



## **Grange-over-Sands Town Council**

### **Meeting Protocol – Exclusion of press and public May 2020**

#### **Meetings Part 2 - Introduction**

The public can be excluded by a resolution if publicity would prejudice the public interest by reason of the confidential nature of the business.

The power to exclude is only for a particular reason.

It is essential to treat the discussion of the following types of business as confidential:

1. Engagement, terms of service, conduct, dismissal and appraisal of employees
2. Terms of tenders and proposals for contracts

#### **Exclusion of access by the public to meetings**

##### **(a) Confidential Information - Requirement to Exclude Public**

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.

##### **(b) 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 cannot be publicly disclosed by Court Order.

##### **(c) Exempt Information - Discretion to Exclude Public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

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 of the Human Rights Act 1998.

#### **(d) Meaning of Exempt Information**

Exempt information means information falling within the following 15 categories (subject to any conditions):

1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular officeholder, former officeholder or applicant to become an officeholder under, the authority. 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 individual in the roles indicated.
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular officeholder, former officeholder or applicant to become an officeholder under, a Magistrates' Court Committee or Probation Committee. 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 individual in the roles indicated.
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority. 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 individual in the roles indicated.
4. Information relating to any particular applicant for, or recipient or former recipient, of any service provided by the authority. 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 individual in the roles indicated.
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority. 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 individual in the roles indicated.
6. Information relating to the adoption, care, fostering or education of any particular child. Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of Section 31 Children's Act 1989.
7. Information relating to the financial or business affairs of any particular person (other than the authority). Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services. Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons.
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services. Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it).

10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.

11. 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 officeholders under the authority. Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter.

“Labour relations matters” are as specified in paragraph (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.

12. Any instructions to Council and any opinion of Counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:

- (i) Any legal proceedings by or against the authority; or
- (ii) The determination of any matter affecting the authority.

Whether, in either case, proceedings have been commenced or are in contemplation.

13. Information which, if disclosed to the public, would reveal that the authority proposes: -

- (i) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (ii) To make an order or direction under any enactment. Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purposes for which the notice, order or direction is to be given or made.

14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

15. The identity of a protected informant. A “protected informant” means a person giving the authority information which tends to show that:

- (i) A criminal offence.
- (ii) A breach of statutory duty.
- (iii) A breach of planning control; or
- (iv) A nuisance has been, or is being, or is about to be committed.

Information falling within any of paragraphs 1-15 is 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.

**(e) Exclusion of access by the public to reports**

If the Town Clerk thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 9, 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.

**PHOTOGRAPHS**

**DATA PROTECTION ACT**

Only photographs taken for purely personal use are exempt from the Data Protection Act

**HUMAN RIGHTS ACT**

A right to privacy exists in the UK, as a consequence of the European Convention on Human Rights into domestic law through the Human Rights Act 1998(8) resulting in the restrictions on the publication of photography.

As a public body we are required to act compatibly with the convention rights of the Human Rights Act.

If the council publish information that should be considered private, action can then be brought against us.

"Private" takes into account the following circumstances: "the absence of consent"

Freedom of Expression HRA (10) – Tension exists between the right to privacy and the right to express but the individuals right to privacy is paramount.