

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-11-013

Meeting:
DEVELOPMENT CONTROL COMMITTEE

Date: 28 September 2011

Author:
Maggie Horrill

Report : PROPOSED CLAIM FOR JUDICIAL REVIEW

Appendix : Pre-Action Protocol letter dated

Indicate which of the following categories the report / appendix falls in to.

1. The report and appendix constitute confidential information, and the meeting must therefore resolve to exclude the public.

Confidential information is defined as:

- I. Information furnished to the council by a Government department upon terms which forbid the disclosure of the information to the public;
- II. Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

2. The report and appendix constitutes exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

2. Information relating to any individual
3. Information which is likely to reveal the identity of an individual
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the meeting resolve to exclude the public. The paragraphs below sets out the relevant public interest issues in this case.

Factors for withholding:

- Personal information relating to an individual
- Information which is likely to reveal the identity of an individual proposing to take action against the Council
- Legal advice as to the merits of the potential claim against the Council and the course of action open to the Council. It is important that public authorities are allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion. Without such confidence there are risks of lack of openness between client and lawyer and threats to the administration of justice. This thereby enables a public body to have confidence in that legal issues are being discussed fully. There is an important public interest in such confidence.
- Information as to potential action that could be taken by the Council.

Factors for disclosure:

- Further public understanding of the issues concerned.
- Promote transparency by the Council for the decisions it takes

Reasons why the public interest favours non-disclosure:

- Personal information would be released, which would be a breach of the first principle of the Data protection Act 1998.
- Until the Council decides how it wishes to proceed, it is not considered in the public interest to disclose the identity of the individual concerned.
- It is important for public authorities to be able to obtain unfettered legal advice in respect of proposed legal proceedings against its decisions and to be able to ask questions of Officers to enable the Elected Members, tasked with representing the local community, to reach a decision after having taken such advice into account.
- It is important for public authorities to have some measure of 'private thinking space' and that they are able to share important information with Elected Members tasked with representing the local community.