold a meeting or part thereof in private and the reasons for doing so.

The Council Solicitor shall, on behalf of the Authority make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon and on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)), at least five clear working days before the date of the private executive meeting, a further notice of its intention to hold a meeting or part thereof in private. The notice shall include the reasons for holding the meeting in private, any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representations.

## **18. URGENT PRIVATE EXECUTIVE MEETINGS**

Where the date by which an executive meeting must be held makes compliance with Rule 17 impractical, the executive meeting may only be held in private where the decision making body has obtained agreement from:

- (a) the Chairman of the Scrutiny and Overview Committee; or
- (b) if the Chairman of the Scrutiny and Overview Committee is unable to act, the Mayor, or
- (c) if neither the Chairman of the Scrutiny and Overview Committee nor the Mayor is able to act, the Deputy Mayor

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after agreement has been obtained to hold a private meeting, the Council Solicitor shall, on behalf of the Authority, make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, CR0 1EA and on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)), a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

## **19. ACCESS TO REPORTS BEFORE PRIVATE EXECUTIVE MEETINGS**

Where the Council Solicitor considers that whole or any part of a report relates to matters during which it is likely the meeting will be a private meeting the report or part thereof shall not be available for inspection by the public.

Where the whole or any part of a report for a public meeting is not available for inspection by the public—

- (a) every copy of the whole report or of the part of the report, as the case may be, must be marked “not for publication”; and
- (b) there must be stated on every copy of the whole or the part of the report—
  - (i) that it contains confidential information; or
  - (ii) by reference to the descriptions in Schedule 12A to the Local Government Act 1972 the description of exempt information by virtue of which the decision-making body discharging the executive function are likely to exclude the public during the item to which the report relates.

## **20. RECORD OF EXECUTIVE DECISIONS MADE AT EXECUTIVE MEETINGS**

As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the Council Solicitor must ensure that a written statement is produced for every executive decision made which includes the following information —

- (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 by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.



## **21. RECORD OF EXECUTIVE DECISIONS MADE BY INDIVIDUAL MEMBERS**

As soon as reasonably practicable after an individual Member has made an executive decision, the Council Solicitor must ensure that a written statement is produced for that executive decision which includes the following information —

- (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 by the Member when making the decision ;
- (d) a record of any conflict of interest declared by any Executive Member who is consulted by the Member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service

## **22 RECORD OF EXECUTIVE DECISIONS MADE BY OFFICERS**

As soon as reasonably practicable after an individual officer has made an executive decision, the Council Solicitor must ensure that a written statement is produced for that executive decision which includes the following information —

- (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 by the officer when making the decision ;
- (d) a record of any conflict of interest declared by any Executive Member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service

## **23. ACCESS TO MINUTES ETC. AFTER THE EXECUTIVE MEETING**

The Authority shall make available copies of the following for six years after an executive meeting:

- (a) the minutes of the executive meeting, or records of decisions taken together with reasons, excluding any part of the minutes of proceedings when the executive meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of the 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 executive meeting; and
- (d) reports relating to items when the executive meeting was open to the public.

## **24. BACKGROUND PAPERS**

### **24.1 List of Background Papers**

The Lead Officer named at the head of every report shall set out at the end of every report a list of those documents (under the heading Background Papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and
- (c) does not include published works

The list of Background Papers shall not include published works or those which disclose exempt information, confidential information or advice of a political advisor or assistant as defined in Rule 27 below.

### **24.2 Public Inspection of Background Papers**

Every Executive Director shall make arrangements to ensure that any background papers listed in any report written by them or by a member of their staff are available for inspection for four years after the date of the executive decision concerned. One copy of each of the background documents listed shall be retained for this purpose.

## **25. SUPPLY OF COPIES**

The Authority shall supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any background documents identified in the report which are open to public inspection;
- (c) such further statements or particulars as are necessary to indicate the nature of the items contained in the agenda; and
- (d) if the Council Solicitor thinks fit in the case of any item, a copy of any other document supplied to Members of the Executive in connection with the item
- (e) Any records prepared in accordance with Rules 20-22 and any reports considered by the individual Member or officer and relevant to the decision taken, or where only part of the report is relevant to such decision, only that part.

to any person on request and payment of a charge for postage, copying or other necessary charge for transmission. The supply of copies is subject to the restriction that such supply shall not occur in respect of documentation which is not open to the public by virtue of containing confidential information, exempt information or advice of a political advisor or assistance as set out in Rule 27.

## **26. SUMMARY OF PUBLIC'S RIGHTS**

These Rules, as part of the Constitution of the Council, shall be regarded as the written summary of the public's rights to attend executive meetings and to inspect, copy and request copy documents. These Rules together with the whole Constitution are available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, and shall be available on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

## **27 EXCLUSION OF ACCESS BY THE PUBLIC TO EXECUTIVE MEETINGS**

### **Confidential Information – Requirement to Exclude Public**

The public must be excluded from Executive 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.

### **Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms (however expressed) which forbid its public

disclosure or information which cannot be publicly disclosed by virtue of a prohibition by or under any enactment or by a Court Order.

### **Exempt Information – Requirement to Exclude Public**

The public shall be excluded from executive 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.

Where the executive meeting shall 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 executive meeting shall be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **Meaning of Exempt Information**

Exempt information means information falling within the categories set out in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) and as reproduced in Appendix 1 attached to these rules.

Information falling within those categories is not exempt by virtue of that paragraph if it relates to proposed development for which the Council as local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

### **Exclusion to maintain orderly conduct or prevent misbehaviour**

The public must be excluded from a meeting during an item of business whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehavior at an executive meeting.

## **28. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Monitoring Officer or Council Solicitor thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 27, the executive meeting is likely not to be open to the public. Such reports shall be marked "Not for publication" together with a statement that it contains confidential information or if it contains exempt information, the category of information likely to be disclosed.

## **29 KEY DECISION RULES**

In these Rules a "key decision" is as defined in Article 13.02 namely an executive decision, which is likely to—

- (a) result in the Council incurring expenditure, or making savings, of more than £1,000,000 or such smaller sum which the decision-taker considers is significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.

Key decision rules apply only in respect of Executive decisions and not to non-executive decisions.

### **30 PUBLICITY IN CONNECTION WITH KEY DECISIONS:**

30.1 Subject to Rule 31 (General Exception) and Rule 32 (Special Urgency) a Key Decision may not be taken unless:

- (a) a notice has been made available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the notice; and
- (c) if the decision is to be taken at an executive meeting, notice of the executive meeting has been given in accordance with Rule 15 (Notice of executive meetings) and where applicable Rule 17 (Procedures before private meetings).

30.2 The notice shall contain matters, which shall be the subject of a Key Decision to be taken by the decision maker in accordance with any agreed Protocol in the course of the discharge of an executive function and shall state:

- (a) that a key decision is to be made on behalf of the relevant local authority;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;

- (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.

30.3 Where, in relation to any matter—

- (a) the public are to be excluded under Rule 27 from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision contain confidential information, exempt information or advice of a political advisor or assistant,

the notice shall contain particulars of the matter but may not contain any confidential information, exempt information or particulars of the advice of a political advisor or assistant.

## **31 GENERAL EXCEPTION**

31.1 Subject to Rule 32 (Special Urgency), where the publication of the intention to make a key decision under Rule 30 is impracticable, that decision may only be made where—

- (a) the Chairman of Scrutiny and Overview Committee has been informed of the matter about which the decision is to be made by notice in writing or where there is no Chairman, each Member of the Scrutiny and Overview Committee ;
- (b) the Council Solicitor has made available for inspection at Bernard Weatherill House, 8 Mint Walk Croydon and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) a copy of the notice provided in accordance with Rule 31.1(a) above; and
- (c) Five clear working days have elapsed following the day on which the notice required by Rule 31.1(a) was made available for inspection and published on the Council's website.

31.2 As soon as reasonably practicable after Rule 31.1 has been complied with, the Council Solicitor shall make available for inspection at Bernard Weatherill

House, 8 Mint Walk, Croydon and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) a copy of a notice setting out the reasons why compliance with Rule 30 are impractical

## **32 CASES OF SPECIAL URGENCY**

32.1 Where the date by which a key decision must be made, makes compliance with Rule 31 (General Exception) impracticable, the decision may only be made where the decision maker has obtained agreement from—

- (a) the Chairman of the Scrutiny and Overview Committee; or
- (b) if there is no such person, or if the Chairman of the Scrutiny and Overview Committee is unable to act, the Mayor; or
- (c) where there is no Chairman of the Scrutiny and Overview Committee or Mayor, the Deputy Mayor of the Council,

that the making of the decision is urgent and cannot reasonably be deferred.

32.2 As soon as reasonably practicable after Rule 32.1 has been complied with the Council Solicitor shall make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, CR0 1EA and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) a copy of a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred

## **33. REPORTS TO COUNCIL: WHEN SCRUTINY AND OVERVIEW COMMITTEE CAN REQUIRE REPORTS**

33.1 Where an executive decision has been made and—

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

Scrutiny and Overview Committee may require the Leader or executive decision maker which is responsible for the decision to submit a report to the Council within such reasonable period as the Committee may specify.

33.2 The report must include details of—

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and

- (c) if the Leader and/or Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

33.3 The power to require a report rests with the Scrutiny and Overview Committee who shall raise it by resolution passed at a meeting of the Committee.

33.4 The Leader and/or Cabinet shall submit a report to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of the resolution of the Committee, then the report may be submitted to the meeting after that.

#### **34. REPORTS TO COUNCIL ON USE OF SPECIAL URGENCY**

The Leader shall submit to Council, at least one annual report, containing details of each executive decision taken during the period since the last report was submitted to Council where the making of the decision was agreed as urgent in accordance with Rule 32 (Special Urgency)

The report submitted shall include—

- (a) particulars of each decision made; and
- (b) a summary of the matters in respect of which each decision was made.

#### **35. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE COUNCIL**

35.1 Subject to Rules 35.4 and 35.5. , any document which—

- (a) is in the possession or under the control of the Executive of the Council; and
- (b) contains material relating to any business to be transacted at a public executive meeting,

shall be available for inspection by any Member of the Council.

35.2 Any document which is required by Rule 35.1 to be available for inspection by any Member of the Council shall be available for such inspection for at least five clear working days before the executive meeting except that—



- (a) where the executive meeting is convened at shorter notice, such a document must be available for inspection when the executive 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 in relation to that item, shall be available for inspection when the item is added to the agenda.

35.3 Subject to Rules 35.4 and 35.5 any document which—

- (a) is in the possession or under the control of the Executive of the Council; and
- (b) contains material relating to—
  - (i) any business transacted at a private executive meeting;
  - (ii) any decision made by an individual Member in accordance with executive arrangements; or
  - (iii) any decision made by an officer in accordance with executive arrangements,

shall be available for inspection by any Member of Council within 24 hours of the conclusion of the meeting or where an executive decision is made by an individual member or an officer, within 24 hours after the decision has been made.

35.4 If it appears to the Council Solicitor that any of the information or documentation referred to in Rules 35.1 or 35.3 discloses confidential information, exempt information of a description falling within Part 1 of Schedule 12A of the Local Government Act 1972 or that compliance with Rules 35.1 or 35.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, the document or part thereof is not required to be available to Members.

35.5 Notwithstanding Rule 35.4 the document/s shall be available for inspection by Members if the information is information of a description for the time being falling within—

- (a) 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 Council in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 12A to the 1972 Act.

## **36. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF SCRUTINY AND OVERVIEW COMMITTEES**

36.1 Subject to Rule 36.2 a Member of Scrutiny and Overview Committee is entitled to a copy, no later than 10 clear working days after the Executive receives the request, of any document which—

- (a) is in the possession or under the control of the Executive of the Council; and
- (b) contains material relating to—
  - (i) any business transacted at an executive meeting;
  - (ii) any decision made by an individual Member in accordance with executive arrangements; or
  - (iii) any decision made by an officer in accordance with executive arrangements,

36.2 No member of Scrutiny and Overview is entitled to a copy—

- (a) of any such 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 of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

36.3 Where the Executive determines that a Member of Scrutiny and Overview Committee is not entitled to a copy of a document or part of any such document for a reason set out Rules 36.1 or 36.2 it must provide Scrutiny and Overview Committee with a written statement setting out its reasons for that decision.

**LOCAL GOVERNMENT ACT 1972 (as amended)**

**SCHEDULE 12A**

**ACCESS TO INFORMATION: EXEMPT INFORMATION**

**PART 1**

**DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND**

*This appendix to Part 4B of the Constitution is referred to at Rules 10 and 27*

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 or a Minister of the Crown and employees of, or office 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 on 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: ENGLAND**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered 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 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

**9.** 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.

**10.** Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information 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.

### PART 3

#### INTERPRETATION: ENGLAND

**11.** —(1) In Parts 1 and 2 and this Part of this Schedule—

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"labour relations matter" means—

- (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
- (b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to 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 person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference in Parts 1 and 2 and this Part of this Schedule to "the authority" is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

(a) in the case of a principal council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to—

(i) any constituent principal council;

(ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and

(iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and

(c) in the case of a sub-committee, to—

(i) the committee, or any of the committees, of which it is a sub-committee; and

(ii) any principal council which falls within paragraph (b) above in relation to that committee.