

## **G. CONFIDENTIALITY OF PART II REPORTS**

### **Introduction**

1. There is provision at Rule 12 of the Access to Information Procedure Rules of the Constitution as follows:

#### **“Excluding Public Access to Reports**

The public may be denied access to reports if the Chief Officer responsible for drafting the report believes that the report relates to matters, which, in accordance with Rule 11, will not be considered in a public meeting. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed”.

2. Rule 11 relates to the exclusion of access by the public to meetings of the Authority and provides definitions of “Confidential” information which is not subject to public disclosure and the categories of “Exempt” information which may be excluded from public meetings, subject to the relevant conditions.
3. All agenda, reports, other documents, information, discussion and proceedings of meetings where marked or regarded as confidential or exempt shall be treated as such unless and until they become public in the ordinary course of the Council’s business.

### **Member Observance of Confidentiality**

4. The Code of Conduct for Councillors addresses the requirements for Members to observe the confidentiality of information, which has not been made public. Imparting such information to others is a breach of trust.
5. Observance requires that a Member shall not impart to any person, other than to another Member or to an officer of the Council, any information, either in writing or verbally, which reveals the contents of any document or other communication marked confidential and given in confidence, unless and until that information has become public in the ordinary course of the Council’s business.

### **Officer Responsibilities**

6. It is recognised that officers should consult with Trade Unions only on those exempt or confidential reports which affect Trade Union members and on which the Trade Union may be able to add information, but only first having had regard to the degree of confidentiality and the possible consequence to the Council of unauthorised release.

7. When reporting a confidential matter the officer responsible for the preparation of the report shall, in consultation with the Chair and nominated members of the appropriate body, consider whether:
- (a) a caution should be added to the papers in addition to the words “Private and Confidential” (that is “Not for publication”);
  - (b) to limit the distribution of copies of a confidential report to the Members of that particular Committee: (in such a case the covering agenda will indicate the existence of the report and other Members can obtain a copy by personal application to the appropriate Director);
  - (c) the number of officers receiving a copy should be strictly limited;
  - (d) the report should be separately printed and distributed and copies separately numbered;
  - (e) Members and officers should be asked to return reports after the meeting;
  - (f) the papers should be sent to any “Advisers” (this restriction would not apply to voting co-opted members of the Overview & Scrutiny Committee who are entitled to receive all papers relating to education matters);
  - (g) when drafting a report, if it might aid security for any confidential information to be omitted from the report and separately printed and circulated or, for example where only a sum of money is confidential, to report orally to the meeting.

### **Rights of Co-optees and Advisers**

8. Further to paragraph 7(f) above:
- (a) Co-opted members of Committees, Sub Committees, Panels, etc., are treated as full Members and as such are afforded the same rights of access to reports and information as other Members;
  - (b) Advisers should, as a matter of course, be permitted to see all reports in Part II of the agenda of meetings to which they are appointed and to take part in the debate on such items

**UNLESS**, in the opinion of the relevant Director, the report reveals information, which should not be revealed to a non-Councillor on the grounds that the release of the information could significantly, prejudice the interests of the Council;

- (c) all members of Consultative Forums may see all the papers for those Forums and UNISON shall be provided with confidential reports for those Forums and other bodies, where their representatives serve as advisers, subject to paragraph 6 above.

## **Challenges Available to Members**

9. If any Member considers that information described as confidential or exempt should not be so described then:
  - (a) if the information is a report or other papers presented to a Committee, Sub Committee, Panel, etc. and that body agreed that the information should be exempt, it can be asked to reconsider its decision;
  - (b) if the information is included in a document prepared by an officer and not yet considered by a Committee, Sub Committee, Panel, etc., then that officer may be asked to reconsider: if the officer does not agree then the issue may be referred to the appropriate body for decision;
  - (c) whenever appropriate in timescale terms, the Cabinet may act for executive reports as the appropriate body for the purposes of (a) and (b) above and the Overview and Scrutiny Committee in all other cases.

## **Breaches of the Protocol**

10. Any breach of this Protocol shall be reported to and considered by the Cabinet in relation to reports/issues falling within the Executive's remit and otherwise reported to and considered by the appropriate body and, as appropriate, those bodies shall consider whether or not any action is necessary to protect the interests of the Council.

***NOTE:*** *If a breach of this Protocol results in an alleged breach of the Code of Conduct this should be referred to the Monitoring Officer or the Standards Board for investigation.*