

27 Access to Information Procedure Rules

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1. SCOPE

- 1.1** These rules apply to all meetings of Council, Overview and Scrutiny Committee, Scrutiny Sub-Committees and Panels, the Standards Advisory Committee, regulatory and other Committees, Sub-Committees and public meetings of the Executive (together called “meetings”).

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1** These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

- 3.1** Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICE OF MEETING

- 4.1** The Council will give at least five clear working days’ notice not including the day that notice is given or the day of any meeting by posting details of the meeting at Tower Hamlets Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG (the designated office).
- 4.2** If the meeting is convened at shorter notice than five clear working days, notice is to be given by the Council in the same manner set out above at the time the meeting is convened.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1** The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting except;
- 5.2** Where the meeting is convened at shorter notice, copies of the agenda and report shall be open to inspection from the time the meeting is convened, and
- 5.3** Where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (and of the revised agenda) and copies of any report for the meeting relating to that item, shall be open to inspection from the time the item is added to the agenda.

6. ITEMS OF BUSINESS

- 6.1** An item of business may not be considered at a meeting unless either:
 - (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by a member of the public for at least five clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
 - (b) by reason of special circumstances, which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 6.2** “Five clear working days” excludes the day of the meeting, the day on which the meeting is called, weekends and bank holidays.
- 6.3** “Special circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item or report could not have been available for inspection for five clear days before the meeting.
- 6.4** Where the item of business relates to a key decision Rules 14-19 also apply.

7. SUPPLY OF COPIES

- 7.1** 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 Corporate Director, Governance thinks fit, any other documents supplied to Councillors in connection with an item,

to any person who makes a request to view copies of these documents on payment of a charge for postage and any other costs.

8. ACCESS TO MINUTES ETC. AFTER THE MEETING

8.1 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken together with reasons, for all meetings 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.

9. BACKGROUND PAPERS

9.1 List of Background Papers. The Corporate Director, Governance will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in her/his opinion:

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11) or in respect of reports to the Executive, the advice of a political adviser or assistant.

9.2 Publication and Public Inspection of Background Papers. The Council will publish background papers on the Council's website and 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.

10. SUMMARY OF PUBLIC'S RIGHTS

10.1 A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the designated office.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

- 11.1 Confidential Information – Requirement to Exclude Public.** The public *must* be excluded from meetings or those part or parts of 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 (as defined in Rule 11.4 below) would be disclosed in breach of the obligation of confidence.
- 11.2 Exempt Information – Discretion to Exclude Public.** The public *may* be excluded from meetings or those part or parts of 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 (as defined in Rule 11.5 below) would be disclosed and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 11.3** 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.
- 11.4 Meaning of Confidential Information.** *Confidential information* means information given to the Council by a Government Department on terms which forbid its public disclosure or information which the disclosure of which to the public is prohibited by or under any enactment or by the order of a court. This includes information excluded under the Freedom of Information Act 2000 or the Data Protection Act 2018.
- 11.5 Meaning of Exempt Information.** *Exempt information* is those for the time being specified in Part I of Schedule 12A to the Local Government Act 1972, namely:
1. Information relating to any individual
 2. Information which is likely to reveal the identity of an individual
 3. Information relating to the financial or business affairs of any particular person (including the authority handling the information) [**Information is not exempt under this category if it is required to be registered under the Companies Acts 1985 and 2006, the Friendly Societies Act 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Co-operative and Community Benefit Societies Act 2014 or the Charities Acts 1993 and 2011.**]
 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.
 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 6. Information which reveals that the authority proposes:-
 - 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.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

11.6 Information falling within any of the categories 1-7 of Rule 11.5 above are not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11.7 Excluding the public to prevent disorder. Under Reg 4(2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, members of the public can be excluded from a meeting in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

12.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/ her opinion relate to items during which, in accordance with Rule 11, the meeting or those part or parts of the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed (see Rule 11.5 above for the categories).

13. APPLICATION OF RULES TO EXECUTIVE

13.1 Rules 14-25 apply to the Executive and its Committees (and which term includes Sub-Committees and other decision making meetings). If the Executive or one of its Committees meets to take a key decision or meets in public then it must also comply with Rules 1-11 unless Rule 18 (urgency - general exception) or Rule 19 (urgency - special urgency) apply. A key decision is defined in Part A Section 3 of this Constitution.

13.2 If the Executive or one of its Committees meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within twenty-eight days of the date by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 18 (urgency - general exception) or Rule 19 (urgency - special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief Members.

14. PROCEDURE BEFORE TAKING KEY DECISIONS

14.1 Subject to Rule 18 (urgency - general exception) and Rule 19 (urgency - special urgency), a key decision shall not be taken unless:

(a) a notice has been published in connection with the matter in question at both the offices of the Council and on the Council's website;

- (b) at least twenty-eight days have elapsed since the notice has been published; and
- (c) where the decision is to be taken at a meeting of the Executive or a Committee of the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meeting).

15. NOTICE OF KEY DECISIONS

- 15.1** A notice shall be published under Rule 14 in respect of any matter which the Mayor has reason to believe will be the subject of a key decision to be taken by the Mayor, the Executive, a Committee of the Executive, an individual member of the Executive, an officer or under joint arrangements in the course of the discharge of an executive function.
- 15.2** In addition, a notice shall be published under Rule 14 in respect of those items of business which the Executive intends to consider and which form part of the policy framework and where the Executive will be making recommendations to Council.

16. CONTENT OF KEY DECISION NOTICES

- 16.1** Each notice published under Rule 14 shall contain the below details as far as reasonably practicable:
 - (a) that a key decision is to be made on behalf of the Council;
 - (b) the matter in respect of which the decision is to be made;
 - (c) where the decision maker is an individual, her/his name and title, if any; and, where the decision maker is a decision making body, its name and a list of its members;
 - (d) the date on which or the period within which the decision is to be made;
 - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the decision is to be made;
 - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
 - (g) that other documents relevant to those matters may be submitted to the decision maker; and
 - (h) the procedure for requesting details of those documents (if any) as they become available.
- 16.2** Where, in relation to any matter-
 - (a) the public may be excluded under Rule 21.2 below from the meeting at which the matter is to be discussed; or
 - (b) documents relating to the decision need not, because of Rule 17, be disclosed to the public,

then the document referred to in 16.1 must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

17. KEY DECISION NOTICES – EXEMPT AND CONFIDENTIAL INFORMATION

17.1 Nothing in these Rules (or the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the 2012 Regulations”)) is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

17.2 Nothing in these Rules or the 2012 Regulations-

(a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

(b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

18. URGENCY - GENERAL EXCEPTION

18.1 If a matter which is likely to be a key decision is to be considered and the matter has not been published in advance in accordance with Rule 14 then, subject to Rule 19 (urgency - special urgency), the decision may still be taken if:

(a) the decision must be taken by such a date that it is impracticable to defer the decision until public notice of at least twenty-eight days has been given;

(b) the Corporate Director, Governance has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of the Overview and Scrutiny Committee by notice in writing of the matter about which the decision is to be made;

(c) the Corporate Director, Governance has made copies of that notice available to the public at the offices of the Council for inspection; and

(d) at least five clear days have elapsed following the day on which the Corporate Director, Governance complied with 18.1(b) and 18.1(c).

Where such a decision is taken collectively, it must be taken in public unless it involves consideration of confidential or exempt information.

19. URGENCY - SPECIAL URGENCY

19.1 If by virtue of the date on which a decision must be taken Rule 18 (urgency - general exception) cannot be followed, then a decision can only be taken if the decision taker (or the Chair of the body making the decision) has obtained from:

- (a) the Chair of the Overview and Scrutiny Committee ; or
- (b) if there is no such person, or if the Chair is unable to act, the Speaker; or
- (c) where there is no Chair of the Overview and Scrutiny Committee or Speaker, the Deputy Speaker;

and the agreement that the taking of the decision cannot reasonably be deferred.

19.2 The Mayor will submit an annual report to Council on the executive decisions taken under this Rule in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which each decision was made.

20. RIGHTS OF OVERVIEW AND SCRUTINY

20.1 When the Overview and Scrutiny Committee can Require a Report

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) published in advance in accordance with Rule 14, or
- (b) the subject of the urgency - general exception procedure (see Rule 18), or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Committee, or the Speaker under Rule 19;

the Committee may require the Executive to submit a report to Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested in writing by:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) three (3) Members of the Overview and Scrutiny Committee.

Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

20.2 The Executive's Report to Council

- (a) The Executive will prepare a report setting out the date of the decision, particulars of the decision, the individual or body making the decision, and if the Mayor is of the opinion that it was not a key decision, the reasons for that opinion. There should also be details of any alternative decisions that were considered and why they were rejected, and the names of any member who has declared a conflict of interest in relation to the decision (if any).
- (b) The report will be submitted to the next ordinary meeting of Council. However, if the next meeting of Council is within ten days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the Council meeting after that.

21. MEETINGS OF THE EXECUTIVE AND ITS COMMITTEES TO BE HELD IN PUBLIC

- 21.1** Any meeting of the Executive or a Committee of the Executive shall be open to the public except to the extent that the public are excluded under Rule 21.2
- 21.2** The public must be excluded from a meeting during an item of business whenever—
 - (a) it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;
 - (b) the decision-making body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them; or
 - (c) a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.
- 21.3** A resolution under Rule 21.2 (b) must—
 - (a) identify the proceedings, or the part of the proceedings to which it applies; and
 - (b) state, by reference to the descriptions in Rule 11.5 the description of exempt information giving rise to the exclusion of the public.

- 21.4** The public may only be excluded under sub-paragraph (a) or (b) of Rule 21.2 for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.
- 21.5** Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the Executive and its Committees do not have the power to exclude members of the public from a meeting while it is open to the public.
- 21.6** While a meeting of the Executive or one of its Committees is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.
- 21.7** The Council must ensure that members of the public are aware that a meeting is to be broadcast where the council or a person attending the meeting for the purpose of reporting proceedings intends to use facilities to record or broadcast the proceedings.

Procedures prior to private meetings

- 21.8** Any decision made by the Executive or one of its Committees to hold a meeting in private is a prescribed decision for the purpose of section 9GA(5) of the Local Government Act 2000 (regulations requiring prescribed information about prescribed decisions).
- 21.9** At least twenty-eight clear days before a private meeting of the Executive of one of its committees, the Executive must—
- (a) make available at the offices of the Council a notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the Council's website.
- 21.10** A notice under Rule 21.9 must include a statement of the reasons for the meeting to be held in private.
- 21.11** At least five clear days before a private meeting of the Executive or one of its committees, the Executive must—
- (a) make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the Council's website.
- 21.12** A notice under Rule 21.11 must include—
- (a) a statement of the reasons for the meeting to be held in private;

- (b) details of any representations received by the Executive about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

21.13 Where the date by which a meeting must be held makes compliance with Rules 21.9 to 21.12 impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from—

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Speaker; or
- (c) where there is no Chair of the Overview and Scrutiny committee or Speaker, the Deputy Speaker,

that the meeting is urgent and cannot reasonably be deferred.

21.14 As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 21.13 to hold a private meeting, it must—

- (a) make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

21.14 The Executive or one of its Committees may meet in private if it meets with officers for the purposes only of briefing.

21.15 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place. A meeting of the Executive may not meet to take any decisions unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or their nominee are present or have waived their entitlement to attend. The meeting may only take a decision if there is an officer present with responsibility for recording and publishing the decision.

22. RECORD OF DECISIONS

22.1 Executive Decisions made at Meetings. As soon as is reasonably practicable after a meeting of a decision-making body at which an executive decision has been made, whether held in public or private, the Corporate Director, Governance or nominated officer shall ensure that a written statement is produced in respect of every executive decision made at that meeting including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the meeting by the decision making body at which the decision was made;
- (d) a record of any conflict of interest relating to the matter which is declared by any Member of the decisions making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken unless the Corporate Director, Governance or their nominee is present.

22.2 Executive Decisions made by Individual Members of the Executive

- 22.3** All decisions taken individually by Members of the Executive must be based on written reports setting out key legal, financial, service and corporate implications and may not be taken unless the Corporate Director, Governance (or an officer nominated by them) has agreed the report.
- 22.4** When an officer prepares a report which is to be given to an individual Member for decision, they must first give a copy of that report to the Corporate Director, Governance (or an officer nominated by them).
- 22.5** The Corporate Director, Governance will publish the report to the Overview and Scrutiny Committee, the Chief Executive, Chief Finance Officer and Monitoring Officer. The report will be made publicly available as soon as reasonably practicable.
- 22.6** Individual decisions by Members of the Executive can only be taken in the presence of an officer.
- 22.7** Subject to Rules 18 and 19, the individual decision maker may not make any key decision until notice of the decision has been available for public inspection for at least twenty-eight days before the decision is made.
- 22.8** As soon as is reasonably practicable after an individual Member has made an executive decision they shall produce, or cause to be produced, a written statement including:
- (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected at the time by the Member when making the decision;

- (d) a record of any conflict of interest declared by any Executive Member who was consulted by the Member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

22.9 A copy of the written statement setting out the decision must be sent to the Corporate Director, Governance. All decisions of the Executive must be published on the Council's website and will be subject to call in as set out in Part B Section 30 of this Constitution.

22.10 Nothing in these rules relating to the taking of decision by individual Members shall require them to disclose confidential or exempt information or the advice of a political adviser or assistant.

23 DECISIONS MADE BY OFFICERS

Key Decisions

23.1 Where officers are taking delegated key decisions, they must follow the procedure set out above for decisions taken by Individual Members of the Executive. This includes ensuring the decision is taken on the basis of a written report setting out key legal, financial and corporate implications.

23.2 Any officer decisions taken in accordance with Rule 23.1 will be subject to call-in as set out in Section 30 of this Constitution.

Other Executive Decisions (Non-Key Decisions)

23.3 As soon as is reasonably practicable after an officer has made a non-key decision delegated to the officer by a specific decision of the Executive, or another decision which incurs expenditure or savings over the threshold specified in Section 3 (currently £250k) the officer must produce a written statement including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the time by the officer when making the decision;
- (d) a record of any conflict of interest declared by any Executive Member who was consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

23.4 Non-key decisions taken by officers are not subject to call in.

23.5 Nothing in these rules relating to the taking of a decision by individual officers shall require them to disclose confidential or exempt information or the advice of a political adviser or assistant.

23.6 Rule 23 must be read in conjunction with the Recording of Officers' Decisions Procedure Rules at Section 3 of this Constitution.

24. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS - AFTER A DECISION HAS BEEN MADE

24.1 Subject to Rule 24.2 below, any member of the Overview and Scrutiny Committee or of a Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Executive or any of its Committees, and contains material relating to:

- (a) any business which has been transacted at a public or private meeting of the Executive or its Committees; or
- (b) any decision taken by an individual Member of the Executive;
- (c) any key decision that has been taken by an officer in accordance with executive arrangements.

24.2 Limits on Rights. Overview and Scrutiny Committee Members and Scrutiny Panel Members shall 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;
 - (i) it is relevant to an action or decision that they are reviewing or scrutinising or intends to review or scrutinise; or
 - (ii) which is relevant to any review contained in any programme of work of an Overview and Scrutiny Committee or Scrutiny Panel;
- (c) any document or part of a document that contains the advice of a political assistant.

25. ADDITIONAL RIGHTS OF ACCESS FOR ALL MEMBERS

25.1 Material Relating to Council and Committee Meetings. All Members are entitled to inspect any document which is in the possession or under the control of the Council and contain material relating to any business to be transacted at a meeting of Council or its Committees or Sub Committees unless 25.1.1 below applies:

- (a) it contains exempt information falling within categories 1, 2, 3 (insofar as the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract), 4, 5 or 7 as set out at Rule 11.5 above.

25.2 Material Relating to Executive Meetings. All Members are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business to be transacted at a public meeting unless either 25.2.1 or 25.2.2 below applies:

- (a) It contains exempt information falling within categories 1, 2, 3, (insofar as the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) 4, 5 or 7 as set out in rule 11.5 above.
- (b) It contains the advice of a political assistant.

25.3 After the conclusion of a private meeting of the Executive at which an Executive decision has been made, all Members are entitled to inspect any document which is in the possession or under the control of the Executive and contain material relating to business transacted at the meeting in the terms set out at 25.2 above.

25.4 Material Relating to Key Decisions. All Members are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any key decision in the terms set out at 25.2 above.

25.5 Nature of Rights. These rights are additional to any rights of access to information a Member may have