

## **APPENDIX 3**

### **ROTHERHAM BOROUGH COUNCIL**

### **ACCESS TO INFORMATION RULES**

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**SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT 1972**

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- Para. 6** Information which reveals that the Council proposes
- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
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## **1. Introduction**

- (1) These Rules concern the right of the public to have access to meetings of the full Council, its committees and sub-committees and to documents submitted to the meeting for consideration by the councillors present at the meeting.
- (2) The Rules apply to all meetings of the full Council and to –
  - (a) public and private meetings of the executive;
  - (b) the Council's regulatory committees;
  - (c) the Council's overview and scrutiny committees; and
  - (d) the Council's Standards and Ethics Committee.
- (3) The Rules do not affect any more specific rights of the public to information by virtue of the Constitution or the law.

## **PART I BEFORE THE MEETING**

### **2. Right of access to meetings and exceptions**

#### *Right of access to full council and committee meetings and executive meetings held in public*

- (1) In general full council and committee meetings and executive meetings held in public are open to the public, but the public:-
  - (a) must be excluded from a full council or committee meeting or executive meeting held in public where it is likely that if they were allowed to stay confidential or exempt information would be disclosed to them;
  - (b) may be excluded from an executive meeting held in public (if the members of the executive present pass a resolution to that effect) where there is an item of business on the agenda for the meeting that, in view of the nature of the item, is likely to result in the advice of a political adviser or assistant being disclosed to the public if they were allowed to stay.

#### *Executive meetings concerning key decisions must be held in public*

- (2) An executive meeting may be held in public or in private, but the meeting or part of the meeting must be held in public (unless there is an item of business on the agenda for the meeting, or that part of the meeting, which is likely to result in confidential or exempt information being disclosed to the public if the public were to be allowed access to the meeting or allowed to stay for that part of the meeting) where the Leader of the Council or anyone else chairing the meeting reasonably believes that –
  - (a) a decision to be made at the meeting or part of the meeting will be a key decision;
  - (b) a matter is likely to be discussed at the meeting or part of the meeting which relates to a key decision included in the executive's current forward plan or which is the subject of a notice under procedure rule 2(3); and:-
    - (i) the decision is likely to be made at a meeting of the executive within 28 days of the meeting, and
    - (ii) an officer (other than a political adviser or assistant) will be present at that meeting or the part of the meeting at which the item is discussed,

but a meeting need not be held in public if the principal purpose of the officer's presence is to brief the executive decision-maker on matters connected with the making of the decision;

- (c) a matter relating to a key decision to be made by the executive is to be discussed with an officer (other than a political adviser or assistant) present; or
- (d) a decision is to be made at the meeting or part of the meeting in relation to which notice has been given in accordance with procedure rule 2(3).

*General exception to key decision to be made in public*

- (3) Where it has been impracticable to include a matter on the plan of key decisions and the matter would be a key decision, the executive must only make the decision if the Head of Democratic Services has –

- (a) notified in writing the chair of the Overview and Scrutiny Management Board or, if there is no chair, each member of the Board by notice in writing of the matter about which the decision is to be made,
- (b) placed a copy of the notice at the Town Hall or the place of the meeting and on the Council's website, and

5 clear days have elapsed since the notice was given and made available for public inspection.

*Exception to key decision to be made in public on ground of special urgency*

- (4) If the date by which a key decision must be made makes it impracticable to comply with procedure rule 2(3), the key decision can only be made if the decision-maker has obtained the agreement of –

- (a) the chair of the Overview and Scrutiny Management Board, or
- (b) if there is no chair of the Overview and Scrutiny Management Board or the Chair is unable to act, the Mayor, or
- (c) if there is no chair of the Overview and Scrutiny Management Board or Mayor or they are both unable to act, the Deputy Mayor

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

*Meaning of “information”*

- (5) “Information” includes an expression of opinion, any recommendation and any decision made.

*Meaning of “confidential information”*

- (6) “Confidential information” means –
- (a) information given to the Council by a government department on condition that it is not made available to the public; and
  - (b) information which must not be made available to the public because an Act of Parliament or a court order prohibits its disclosure to the public.

*Meaning of exempt information*

- (7) “Exempt information” means information which falls into one or more of the categories of information specified in Schedule 12A to the Local Government Act 1972 (please see the Appendix).
- (8) Information is exempt if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (9) The Secretary of State may vary the categories of exempt information, in accordance with parliamentary procedures.

*Meaning of “key decision”*

- (10) A key decision means:-
- (a) any recommendation to Council to approve or vary the revenue or capital budget, being outside approved virement limits.
  - (b) any executive decision which is likely –  
  
to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the decision relates; or  
  
to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.

(c) with the exception of:-

- (i) decisions which are a direct consequence of implementing a previous key decision and were contemplated by the decision maker when the original key decision was made.
- (ii) bids by the Council for funding of £400,000 or more where, if the bid should be successful, a further report seeking approval of the scheme will be submitted to Cabinet.
- (iii) expenditure for the day to day provision of services that was in the contemplation of the Council when the revenue budget was approved and is in the opinion of the Strategic Director of Finance and Customer Services inevitable.
- (iv) expenditure that must be incurred to comply with the terms of contracts won by the Council in competition.

(11) The Council has determined that decisions that will result in expenditure or savings with a gross effect of £400,000 are to be considered significant.

### **3. Notice of meetings**

*Notice of full council and committee meetings and executive meetings held in public*

(1) The public must be given notice of full council and committee meetings and executive meetings to be held in public; the Head of Democratic Services will post the notice of the meeting on the Council's website –

(a) at least 5 working days before the meeting; or

(b) at the time it is convened, if the meeting is called at shorter notice.

*Meaning of “working days”*

(2) “Working days” means the day on which the notice is given and the day of the meeting are excluded in calculating the period of 5 days’ notice.

### **4. Public access to agenda and connected reports**

*Copies of agenda and connected reports*

(1) The Head of Democratic Services will ensure that a copy of the agenda and the reports that will be debated in the open part of a committee meeting or executive meeting held in public are available for inspection by the public on the Council's website:–

- (a) at least 5 working days before the meeting; or
  - (b) at the time it is convened, if the meeting is convened at shorter notice.
- (2) Where a decision making body (Cabinet, a committee of Cabinet, a Joint Committee, a sub committee of a joint committee or an area committee) is to meet in private:-
- (a) a notice of the meeting, including the reasons why the meeting is to be held in private, must be published at least 28 clear days before the meeting;
  - (b) a notice including the reasons why the meeting is to be held in private, together with any representation made as to why the meeting should be open to the public and a statement of the Council's response, shall be published at least 5 clear days before the private meeting;
  - (c) where compliance with the rules 4(2)(a) and 4(2)(b) is impracticable agreement must be sought from the chair of the Overview and Scrutiny Management Board or if the chair of the Overview and Scrutiny Management Board is unable to act, the Mayor, that the meeting is urgent and cannot reasonably be deferred; and
  - (d) as soon as is reasonably practicable after obtaining the agreement described in rule 4(2)(c) a notice must be published on the Council's website setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

*Reports not for publication*

- (3) Copies of reports that:-
- (a) contain or may contain confidential information, or
  - (b) contain or are likely to contain exempt information, or
  - (c) contain or are likely to contain, in the case of an executive meeting, the advice of a political adviser or assistant,
- must be marked "not for publication".
- (4) On every copy of the whole or part of a report containing confidential information there must be stated that it contains confidential information.



- (5) On every copy of the whole or part of a report likely to contain exempt information must be stated the reason, by reference to Schedule 12A to the 1972 Act, why the public is likely to be excluded from the meeting while the report is debated.
- (6) On every copy of the whole or part of a report containing the advice of a political adviser or assistant there must be stated that it contains political advice.

*Copies of agenda and reports for use of public*

- (7) The Head of Democratic Services will ensure that a reasonable number of copies of the agenda and reports to be discussed in the open part of a full council or committee meeting or executive meeting held in public are available for the use of the public at the meeting.

*Extra items added to the agenda*

- (8) Subject to procedure rule 4(9), from the time when an extra item of business is added to the agenda for a full council or committee meeting or an executive meeting held in public, the Head of Democratic Services will make available for inspection by the public a copy of the revised agenda and copies of any reports on extra items added to the agenda to be debated during the open part of the meeting.
- (9) Members of the public will not be entitled to inspect a copy of the revised agenda and copies of extra items until they are available, as the case may be, to full council or committee members or executive members.

*Failure to comply with rule 3 (notice of meetings) and this rule  
In respect of full council and committee meetings*

- (10) A full council or committee meeting cannot consider an item of business unless –
  - (a) Procedure rule 3 (notice of meetings) and this rule have been complied with, or
  - (b) the chair of the meeting is satisfied that there are special circumstances justifying consideration of the item at the meeting as a matter of urgency.
  - (c) the minutes of the meeting must specify the special circumstances upon which the chairman exercised his discretion to allow consideration of the item at the meeting.

*Failure to comply with rule 2.3 or 2.4 in respect of key decisions*

- (11) An executive meeting convened at short notice cannot consider an item of business that requires a key decision unless procedure rules 2(3) or 2(4) (exceptions to key decisions being made in public) has been complied with, and the Head of Democratic Services has made available a copy of the agenda including the item for inspection by the public from the time that the meeting was convened.

**5. Members' additional rights of access to documents**

*Members' general right to inspect council documents*

- (1) A member of the Council has the right to inspect documents held by the Authority.
- (2) The right stems from the general duty of a member of the Council to keep himself or herself informed of council business as an elected representative on a "need to know" basis.

*Limitations on general right of inspection*

- (3) Members have a general right to inspect documents to undertake their various roles as an elected member of the Council. The right does not, however, entitle a member to inspect council documents for an improper motive.

*Members' specific right to inspect council documents*

- (4) In relation to reports to be considered at full council or committee meetings or executive meetings held in public, a member of the Council has, subject to procedure rule 5(5), the right to inspect any document that:–

- (a) contains material that relates to an item to be considered at a full council or committee meeting, or
- (b) is in the possession or under the control of the executive and contains material relating to any business to be transacted at an executive meeting held in public,

whether or not he or she is a member of the particular committee or the executive.

- (5) The right mentioned in rule 5.4 does not extend to a document or part of a document that in the opinion of the Assistant Director of Legal Services –

- (a) contains confidential or exempt information (please see the Appendix), or

- (b) discloses advice provided by a political adviser or assistant to the executive,

but this procedure rule 5(5) does not apply –

- (i) to exempt information that falls within paragraph 3 (information relating to the financial or business affairs of any particular person (including the Council)) of Schedule 12A to the Local Government Act 1972, 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
- (ii) to exempt information that falls within paragraph 6 (information which reveals that the Council proposes to serve a notice on a person or to make an order or direction under any enactment) of Schedule 12A.

## **PART II**

### **THE MEETING AND AFTER THE MEETING**

#### **6. Exclusion of the public and press from public meetings**

*Public and Press not to be excluded from meeting open to public*

- (1) The Council must not exclude members of the public or the press, who must be given facilities for reporting the proceedings at their own expense, from a meeting which is open to the public.

*Content of resolution excluding public from meeting*

- (2) A resolution to exclude members of the public from a full council or committee meeting or executive meeting held in public must identify the proceedings or the part of the proceedings to which it applies, and describe the exempt information in terms of Schedule 12A to the 1972 Act (please see the Appendix) and confidential information.
- (3) Council Procedure Rule 18 (Appendix 4 of the Constitution) details the rules regarding the filming and recording of Council and committee meetings.

*Chairman's powers to control meeting*

- (4) If a group or an individual member(s) of the public interrupts the proceedings at any meeting, the Mayor or Chair shall warn the person(s) concerned. If the interruption continues, the Mayor or Chair shall order their removal from the meeting room.
- (5) In the case of general disturbance in any part of the room open to the public, or of the premises where the meeting is being held, the Mayor or Chair will order that part to be cleared. If in the Mayor or Chair's view, this is not practicable and it is not possible to continue the meeting in the light of the disturbance, he/she may rule that the meeting adjourn and/or that the meeting should be reconvened in a different venue.

#### **6. Inspection of minutes and other documents after public meetings**

*Documents available for public inspection after meetings*

- (1) For a period of six years, beginning with the date of a council or committee meeting or an executive meeting held in public, there must be open to public inspection, via the Council's website –

- (a) the minutes, or a copy of the minutes of the meeting, which have been edited to remove any minutes relating to the closed part of the meeting, and which would result in the disclosure of confidential or exempt information if the removed minutes were made available for public inspection;
- (b) a summary prepared by the Head of Democratic Services (without disclosing confidential or exempt information or the advice of a political adviser or assistant) of the whole or part of the meeting, if the edited minutes do not give a reasonably fair and coherent record of the whole or part of the meeting;
- (c) a copy of the agenda for the meeting; and
- (d) a copy of the reports prepared for the open part of the meeting.

*Inspection of background papers*

- (2) For four years beginning with the date of the meeting, the Head of Democratic Services will keep –
  - (a) copies of a list of the background papers relating to the reports or parts of the reports open to public inspection, and
  - (b) make available for public inspection at least one copy of each of the papers included in that list,

on the Council's website and at all reasonable hours at the Town Hall, The Crofts, Moorgate Street, Rotherham, S60 2TH.

*Meaning of "background papers", etc*

- (3) "Background papers" for a report means those documents other than published documents which relate to the subject matter of the report or a part of the report (as the case may be) and which in the opinion of the Head of Democratic Services:–
  - (a) disclose facts or matters on which the report or an important part of the report is based; and
  - (b) were relied on to a material extent in preparing the report.
- (4) Background papers are considered to be open to public inspection if available as soon as reasonably practicable after a member of the public has requested sight of them.

**7. Inspection of minutes and other documents after executive meetings held in private, etc.**

*Executive meetings, etc.*

- (1) As soon as practicable following –
  - (a) the date of an executive meeting held in private,
  - (b) the date on which an individual member of the executive made an executive decision, or
  - (c) the date on which an officer made an executive decision that was a key decision,

the Head of Democratic Services will arrange for the documents mentioned in procedure rule 8(2) to be available for public inspection on the Council's website.

*Documents available for public inspection*

- (2) The documents are –
  - (a) in the case of –
    - (i) an executive meeting, the minute or a copy of the minute of the meeting,
    - (ii) an executive decision made by an individual member, the statement or a copy of the statement recording the decision, and
    - (iii) a copy of any report or part of a report relevant to the particular minute or statement, except where the report or part of the report contains confidential or exempt information or the advice of a political adviser or assistant.

*Copies of documents supplied for use of media*

- (3) At the request of a newspaper, the Head of Democratic Services will supply copies of the documents mentioned in rule 8.2 on payment of postage or any other necessary forwarding charge.

*Inspection of background papers*

- (4) Where in accordance with this rule a report or part of a report for an executive meeting held in private is made available for inspection by the public at the same time as the agenda and other connected reports for the meeting are made available to the public in accordance with rule 4 (public access to agenda and connected reports), the Head of Democratic Services will ensure that –

- (a) the report or part of the report contains a list of the background papers to the report; and
- (b) as soon as reasonably practicable following a request by a member of the public to see the background papers to the report, a copy of each of the documents in the list is available for inspection by the public at all reasonable hours at the Town Hall, The Crofts, Moorgate Street, Rotherham, S60 2TH.

*Private meeting of executive, etc.*

- (5) On the conclusion of a private meeting of the executive or immediately after an executive decision has been made by an individual member or a key decision made by an officer, members of the Council have the right to inspect any of the documents specified in procedure rule 8(6).
- (6) The documents referred to in procedure rule 8(5) are the documents that are in the possession or under the control of the executive and contain material relating to –
  - (a) any business transacted at the private meeting of the executive;
  - (b) any decision made by the individual member of the executive; or
  - (c) any key decision made by the officer in accordance with executive arrangements.
- (7) The right mentioned in procedure rules 8(4) and 8(5) does not extend to a document that in the opinion of the Head of Democratic Services –
  - (a) discloses confidential or exempt information (please see the Appendix); or
  - (b) discloses advice provided by a political adviser or assistant to the executive,but this procedure rule 8(7) does not apply –
  - (i) to exempt information that falls within paragraph 3 (information relating to the financial or business affairs of any particular person (including the Council)) of Schedule 12A to the Local Government Act 1972, 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

- (ii) to exempt information that falls within paragraph 6 (information which reveals that the Council proposes to serve a notice on a person or to make an order or direction under any enactment) of Schedule 12A to the 1972 Act.

## **9. Overview and scrutiny members right of access to executive documents**

- (1) Members have a general right to inspect documents to undertake their various roles as an elected member of the Council. A member of an overview and scrutiny committee has, subject to procedure rule 9(2), the right to a copy of any document which is in the possession or under the control of the executive and which contains material relating to –
  - (a) any business that has been transacted at a public or private meeting of the executive,
  - (b) any decision made by an individual member of the executive; or
  - (c) any key decision made by an officer in accordance with executive arrangements.
- (2) The right mentioned in rule 9(1) does not extend to a document or part of a document that in the opinion of the Assistant Director of Legal Services:–
  - (a) contains confidential or exempt information unless that information is relevant to –
    - (i) an action or decision that the member is reviewing or scrutinising,
    - (ii) any review contained in a programme of work of the committee or subcommittee of which he is a member; or
    - (iii) contains the advice of a political adviser or assistant.

## **10. Fee for inspecting or copying documents**

- (1) The Council may charge a member of the public wishing to inspect background papers under procedure rules 7 or 8 (inspection of minutes and documents) a reasonable fee for doing so.
- (2) Subject to copyright, the Council may charge a member of the public or member of the Council wishing to make a copy of the whole or part of a document available for inspection under these Rules a reasonable fee for doing so or for the Council itself supplying him with a copy.



### **PART III**

#### **RECORDING OF DECISIONS MADE BY OFFICERS**

##### **11. Recording of decisions made by officers**

- (1) Where an officer makes a decision which is not an executive decision, including under specific delegation from a meeting of a decision-making body, the effect of which is
- (a) to grant a permission or licence,
  - (b) to affect the rights of an individual; or
  - (c) to award a contract or incur expenditure which, in either case, materially affects the Council's financial position,

the decision-making officer must produce a written record of the decision as soon as reasonably practicable after the decision has been made which must contain the following information –

- the date the decision was taken
  - a record of the decision taken along with reasons for the decision;
  - details of alternative options, if any, considered and rejected; and
  - where the decision was made under specific delegation from a decision-making body, the names of any member of the relevant body who has declared a conflict of interest in relation to the decision.
- (2) The Council has determined that where the effect of an officer decision is to award a contract or incur expenditure, the value of the contract or expenditure above which it is to be considered as materially affecting the Council's position is to be £250,000.
- (3) The duty imposed by Procedure Rule 11(1) above is satisfied where, in respect of a decision, a written record, containing the date the decision was taken and the reasons for the decision, is already required to be produced in accordance with statute, and the duty does not require administrative and operational decisions to be recorded.
- (4) All written records produced in accordance with Procedure Rule 11(1) above, together with any background papers, must as soon as reasonably practicable after the record is made, be made available for inspection by members of the public:–
- at all reasonable hours, at the offices of the Council; and
  - on the Council's website,

- (5) All written records produced in accordance with Procedure Rule 11(1) above must be retained and made available for inspection by the public for a period of six years beginning with the date on which the decision, to which the record relates, was made.
- (6) Any background papers must be retained and made available for inspection by the public for a period of four years beginning with the date on which the decision, to which the background papers relate, was made.
- (7) Nothing in Procedure Rules 11(1) to 11(6) requires the disclosure of exempt or confidential information.

## **PART V SUMMARY OF THE RULES**

### **12. Summary**

The Access to Information Rules are summarised as follows –

#### **BEFORE THE MEETING**

- (1) The public has a general right of access to meetings of the full Council and to committee meetings and executive meetings held in public.
- (2) A full council or committee or executive meeting (or part of the meeting) must not be held in public where the item for discussion contains confidential information.
- (3) The public may be excluded from a full council or committee or executive meeting (or part of the meeting) by resolution of the members present if an item to be discussed is likely to contain exempt information.
- (4) The categories of exempt information are set out in Schedule 12A to the Local Government Act 1972 (a summary of the provisions of Schedule 12A is appended to these Rules).
- (5) The public may be excluded from a committee or executive meeting (or part of the meeting) by resolution of the members present if an item to be discussed is likely to contain the advice of a political adviser or assistant.
- (6) An executive meeting (or part of an executive meeting) may be held in private but, subject to procedure rule 12(7), must be held in public if –
  - (a) a key decision is to be made;
  - (b) a matter is likely to be discussed that relates to a key decision included in the current plan and the executive is likely to make the decision within 28 days of the meeting, and an officer will be present at that meeting or part of the meeting when the matter is discussed;
  - (c) a key decision is to be discussed with an officer other than a political adviser or assistant.

- (7) A key decision may be made in private if but only if –
- (a) the decision relates to a matter that it was impracticable to include on the plan and appropriate notice has been given and 5 working days have elapsed since the publication of the notice; or
  - (b) the date by which the decision must be made makes it impracticable to comply with the notice requirements set out in procedure rule 12(7)(a) and certain members of the Council have agreed to the decision being made on the ground of special urgency.
- (8) The public must be given at least 5 working days' notice of a committee or executive meeting or part of a meeting to be held in public, unless the meeting is called at shorter notice when the notice must be given at the time the meeting is convened.
- (9) Copies of the agenda and reports to be debated in the open part of a full council or committee or executive meeting (or part of the meeting) must be available for inspection by the public at least 5 working days before the meeting, unless the meeting is called at shorter notice when they must be available at the time the meeting is convened.
- (10) Reports or parts of reports containing confidential or exempt information or the advice of a political adviser or assistant must be marked "not for publication", and the reason must be stated on the face of the report or part of the report.
- (11) Copies of the agenda and the open reports or the open parts of reports prepared for a full council or committee meeting or an executive meeting held in public must be available for inspection by the public before the meeting.
- (12) Members of the Council have certain general and additional rights of access to council documents forming the basis of a report to members or the executive.

### **THE MEETING AND AFTER THE MEETING**

- (13) Members of the public cannot be excluded from the open part of a meeting unless they are disruptive when the chairman may exclude them.
- (14) The resolution excluding the public from a full council or committee or executive meeting (or part of the meeting) must satisfy certain criteria (see procedure rule 6(2)).

- (15) The minutes, a summary of the meeting (if the minutes are not a fair and coherent record of the meeting after editing to remove confidential or exempt information or the advice of a political adviser or assistant), the agenda and the reports of the open part of a full council or committee or executive meeting must be available for public inspection for at least 6 years after the meeting.
- (16) Background papers relating to the open part of a full council or committee or executive meeting must also be available for public inspection for at least 4 years after the meeting.

#### **PRIVATE MEETINGS OF THE EXECUTIVE, ETC.**

- (17) Following an executive meeting held in private, the making of an executive decision by a member of the executive or the making of a key decision by an officer, the Head of Democratic Services will make available for public inspection –

- (a) the minute or a copy of the minute of the meeting;
- (b) the statement or a copy of the statement recording the executive decision made by the member, or
- (c) the statement or a copy of the statement recording the key decision made by the officer, and
- (d) a copy of any report or part of a report that relates to the minute or statement,

which have been edited to remove confidential or exempt information or the advice of a political adviser or assistant.

- (18) The Head of Democratic Services will ensure that any report made available for public inspection under procedure rule 12(17) contains a list of background papers to the report and copies of the documents listed are available for public inspection.

- (19) Following –

- (a) a private meeting of the executive, or
- (b) the making of an executive decision by an executive member

members of the Council have the right to inspect any documents containing material relating to the business transacted at the meeting or relating to the decision or key decision, which have been edited to remove confidential or exempt information or the advice of a political adviser or assistant.

## **OVERVIEW AND SCRUTINY**

(20) A member of an overview and scrutiny committee has the right to a copy of any document containing material relating to –

(a) any business transacted at a public or private meeting of the executive,

(b) any decision made by an executive member,

which has been edited to remove confidential or exempt information or the advice of a political adviser or assistant.

## **APPENDIX SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972**

### **1. Information relating to any individual**

#### *Exemption*

- (1) A report contains exempt information if it contains information relating to any individual – paragraph 1 of Part I of Schedule 12A.

#### *Qualification*

- (2) The information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **2. Information which is likely to reveal the identity of an individual**

#### *Exemption*

- (1) A report contains exempt information if it contains information which is likely to reveal the identity of an individual – paragraph 2 of Part I of Schedule 12A.

#### *Qualification*

- (2) The information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **3. Information relating to the financial or business affairs of any particular person (including the Council)**

#### *Exemption*

- (1) A report contains exempt information if it contains information relating to the financial or business affairs of any particular person (including the Council) – paragraph 3 of Part I of Schedule 12A.

#### *Qualification*

- (2) The information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- (3) The information is not exempt 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.
- (4) The information is not exempt if it relates to proposed development for which the Council, in its capacity as local planning authority, may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (5) For the purposes of this exemption –
- (a) “financial or business affairs” includes contemplated, as well as past or current, activities;
  - (b) “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).

**4. Information relating to any consultations or negotiations, or contemplated negotiations, in connection with any labour relations matter**

*Exemption*

- (1) A report contains exempt information if it contains information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council – paragraph 4 of Part I of Schedule 12A.

*Qualification*

- (2) The information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (3) For the purposes of this exemption –
- (a) “employee” means a person employed under a contract of service;
  - (b) “labour relations matter” means –



- (i) 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
- (ii) any dispute about a matter falling within the preceding paragraph (i),

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 Council as they apply in relation to employees of the Council;

- (4) “office-holder”, in relation to the Council, means the holder of any paid office appointments to which are or may be made or confirmed by the Council or by any joint board on which the Council is represented or by any person who holds any such office or is an employee of the Council.

## **5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings**

### *Exemption*

- (1) A report contains exempt information if it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings – paragraph 5 of Part I of Schedule 12A.

### *Qualification*

- (2) The information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **6. Information which reveals that the Council proposes to serve a notice on a person or to make an order or direction under any enactment**

- (1) A report contains exempt information if it contains information which reveals that the Council 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 – paragraph 6 of Part I of Schedule 12A.

### *Qualification*

- (2) The information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime**

*Exemption*

- (1) A report contains exempt information if it contains information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime – paragraph 7 of Part I of Schedule 12A.

*Qualification*

- (2) The information is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.