

Appendix 6

HYNDBURN BOROUGH COUNCIL

Excluding the public from Standards Sub-Committee hearings

Hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

1. If the Hearing Sub-Committee considers that 'confidential information' is likely to be revealed during the hearing, the Committee must exclude the public by law. For this purpose 'Confidential information' means information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
2. The Hearing Sub-Committee may also exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of exempt information include the following:-
 - Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority
 - Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority
 - Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority
 - Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority
 - Information relating to the financial or business affairs of any particular person (other than the authority)
 - 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
 - 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
 - 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
 - Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority and employees of the authority

- Any instructions to counsel 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:
 - (a) any legal proceedings by or against the authority; or
 - (b) the determination of any matter, affecting the authority.
 (whether in either case, proceedings have been commenced or are in contemplation)
- Information which, if disclosed to the public, would reveal 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
- Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
- The identity of a protected informant
- Information relating to the personal circumstances of any person
- Information which is subject to any obligation of confidentiality
- Information which relates in any way to matters concerning national security

3. When considering whether to exclude the press and public on the basis of “exempt information” the Committee / Sub-Committee has a duty to act fairly and in line with the rules of natural justice. In accordance with Section 1 and Schedule 1 Human Rights Act 1998 the Committee / Sub-Committee must also comply with article 6 of the European Convention on Human Rights, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. Article 6 says that the public may be excluded from all or part of the hearing if it is in the interests of:

- (a) morals;
- (b) public order;
- (c) justice;
- (d) national security in a democratic society; or
- (e) protecting young people under 18 and the private lives of anyone involved.

4. There should be a public hearing unless the Committee / Sub-Committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
5. The Committee / Sub-Committee must also consider Article 8 of the European Convention on Human Rights. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Committee / Sub-Committee) may interfere with this right unless it is:
 - (a) in line with the law; and
 - (b) necessary in a democratic society in the interests of:
 - (i) national security;
 - (ii) public safety;
 - (iii) the economic wellbeing of the country;
 - (iv) preventing crime or disorder;
 - (v) protecting people's health and morals (which would include protecting standards of behaviour in public life); or
 - (vi) protecting people's rights and freedoms.

There is a clear public interest in promoting the probity, integrity and honesty of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the Committee / Sub-Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

6. In relation to people's rights under both Articles 6 & 8 of the European Convention on Human Rights, it should be remembered that any interference with or restriction of those rights must be 'necessary in a democratic society'. A measure will only be 'necessary' if it meets 'a pressing social need', and any restriction on people's rights must be 'proportionate'.