

### LICENSING SUB-COMMITTEE RULES OF PROCEDURE

#### 1. General

- 1.1 These rules of procedure are subject to the Statement of Licensing Policy, the Gambling Policy Statement and the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) Regulations 2007 (the 'Regulations'). Where appropriate, the provisions of the Regulations have been incorporated into these rules.
- 1.2 The Licensing Authority is The Dartford Borough Council.
- 1.3 'party to the hearing' means those interested parties to whom notice of hearing is to be given in accordance with the Regulations.
- 1.4 'relevant representations' means representations that are relevant to the licensing objectives and Statements of Licensing or Gambling Policy.

#### 2. Composition of Sub-Committee

- 2.1 The Sub-Committee shall comprise three Councillors of the Licensing Authority's Licensing Committee of whom, one shall be appointed Chairman. The quorum shall be 3.
- 2.2 Sub-Committee members are bound by the Council's Standing Orders and the Member Code of Conduct and must not prejudge or show bias in any matter and must declare personal interests at the start of every Sub-Committee hearing.

#### 3. Interested party

An interested party is:

- (a) a person who lives sufficiently close to or in the vicinity of the premises;
- (b) a person who has business interests or who is involved in a business<sup>1</sup> in the vicinity of the premises;
- (c) a body (e.g. a residents' association and parish/town councils) representing people that live in the vicinity of the premises;
- (d) a body (e.g. a trade association) representing people involved in businesses in the vicinity of the premises;
- (e) a Councillor of the Licensing Authority for the area in which the premises is situated (refer to para. 5.5.5 of these rules of procedure).

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<sup>1</sup> 'A person involved in business' will be given its widest possible interpretation, including partnerships and need not be confined to those engaged in trade and commerce. This expression can embrace the functions of charities, churches and medical practices

Whether somebody lives or works 'in the vicinity' of a premises is a matter that shall be decided, in the first instance, by the Licensing Authority (and where there are disputes, by the courts). In deciding whether somebody lives or works 'in the vicinity' of the premises, the Licensing Authority may look at whether that party is likely to be affected by the grant of the licence application in respect of those premises and each case shall be considered on its own merits. In making an initial decision on the question of 'vicinity', the Licensing Authority shall consider whether the individual's residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside the premises. It is the impact of the issues relating to the four licensing objectives, that is a key consideration.

#### **4. Notice of hearing**

- 4.1 The Licensing Authority shall give a notice to the party to the hearing, stating the date and time and place at which the hearing is to be held (the 'notice of hearing') in accordance with the provisions of the Regulations.
- 4.2 The notice of hearing shall be accompanied by information regarding the following: -
- (a) the rights of the party to the hearing as provided for in paragraphs 5.1 and 9.5 to these rules of procedure;
  - (b) the consequences of not attending or not being represented at the hearing;
  - (c) the procedure to be followed at the hearing;
  - (d) any particular points on which the Licensing Authority considers that it will want clarified at the hearing.

#### **5. Right of attendance, assistance and representation**

- 5.1 Subject to paragraph 7.4 of these rules of procedure, a party to the hearing may attend the hearing to make representations and be assisted or represented by any person whether or not that person is legally qualified.
- 5.2 Upon receipt of the notice of hearing and within the period of time prescribed by the Regulations, each party to the hearing shall give to the Licensing Authority, a notice stating:-
- (a) whether he/she intends to attend or be represented at the hearing;
  - (b) whether he/she considers a hearing to be unnecessary.
- 5.3 In a case where a party to the hearing wishes any other person (other than his/her representative) to appear at the hearing, the notice referred to in paragraph 5.2 above, shall contain a request for permission for such other person to attend at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the Licensing Authority in relation to the application.
- 5.4 A party to the hearing who wishes to withdraw any relevant representations they have made may do so:
- (a) by giving notice to the licensing officer no later than 24 hours before the day on which the hearing is to be held; or
  - (b) orally at the hearing.

## 5.5 The role of local Councillors

5.5.1 Councillors have a duty to act in the interests of all their constituents. Their role as community advocate must therefore be balanced with their ability to represent specific interests. A Councillor who considers that their own interests are such that they are unable to consider a licensing matter independently, including complaints from their local constituents, should disqualify themselves from the process.

5.5.2 Councillors should adopt a particularly cautious approach to licensing and gambling matters where they are involved in making the relevant decisions and must always bear in mind wider issues of bias, prejudice and personal interests.

5.5.3 Councillors may:

- (a) make relevant representations in writing and at a Sub-committee hearing, on behalf of an interested party, such as a resident or local business, if they are specifically asked to do so;
- (b) make relevant representations in writing in their own right (i.e. in a private capacity) and at a Sub-committee hearing, if they live, or are involved in a business, in the vicinity of the premises in question;
- (c) make relevant representations in writing in their own right and at a Sub-committee hearing, as elected members of the Licensing Authority, if they have concerns\* about any premises, regardless of whether they live or run a business in the vicinity of those premises e.g. Councillors may apply for a review of a licence, if problems at specific premises which justify intervention, are brought to their attention.

\*concerns must be backed up by the relevant evidence trail (further advice may be obtained from the licensing officer on the evidence required)

5.5.4 Under the Gambling Act 2005, relevant representations may only be made by a Councillor, in relation to premises licences, not permits.

5.5.5 Where a Councillor makes relevant representations in accordance with paras.5.5.3 (b) and (c) above, they will be considered to have a prejudicial interest in the Licensing Authority's decision on a resulting review and in the Licensing Authority's representation to any appeal on this decision. The Councillor will also need to consider whether they have a prejudicial interest in any other matter affecting the licence of the premises in question, which would require them to withdraw from a meeting, when that matter is considered e.g. where a Councillor has made representations in their capacity as an elected member of the Licensing Authority.

5.5.6 A Councillor representing others in accordance with para. 5.5.3 (a) above, will need to consider whether they have a prejudicial interest in any matter affecting the licence of the premises in question, which would require them to withdraw from a meeting, when that matter is considered. Refer to paras.5.5.8 and 5.5.9 of these rules of procedure for further guidance.

5.5.7 A Councillor with a prejudicial interest in a matter must not seek to influence improperly a decision on the licence in any other way.

5.5.8 If a Councillor is representing an interested party in a professional capacity e.g. as a paid agent or advocate, the following Member Code of Conduct provisions must be considered:

- (a) the Councillor will have a personal registerable interest i.e. an interest which must be recorded in the Register of Members' Personal Interests. The Councillor must then consider whether a member of the public with knowledge of the relevant facts would reasonably regard the personal interest as so significant that it is likely to prejudice their judgement of the public interest. If the answer is yes, the interest is also prejudicial and the procedure detailed in paragraph 5.5.10 of these rules of procedure shall be applied, should the Councillor wish to make relevant representations to the Sub-Committee;
- (b) the Councillor might be seen as attempting to use their position as a Member, to use or attempt improperly to confer or secure an advantage or disadvantage;
- (c) the Councillor must not do anything which compromises, or is likely to compromise, the impartiality of those who work for or on behalf of the Council.

5.5.9 Councillors wishing to act on behalf of an interested party in a professional capacity, should remember that the efficacy of acting in a representative capacity, relies on them being present throughout the Sub-Committee hearing but that, in accordance with paragraph 5.5.10 of these rules of procedure, the efficacy of their representation is significantly reduced by the requirement on them, to leave the meeting room after having made their relevant representations etc.

5.5.10 [Participation by Councillor with a prejudicial interest - \(Member Code of Conduct paragraph 12\(2\)\)](#)

- (a) The Member Code of Conduct supports the Councillor's role as a community advocate and enables them, even with a prejudicial interest, to represent their community and to speak on issues important to them and the community **PROVIDED** that the public are also allowed to attend the meeting for the same purpose.
- (b) Subject to paragraphs 1.4 and 3 of these rules of procedure, the law allows for public participation in licensing and gambling Sub-Committee hearings.
- (c) As an interested party (refer to paras. 5.5.3(b) and (c) above), a Councillor with a prejudicial interest in any business to be discussed at a Sub-Committee hearing, may attend the hearing, but only for the purpose of making relevant representations, answering questions or giving evidence relating to the business and the following procedure applies:
  - (i) the Councillor must have lodged their relevant representations within the period published by the Licensing Authority for submission of representations and state in their relevant representations, that they have a prejudicial interest;
  - (ii) the Councillor will declare the prejudicial interest and the nature of the interest at the beginning of the hearing;
  - (iii) the Councillor's relevant representations etc will be heard by the Sub-Committee, before parties to the hearing are invited to make their relevant representations;
  - (iv) the Councillor may read from a prepared statement, but may not without the consent of the Chairman and parties to the hearing, distribute or display any

additional written or visual material, e.g. written statements, photos, videos etc;

- (v) Sub-Committee members may ask questions of the Councillor;
- (vi) having made relevant representations, answered questions or given evidence, the Councillor must immediately leave the meeting room before parties to the hearing make their relevant representations;
- (vii) if the Chairman decides that the Councillor has finished speaking, despite their intention to say more, the Councillor must comply with the Chairman's decision, stop speaking and leave the meeting room.

#### 5.5.11 Making relevant representations by other means

- (a) Paragraph 12(1)(c) of the Member Code of Conduct prevents Councillors with a prejudicial interest seeking 'improperly to influence a decision about that business', which in this context, means any attempt by a Councillor to use his/her position to further his/her own interests in a way that would not be open to ordinary members of the public.
- (b) The status of councillor means that a Councillor gives up certain rights that members of the public may exercise, such as being able to remain in the room and observe the submissions of interested parties and responsible authorities, and the announcement of the Sub-Committee's decision.
- (c) As interested parties in accordance with paras. 5.5.3(b) and (c) above, Councillors can still present their relevant representations to the Licensing Authority through ways other than attending Sub-Committee hearings. Other ways that do not involve the potential for improperly influencing the decision, include a Councillor with a prejudicial interest being able:
  - to make written relevant representations, providing they disclose the existence and nature of their interest and do not seek preferential consideration for their relevant representations. Such written representations in a private capacity, can be made to the licensing officer, but not to individual Councillors;
  - to use a professional representative to make an application on their behalf, thus avoiding any appearance of impropriety;
  - to arrange for another Councillor to present the relevant representations of interested parties in their ward. The Councillor should formally advise their constituents about their prejudicial interest and inform them that another Councillor will represent their relevant representations on the issue and this Councillor should make it clear to the Sub-Committee that he/she is acting in place of a Councillor who has a prejudicial interest in the matter.

#### 5.5.12 Any Councillor (not restricted to Licensing Committee members) with a prejudicial interest in an item under discussion:

- cannot be present in the public gallery to observe the submissions of the parties to the hearing and the Sub-Committee's decision;
- should not make written relevant representations to Licensing Committee members – written relevant representations should be submitted to the licensing officer;
- should avoid discussing their personal application with other Councillors, but the Councillor may approach other Councillors to represent their constituents' relevant representations;
- cannot ask a Councillor to represent them on a personal application,
- must not attempt to lobby Licensing Committee members about the matter, before or after a hearing, attempt to use their status as a Councillor to influence consideration

of a submission, or try to get officers to change a decision or recommendation.

- 5.5.13 Councillors may be kept informed of licensing matters within the Borough, such as applications and reviews. Provisions of such information by licensing officers must be done in such a way that could not be seen as 'soliciting' representations.

Where a licensing officer has information that raises concerns\* about licensed premises, e.g. underage alcohol sales, they may bring that information to the attention of the local ward Member and/or the Cabinet Portfolio Member who may, in accordance with para. 5.5.3(c) above, call for a licence review.

\*concerns must be backed up by the relevant evidence trail (further advice may be obtained from the licensing officer on the evidence required)

## **6. Right to dispense with a hearing if all parties agree**

Where all parties to the hearing agree that a Sub-Committee hearing is unnecessary and have given notice to the Licensing Authority, and if the Licensing Authority agree that a hearing is unnecessary, it may dispense with holding a hearing and shall forthwith give notice to the parties to the hearing, that the hearing has been dispensed with.

## **7. Hearing to be in public**

7.1 Subject to paragraphs 7.2 – 7.4 below, the hearing shall take place in public.

7.2 The Sub-Committee shall exclude the public and press from that part of the hearing where confidential information is likely to be revealed i.e. information that has been provided by a government department under the condition that it must not be revealed as well as information that cannot be revealed under any legislation or by a court order.

7.3 The Sub-Committee shall have the discretion to decide whether or not to exclude the public and press from that part of the hearing, where exempt information i.e. information contained in Annex 1 to these procedure rules is likely to be revealed.

7.4 When considering whether confidential or exempt information is likely to be revealed, the Sub-Committee shall consider whether any parties to the hearing should be excluded from that part of the hearing which is likely to disclose confidential and/or exempt information.

### **7.5 Disruptive behaviour**

The Sub-Committee may require any person who is acting or behaving in a disruptive manner, to leave the hearing and may –

- (a) refuse to permit that person to return; or
- (b) permit him/her to return only on such conditions as the Sub-Committee may specify;

but subject to the person being provided with the opportunity to submit to the Sub-Committee in writing, before the end of the hearing, any information which they would have been entitled to give orally, had they not been required to leave.

## **8. Report**

8.1 The Sub-Committee shall receive a report prepared by the licensing officer.

8.2 The licensing officer shall comply with the access to information rules in Standing Orders and submit a copy of the report to the parties to the hearing in advance of the hearing.

## 9. Procedure at hearing

*As a matter of practice, the Sub-Committee shall seek to focus the hearing on the steps needed to promote the particular licensing objective(s) which has given rise to the specific representation(s) and will avoid straying into undisputed areas*

9.1 The order of business shall be at the discretion of the Sub-Committee, but shall normally proceed in accordance with the following paragraphs.

9.2 The Chairman shall at the beginning of the hearing, introduce the Sub-Committee members, invite the parties to the hearing and any Councillor representative to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.

9.3 The Sub-Committee shall then proceed to consider any request made by a party to the hearing for permission for another person to appear at the hearing. Permission shall not be unreasonably withheld.

9.4 The Chairman may ask a representative of the Licensing Authority to introduce the report, and outline the matter before the Sub-Committee. Alternatively, the Chairman may proceed directly to paragraph 9.5 below.

9.5 All parties to the hearing shall be entitled to: -

- (a) give further information in support of their application, relevant representations or notice (as applicable) in response to a point upon which the Licensing Authority has given notice that it requires clarification;
- (b) question any other party\* if given permission by the Sub-Committee,
- (c) address the Sub-Committee.

*\*cross examination shall not be permitted unless the Sub-Committee considers that cross examination is required for it to consider the relevant representations, application or notice as the case may require*

9.6 The parties to the hearing shall normally be invited to address the Sub-Committee in the following order: -

- (a) Councillors with a prejudicial interest
- (b) Applicant
- (c) Responsible Authorities
- (d) Interested Parties

9.7 Members of the Sub-Committee may ask any question of any party to the hearing or other person appearing at the hearing.

9.8 Where there is more than one relevant representation raising the same or similar grounds, the Sub-Committee shall request that only one party address them on behalf of the parties who have made the representations in question.

9.9 In considering any relevant representations or notice made by a party to the hearing, the Sub-Committee may take into account documentary or other information produced by the party in support of their application, relevant representations or notice (as applicable) either in advance of the hearing date or, at the hearing, with the consent of all the other parties and the Chairman.

*As a matter of good practice, documentation produced in advance of the hearing date shall be produced no later than two days before the hearing. Failure to comply with this rule may result in the documentation being deemed to have been produced at the hearing requiring the consent of all the other parties or the Chairman.*

9.10 The Sub-Committee shall disregard any information given or evidence produced by a party or any person to whom permission is given to appear at the hearing, which is not relevant to:

- (a) their application, relevant representations or notice (as applicable) or in the case of another person, the application, relevant representations or notice of the party requesting their appearance, and
- (b) the promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

*At the hearing, a responsible authority or interested party may choose to rely on their written representation that gave rise to the hearing, but they may not add further relevant representations to those disclosed to the applicant prior to the hearing. They may however, amplify their existing relevant representations.*

9.11 Hearsay evidence may be admitted before the Sub-Committee, but consideration shall always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.

9.12 Other than Councillor participants with a prejudicial interest, the parties to the hearing shall be entitled to make closing submissions. The closing submissions of the applicant shall follow the closing submissions of any interested party or responsible authority.

9.13 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 9.5 and 9.12 above. This may be by setting realistic time limits for constituent elements of the hearing and for the hearing overall. All parties to the hearing shall be allowed an equal maximum period of time overall for the presentation of their case and with the exception of Councillor participants with a prejudicial interest, parties to the hearing shall be allowed an equal maximum period of time for the testing of their opponent's case.

9.14 The Sub-Committee may, after hearing the relevant representations of the parties to the hearing, withdraw from the room to make their deliberations. Alternatively, the Sub-Committee may ask all parties to the hearing and the public and press, to leave the meeting room.

9.15 The Committee Co-ordinator shall accompany the Sub-Committee when they retire to make their deliberations.

## **10. Role of Legal Adviser**

10.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the legal adviser at any time during the course of the hearing.

10.2 The legal adviser shall provide the Sub-Committee with any advice it requires properly to perform its functions whether or not the Sub-Committee requested that advice, on:

- (a) questions of law;
- (b) questions of mixed fact and law;
- (c) matters of practice and procedure;
- (d) the range of options available to the Sub-Committee;
- (e) any relevant decisions of higher courts;
- (f) relevant national guidance or policy;
- (g) other issues relevant to the matter before the Sub-Committee;
- (h) the appropriate decision-making structure to be applied in any given case.

10.3 The legal adviser shall assist the Sub-Committee where appropriate as to the formulation of reasons and the recording of those reasons.

10.4 The legal adviser shall play no part in making findings of fact, but may assist the Sub-Committee by reminding it of the evidence taken from his/her own or the Committee Co-ordinator's notes.

10.5 The legal adviser may ask questions of witnesses and the parties in order to clarify the evidence and any issues in the case. The legal adviser is under a duty to ensure that every case is conducted fairly.

10.6 When advising the Sub-Committee, the legal adviser should:

- (a) ensure that he/she is aware of the relevant facts;
- (b) invites relevant representations from the parties on the advice;
- (c) provides the parties with the information necessary to enable them to make such representation.

10.7 The legal adviser may join the Sub-Committee during the course of their deliberations either when asked to do so or if he/she realises there is a point of law on which they may need assistance but on which he/she omitted to advise them in open session.

10.8 Any advice given by the legal adviser to the Sub-Committee shall be provisional until the substance of that advice has been repeated in open session and the parties to the hearing have had an opportunity to comment on it. The legal adviser shall then state in open session, whether the advice is confirmed or varied (and if it is varied, in what way) before the Sub-Committee act upon it.

## **11. Role of Committee Co-ordinator**

11.1 The Committee Co-ordinator's role shall be to make a record of the proceedings, summarise and record decisions and to provide help and assistance to members of the public attending hearings.

11.2 The Committee Co-ordinator shall remain with the Sub-Committee when it retires to make its deliberations.

## **12. Determination of applications**

12.1 The Sub-Committee shall give appropriate weight to:

- (a) the relevant representations (including supporting information) presented by all the parties;

- (b) national guidance;
- (c) the Licensing Authority's licensing/gambling policy;
- (d) the steps that are necessary to promote the licensing objectives.

12.2 The Sub-Committee shall make its determination:

- (a) at the conclusion of the hearing for conversion/simultaneous applications for variation/temporary event notices/review of premises licence/applications to vary designated premises supervisor; or
- (b) within 5 days thereafter (all other cases)

12.3 The determination shall be issued by the Strategic Director under delegated authority. The licensing officer shall append the licence and a summary to the determination.

### **13. Failure of parties to attend the hearing**

13.1 If a party to the hearing has informed the Licensing Authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.

13.2 If a party to the hearing fails to provide notification in accordance with paragraph 13.1 above, and fails to attend or be represented at a hearing, the Sub-Committee may:

- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
- (b) hold the hearing in the party's absence and shall consider at the hearing, the application, relevant representations or notice made or submitted by that party.

### **14. Adjournments**

14.1 Subject to the provisions of the Regulations, the Sub-Committee may, where necessary for its consideration of any relevant representations or notice made by a party to the hearing, adjourn the hearing to a specified date.

14.2 Where the Sub-Committee adjourns the hearing to a specified date, it shall forthwith notify the parties to the hearing of the date, time and place.

### **15. Record of proceedings**

A record/minute of the hearing shall be kept for 6 years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal.

### **16. Waiver of rules**

16.1 Except where prescribed by the Regulations, the Sub-Committee may in any particular case, dispense with or modify these rules of procedure.

16.2 The Licensing Authority may extend the time limit provided for in the Regulations for a specified period, where it considers this to be necessary in the public interest.

16.3 Where the Licensing Authority has extended the time limit, it shall forthwith give a notice to the parties to the hearing, stating the period of time of the extension and the reasons for it.

## 17. Qualified Privilege

Statements made in Sub-Committee meetings are subject to the general principles of the law of defamation. However, the Sub-Committee's proceedings are regarded in law as a 'privileged occasion' to which the doctrine of qualified privilege attaches to statements made in its proceedings (quasi-judicial in nature), providing the following criteria are met:

- a. any opinions expressed are honestly held;
- b. opinions/statements are based on the facts of the matter;
- c. opinions/ statements are on a matter of public interest;
- d. a clear distinction is made between what is fact and what is opinion;
- e. no malice.

## 18. Licensing Committee Hearings

These rules of procedure shall apply to hearings before the Licensing Committee except to the extent that the Member composition of the Committee shall comprise no less than 10 members.

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### NOTE:

#### Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions: -

- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his/her possessions
- Article 6 - in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his/her home and private and family life

## **RIGHT OF APPEAL**

### **THE APPLICANT**

The applicant has a right of appeal to the Magistrates' Court within 21 days [beginning with the day on which the applicant was notified of the decision of the Licensing Authority] against a decision.

### **PERSON MAKING RELEVANT REPRESENTATIONS AND CHIEF OFFICER OF POLICE**

A person who made relevant representations and the Chief Officer of Police has a right of appeal to the Magistrates' Court within 21 days [beginning with the day on which the person was notified of the decision of the Licensing Authority] against a decision.

Adopted by the Licensing Committee on 29 March 2010 [Min.No.17]

**ANNEX 1  
LOCAL GOVERNMENT ACT 1972  
SCHEDULE 12A: PARTS 1-3  
STANDING ORDER 46  
ACCESS TO INFORMATION: CATEGORIES OF EXEMPT INFORMATION**

Category	Qualification
<p>1. Information relating to an individual</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> <li>(a) where disclosure is prohibited by statute; or</li> <li>(b) where disclosure might involve providing personal information about individuals; or</li> <li>(c) where disclosure might breach a duty of confidentiality; and</li> <li>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>
<p>2. Information which is likely to reveal the identity of an individual</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> <li>(a) where disclosure is prohibited by statute; or</li> <li>(b) where disclosure might involve providing personal information about individuals; or</li> <li>(c) where disclosure might breach a duty of confidentiality; and</li> <li>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)</p> <p>'financial or business affairs' includes contemplated, as well as past or current, activities</p> <p>This category will include commercial and contractual interests</p>	<p>Information is not exempt information if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc</p> <p>Information is only exempt if and for so long as:</p> <ul style="list-style-type: none"> <li>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other persons; or</li> <li>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or</li> <li>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and</li> <li>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>
<p>4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a minister of the crown and employees of, or office-holders under, the authority</p> <p>'Labour relations matters' are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974 i.e. matters which may be the subject of a trade dispute</p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <ul style="list-style-type: none"> <li>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</li> <li>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>

Category	Qualification
<p>'employee' means a person employed under a contract of service</p> <p>'office-holder' means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>	
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information is only exempt:</p> <p>(a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Information is exempt only if and so long as:</p> <p>(a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and</p> <p>(b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice-</p> <p>(a) criminal investigations and proceedings; or</p> <p>(b) the apprehension or prosecution of offenders; or</p> <p>(c) the administration of justice; or</p> <p>(d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or</p> <p>(e) regulatory enforcement; or</p> <p>(f) any civil proceedings; or</p> <p>(g) Health and safety; or</p> <p>(h) information obtained from confidential sources; and</p> <p>(i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>