

**REPORT FOR: GOVERNANCE, AUDIT,
RISK MANAGEMENT AND
STANDARDS COMMITTEE**

Date of Meeting: 19 July 2016

Subject: Public Access to Council Reports

Responsible Officer: Hugh Peart, Director of Legal and Governance Services

Exempt: No

Wards affected: N/A

Enclosures: None

Section 1 – Summary and Recommendations

This report sets out the limited circumstances in which council papers can be withheld from the public, which are detailed in Schedule 12A (as amended) of the Local Government Act 1972. This followed several discussions at previous meetings of the Committee where the question as to whether a report should be public (Part I) or exempt (Part II) had been discussed by Members. The exemption paragraphs are replicated in the Access to Information Procedure contained in the Council's Constitution.

Recommendations:
That the report be noted.

Section 2 – Report

At the meeting of the Committee held on 5 April 2016, Members discussed a previous minute in relation to RIPA Authorisations and whether the detailed discussion in relation to this item, which had been moved into Part I of the agenda and then reverted to Part II should have been public.

At that time, the Chair reported that legal advice had been received both at and following the previous meeting in relation to the consideration of RIPA authorisations. A Member had expressed his dissatisfaction with the categorising of reports in terms of whether they were public (Part I) or exempt (Part II).

The Chair responded that a discussion on this matter could be held at the next meeting, and this report is intended to facilitate that debate.

Legal Framework

The Council's Access to Information Procedure is derived from Sections 100A to K and Schedule 12 (as amended) of the Local Government Act 1972, Sections 9G and 9 GA of the Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations.

Rule 12.4 of the Access to Information Procedure states that information in Council reports may only be withheld from the public if it falls within one of the following 7 categories, **and** the public interest in keeping it confidential outweighs the public interest in disclosing the information.

1. Information relating to any individual
2. Information that 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). "Financial or business affairs" includes contemplated as well as past or current activities.
4. Information in relation 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
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:
 - (1) To give under any enactment a notice under or by virtue of which requirements are imposed on a person or
 - (2) 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.

Information is not exempt if it relates to a proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Report Writing

Here in Harrow it is the report author's responsibility to decide whether all or part of their report should be public or confidential, and in making a decision can seek advice from colleagues in Legal and Governance Services.

Separately, when a report is cleared by or on behalf of the Monitoring Officer the decision about confidentiality may be challenged, as given the Council's commitment to openness and transparency, the preference is that, as far as possible, reports should be open to members of the press and public.

Members will be aware that where a report contains confidential information, if possible the main report will be public and that information set out in an exempt appendix. Examples include a public report on a decision to award a contract, where details of tenders may be set out in a confidential appendix.

Decision on Part or Part II

When agenda papers are published, if there is a sustainable justification for keeping documents confidential, they will be circulated to Members, but not made available to the public, as to do otherwise would make any subsequent Member decision that they should be kept confidential otiose.

A decision by officers not to publish a report or its appendix however does not bind Members when they subsequently consider it. It is for Members to be satisfied, having considered officer advice, that both the exemption applies and the public interest in keeping it confidential outweighs the public interest in disclosing the information.

Section 3 - Statutory Officer Clearance

Name: Dawn Calvert	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 8 July 2016		
Name: Hugh Peart	<input checked="" type="checkbox"/>	Monitoring Officer
Date: 7 July 2016		

Ward Councillors notified:	NO
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Section 4 - Contact Details and Background Papers

Contact: Alison Atherton, Senior Professional Democratic Services, 020 8424 1266, Alison.atherton@harrow.gov.uk

Background Papers: Local Government Act 1972, Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations.