

## Proposed revised Access to Information Procedure Rules

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### 1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Area Committees (if any), Regulatory Committees and Panels, and public meetings of the Executive (together called meetings).

Certain rules also apply to Executive decisions taken by individual members of the Executive.

### 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. RIGHTS 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 (See Council Procedure Rules).

### 4. NOTICES OF MEETING

Subject to Rule 13 in relation to meetings of the Executive and its Committees, the Council will give at least five **clear days** notice of any public meeting (defined as meaning working days, and excluding the day of publication of the agenda and the day of the meeting, weekends and bank holidays) by posting details of the meeting at the venue, Hammersmith Town Hall, local libraries and on the Council's website.

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

- (a) Subject to Rule 15 in relation to meetings of the Executive and its Committees, the Council will make copies of the agenda and those reports open to the public available for inspection at Hammersmith Town Hall, local libraries and on the Council's website at least five clear days before the meeting. If an item is added to an agenda later, the revised agenda will be open to inspection from the time the item is added to the agenda. Where reports already included on

an agenda 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.

- (b) The proper officer may exclude from the copy of any report made available for public inspection any part which, in the proper officer's opinion, relates to matters likely to be considered in a private meeting.

## **6. SUPPLY OF COPIES**

- (a) The Council will make available at all meetings referred to in Rule 1 copies of the relevant agenda and reports (except those which will be considered in private) for use by the public.
- (b) The Council will also supply copies of:
  - (i) any agenda and reports which are open to public inspection;
  - (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (iii) if the Director of Law thinks fit, copies of any other documents supplied to Councillors in connection with an itemto any person on payment of a charge for copying, postage and any other costs.

## **7. ACCESS TO DOCUMENTS AFTER THE MEETING**

The Council will make available for public inspection the following for a period of at least six years after a meeting:

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was held in private or which disclose exempt or confidential information; and
- (b) a summary of any proceedings held in private where the minutes open to inspection would not provide a reasonably fair and coherent record; and
- (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 at Hammersmith Town Hall during normal business hours for inspection or printing by members of the public, or for supply by post as requested, on payment of postage, copying or other relevant charges.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Director of Law will set out in every report 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

not including published works or those which disclose exempt or confidential information (as defined in Rule 10 below) and, in respect of reports for decision by the Executive or individual members thereof, the advice of a political adviser.

### **8.2 Public inspection of background papers**

- (a) 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.
- (b) In the case of decisions made at a meeting of the Executive or its Committees, background papers (apart from those which disclose exempt or confidential information as defined in Rule 10) will be available for inspection by members of the public at least five clear days before the meeting, or at the time when the meeting is convened if this is at shorter notice.

Background papers will be made available for public inspection via the Council's website, or at Hammersmith Town Hall during normal business hours for printing by members of the public or for supply by post as requested, on payment of postage, copying or other relevant charges.

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

A summary of the public's rights to attend meetings and to inspect and copy documents will be available at the Council's main offices.

## **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 in breach of the obligation of confidence.

## **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 provided that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The public may also be excluded from meetings where, as a result of disruption caused by them, the meeting is unable to properly discharge its functions.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public, unless a private hearing is necessary for one of the reasons specified in Article 6 of the Human Rights Act.

The meeting will pass a resolution to exclude the public during discussion of items which are confidential or exempt. The resolution will identify why such items are to be treated as confidential or exempt in accordance with Rules 10.3 and 10.4 below.

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

## **10.4 Meaning of Exempt Information**

Exempt information means information falling within any of the 7 categories of exempt information specified overleaf (and subject to any qualifications detailed thereon), as may be amended from time to time by regulations:

<b><u>ACCESS TO INFORMATION ACT</u></b>
<b><u>EXEMPT CATEGORIES OF INFORMATION – SCHEDULE 12A, LOCAL GOVERNMENT ACT 1972</u></b>
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 proposed to be taken in connection with the prevention, investigation or prosecution of crime.

#### **10.5 Qualifications:**

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it requires to be registered under:

- (a) The Companies Act 1985,
- (b) The Friendly Societies Act 1974,
- (c) The Friendly Societies Act 1992,
- (d) The Industrial & Provident Societies Act 1965 to 1978,
- (e) The Building Societies Act 1986, or
- (f) The Charities Act 1993.

10.6 Information is not exempt information if it relates to proposed development for which the local Planning authority may grant itself Planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.7 Information which –

- (a) falls within any of categories in 1 - 7 of paragraph 10.4 above; and
- (b) is not prevented from being exempt by virtue of paras.10.5 or 10.6

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.

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

If the Director of Law thinks fit, the Council may exclude access by the public to reports (or parts of reports) which in his/her opinion relate to items during which, in accordance with Rule 10 above, the meeting is likely to be held in private. Such reports (or parts thereof) will be marked "Not for publication", together with the category of information likely to be disclosed as set out in Rule 10.

Reports which are marked "draft" are not open to public access.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 16 (General Exception) or Rule 17 (Special Urgency) apply. A key decision is as defined in Article 12.03 of this Constitution.

## **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) a notice (called here a Key Decisions List) has been published at Hammersmith Town Hall and on the Council's website in connection with the matter in question stating:
  - (i) the matter in respect of which a key decision is to be made; and
  - (ii) the date on which the key decision is to be made; and
  - (iii) the names of the members of the executive making the key decision; and
  - (iv) a list of documents to be submitted in relation to the key decision as set out in Rule 8 and how copies of such documents and other relevant documents (if not exempt) can be obtained.
- (b) at least 28 calendar days have elapsed since the publication of the Key Decisions 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 Executive 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 that the meeting is convened.

#### **14. PROCEDURE BEFORE TAKING KEY DECISIONS IN PRIVATE**

- (a) In accordance with Article 3.01(b) of this Constitution, the Executive and its Committees may take a decision at a private meeting only if:
- (i) a notice has been published at Hammersmith Town Hall 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 or the day the decision is to be taken); and
  - (ii) at least 5 clear days have elapsed since the publication of a further notice at Hammersmith Town Hall and on the Council's website 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.
- (b) If the date by which a private meeting must be held makes compliance with (a) above impracticable, the decision may only be taken if:
- (i) the Chairman of the body making the decision obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman 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; and
  - (ii) a notice setting out the reasons why the private meeting is urgent and cannot reasonably be deferred is published at Hammersmith Town Hall and on the Council's website as soon as reasonably practicable after such agreement has been obtained.

#### **15. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

If a meeting of the Executive or its committees is convened at shorter notice than specified in Rule 4, the Council will make copies of the agenda and reports open to the public available for inspection at Hammersmith Town Hall and on the Council's website from the time the meeting is convened.

#### **16. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the Key Decisions List, then subject to Rule 17 (Special Urgency), the

decision may still be taken if:

- (a) the proper officer has informed the Chairman 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 about which the decision is to be made;
- (b) the proper officer has made copies of that notice available to the public at the offices of the Council and on the Council's website, stating why the requirements of Rule 13 cannot be complied with; and
- (c) at least 5 clear days have elapsed since the proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

## **17. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 16 (General Exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual), or the Chairman of the body making the decision:

- (a) obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman 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; and
- (b) the proper officer makes available at Hammersmith Town Hall and on the Council's website a notice setting out why the decision is urgent and cannot reasonably be deferred.

The Leader will submit quarterly reports to the Council on the Executive where decisions have been taken in the circumstances set out in this Rule during the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. OVERVIEW AND SCRUTINY COMMITTEES' POWERS IN RELATION TO THE EXECUTIVE**

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

If an Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Key Decisions List; or



- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Mayor, or in his/her absence, the Deputy Mayor, under Rule 17;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by majority vote. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

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

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 is of the opinion that it was not a key decision, the reasons for that opinion.

## **19. RECORD OF EXECUTIVE DECISIONS**

After any meeting of the Executive or any of its committees, whether held in public or private, the proper officer, or where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, details of any alternative options considered and rejected at that meeting, a record of any conflict of interest in relation to the decision and any note of dispensation granted by the Head of Paid Service.

## **20. RECORD OF DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive, he/she will prepare, or instruct the proper officer to prepare, a record of the decision and the reasons for it, details of any alternative options considered and rejected in making the decision, 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 Head of Paid Service.

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 exempt or confidential

information.

## **21. INSPECTION OF DOCUMENTS RELATING TO EXECUTIVE DECISIONS AND DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

- 21.1 The proper officer will make available for public inspection the records described in Rules 19 and 20, together with those reports relating to Executive Decisions and decisions made by individual members of the Executive (apart from those which disclose exempt or confidential information as defined in Rule 10).
- 21.2 These records and reports will be made available via the Council's website or at Hammersmith Town Hall during normal business hours for printing by members of the public or for supply by post as requested, on payment of postage, copying or other relevant charges.

## **22. OVERVIEW AND SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS**

### **22.1 Rights to copies**

Subject to Rule 23.2 below, an Overview and Scrutiny Committee (including its sub-committees or 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 Executive or its committees; or
- (b) any decision taken by an individual member of the Executive.

### **22.2 Limit on rights**

An Overview and Scrutiny Committee 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 a forward programme of work; or
- (c) any document containing the advice of a political adviser.

In cases where a document or part of a document is withheld from a member of an Overview and Scrutiny Committee for the reasons set out in (b) or (c) above, the members of the Overview and Scrutiny committee will be provided with the reasons in writing.

## **23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **23.1 Material relating to current and previous business**

Subject to Rule 23.2, all members will be entitled to inspect any document which relates to any business to be considered at a meeting of the Executive or its Committees at least five clear days before the relevant Executive meeting, with the exception of any document which contains the advice of a political adviser. 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 an agenda are prepared after the summons has been sent out, the proper officer shall make each such report available to members or as soon as the report is completed.

### **23.2 Material relating to Executive Decisions taken in private**

All members will be entitled to inspect any document which contains material relating to any key decision considered at a private meeting (except those available only in draft form) within 24 hours of the decision being made, unless either (a) or (b) below applies.

- (a) 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, of the categories of exempt information set out in Rule 10.4; or
- (b) it contains the advice of a political adviser.

### **23.3 Material relating to decisions made by individual members of the Executive**

All members will be entitled to inspect any document which contains material relating to any decision made by an individual member of the Executive (except those available only in draft form) within 24 hours of the decision being made, unless either (a) or (b) below applies.

- (a) 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, of the categories of exempt information set out in Rule 10.4; or
- (b) it contains the advice of a political adviser.

### **23.4 Members' Common Law Rights to information**

In addition to the above provisions, a member may be entitled at common law to have access to information held by the Council in order to carry out his or her duties as a member. Requests for documents under this paragraph shall be made in writing to the relevant Executive Director and specify:-

- (i) the documentation requested;

- (ii) the reason for requesting the documentation and the uses to which it will be put; and
- (iii) where the request is urgent, the reason for urgency.

If the Executive Director is satisfied that the member is entitled to inspect the documentation, he/she will as soon as reasonably practicable provide the member with a copy of the document, or if it is impracticable to do so, allow the member to inspect the original.

If the Executive Director is of the view that the member is not entitled to the document, then he/she shall refer the request to the Monitoring Officer, whose decision shall be final.

### **23.5 Freedom of Information Act 2000**

Members also share the same rights of access to information as members of the public under the Freedom of Information Act 2000. A request for information under the Act must:

- Be in writing (electronic requests are acceptable)
- Contain a name and address for correspondence
- Describe the information requested

The Council will comply with all requests for information under the Act unless one or more of the statutory exemptions apply.