

## Chapter 4.6 – Updated Access to Information Rules of Procedure

<u>Index</u>	<u>Page</u>
1. Introduction and scope	
2. Additional Rights to Information	
3. Right to attend meetings	
4. Notices of Meeting	
5. Access to agenda and reports before the meeting	
6. Supply of copies	
7. Access to Documents after the meeting	
8. Background Papers	
9. Summary of Public's Rights	
10. Exclusion of Access by the Public to meetings – Categories of Exempt Information	
11. Exclusion of Access by the public to reports	
12. Application of rules to the executive	
13. Procedure before taking key decisions	
14. The Key Decision List	
15. General Exception (Rule 15)	
16. Special Urgency (Rule 16)	
17. Reports to Council	
18. Record of Decisions	
19. Executive Decisions to be taken in public	
20. Decisions by Individual Members of the Executive	
21. Overview and Scrutiny Committees/Scrutiny Panels Access to Documents	
22. Additional Rights of Access For Members	

## 4.6 ACCESS TO INFORMATION PROCEDURE RULES

### 1. Introduction and Scope

These rules apply to all meetings of the Council, Overview and Scrutiny Committee, Scrutiny Panels, other committees, sub committees and Forums along with public meetings of the Cabinet (together called meetings).

Certain rules will also apply to Executive decisions taken by individual Cabinet members and officers.

NOTE: The rules set out below are in addition to any rights which members of the public may enjoy under the Freedom of Information legislation.

### 2. Additional Rights to Information

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

### 3. Right to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules or specified elsewhere in this Constitution.

### 4. Notices of Meeting

- (a) The Council will give at least five clear working days notice of any meeting by posting details of the meeting at the Civic Centre, Silver Street, Enfield and on the Council's website. This will exclude the day of publication of the agenda and day of the meeting, along with weekends and bank holidays.

A link to the Council's website is attached:

[http://www.enfield.gov.uk/info/200068/councillors\\_elections\\_and\\_decisions](http://www.enfield.gov.uk/info/200068/councillors_elections_and_decisions)

- (b) Where, it is likely that the Cabinet or one of its Committees will need to meet in private to take a decision which involves exempt or confidential information, the meeting may only take place if:
  - (i) a notice has been published at the Civic Centre, Silver Street, Enfield and on the Council's website setting out the reasons why the meeting is to be held in private, and at least 28 calendar days have elapsed since the publication of the notice (not including the day of publication of the day

## Appendix 1

the decision is due to be taken). This notice will be included as part of the Key Decision List.

- (ii) A further notice is issued at the Civic Centre, Silver Street, Enfield and on the Council's website at least 5 clear days before the meeting setting out the reasons why the meeting is to be held in private, details of any representations received by the Council about why the meeting should be open to the public and the Council's response to any such representations.
- (c) If the date by which a private meeting of the Cabinet or its Committees must be held makes compliance with (b) above impracticable, the meeting may only be held and any decision taken if:
- (i) agreement is obtained from the Chair of the Overview & Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chair, or if the Chair of the Overview & Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence, the Deputy Mayor will suffice; and
  - (ii) a notice setting out the reasons why the private meeting is urgent and cannot reasonably be deferred is published at the Civic Centre, Silver Street and on the Council's website as soon as reasonably practicable after such an agreement has been obtained.

### **5. Access to Agenda and Reports before the Meeting**

- (a) subject to (d) below no decision shall be taken at a meeting unless it is included on the agenda for that meeting and is accompanied by a report from the appropriate officer or, in the case of meetings of the Cabinet, from either the appropriate officer or Cabinet member. Where the report is from a Cabinet member, it must state any advice received from officers.
- (b) All agendas and reports will be published at least five clear working days before the meeting at the Civic Centre, Enfield and on the Council website unless the report relates to a confidential matter or is exempt under these Access to Information Rules.
- (c) If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports listed on an agenda are prepared after the summons has been sent out, the Proper officer will make each report available to the public as soon as the report is completed and sent to Councillors.

## Appendix 1

- (d) If notice of a report is not published with the agenda five clear days before a meeting, the item to which it relates may not be considered at that meeting unless the Chair of the meeting agreed that, by reason of special circumstances, the item should be considered as a matter of urgency. Where this is the case, the special circumstances requiring the item to be considered urgently shall be specified in the minutes of that meeting.

### **6. Supply of Copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars, which are not exempt or confidential and which are necessary to indicate the nature of the items in the agenda; and
- (c) any minutes and records of decisions
- (d) if the Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item for which the right will be reserved to charge for postage and any other reasonable costs (if appropriate).

### **7. Access to Documents after the Meeting**

The Council will make available for public inspection copies of the following for six years after a meeting or decision has been taken:

- (a) the minutes of the meeting and 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 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.

These documents will be available via the Council's website or during normal business hours for inspection at the Civic Centre, Silver Street, Enfield

### **8. Background Papers**

# Appendix 1

## 8.1 List of background papers

The Council will set out in every report provided for a meeting or Executive decision a list of those documents (called background papers) and, where possible their location, relating to the subject matter of the report which in the author's 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 but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political advisor.

## 8.2 Public inspection of background papers

- (a) Background papers referred to on the list in a report for a meeting of the Cabinet or its Committees or an Executive decision made by an individual Cabinet member or officer, will be made available on the Council's website at the same time as the report to which they relate is published under Rule 5 above (apart from those which disclose exempt or confidential information as defined in Rule 10).
- (b) The Council will make available for public inspection for four years after the date of the meeting or decision one copy of each of the documents on the list of background papers.

## 9. Summary of Public's Rights

These rules are the written summary of the public's right to attend meetings and to inspect and copy documents. They are kept at and are available to the public at the Civic Centre, Silver Street, Enfield and on its website.

## 10. Exclusion of Access by the Public to Meetings

### 10.1 Confidential information - requirement to exclude public

- (a) 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 in breach of the obligation of confidence. Non Executive members of the Council shall be entitled to remain at

## Appendix 1

Executive meetings where decisions are being taken, unless the Proper Officer advises that this would be inappropriate.

- (b) 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.
- (c) The meeting will pass a resolution to exclude the press and public during discussion of items which are confidential. The resolution will identify why such items are to be treated as confidential.

### **10.2 Exempt information - discretion to exclude public**

- (a) 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. The public may also be excluded from meetings, where as a result of disruption caused the meeting is unable to properly discharge its functions. Non Executive members of the Council shall be entitled to remain at Executive meetings where decisions are being taken, unless the Proper Officer advises that this would be inappropriate.
- (b) From 1<sup>st</sup> March 2006, new statutory instruments effectively replaced the pre-existing disclosure exemptions contained in Schedule 12A of the Local Government Act 1972, and also added a 'public interest' test in relation to some of its qualifications.

As a result of the substitution of Schedule 12A of the Local Government (Access to Information) (Variation) Order 2006, exempt information means information falling within one or more the following 7 categories:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). However information falling within this paragraph is not exempt if it is required to be registered under:
  - (a) the Companies Act as defined in section 2 of the Companies Act 2006
  - (b) the Friendly Societies Act 1974

## Appendix 1

- (c) the Friendly Societies Act 1992
  - (d) the Co-operative and Community Benefit Societies and Credit Unions Acts 1965 to 1978
  - (e) the Building Societies Act 1986 or
  - (f) the Charities Act 1993.
- 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.
- (c) The meeting will pass a resolution to exclude the press and public during discussion of items which are exempt. The resolution will identify why such items are to be treated as exempt.
  - (d) 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.

### **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 (or parts of reports) which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely to be held in private.. Such reports (or parts of reports) will be marked "Not for publication" together with the category of information likely to be disclosed.

### **12 Application of Rules to the Executive**

If the Cabinet or its Committees meet with an officer present (other than a political assistant) to discuss a matter relating to a key decision then it must comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This

# Appendix 1

requirement does not include meetings whose sole purpose is for officers to brief members.

## 13. Procedure before taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here the Key Decision List) has been published at the Civic Centre, Silver Street, Enfield and on the Council's website as set out in Rule 14.1
- (b) at least 28 calendar days have elapsed since the publication of the Key Decision List (not including the day of publication or the day the decision is to be taken); and
- (c) 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); or, if the meeting is convened at shorter notice, at the time the meeting is convened.

## 14. The Key Decision List

### Contents of Key Decision List

- (a) The Key Decision List will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan.
  - (b) Key decisions are defined as 'a proposal':
    - (i) which involves expenditure/savings of £250,000 or above – this includes proposals phased over more than one year and match/grant aided funding, with a total of £250,000 or above; or
    - (ii) which has significant impact on the local community in one or more wards.
- N.B. A quasi-judicial decision taken by the Planning Committee/Panel or Licensing Committee is not a key decision.
- (c) The Key Decision List will include the following in so far as the information is available or might reasonably be obtained:
    - (i) that a key decision is to be made on behalf of the relevant local authority;
    - (ii) the matter in respect of which the decision is to be made;

## Appendix 1

- (iii) 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 list of its members;
  - (iv) the date on which, or the period within which, the decision is to be made;
  - (v) 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;
  - (vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (vii) that other documents relevant to those matters may be submitted to the decision maker; and
  - (viii) the procedure for requesting details of those documents (if any) as they become available
- (d) Notice of a key decision must be included on the Key Decision List not less than 28 clear days before the decision is to be made.
- (e) Where any matter involves the consideration of exempt or confidential information a summary of the matter shall be included in the notice but the exempt or confidential information or the advice, as the case may be, need not be included.

### **15. General Exception – Rule 15**

- (a) If a matter which is likely to be a key decision has not been included in the Key Decision List, then subject to Rule 16 (special urgency), the decision may still be taken if:
- (i) it is impracticable to defer the decision until it has been included in a notice under Rule 14.
  - (ii) the chair of the Overview and Scrutiny Committee has been provided with written notice, or if there is no such person, each member of that Committee, of the matter to which the decision is to be made;
  - (iii) a copy of that notice has been made available to the public at the offices of the Council and on the Council's website; and

## Appendix 1

- (iv) at least 5 clear days have elapsed since (ii) and (iii) have been complied with.
- (b) All Departments will be required to process requests for these exceptions through the Governance Team who will then be responsible for supporting the Chair of the Overview and Scrutiny Committee throughout the process.
- (c) As soon as reasonably practicable after (a) above has been complied with a notice must be published at the Civic Centre, Silver Street, Enfield and on the Council's website of the reasons why compliance with Rule 14 is impracticable.

### **16. Special Urgency – Rule 16**

- (a) If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision:
  - (i) obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or the Chair is unable to act then the agreement of the Mayor (or in his/her absence the Deputy Mayor) will suffice; and
  - (ii) Provides notice at the Civic Centre, Silver Street, Enfield and on the Council's website, as soon as reasonably practicable, after agreement has been obtained under (i) above of the reasons why the decision is urgent and cannot reasonably be deferred.
- (b) All service Groups will be required to process requests for these exceptions through the Governance Team who will then be responsible for supporting the Chair of the Overview and Scrutiny Committee throughout the process.

### **17. Reports to Council**

#### **17.1 When an Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (i) included in the Key Decision List; or
- (ii) the subject of the Rule 15 general exception procedure;  
or

# Appendix 1

- (iii) the subject of an agreement with the Overview and Scrutiny Committee Chair, or Mayor/Deputy Mayor of the Council under Rule 16;

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

## **17.2 Executive's report to Council**

In response to a request made under 17.1 above, the Executive 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 to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader of the Council is of the opinion that it was not a key decision the reasons for that opinion.

## **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken under urgency including the waiver of call in in the preceding three months. The report will include the subject and number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. Record of Decisions**

After any meeting of the Cabinet or any of its committees, a record of every decision taken at that meeting will be produced within 2 working days of the meeting. The record will include:

- (i) the date on which the decision was made;
- (ii) a statement of the reasons for each decision and any alternative options considered and rejected at that meeting;
- (iii) a record of any conflict of interest in relation to the decisions and a note of any dispensation granted by the Councillor Conduct Committee or Monitoring Officer (including its duration and the reasons for it having been granted).

## **19. Executive decisions to be taken in public**

- (a) Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they

# Appendix 1

are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

- (b) All meetings of the Cabinet and its Committees will be held in public, unless the matter relates to exempt and confidential information and notice has been provided in accordance with Rule 5 above.

## **20. Decisions by Individual Members of the Executive**

### **20.1 Reports intended to be taken into account**

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

Upon receipt of such a report the report will be made publicly available along with the list of any background papers.

### **20.2 Provision of copies of reports to the Overview and Scrutiny Committee and Panels**

On giving of such a report to an individual decision maker, the person who prepared the report will make a copy available to the Chair of the relevant Scrutiny Panel as soon as reasonably practicable,.

### **20.3 Record of individual decisions**

- (a) As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Cabinet or an Executive decision has been taken by an officer, , a record of the decision taken must be prepared which will include:
  - (i) details of the decision and the date it was made;
  - (ii) a statement of the reasons for it and any alternative options considered and rejected,
  - (iii) a record of any conflict of interest declared by any other member of the Executive who is consulted by the Executive member in relation to the decision and any note of dispensation granted by the Monitoring Officer or Councillor Conduct Committee (including its duration and the reason for it). 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 Executive. This does not require the disclosure of

## Appendix 1

exempt or confidential information or advice from a political or mayor's assistant.

- (b) This record will be available at the Civic Centre, Silver Street, Enfield and on the Council's website.
- (c) This does not require the disclosure of exempt or confidential information or advice from a political assistant (if any)
- (d) The provisions of Rules 7 & 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet and Executive decisions by officers. This does not require the disclosure of exempt or confidential information or advice from a political assistant (if any).
- (e) An Executive Decision by an officer is a decision which is a key decision, or a decision which is delegated to an officer by the Executive.

### **21. Overview and Scrutiny Committees/Scrutiny Panels Access to Documents**

#### **21.1 Rights to copies**

Subject to Rule 22.2 below, the Overview and Scrutiny Committee (including its Sub-Committees) and Scrutiny Panels will be entitled within 10 clear working days of making the request to copies of any document which is in the possession or control of the Executive [or its committees] and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet or Executive Officer decision

#### **21.2 Limit on rights**

The Overview and Scrutiny Committee or Scrutiny Panels will not be entitled to:

- (a) any document that is in draft form;
- (b) any document or 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 as part of their work programme; or

# Appendix 1

- (c) any document containing the advice of a political adviser

With regard to (b) above, the member will need to demonstrate to the Proper Officer that the information requested is relevant and the Proper Officer shall take a decision as to whether the information should be made available, supplying reasons as appropriate.

## **22. Additional Rights of Access for Members**

### **22.1 Material relating to business at public meetings**

All members will be entitled to inspect, at least 5 clear working days before the meeting, any document which is in the possession or under the control of the Executive or its Committees and contains material relating to any business to be transacted at a public meeting of the Executive, unless:

- (i) It contains exempt information falling within paragraphs 1,2,3 (only 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), 4 and 7 the categories of exempt information; or
- (ii) It contains the advice of a political adviser (if any)
- (iii) The document is in draft form

Where the meeting is convened at shorter notice, such documents will be available for inspection when the meeting is convened. Where reports already included on the agenda are prepared after the summons has been sent out, the proper officer shall make each such report available to members as soon as the report is completed.

### **22.2 Material relating to Executive decisions taken in private**

- (a) Subject to (c) below all members of the Council will be entitled to inspect any document in the possession or under the control of the Executive or its committees which contains material relating to:
  - (i) Any business which has been transacted in a meeting or part of a meeting of the Cabinet;
  - (ii) Any decision which has been made by an individual Cabinet member or by an officer as an Executive decision.

## Appendix 1

- (b) The right contained in (a) above arises when the meeting concludes or, in the case of an individual Executive member or officer decision, immediately after the decision has been made and the document shall be made available within 24 hours
- (c) Members of the Council will not be entitled under this paragraph to:
  - (i) Any document that is in draft form
  - (ii) Any part of a document that contains exempt information falling within paragraphs 1,2,3 (only 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), 4 and 7 the categories of exempt information; or
  - (iii) The advice of a political advisor or any person acting in that capacity (if any)

### 22.3 Nature of rights

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