

---

## **MEMBERS' RIGHTS TO CONFIDENTIAL INFORMATION**

### **A GUIDANCE NOTE FOR MEMBERS**

#### **1. Purpose of this note**

This note is intended to provide guidance on how Members should make requests for information where the subject matter is regarded as confidential.

It is not expected that requests for less sensitive information will need to follow the procedures in this guidance.

#### **2. The rights of Members**

Basically any Member is entitled to see any information held by the Council, if the Member feels he/she needs to know that information in order to be able to better perform their duties as a Member.

Part of the duties of Members is to make sure that officers are properly dealing with matters and a request to see files will usually be within their rights. It is not relevant that a third party has provided the information on a confidential basis. Members are part of the Council and their rights cannot be removed in this way.

However, Members are not entitled to see any information if it is requested for some other private or business reason, or if it relates to a constituent who may be in conflict with the Council unless that constituent has authorised the Member to act on their behalf.

Members are asked to note that they may be asked why they need the information. If any officer has any doubts about whether they should provide the information they have been asked to consult the Director of Legal Services or the Director of Corporate Governance. If they believe that the Member may not have a right to the information, the Member will be told.

#### **3. How to request confidential information**

Members are asked to either direct their requests for information likely to be regarded as confidential to the appropriate Director or to accept that other officers may need to refer the request to a more senior officer. This will result in a short delay.

The information should be provided within 2-3 days. In certain cases the Director will need to discuss with a Member whether the information can be released, why it is so confidential and how such information can be used.

Members may be asked in exceptional cases to put their request in writing and to sign that they understand the reasons for confidentiality and agree not to impart the information to other persons.



**4. Can a Member appeal?**

The Monitoring Officer can be consulted at any stage. If a request for information is not agreed a Member is entitled to a written explanation.

**5. Breach of Confidentiality**

The Members' Code of Conduct states

"3.2 A Member must not:

- a. disclose information given to him/her in confidence by anyone, or information acquired which he/she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he/she is required by law to do so; nor
- b. prevent another person from gaining access to information to which that person is entitled by law."

A breach of the Code may lead to a complaint to the Standards Board for England.