

West Yorkshire Combined Authority

Access to Information Annex

Rights to attend meetings, inspect documents and record proceedings.

Part 1: Rights of the public

References to meetings of the Authority include meetings of any committee or sub-committee appointed by the Authority, including the Governance and Audit Committee.

These provisions do not affect any other rights to information arising under any standing orders of the Authority, or by law.

1. Public access to meetings

Any meeting of the Authority shall be open to the public except where the public is excluded (during the whole or part of the proceedings) in accordance with the following:

A Confidential information

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.

Confidential information means:

- information given to the Authority by a Government department on terms which forbid its public disclosure or
- information the public disclosure of which is prohibited by or under an Act or Court Order.

B Exempt information

The Authority **may** resolve to exclude the public from a meeting during an item 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 to the public if the public were present during the item.

Exempt information means information falling within one of the following descriptions (as set out in Part 1 of Schedule 12A of the Local Government Act 1972):-

Description
Paragraph 1: Information relating to any individual .
Paragraph 2: Information which is likely to reveal the identity of an individual .

2017/18

Approved at the Annual Meeting 29 June 2017

Description
<p>Paragraph 3: Information relating to the financial or business affairs¹ of any particular person (including the Authority holding that information), except information which must be registered under various statutes, such as the Companies Acts or the Charities Act 2011.</p> <p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p>
<p>Paragraph 4: Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter² arising between the Authority or a Minister of the Crown and employees of, or officer-holders under the Authority.</p>
<p>Paragraph 5: Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>
<p>Paragraph 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> <p>(b) to make an order or direction under any enactment.</p>
<p>Paragraph 7: Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>

Information falling within any of these descriptions 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.

Information falling within any of these descriptions may only be 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.

A resolution to exclude the public from a meeting must:

- identify the proceedings, or the part of the proceedings, to which it applies;
- state the description of the exempt information giving rise to the exclusion of the public and;
- confirm (by referring to reasons in a relevant report or otherwise), that in all the circumstances of the case, the **public interest** in maintaining the exemption outweighs the public interest in disclosing the information.

¹ “Financial or business affairs” includes contemplated, as well as past or current, activities.

² Labour relations matter” are as specified 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.

C General Disturbance

Procedural Rule 24 provides for the public to be excluded from a meeting where general disturbance arises.

2. Public access to agenda and reports

The Head of Legal and Governance Services shall make the following open to public inspection, at the offices of the Authority³, in accordance with the Authority's Procedure Standing Orders:

- copies of the **agenda** for a meeting of the Authority and,
- copies of any **report** for the meeting open to the public.

3. Public access to copies at the meeting

The Head of Legal and Governance Services will make available for the use of members of the public present at a meeting a reasonable number of copies of:

- the **agenda** and
- those **reports** open to the public.

4. Public access to documents after a meeting

The Head of Legal and Governance Services will make available for inspection copies of the following for six years after a meeting:

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

5. Public access to background papers

The author of any report will set out in the report a list of the background papers relating to the subject matter of the report which in the author's opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- have been relied on to a material extent in preparing the report.

³ These are available on request during usual office hours

This requirement does not extend to:

- published works or
- papers which disclose exempt or confidential information.

The Head of Legal and Governance Services will:

- **publish a** list of each of the background documents listed on the Authority's website at the same time as the report is available for public inspection, and
- **make a copy of each available** to the public at the offices of the Authority, on payment of a reasonable fee⁴.

The Head of Legal and Governance Services 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.

6. Recording meetings⁵

The Authority will provide so far as practicable, reasonable facilities to any person attending a meeting for the purpose of reporting on the meeting.

A person attending a meeting for the purpose of reporting on it may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.

Publication and dissemination may take place at the time of the meeting or occur after the meeting.

Any person reporting on a meeting is expected to comply with the attached Code of Practice.

7. Public notice of proposed Key decisions

A Definition of a Key decision

A Key decision means a decision of a decision maker⁶, which in the view of the Overview and Scrutiny Committee of the Authority is likely:

⁴ A copy is taken to be open where arrangements are made to produce it to members of the public as soon as is reasonably practicable after the request to inspect the copy.

⁵ See further Procedural Standing Order 23. Recording in this context means:

- filming, photographing and making an audio recording of proceedings;
- using any other means for enabling people not present to see or hear proceedings at a meeting as it takes place or later;
- reporting or providing commentary on proceedings at a meeting, orally or in writing so that the report or commentary is available as the meeting takes place or later to persons not present.

⁶ Including any decision taken by the Authority, a committee or Officer under authority delegated from the Authority.

- (i) to result in the Authority incurring significant expenditure, or the making of significant savings, having regard to the Authority's budget for the service or function to which the decision relates; or
- (ii) to be significant in terms of its effects on persons living or working in an area comprising two or more wards or electoral divisions in the area of the Authority.

For the purposes of **(i)** above, this includes any decision likely to result in the Authority incurring expenditure or making savings (including the receipt or loss of income) **over £1 million in any financial year**⁷.

For the purposes of **(ii)** above, the definition of a Key decision includes (but is not limited to) any decision:

- a) to approve or vary:
 - the Strategic Economic Plan
 - the Single Transport Plan
 - the Authority's budget
- b) to jointly approve, vary, revoke or postpone an advanced quality partnership scheme
- c) to jointly make, vary or revoke an enhanced partnership plan
- d) to jointly make, postpone or revoke an enhanced partnership scheme
- e) to jointly approve, vary or revoke an advanced ticketing scheme
- f) to set the Transport Levy
- g) to consent to regulations to:
 - establish a sub-National Transport Body
 - levy in relation to functions other than transport functions
 - borrow
- h) to exercise a function relating to a road user charging scheme.

For the purposes of **(i)** and **(ii)** above, the following shall **not** be treated as a Key decision:

- any decision which is a direct consequence of implementing a previous Key decision
- any decision which is the result of varying a previous Key decision in line with recommendations made by the overview and scrutiny committee following a Call-In of that decision

⁷ Where £1 million expenditure, saving or income is likely to result from any decision in respect of a project or programme under the Authority's Assurance Framework, the following should be treated as Key under this provision:

- any decision taken at decision point 2 of the Framework
- any decision taken at decision point 5 of the process **provided** that more than 12 months has elapsed since decision point 2 **or** the scheme has substantively changed since that point
- any decision taken at any other decision point which is likely to result in an increase or decrease in agreed scheme costs by over £1 million.

- a Treasury Management decision in relation to the making, payment or borrowing of a loan, or
- the urgent settlement of proceedings to which the Authority is a party.

B Notice provisions

Except where impracticable, a key decision cannot be made unless until a notice has been published which states:

- that a **Key decision is to be made** in relation to the discharge of functions which are the Authority's responsibility;
- the **matter** in respect of which the decision is to be made;
- the **decision maker's name and title** if any;
- the **date** on which, or the period within which, the decision is to be made;
- a **list of documents** submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- the **address** from which, subject to any prohibition or restriction on their disclosure, copies of or extracts from, any document listed is available;
- **that other documents** relevant to those matters **may be submitted** to the decision maker; and
- the **procedure** for requesting details of those documents (if any) as they become available.

The Head of Legal and Governance Services will publish any such notice on the Authority's web-site at least 28 clear days before the Key decision is made, and make it available for public inspection at the Authority's offices.

Where in relation to any matter-

- the public may be excluded under section 100A of the Local Government Act 1972 from the meeting at which the matter is to be discussed; or
- documents relating to the decision need not (because of confidential information⁸) be disclosed to the public,

the notice must contain particulars of the matter but may not contain any confidential information or exempt information.

C General Exception

Subject to cases of special urgency, where it is impracticable to publish a notice of a Key decision at least 28 clear days before the Key decision is to be made, the decision may only be made:

⁸ See Scrutiny Standing Order 12.4

- where the Head of Legal and Governance Services has **informed the Chair of any relevant overview and scrutiny committee⁹ by notice** in writing of the matter about which the decision is to be made;
- where the Head of Legal and Governance Services has **published the notice** on the Authority's web-site and **made the notice available for public inspection** at the Authority's offices; and
- after **5 clear days** have elapsed following the day on which the Head of Legal and Governance Services made the copy of the notice available.

As soon as reasonably practicable after the Head of Legal and Governance Services has served a notice on the Chair, published the notice and made it available to the public, the Head of Legal and Governance services must make available to the public and publish a **notice setting out the reasons why it was impracticable** to publish the notice of a Key decision at least 28 days before the Key decision was to be made.

D Cases of special urgency

Where the date by which a key decision must be made makes it impracticable to comply with the general exception provision above, the decision may only be made where the decision maker¹⁰ has obtained **agreement from the Chair of any relevant overview and scrutiny committee¹¹** that the making of the decision is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the decision maker has obtained the necessary agreement that the decision is urgent and cannot reasonably be deferred, the decision maker must¹² make available to the public at the Authority's offices a **notice setting out the reasons why the decision is urgent and cannot reasonably be deferred**; and publish that notice on the Authority's web-site.

8. Public access to written records of decisions made by officers

A decision-making Officer may be required to produce a **written record** of their decision if the decision has been delegated:

- under a specific express authorisation, or
- under the Officer Delegation Scheme where the effect of the decision is to:
 - a) grant a **permission or licence**;
 - b) affect the **rights of an individual**; or
 - c) award a **contract** or **incur expenditure** which, in either case, **materially affects the Authority's financial position**.

⁹ Or if there is no such person, each member of the relevant overview and scrutiny committee,

¹⁰ Where the decision maker will be a committee or the Authority itself, this will fall to the Managing Director or other relevant Director.

¹¹ If there is no such person, or if the Chair is unable to act, agreement may be given by the Authority's Chair, or where there is no Chair, the Vice-Chair of the Authority.

¹² In consultation with the Head of Legal and Governance Services.

For the purposes of c) above, any award of a contract over the value of £500,000 or expenditure incurred over £500,000 will be deemed to materially affect WYCA's financial position.

An Officer must also record and publish any **Key decision** they make, whether or not it is outside the criteria set out above.

An Officer may also record and publish any other decision if they consider this to be in the public interest.

As soon as reasonably practicable after an officer has made a written record, the Head of Legal and Governance Services shall make any written record and any background papers available for inspection by the public:¹³

- at all reasonable hours, at the offices of the Authority;
- on the Authority's website; and
- by such other means that the Authority considers appropriate.

On request¹⁴ the Head of Legal and Governance Services will provide:

- a copy of the written record;
- a copy of any background papers;

The Authority will retain each written record and make it available for public inspection for 6 years beginning with the date on which the decision was made.

The Authority will retain any background papers and make them available for public inspection for 4 years beginning with the date on which the decision was made.

Part 2: Press access to meetings

The Head of Legal and Governance Services shall supply on request¹⁵ for any newspaper:

- a copy of the **agenda** and those **reports** open to the public;
- any **further statements** necessary to indicate the nature of the items on the agenda; and
- if the Head of Legal and Governance Services thinks fit, copies of **any other documents supplied to members** of the Authority in connection with the item.

Procedural Standing Order 23 and rights relating to recording proceedings set out above apply to members of the press, in the same way as they apply to the public.

¹³ The Authority is not authorised to disclose confidential information (nor required to disclose exempt information) contained in these documents or any part of a document.

¹⁴ and on receipt of payment of postage, copying or other necessary charges.

¹⁵ and on payment of postage or other necessary charges.

Part 3: Freedom of Information (FOI)

The Freedom of Information Act 2000 applies to the Authority, which therefore publishes information under a Publication Scheme. The Scheme specifies:

- the **classes of information** which the Authority publishes or intends to publish;
- **how** information in each class is, or is intended to be, published, and
- whether the material is, or is intended to be, available to the public **free of charge** or on **payment**.

The public also has a general right of access to information held by the Authority, but this is subject to exemptions¹⁶.

A FOI request must be submitted to and dealt with by the Head of Legal and Governance Services.

A FOI request must:

- be in writing¹⁷
- state the name of the applicant
- state an address for correspondence, and
- describe the information requested.

Part 4: Members' access

1. General

Any member of the Authority is entitled to inspect any document which:

- is in the possession of or under the control of the Authority, and
- contains material relating to any business to be transacted at a meeting of the WYCA.

unless it appears to the Head of Legal and Governance Services that it discloses exempt information falling within one of the following descriptions:

- a) Information relating to the financial or business affairs of any particular person including the Authority, (except 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

¹⁶ The Monitoring Officer or in their absence the Head of Paid Service is authorised by the Secretary of State to assume the role of "qualified person" for the purposes of S36 FOIA (letter dated 4 May 2016)

¹⁷ 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.

b) Information which reveals that the Authority proposes.

- to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- to make an order or direction under any enactment.

These rights are in addition to any other rights the member may have (such as those arising from a member's need to know at common law).

2. Additional rights of access to documents for members of any overview and scrutiny committee or sub-committee

Subject to the exceptions outlined below, a member of an overview and scrutiny committee or sub-committee is entitled to a copy of any document which is in the possession or under the control of the Authority and contains material relating to any business that has been transacted at a meeting of the Authority or at a decision-making committee of the Authority. The member must make any request for such a document in writing to the Head of Legal and Governance Services, who shall consider any such request on behalf of the Authority.

The document must be provided as soon as reasonably practicable and in any case no later than 10 clear days after the Head of Legal and Governance Services receives the request.

No member of an overview and scrutiny committee or sub-committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information, unless that information is relevant to:

- an action or decision that the member is reviewing or scrutinising or
- any review contained in any programme of work of the committee or sub-committee.

Where the Head of Legal and Governance Services determines that a member is not entitled to a copy of a document or part of any such document, she must provide the overview and scrutiny committee or sub-committee with a written statement setting out the reasons for that decision.

Part 5: List of Members

The Head of Legal and Governance Services will publish a list stating:

- the name and address of all current members of the Authority and the constituent or non-constituent council they represent, and
- the name and address of all current members of the other Committees and any sub-committees.

A member of the public may inspect the list.