

Epsom & Ewell Council blocks release of Rainbow Leisure Centre condition papers

18 June 2026



Epsom and Ewell Times to appeal to Information Commissioner after EEBC withholds inspection and dilapidation records linked to reported £500,000 repair exposure.

Epsom and Ewell Borough Council has upheld its refusal to disclose key papers concerning the condition of the Rainbow Leisure Centre, despite continuing questions over how the public facility came to face a reported repair and dilapidations bill of up to £500,000.

The Council has confirmed that it is withholding the 2025 inspection report and related information about backlog maintenance, dilapidations and financial exposure. It says the material is covered by legal professional privilege because litigation is now a live issue and the Council is already consulting lawyers.

The decision follows a Freedom of Information request by Epsom and Ewell Times seeking documents about the Council's landlord inspection rights, use of inspection powers, condition surveys, backlog repairs, financial exposure and committee consideration of the Rainbow Leisure Centre.

The Rainbow Leisure Centre, one of the borough's major public leisure assets, changed operator in October 2025. The issue later became controversial after it emerged that urgent works and dilapidation issues had been identified, with a confidential urgent decision reportedly warning that the final cost was not yet known but could be up to £500,000.

Epsom and Ewell Times asked the Council to disclose what it knew, when it knew it, and what inspection or condition records had been kept over the life of the previous contractual arrangements.

The Council did provide some contractual clauses showing that the operator was required to allow the Council's representative to inspect assets, equipment or materials used in the provision of leisure services. But it refused to release the 2025 inspection report, any related backlog or dilapidation assessments, and financial liability estimates.

In its original refusal, the Council said the withheld information fell under section 42 of the Freedom of Information Act, which protects information covered by legal professional privilege. The Council argued that releasing the material could undermine its legal position and affect recovery of public funds from the former operator.

Epsom and Ewell Times sought an internal review, arguing that the exemption had been applied too broadly. The review request pointed out that routine inspection records, condition surveys and factual reports do not automatically become privileged merely because litigation is later contemplated. It also asked the Council to consider partial disclosure, with any genuinely privileged legal advice or litigation strategy redacted.

The Council has now upheld its refusal.

In its internal review response, the Council stated: "We take the point that the survey reports would not normally be withheld, but that was a long time ago and under different circumstances. It is not the case that litigation is possibly contemplated, we are already talking to our lawyers about progressing this, so it is a live issue."

The Council also said it believed the public interest arguments in its original response were sufficient.

That leaves residents with limited public information about a central question: whether the Rainbow Leisure Centre's condition arose from recent events, historic under-maintenance, inadequate inspection, failures by the previous operator, failures by the Council as landlord, or some combination of those possibilities.

The refusal also raises a further issue. The Council has stated that inspection and survey reports prior to 2025 are not held. If correct, that may prompt questions about how the Council monitored the condition of a major public asset over more than two decades of external operation.

The Council has also stated that it does not hold the dates on which councillors, committee chairs or Cabinet/Committee members were first informed that the Rainbow Leisure Centre required significant remedial or dilapidation works, or that the cost might be material to Council finances.

The Freedom of Information Act does allow public authorities to withhold legally privileged material. However, the exemption is not absolute. Authorities must show that the material is genuinely privileged and, where the exemption is qualified, must weigh the public interest in maintaining the exemption against the public interest in disclosure.

The paradox being that if there were to be litigation then under the rules these documents would be disclosable to all parties involved. "The truth will out".

Epsom and Ewell Times is now preparing a complaint to the Information Commissioner's Office. The appeal will argue that the Council has not shown, document by document, that all the withheld information is privileged; that it has not properly considered partial disclosure; and that the public interest in understanding the management of a major public facility and potential exposure of public funds is substantial.

The newspaper will also ask the Information Commissioner to consider whether the request should have been dealt with, at least in part, under the Environmental Information Regulations, because the withheld material concerns the condition of a public building, plant, fabric and remedial works.

The dispute is not simply about one report. It goes to the wider question of how the borough's public assets are monitored, how risks are reported to councillors, and how much residents are entitled to know when public money may be at stake.

Epsom and Ewell Times will report the outcome of the appeal when the Information Commissioner has considered the complaint.

Sam Jones - Reporter



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