

Part 8 - Access to Information Procedure Rules

*References: Sections 100A – H and Schedule 12A Local Government Act 1972
Section 22 of the Local Government Act 2000 and regulations made thereunder;
Chapter 7, New Council Constitutions: Guidance to English Authorities.*

1. Scope

- 1.1. These rules apply to all meetings of the Council, Executive, Overview & Scrutiny Committees, all regulatory committees and all other non-executive Committees and any Sub-Committees, which together are referred to hereafter as meetings. The rules will also apply to any area committees (known as “Community Councils”) that may be established.

2. Additional Rights To Information

- 2.1. These rules do not affect and are additional to any rights to information contained elsewhere in the Constitution or the law.

3. Rights To Attend Meetings

- 3.1. Members of the public and media are welcome and encouraged to attend all meetings, subject only to the exceptions in this Constitution.
- 3.2. The taking of photographs or any other means of recording a meeting to enable persons not present to see or hear proceedings (whether at the same time or later) or the making of any oral report on any proceedings as they take place is allowed only in accordance with Council Procedure Rules paragraph 11.12 ‘Reporting on Proceedings by the Public’. Full details of the Council’s Protocol on the Reporting on Proceedings by the Press and Public are available on the Council’s website at <http://bit.ly/11gxSfT>.
- 3.3. The rights at 3.1 and 3.2 are without prejudice to the Council’s power to suppress or prevent disorderly conduct or other misbehaviour at any meeting (see, for example, Rule 23 of the Council Procedure Rules).

4. Notices Of Meeting

- 4.1. The Chief Executive will, on behalf of the Council give at least five clear days' notice of any meeting (unless called at a later time) by posting details of the meeting, on the Council's website, www.walthamforest.gov.uk and at the Town Hall front desk

5. Access To Agenda And Reports Before The Meeting

- 5.1. The Chief Executive will, on behalf of the Council, make copies of the agenda and reports open to the public and press on the Council's website, www.walthamforest.gov.uk and available for inspection at the Town Hall (Democratic Services) at least five clear days before the meeting (unless it is not available until a later time).
- 5.2. Where there are special circumstances requiring an item to be added to the agenda after publication, as an item of urgent business at the direction of the Chair, the Chief Executive will make each such report available to the public and press and open for inspection as soon as the report is available to Councillors attending the meeting. The special circumstances requiring an item of urgent business to be added, and the Chair's direction to do so, will be recorded in the minutes of the meeting.

6. Supply Of Copies

- 6.1. The Council post on its website:
- (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;
 - (c) any written record of an executive decision;
 - (d) any reports considered by an individual decision-maker which are open to public inspection;
 - (e) any background papers; and

- (f) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item.

7. Access To Minutes etc. After The Meeting

7.1. The Council will make available the following for at least 6 years after a meeting:

- (a) the minutes of the meeting, or records of decisions taken, together with reasons, for all meetings of the Cabinet and Council, their committees and sub-committees, and Executive Decision proceedings, 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;
- (d) reports relating to items when the meeting was open to the public.

8. Background Papers

List of Background Papers

8.1. The report author named at the head of every report will 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) 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 below.

Public Inspection of Background Papers

- 8.2. Every Director and Executive Director will 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 meeting concerned. An electronic version or one copy of each of the background documents listed will be retained for this purpose.

9. Summary of the Public's Rights of Access

- 9.1. These Rules, as part of the Council's Constitution summarise the public's rights to attend meetings and to inspect and copy documents. These Rules together with the whole Constitution are available for inspection with Democratic Services and maintained on the Council's website, www.walthamforest.gov.uk.

10. Meetings - Public Exclusion

Confidential Information - Requirement to Exclude Public

- 10.1. 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.

Meaning of Confidential Information

- 10.2. 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 or under any enactment.

Exempt Information - Discretion to Exclude Public

- 10.3. 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.
- 10.4. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention of Human Rights (incorporated into domestic law by 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.

Meaning of Exempt Information

10.5. Exempt information means information falling within the 7 categories set out in the table below and meeting the conditions set out in this section.

10.6. Information which:

- (a) falls within any of the falling into categories 1 to 7 in the table below; and
- (b) is not excluded from being exempt information by virtue of the qualification to category 3 in the table below nor does it relate to a proposed development for which the Council as local planning authority can grant itself planning permission (see below), 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.

10.7. Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to a 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.

| Category | Additional Qualifications & Interpretation |
|---|--|
| 1. Information relating to any individual. | |
| 2. Information which is likely to reveal the identity of an individual. | |

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| <p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> | <p>"Financial or business affairs" includes contemplated, as well as past or current, activities.</p> <p>Information within paragraph 3 is <u>not exempt</u> information by virtue of that paragraph if it is required to be registered under the Companies Act 1985; 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. .</p> <p>"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).</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 officer-holders under, the authority.</p> | <p>"Labour relations matters" includes any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992^[10] (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.</p> <p>"employee" means a person employed under a contract of service;</p> <p>"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.</p> |
| <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> | |
| <p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> | |

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| (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. | |

11. Reports: Exclusion Of Public Access

11.1. If the Proper Officer 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 meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Application Of Rules To The Cabinet

12.1. Rules 11 - 22 apply to meetings of the Executive and any committees it creates, or any Executive joint committees or sub-committees. If the Cabinet or a Cabinet Committee meets to take a key decision as defined in the Executive Procedure Rules (Part 5) then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies.

12.2. If the Cabinet or a Cabinet Committee meet to discuss a Key Decision to be taken collectively with one or more officers present, within 28 clear days of public notice being given of the decision to be taken, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies.

12.3. The requirement at 12.2 does not apply to meetings whose sole purpose is for Council officers to brief the decision maker or members of a decision making body on matters connected with the making of an executive decision.

13. Procedure Before Taking Key Decisions

13.1. Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

(a) a notice in connection with the matter in question has been published at least 28 clear days before the decision is to be taken, setting out:

- the matter in respect of which a decision is to be made;
- where the decision taker is an individual, their name and title, if any, and where the decision taker is a body, its name and details of its membership;
- the date on which, or period during which, the decision is to be taken;
- a list of documents submitted to the decision taker for consideration in relation to the matter and details of how to inspect copies of these documents; and
- a note that other documents relevant to the decision may be submitted to the decision-maker and details how to inspect copies of these documents; and

(b) where the decision is to be taken at a meeting of the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

13.2. A forward plan may be prepared by the Leader to cover a period of one month. It may be prepared on a monthly basis and may be used to give non-statutory advance notice of future decisions.

13.3. A forward plan may contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Cabinet Committee, individual members of the Cabinet, or a committee or sub-committee operating under joint arrangements in the course of the discharge of an executive function, or by an officer with delegated

authority to make an executive decision 28 clear days following publication of the plan. It will describe the same particulars as at 13.1(a).

14. Private meetings of the Executive

- 14.1. If Cabinet, a Cabinet committee, individual members of the Cabinet, or a committee or sub-committee operating under joint arrangements in the course of the discharge of an executive function takes a decision to hold a meeting, or part of a meeting, during which the public are excluded subject to Rule 10 (Meetings – Public Exclusion) and/or Rule 11 (Reports: Exclusion of Public Access), public notice will be made at least 28 clear days before the meeting date of the intention to hold a private meeting, including the reasons it is likely that the public will be excluded from all or part of the meeting.
- 14.2. A further notice will be published five clear days before the meeting, which will include details of any representations made to the decision-maker about public access to the meetings, and the response of the decision-maker to such representations.

15. General Exception

- 15.1. If it is impracticable to make public notice of a matter which is likely to be a Key Decision at least 28 clear days before the date on which the decision is to be taken then, subject to Rule 16 (special urgency), the decision may still be taken if:
- (a) the Proper Officer (Director of Governance and Law) has informed the Chair of the relevant Overview & Scrutiny Committee in writing, by notice, of the matter to which the decision is to be made - and if the Chair is not available, has informed every member of the relevant Overview & Scrutiny Committee in writing;
 - (b) the Proper Officer (Director of Governance and Law) has made copies of the notice available to the public at the Town Hall and on the Council's website, www.walthamforest.gov.uk; and

- (c) at least five clear days have elapsed since the Proper Officer (Director of Governance and Law) complied with (a) and (b).

16. Special Urgency

- 16.1. 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 Leader or Chair of a Cabinet Committee or decision-maker (if an individual) obtains the agreement of the Chair of the relevant Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred.
- 16.2. If there is no chair of the relevant Overview and Scrutiny Committee or if the chair of the relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor (i.e. Chair of the Council) or in their absence, the Deputy Mayor (i.e. Vice-chair of Council) is sufficient.
- 16.3. As soon as reasonably practicable after the decision-maker has obtained agreement under Rules 16.1 or 16.2, the Proper Officer (Director of Governance and Law) will make available to the public at the town hall and on the Council's website, www.walthamforest.gov.uk, a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

17. Reports To Council

When an Overview & Scrutiny Committee can require a report

- 17.1. If an Overview & Scrutiny Committee thinks that a decision has been taken which was not:
 - (a) treated as a key decision; and
 - (b) a relevant overview and scrutiny committee are of the opinion that the decision should have been treated as a key decision,the Committee may require the Cabinet or executive decision-maker [through the Cabinet] to submit a report to the Council. 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 the Chair or any five members of the relevant Overview and Scrutiny Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

Cabinet's Report to Council

- 17.2. The Cabinet will submit a report required under paragraph 17.1 to the next available Council meeting. However, if the next meeting of the Council is within 7 days of the resolution of the Committee, then the report may be submitted to the following meeting. The report to the 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.

Regular Reports on Special Urgency Decisions

- 17.3. In any event the Leader will submit a report to every ordinary meeting of the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) since the previous ordinary meeting. The report will include the number of decisions so taken, if any, and if so a summary of matters in respect of which those decisions were taken.

18. Record Of Decisions

- 18.1. As soon as practicable after any formal meeting of the Cabinet or a Cabinet Committee, whether held in public or otherwise, the Proper Officer or person presiding at the meeting will produce a written record of all the decisions taken at that meeting, which will include:
- (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-maker at the meeting at which the decision was made;
- (d) a record of any declarations of interest relating to the matter decided made by any member of the decision-making body; and
- (e) in respect of any declarations of interest, details of any notes of dispensation granted.

18.2. As soon as practicable after any individual member has made an executive decision, that member must produce or instruct the proper officer to produce a written statement of that decision which will include:

- (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 that decision;
- (d) a record of any declarations of interest relating to the decision which have been made by any executive member who is consulted by the decision-maker; and
- (e) in respect of any declarations of interest, details of any notes of dispensation granted.

19. Cabinet & Cabinet Committee Meetings Relating To Matters Which Are Not Key Decisions

19.1. The Cabinet or a Cabinet Committee will take decisions in public on matters which are not Key Decisions, unless a matter concerns exempt or confidential information.

20. Notice Of Cabinet Meetings

20.1. Members of the Cabinet or its committees will be entitled to receive 5 clear working days' notice of a meeting to which they are summoned unless the meeting is convened at shorter notice as a matter of urgency.

21. Overview And Scrutiny Committees Access To Documents

Rights to copies

- 21.1. Subject to Rule 21.3 below, any Overview and Scrutiny Committee will be entitled 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;
 - (b) any decision taken by an individual member of the Executive; or
 - (c) any decision that has been made by an officer of the authority in accordance with Executive arrangements.
- 21.2. The Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the request has been received by the Executive.

Limit on rights

- 21.3. An Overview And Scrutiny committee will not be entitled to:
- (a) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
 - (b) any document or part of a document containing the advice of a political adviser (NB no such posts are currently established).

22. Additional Rights Of Access For Members

- 22.1. All Members will be entitled to inspect 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 at least five clear days before that meeting, unless either (a) or (b) below applies:

- (a) where the meeting has been convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, such a document must be available for inspection when the item is added to the agenda.

Material relating to previous business

22.2. All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting, or where an Executive decision has been made by an individual Member or officer in accordance with Executive arrangements unless either (a) or (b) below applies:

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information, save that in respect of paragraph 3, only so far as it contains information which relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (b) it contains the advice of a political adviser (NB no such post is currently established)

22.3. Such document must be made available for inspection within 24 hours of the conclusion of the meeting or of the decision being made.

Material relating to Key Decisions

22.4. Subject to a) and b) above, all Members of the Council will be entitled to inspect any document in the possession, or under the control of the executive which contains material relating to any key decision unless the circumstances in 22.2 (a) or (b) apply.

Nature of rights

22.5. These rights of a Member are additional to any other right s/he may have. Details of Members' common law and other statutory rights to Council information are contained in the Appendix to the Council's Protocol for Member-Officer Relations in Part 9 of this Constitution.