

## CRITERIA FOR DECIDING WHETHER PAPERS SHOULD BE CONSIDERED IN BUSINESS SESSIONS OF BOARD MEETINGS

### Introduction

1. In February 2007, the Board agreed that, in deciding whether papers should be considered in either business or open sessions of Board meetings, there should be a presumption of openness but with defined criteria for exceptions. The Board also agreed that any such criteria should apply equally to intersessional papers.
2. Therefore, the proposal is that papers for the Board are taken in open session (or published on the Agency's website if intersessional) unless otherwise justified. Papers proposed for business sessions will require an introductory paragraph citing which of the criteria apply, and explain why. The draft criteria are set out below. The final criteria will be published on the Agency's website.
3. It is also proposed that the same criteria be applied to determine whether briefing sessions for the Board are held as part of open sessions.
4. The draft criteria set out below are drawn from the criteria currently applied to requests for information disclosure received by the Agency under Freedom of Information legislation. They mirror only partially the exemptions under the FoI Act. Some of the exemptions are not included eg national security, prejudice to international relations and development of Government policy, and some of the bullet points, eg the last one, are not exempted under FoI.

### Board action

5. The Board is invited to **comment** on the draft criteria set out in the attached Annex

#### **Board Secretary**

**Contact:** Alastair Cannon      Tel: 020 7276 8610  
Alastair.cannon@foodstandards.gsi.gov.uk

## DRAFT CRITERIA FOR DECIDING WHETHER PAPERS SHOULD BE CONSIDERED IN BUSINESS SESSIONS OF BOARD MEETINGS

A paper, or briefing, will not usually be suitable for open session (or for publication on the Agency's website if it is to be circulated intersessionally) if:

- it contains information disclosure of which:
  - would be prohibited by legislation (including the Data Protection Act 1998 and the Human Rights Act 1998),
  - would breach the Agency's international or EU obligations,
  - would be in contempt of Court, or
  - might prejudice law enforcement or the UK's position in EU or international negotiations
- it contains legal advice, or is otherwise covered by legal professional privilege
- it contains information which:
  - is due to be published imminently (within a matter of days), the premature release of which would be likely to lessen the effectiveness or completeness of a planned announcement; or
  - is incomplete or unsubstantiated and potentially misleading (for example information emerging from an ongoing scientific or enforcement project) the results of which would not normally be released until the study is complete (and, where appropriate, peer reviewed)
- the information is confidential, it would be a breach of confidence to disclose it<sup>1</sup>, and the public interest in disclosure does not outweigh the considerations of confidentiality; or where disclosure would constitute an unwarranted invasion of privacy under the Human Rights Act 1998
- it contains information which relates solely to internal personnel, financial or organisational issues within the Agency, or has been provided by other government departments, and does not relate directly to issues of food standards or safety

Anything that would fall within an exemption in the FoI which is not referred to in the above criteria might also require to be discussed in a business session if the balance of public interest is in favour of that course; a typical example would be information, or expected discussions, about European negotiations.

---

<sup>1</sup> Where confidential information might directly inform urgent decisions about public health or food safety, the Agency will urge those providing it to make it publicly available at the earliest opportunity and will not let a refusal to do so prevent the taking of whatever action is legally open to it – including unilateral publication – to protect consumers.