

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1.0 SCOPE**

- 1.1 These rules apply to Council decision making<sup>1</sup> and therefore cover all meetings of the Council, Committees, Scrutiny Boards, and Plans Panels (together called meetings)<sup>2</sup>, and delegated decisions taken by officers under the Officer Delegation Scheme (Council (non-executive) Functions)
- 1.2 These rules also cover public rights of access to information, in relation to both Council and Executive functions, including those under the Freedom of Information Act 2000, and Members' rights of access to information.

### **2.0 PUBLIC ACCESS TO MEETINGS**

- 2.1 Members of the public may attend all meetings subject only to the exceptions in these rules<sup>3</sup>.

### **3.0 NOTICE OF MEETINGS**

- 3.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Hall (the designated office). The notice will specify the business proposed be transacted at the meeting.
- 3.2 The Council will send by post to, or leave at, the usual place of residence of those Members entitled to attend a meeting, a summons to attend specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the annual meeting, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

### **4.0 PUBLIC ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

- 4.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.
- 4.2 Where an item is added to the agenda, and the report is open to the public, copies of any report for the meeting relating to the item, and the revised agenda shall be available for inspection from the time the item is added to the agenda.
- 4.3 Where copies of the agenda and reports open to the public are not made available for inspection in this way, an item of business will not be considered unless by reason of special circumstances, which shall be specified in the minutes, the chair of the meeting

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<sup>1</sup> For the distinction between Council and Executive Decisions see Article 13 of this Constitution.

<sup>2</sup> Except in relation to Licensing Committee and Licensing Sub-Committees conducting licensing hearings, where the Licensing Procedure Rules apply

<sup>3</sup> The Recording Protocol: Third Party Recording of Committees, Boards and Panels, set out at Appendix 1 to these Rules applies.

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is of the opinion that the item should be considered at the meeting as a matter of urgency.

### **5.0 PUBLIC ACCESS TO COPIES**

5.1 Copies of those documents and notices which are published on the Council's website in accordance with these rules, and also in accordance with the Executive and Decision Making Procedure Rules, will be made available for inspection by the public on request during office hours at the authority's offices at Civic Hall, Leeds.

5.2 The Council will supply copies of:

- (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; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a charge for postage, copying and any other costs.

5.3 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

### **6.0 PUBLIC ACCESS TO RECORDS OF DECISIONS**

#### **6.1 Records of Decisions Taken at Meetings**

For six years after a meeting, the Council will make available for inspection, and following a request made on behalf of a newspaper, and on payment being made of postage, copying or any other necessary charge, the Head of Governance Services will arrange to supply copies of the following:

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public

## **6.2 Records of Decisions Taken By Officers<sup>4</sup>**

As soon as reasonably practicable after a significant operational decision taken by an officer in relation to a Council Function, the officer will produce a written record of the decision and arrange for its publication on the Council's website together with the report in relation to the decision made. The record will include;

- A record of the decision including the date it was made,
- a statement of the reasons for it,
- details of any alternative options considered and rejected by the officer at the time of making the decision, and
- a record of any interest declared by any Executive Member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

The written record will be retained and made available for inspection by the public for a period of six years beginning with the date of the decision to which it relates.

Following a request, and on payment being made of postage, copying or any other necessary charge, the Head of Governance Services will arrange to supply a copy of delegated decision notice and report in relation to an officer decision

## **7.0 PUBLIC ACCESS TO BACKGROUND PAPERS**

### **7.1 List of background papers**

The author of a report 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) have been relied on to a material extent in preparing the report

but this does not include published works or those which disclose exempt or confidential information (as defined in Rules 9 and 10), nor in respect of executive reports, does this include the advice of a political advisor, or any draft report or document.

### **7.2 Public inspection**

- (a) A copy of each of the documents listed will be:-
  - i. published on the Council's website at the same time as the report is available for public inspection, and
  - ii. made available to a member of the public during office hours at the authorities offices at Civic Hall, Leeds, on payment of the Council's reasonable fee.

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<sup>4</sup> In accordance with The Openness of Local Government Bodies Regulations 2014, a written record of the decision and the reasons for it, together with the date of the decision, produced in accordance with any other statutory requirement, will be sufficient to satisfy the requirement to produce a written record set out in this rule.

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- (b) 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.

### **8.0 EXCLUSION OF PUBLIC ACCESS**

- 8.1 The Monitoring Officer will exclude access by the public to reports which in his/her opinion contain confidential information, (as defined in Rule 9).
- 8.2 If the Monitoring Officer thinks fit, access by the public may also be excluded in respect of reports which in his/her opinion relate to items during which, in accordance with Rule 10 the meeting is likely not to be open to the public.
- 8.3 Such reports will be marked “Not for publication” together with “confidential information” or the exemption relied upon.
- 8.4 Where an exemption is relied upon, any such report must contain the reasons why, as in all in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **9.0 CONFIDENTIAL INFORMATION – REQUIREMENT TO EXCLUDE PUBLIC ACCESS**

- 9.1 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. Likewise, public access to reports, background papers, and minutes will also be excluded.
- 9.2 Confidential information means
  - (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
  - (b) information the disclosure of which to the public is prohibited by or under another Act or by Court Order. Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

### **10.0 EXEMPT INFORMATION – DISCRETION TO EXCLUDE PUBLIC ACCESS**

- 10. 1 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:
  - (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
  - (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 10.4 below) the description of the exempt information giving rise to the exclusion of the public.

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- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- 10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.
- 10.3 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.
- 10.4 Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	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.	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 authority holding that information).	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  Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts or the Charities Act 2011.  "Financial or business affairs" includes contemplated, as well as past or current, activities
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 officer-holders under the authority.	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  "Labour relations matter" are as specified

Category	Condition
	in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	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 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	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	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

Information falling within any of paragraphs 1-7 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.

### **10.5 Disorderly Conduct – discretion to exclude public**

The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

### **11.0 PUBLIC ACCESS TO OTHER INFORMATION - FREEDOM OF INFORMATION**

11.1 Where a member of the public makes a request for information under the Freedom of Information (FOI) Act 2000, they will be informed in writing by the Council whether it holds such information, and if that is the case, they will have that information communicated to them, unless an exemption applies.

11.2 An FOI request must be in writing, state the name of the applicant and an address for correspondence, and describe the information requested. A request will be treated as made in writing where the text is transmitted by electronic means (e-mail), is received in legible form, and is capable of being used for subsequent reference.

11.3 FOI requests will be dealt with by the FOI practitioner for the relevant service area.

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- 11.4 FOI requests must generally be dealt with within 20 working days of receipt.
- 11.5 The Council will not comply with FOI requests where one or other of the exemptions applies. These include:
- information which is otherwise reasonably accessible
  - information intended for future publication
  - information where disclosure would be likely to prejudice
    - the national or local economy
    - crime prevention/detection, prosecutions, and certain civil proceedings
    - health and safety
    - commercial interests
  - information provided in confidence
  - personal information
- 11.6 In relation to most of the exemptions, the Council must also apply the 'public interest test. Even where the terms of an exemption seem to apply, the Council is still under a duty to disclose, unless the public interest in maintaining the exemption outweighs the public interest in disclosure.
- 11.7 Further details about FOI, how to make an FOI request and the FOI practitioners are contained in the document 'Freedom of Information Act 2000 – Your Right to Information from Leeds City Council' on the Council's website.

## **12.0 MEMBERS ACCESS - STATUTORY RIGHTS**

### **12.1 Material relating to forthcoming business**

- (a) All Members are 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 unless
- (i) it contains exempt information falling within Rules 10.4.1, 10.4.2, 10.4.4, 10.4.5 and 10.4.7 above; or
  - (ii) it contains exempt information falling within Rule 10.4.3 above 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; or
  - (iii) it contains the advice of a political adviser or
  - (iv) it is a draft report or draft background paper
  - (v) it is not a report or a background paper as defined in Rule 7
- (b) All Members are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any

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business to be transacted at a meeting of the Council or any of its committees or sub-committees unless

- (i) it contains exempt information falling within Rules 10.4.1, 10.4.2, 10.4.4, 10.4.5 and 10.4.7 above or
- (ii) it contains exempt information falling within Rule 10.4.3 above 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.

### **12.2 Material relating to Key Decisions by Directors**

All Members of the Council will be entitled to inspect any document in the possession or under the control of the Executive or its committees which relates to any Key Decision made by a Director unless any of the exceptions in Rule 16.1(a) applies.

## **13.0 SCRUTINY MEMBERS ACCESS– ADDITIONAL STATUTORY RIGHTS**

### **13.1 Rights to copies**

Subject to the limits below, a member of a Scrutiny Board (including its sub-committees) will be entitled to copies of any document which is in the possession or control of

- (a) the Executive or its committees and which contains material relating to any business transacted at a meeting of the Executive or its committees; or
- (b) a Director and which contains material relating to an officers decision.

### **13.2 Limit on rights**

A Scrutiny member will not be entitled to:

- (a) any document that is in draft form;
- (b) 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
- (c) the advice of a political adviser or assistant.

## **14.0 MEMBERS ACCESS – NEED TO KNOW**

### **14.1 Meaning of the Need to Know**

Members have the right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the relevant Director.



## **14.2 The Nature of Requests**

Members should:

- (i) avoid over-involvement in issues raised by individual constituents
- (ii) be particularly careful when having direct contact with relatively junior officers, to avoid the appearance of abusing their position
- (iii) justify the request in specific terms, unless circumstances exist where a Member's need to know will be presumed – for example where a Member is on a committee and wants to inspect documents relating to that committee's business, or where the information requested is already in the public domain
- (iv) only use the information for the purpose for which it was provided, and get the prior agreement of the relevant Director to any disclosures to the press or the public

## **14.3 Limit on rights**

There are a number of factors which may limit or outweigh a Member's need to know, including:

- (i) the need to know does not extend to a 'roving commission' through Council documents
- (ii) the need to know would only extend to personal information in exceptional cases
- (iii) draft documents compiled in the context of emerging Council policies, and draft reports will not usually be disclosed
- (iv) a Member of one party group will not have a need to know in relation to a document prepared for another party group
- (v) documents prepared specifically for one Member will not, unless he/she agrees, normally be provided to another Member
- (vi) documents will not be disclosed where the relevant Director believes that use of those documents by a Member may prejudice the Council's or the public interest.
- (vii) the level of resources required to deal with locating and supplying documents.

## **14.4 Procedure**

- 14.4.1 Whether a Member has a need to know will be determined initially by the Director who holds the document in question (with advice from the Monitoring Officer). The Director must not have regard to party political advantage, nor must the Director's determination have the effect of preventing the Member

concerned from giving evidence in Court, or of penalising the Member for so doing.

- 14.4.2 All internal documents and copies produced to any Member for inspection in accordance with this Rule will be produced on the basis that, in the absence of malice, officers are expressly indemnified in respect of any claim in litigation that may result from such publication.

## **15.0 RIGHTS OF APPEAL**

### **15.1 Appeals against refusals of FOI requests**

If an FOI request is refused by an FOI practitioner, the applicant may invoke the Council's compliments and complaints procedure. FOI requests are dealt with at stage 2 of such procedure, and in the case of requests where the public interest test applies the officer dealing with the complaint will consult with the relevant Executive Member for their service. If the complaint does not result in the disclosure of the relevant information an applicant may then apply to the Information Commissioner for a decision as to whether the Council has complied with the relevant provisions of the Freedom of Information Act 2000.

### **15.2 Appeals where Public Access is denied to a Report or Background Papers**

- 15.2.1 If a member of the public is denied access to a report or background papers under these Rules, they may appeal at the relevant meeting by giving notice in writing to the Head of Governance Services, such notice to be received not less than 24 hours before the relevant meeting is due to be held. Any such appeal will be considered as the first item on the agenda.
- 15.2.2 The person making the appeal may provide written submissions to the Head of Governance Services, who will supply copies of the same to the relevant Director and each member of the meeting before the date of the meeting.
- 15.2.3 The Head of Governance Services will supply each member of the meeting with a copy of the document to which the appeal relates, before the date of the meeting.
- 15.2.4 The Director (or nominee) will be called before the meeting to explain and justify the reasons for withholding inspection, and the meeting may question that officer. The person making the appeal will usually be called before the meeting at the same time, but the meeting may exclude that person at their reasonable discretion, where it appears to them that any of the contents of the document to which the appeal relates may otherwise be revealed to that person.
- 15.2.5 The person making the appeal will then be allowed to make representations to the meeting, and the meeting may question that person. The meeting may exclude the officer at their reasonable discretion.
- 15.2.6 The officer and the person making the appeal (and members of the public, if any) will then be asked to withdraw so that the meeting may consider whether or not to release the document. The meeting will be guided on matters of law and procedure by the

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Monitoring Officer (or nominee) and if necessary may adjourn the proceedings in order to obtain further legal advice.

15.2.7 As soon as the meeting have made their decision, the officer and the person making the appeal (and members of the public, if any) will be recalled, and the decision announced.

15.2.8 Where a member of the public makes an appeal against denial of access to a report or background paper which a Director intends to take into account in making a Key Decision, they must give notice in writing to the Head of Governance Services who will make arrangements for a meeting of a committee of the Executive Board to be convened, to determine the appeal. In such cases, the procedure set out above will apply as if references to 'meeting' were substituted by references to 'committee'.

### **15.3 Appeals where a Member is denied inspection of a document**

15.3.1 If a Member is denied inspection of a document under their statutory rights or their need to know rights, they may appeal to the Executive Board. A decision made by a Director to withhold the inspection of any internal document shall be valid and remain in force unless and until altered on an appeal.

15.3.2 A Member will give notice in writing of an appeal to the Head of Governance Services, who will make arrangements for a meeting of a committee of the Executive Board to be convened to determine the appeal.

15.3.3 The committee of the Board will meet to determine the appeal as soon as reasonably practicable, and in any event within 20 working days of receipt of the notice of appeal.

15.3.4 The Member making the appeal, and the Director who decided to withhold inspection (or nominee) will each submit a written report to the Head of Governance Services, who will supply copies of the same to the Member, the Director and each member of the committee at least 5 working days before the date of the committee meeting.

15.3.5 The Head of Governance Services will supply each member of the committee with a copy of the document to which the appeal relates, before the date of the committee meeting.

15.3.6 The Director (or nominee) will be called before the committee to explain and justify the reasons for withholding inspection, and the committee may question that officer. The Member will usually be called before the committee at the same time, but the committee may exclude the Member at their reasonable discretion where it appears to them that any of the contents of the document to which the appeal relates may otherwise be revealed to the Member.

15.3.7 The Member will then be allowed to make representations to the committee, and the committee may question the Member. The committee may exclude the officer at their reasonable discretion.

15.3.8 The committee may permit the Member to ask questions of the officer, and vice versa at their reasonable discretion.

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- 15.3.9 Both the officer and the Member will then withdraw so that the committee may consider whether or not to release the document. The committee will be guided on matters of law and procedure by the Monitoring Officer (or nominee) and if necessary may adjourn the proceedings in order to obtain further legal advice.
- 15.3.10 As soon as the committee have made their decision, the officer and the Member will be recalled, and the decision announced.
- 15.3.11 All internal documents and copies produced for inspection following a decision of a committee of Executive Board to release the same will be so produced on the basis that, in that absence of malice, Members and officers of the Council are expressly indemnified by the Council in respect of any claims in litigation that may result from such publication.

## **16.0 LIST OF MEMBERS AND SUMMARY OF PUBLIC ACCESS RIGHTS**

- 16.1 The Council will publish and any member of the public may make reasonable inspection of:
- (a) a list stating the name and address of all current Members of the Council and the Ward they represent and the name and address of all current Members of the Executive Board, Scrutiny Boards, other Committees and any sub-groups thereof; and
  - (b) a list of the rights conferred on the public to attend meetings and to inspect, copy and be supplied with documents.

## **17.0 DISCLOSURE OF CONFIDENTIAL INFORMATION BY MEMBERS**

- 17.1 Where a decision has been made under these Rules to exclude public access on the basis that exempt information would otherwise be disclosed, the Council requires a Member who wishes to disclose that information to approach the relevant Director, for a decision whether that information should be disclosed. Disclosure by a Member will only be refused, if the Director decides that in the event the Council received an FOI request at that time, the Council would not be obliged to disclose that information. The Council also requires in every case, so far as reasonably practicable a Member must give the relevant Director reasonable notice of their intention to make such a disclosure.
- 17.2 In deciding whether the Council would be obliged to disclose that information in response to an FOI request, the relevant Director will give particular consideration to the public interest reasons for disclosure proposed by the Member, and to the Member's right of freedom of expression and the particular importance of that right for elected representatives'

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**Recording<sup>5</sup> Protocol: Third Party Recording of Committees, Boards and Panels**

**The council wants to be open and transparent in the way in which it conducts its decision-making.**

**Recording is allowed at all meetings of the authority<sup>6</sup> to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.**

1. Filming or other recording of all meetings of the authority, whilst those meetings are open to the public, is permitted<sup>7 8</sup>.
2. Those wishing to record proceedings should, as a courtesy, inform the chair (or clerk) of the committee of their intentions to record prior to the commencement of the meeting.
3. Recordings may only be taken overtly from the area designated for the public and;
  - a. Recording devices must be in silent mode
  - b. No flash or additional lighting is permitted
  - c. Recordings must be taken from one fixed position and must not obstruct others from observing proceedings
4. The chair of a meeting has the authority to instruct that recordings be stopped where<sup>9</sup>:
  - a. The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed.
  - b. There is public disturbance or a suspension/adjournment of a meeting
  - c. The recording has become disruptive or distracting to the good order and conduct of the meeting.
  - d. Continued recording is against the wishes of an individual<sup>10</sup>

**Use of Recordings by Third Parties– code of practice**

Following representations received from interested third parties, the following code of practice has been drawn up concerning the use of recordings.

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<sup>5</sup> This includes both video and audio recording

<sup>6</sup> Including full Council, committees (boards and panels) established by full Council (and sub committees appointed by those committees) and Executive Board.

<sup>7</sup> In accordance with any regulations relating to such matters.

<sup>8</sup> All agendas will indicate that recordings may be made at the meeting by third parties; signage will also be displayed indicating this

<sup>9</sup> In all cases recording equipment must be switched off.

<sup>10</sup> Where members of the public raise an objection to being recorded, then those individuals will not be filmed. However continued audio recording will be permitted where the contributions are material to the resolutions to be made.

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- A. Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.
  
- B. Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.