

APPENDIX A

Protocol on Members Rights of Access to Information

Introduction

This protocol concerns the rights of members (and co-opted members) to obtain information held by the Council, its officers, agents and contractors.

It should be read in conjunction with the members and officers codes of conduct, the Access to Information Procedure Rules and the Council's Standing Orders.

This protocol does not affect members rights to obtain information held by the Council and which is publicly available under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or any other statutory entitlement to information or public register.

Access to information

Members may require information for a variety of reasons in connection with functions such as:

- representing their constituents
- carrying out official council duties; for example as committee members, cabinet members or representatives on outside bodies.

Presumption of openness

The Council operates under a presumption in favour of openness and allowing members to have access to information wherever possible.

There may be some occasions when it will not be appropriate to provide members with certain information. Examples of such circumstances are:

- Confidential information that has been given to the Council
- Personal information about an individual
- Exempt information (on committee documents)
- Information that includes legal advice

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This is not an exhaustive list. The Council is obliged to take particular care when dealing with sensitive information relating to the financial and business affairs of the Council and third parties and when dealing with personal data. Personal data can only be released where to do so is consistent with the Data Protection Act.

In circumstances where it does not seem to be appropriate to allow access to information or documents under the general principle of openness, a member must demonstrate that he or she has the right to the information before it will be released. A member has the right to information if he or she requires it in order to accomplish his or her work as a member. This is referred to as the “need to know”. The legal position is that whilst a councillor does not have a roving commission to access any and every piece of information held by the Council they will have extensive rights where they can demonstrate a need to know in order to carry out their duties as a councillor.

Usually, a member will be able to show that he or she “needs to know” something if the information involves the member’s official council duties. It is less likely that a member can prove a “need to know” in relation to the activities of a political group or party. Generally speaking a need to know will arise where the information sought relates to a committee upon which the member sits or where it is reasonably required in order to deal with a ward matter.

Where a member’s need to know is not obviously apparent a member may be asked to explain why they want the information and the uses to which it will be put. Members are requested to co-operate with such requests.

Confidentiality and restrictions on the use of information

Members who receive information from the Council have a responsibility to deal with the information in a responsible manner. Members must be alert to whether the information is confidential and whether it retains the quality of confidentiality. The Code of Conduct provides that members “must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature...”

Members should not use information obtained in the course of their official duties and which is not public information, apart from for the specific purpose of fulfilling their work as a member. Members are referred to their Code of Conduct for provisions relating to the disclosure of confidential information.

There are detailed provisions concerning the use of personal data by elected representatives contained in the Data Protection Act.

Procedure

Where a member wishes to have access to council information or documents a request may be made to officers in the appropriate Business Group.

If the officer who is dealing with the request has any doubts as to whether or not information should be disclosed the matter should be referred to a senior manager for advice. Further advice to assist in the resolution of issues about access to information is available to members and officers from the Information Systems Division and Legal Services.

In the event of a dispute as to a member's need to know the decision of the Town Clerk and Chief Executive or the Monitoring Officer shall be final.

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