

SILCHESTER PARISH COUNCIL

MEETINGS PROCEDURE – CONFIDENTIAL (EXEMPT) BUSINESS

A meeting of a council must be open to the public and press. They can be excluded from a meeting only by a resolution (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a resolution is passed, this Act shall not require the meeting to be open to the public during proceedings to which the resolution applies.

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

- (a) engagement, terms of service, conduct and dismissal of employees
- (b) terms of tenders, and proposals and counter-proposals in negotiations for contracts
- (c) preparation of cases in legal proceedings
- (d) the early stages of any dispute

These rules apply equally to committees of the council.

Sources of reference:-

[Public Bodies (Admission to Meetings) Act 1960]

[Local Government Act 1972, ss 100 and 102]

[Para 7.6 Local Council Administration (Eighth Edition) by Charles Arnold Baker]

The Agenda

When confidential (exempt) business is to be discussed there should be an item on the agenda giving details; before that item can be discussed the chairman must close the meeting to the public.

Example wording for agenda item:

To pass a resolution in accordance with the Public Bodies (Admission to Meetings) Act 1960 to exclude the public and press for discussion re* where publicity might be prejudicial to the special nature of the business.

** include outline details of the subject to be discussed so that the council is transparent about the business to be transacted*

Supplementary (restricted) papers can be provided to the members so that they have sufficient information prior to the meeting.

The Minutes

The resolution regarding the confidential (exempt) business should be properly recorded in the Minutes, eg:

It was resolved that in accordance with the Public Bodies (Admission to Meetings) Act 1960 to exclude the public and press for discussions regarding* where publicity might be prejudicial to the special nature of the business.

**(same as the agenda) include outline details of the subject matter discussed so that the council is transparent about the business that has been transacted*

When Minutes are produced they should include as much relevant detail as possible, without compromising the confidentiality eg *From the bids received (quote the number), it was resolved that the parish council would instruct (give name of builders) to carry out the work associated with the (give brief details of the job). It was agreed that the clerk would contact the council's solicitors to find out the cost of drawing up a contract with Remember, although the Public and Press are excluded from hearing the discussion the clerk is still legally required to record any decisions that the council makes.*

Application for Quality Parish Status – Confidential Matters

A Council applying for Quality Status needs to provide the same papers that they would make available to a member of the public.

When does information cease to be exempt?

Information ceases to be exempt when it can no longer be considered confidential and it is then moved onto the general agenda. It does not need a formal resolution to move it on to the general agenda, but there is normally some indication that it is to be moved into non exempt business.

When the meeting is moving from exempt to non exempt business (or vice versa) a resolution should be passed and it is considered advisable that there should also be a short break between the two; in other words there should not be a continuation of discussion carried on under exempt business in the general part of the meeting (or vice versa).

Papers in exempt business are not automatically free from disclosure under the Freedom of Information Act, unless they remain commercially sensitive or come under one of the exemptions**. Once it ceases to be sensitive a request can be made for information which relates to the period when it was discussed under exempt business. Each case has to be looked at on its own facts.

Housing is an example of commercially sensitive business and one of the questions that can be difficult and a fine judgement as to when it is to be made public. Generally, it is considered that when the project has reached a stage where no definite decision has been made but there is a general intention as to the location of the site and the type of development (eg flats, houses, bungalows and general numbers). It is at that

stage that the public feel that they have an input, and are not confronted with plans cast in stone.

** The Freedom of Information Act contains exemptions to the right of access in order to protect legitimate interests and sensitivities. Some of these exemptions are absolute. Others are subject to a public interest test and are known as 'qualified'. Exemptions are often referred to by the section of The Freedom of Information Act which contains them.