

Constitution 10(b)

COUNCILLOR ACCESS TO DOCUMENTS AND INFORMATION

6.1 ~~Members are free to approach any department for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of the constituent. Such approaches should normally be directed to the manager of the particular service concerned. However, if a planning matter, Councillors are encouraged to contact the case officer. Members have a right of access to such meetings, documents and information of the Council as are necessary for the proper discharge of their functions, and in accordance with the law. This applies when:~~

- ~~• representing their constituents, and~~
- ~~• carrying out official duties such as committee members, lead members, or representing the Council on outside bodies~~

6.2 The legal rights of members to inspect Council documents are covered partly by statute and partly by common law. The statutory framework includes the Local Government Act, 1972, ~~and the Licensing Act 2003 (Hearings) Regulations 2005,~~ the Data Protection Act ~~2018 and UK GDPR,~~ ~~s, 1985 and 1998,~~ the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

6.3 Members have a statutory right to inspect ~~any~~ council documents which contains material relating to any business which is to be transacted at the Council, the executive, a committee or sub-committee meeting. This right does not apply to documents which ~~disclose confidential and exempt information. appear on the exempt agenda for meetings. The Exempt items are~~ include those which contain ~~exempt~~ information relating to:

- ~~• individuals, such as~~ employees, occupiers of Council property, applicants for grants and other services,
- ~~• Information which is likely to reveal the identity of an individual~~
- ~~• contract and industrial relations negotiations,~~
- ~~• commercially sensitive information,~~
- ~~• advice from Counsel~~ Instructions to and advice from Counsel, and any information subject to legal professional privilege in connection with legal proceedings by or against the Council, or the determination of any matter affecting the Council
- ~~• and criminal investigation.~~ Information relating to any actions taken or to be taken in connection with the prevention, investigation or prosecution of crime
- ~~• information which would reveal that the Council proposes:~~
 - ~~a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or~~
 - ~~a)b) to make an order or direction under any enactment.~~

6.4 The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.

6.5 The exercise of ~~this~~ common law right depends, therefore, upon the member’s ability to demonstrate that they have the necessary “need to know”. A member has no right to a “roving commission” ~~to go and to~~ examine documents. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. The ~~question request~~ will initially be determined by the manager of the service involved. Where a member disagrees with a service’s refusal to provide information, the Monitoring Officer will determine if it shall be released, with the advice from the solicitor. In the event of a dispute, the question will be determined by the standards committee.

6.6 ~~In some circumstances, e.g. a member wishing to inspect documents relating to the functions of that committee, a members “need to know” will be presumed. In other circumstances e.g. a member wishing to inspect documents which contain personal information about third parties, a member will be expected to justify the request in specific terms. When dealing with casework for their constituents, the member will seek written consent from the individual to access personal data held about them by the Council. Members, as data controllers, will be responsible for ensuring they have obtained the necessary consent, and will be personally responsible for the safe keeping on the data once provided.~~

6.7 Members have a duty not to make public any information which is confidential or exempt without the express consent of the Council, and a duty not to divulge to anyone, other than a fellow Councillor or Officer entitled to know it, any confidential or exempt information received from the Council. Information must be used only used for the legitimate purpose for which it is provided.