

Central  
Bedfordshire  
Council  
Priory House  
Monks Walk  
Chicksands,  
Shefford SG17 5TQ



**TO ALL MEMBERS OF THE GENERAL PURPOSES COMMITTEE**

28 November 2013

Dear Councillor

**GENERAL PURPOSES COMMITTEE – TUESDAY, 3 DECEMBER 2013**

Further to the agenda and papers for the above meeting, previously circulated, please find attached the following report which was marked to follow:-

**8. Review of the Member/Officer Protocol**

To consider a review of the Protocol for Member/Officer Relations.

Should you have any queries regarding the above please contact me.

Yours sincerely

Leslie Manning  
Committee Services Officer

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**Meeting:** General Purposes Committee  
**Date:** 3 December 2013  
**Subject:** Protocol on Member/Officer Relations  
**Report of:** Monitoring Officer  
**Summary:** The report proposes some amendments to the Protocol to cover the obligations of Members and Officers regarding email in order to ensure that sensitive information is not disclosed and to protect the position of Members and the Council under the Data Protection Act 1998.

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**Advising Officer:** Melanie Clay  
**Contact Officer:** As above  
**Public/Exempt:** Public  
**Wards Affected:** All  
**Function of:** Council

#### **CORPORATE IMPLICATIONS**

##### **Council Priorities:**

The effectiveness of the Council's governance arrangements contributes to the achievement of the Council's priorities.

##### **Financial:**

1. The proposals set out in this report have no financial implications.

##### **Legal:**

2. The proposed amendments to the Member/Officer Protocol are intended to ensure that the Members and Officers of the Council comply with their legal obligations under the Data Protection Act 1998 (DPA). The Act provides that data controllers must observe the data protection principles when processing personal information. A breach of these principles and, in particular, the disclosure of personal information can result in significant monetary penalties being imposed by the Information Commissioner.
3. When using a personal email account to process personal information, a member is "the data controller" under the DPA and would be personally responsible for any breach of the data protection principles.

**Risk Management:**

4. The amendment to the Protocol is intended to reduce the risk that the Council and/or Members will fail to comply with the provisions of the DPA.

**Staffing (including Trades Unions):**

5. Not Applicable.

**Equalities/Human Rights:**

6. To ensure that any decision does not unfairly discriminate, public authorities must be rigorous in reporting to Members the outcome of an equality impact assessment and the legal duties.
7. Public Authorities must ensure that decisions are made in a way which minimises unfairness, and without a disproportionately negative effect on people from different ethnic groups, disabled people, women and men. It is important that Councillors are aware of this duty before they take a decision.
8. No formal equalities impact assessment has been undertaken in this instance. However, it is not anticipated that the proposals outlined in this report will have any implications in connection with the Council's duties in respect of equality and human rights.

**Public Health**

9. Not applicable.

**Community Safety:**

10. Not Applicable.

**Sustainability:**

11. Not Applicable.

**Procurement:**

12. Not applicable.

**RECOMMENDATION(S):**

**The Committee is asked to recommend to Council:**

1. **That the amendments to the Protocol on Member/Officer Relations shown in Appendix A be approved and that the revised Protocol be included in the Council's Constitution.**

### **The Protocol on Member/Officer Relations**

13. The Council's Constitution contains a protocol providing advice to Members and Officers about key aspects of their working relationships. The Protocol reflects the different roles of Members and Officers and covers a variety of matters including expectations, personal relationships, support to political groups, management of officers and access to information, including how officers should respond to Members' enquiries.
14. In the course of their work Members and Officers will from time to time need to handle personal and confidential information. Against this context, this report proposes that the Member/Officer Protocol should include specific guidance on the use of email when undertaking council business.

### **Members Responsibilities under the Data Protection Act**

15. The Information Commissioner has issued guidance for elected members of local authorities on their responsibilities in relation to the holding and processing of personal information. The guidance contains the following statement on security:

*Councils and elected members should be aware that they need to arrange for appropriate security to protect personal information. They must take into account the nature of the information and the harm that can result. They should consider what technical measures, such as use of passwords, computer access privileges, procedures and staff training are appropriate to keep information safe.*

16. There have been a number of instances in the last two years when the Information Commissioner has imposed monetary penalties ranging between £80,000 and £120,000 on local authorities because of disclosures of personal information relating to children and adult social care service users. In each of these instances, the local authority was the data controller and was responsible for ensuring the security of the information.
17. Ensuring that elected Members comply with the Council's arrangements governing the use of email is an important aspect of the Council's security measures. When undertaking council business, the Member/Officer Protocol provides that Members should use their Central Bedfordshire Council email address. This means that the Council is the data controller for the purposes of the Data Protection Act and ultimately the Council will be responsible for any breach of security.

### **Conclusion and Next Steps**

18. The Committee is asked to consider the proposed amendments to the Protocol on Member/Officer Relations and recommend them to Council for approval.

**Appendices:**

Appendix A – Protocol on Member/Officer Relations

**Background Papers:**

None

**Appendix A**

**F4      PROTOCOL FOR MEMBER/OFFICER RELATIONS**

**1.      Introduction**

**Purpose of the Protocol**

- 1.1 Together, members and officers of the Council combine the essential skills, experience and knowledge to manage an effective public sector organisation. They work together in the interests of the citizens of Central Bedfordshire. Members provide a democratic mandate to the Council whereas officers contribute professional expertise and experience to deliver the policy framework agreed by councillors.
- 1.2 Collaborative working is the accepted norm for member and officer relations in Central Bedfordshire Council, but it is important to recognise and take account of their different roles. This is important for day-to-day interaction between members and officers and for the public perception of the Council; by ensuring transparency between the political role of members and the professional, impartial role of officers.
- 1.3 The Protocol's purpose is to provide guidance on member-officer relations and to address some key areas of interaction. The Protocol is not intended to be comprehensive. Members and officers may seek advice from the Monitoring Officer on any matter not covered by this Protocol.
- 1.4 The Protocol should be read alongside other documents relevant to the interaction between members and officers including any relevant legislation and national and local Codes of Conduct, conditions of service and any procedure for whistleblowing. Of particular importance in this context are the Codes of Conduct for Members and Officers. These Codes have direct relevance to many of the issues covered in the Protocol. The Planning and Licensing Codes of Practice are also important. These Codes can be found in the Ethical Handbook.

## Quick Guide to Member and Officer Roles

<b>Members</b>	<b>Officers</b>
Democratically elected accountable to the electorate	Accountable to the Council
Community leader for their ward	Serve the whole Council.
Add a political dimension	Politically impartial
Set policy and strategy, including the Budget/Council Tax	Provide advice and operational delivery within budget
Bound by a statutory Code of Conduct	Bound by their contract of employment and the current Code of Conduct for Officers (these may be supplemented in the near future by a statutory code).
Involved in senior appointments only.	Responsible for the management of staff

## Application of the Protocol

- 1.5 The Protocol is adopted by full Council and applies to all elected and co-opted members and all officers employed or engaged by the Council. The term 'officer' refers to all the Council's employees. It also includes consultants and agency staff who work for the Council. Managers must bring the protocol to the attention of officers as soon as they commence work. Where appropriate, the principles in this Protocol should be incorporated into contracts for services. This applies in particular to 'partnership' type contracts.

## 2. Principles of Member/Officer Relations

### Basic Principles

- 2.1 Like all effective partnerships, member-officer relations are based on the following principles:-
- 2.1.1 Mutual trust and respect of the different roles of members and officers;
  - 2.1.2 A common purpose; providing the best possible service to the residents and other stakeholders of Central Bedfordshire Council;
  - 2.1.3 A commitment to non-confrontational resolution of disputes.



- 2.2 Mutual trust and respect is based upon an understanding of the distinct contribution members and officers make and respect for the boundaries between those roles. A key principle for officers is their political impartiality; they serve the whole Council and not particular groups or members. This is particularly important for some officers, who occupy politically restricted posts and are therefore prevented by law from engaging in political activities beyond party membership.
- 2.3 Further, some officers hold posts with mandatory statutory responsibilities including the Chief Executive, Monitoring Officer, and Chief Finance Officer, Members must respect these responsibilities and accept that these officers may be required to give advice or make decisions which members may not agree with or support.

### **Expectations**

- 2.4 Members can expect and will receive from officers:-
- 2.4.1 A commitment to the Authority as a whole, and not to any political group;
  - 2.4.2 A working partnership;
  - 2.4.3 An understanding of and support for respective roles, workloads and pressures;
  - 2.4.4 Timely response to enquiries and complaints;
  - 2.4.5 Professional and balanced advice, based on evidence and including options, not influenced by political views or preference, which does not compromise the political neutrality of officers;
  - 2.4.6 Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
  - 2.4.7 Awareness of and sensitivity to the political environment;
  - 2.4.8 Respect, dignity and courtesy;
  - 2.4.9 Training and development in order to carry out their role effectively;

- 2.4.10 Integrity, openness, mutual support and appropriate confidentiality;
  - 2.4.11 Not to have personal issues raised with them by officers outside the agreed procedures;
  - 2.4.12 That officers will not use their relationship with members to advance their personal interests or to influence decisions improperly;
  - 2.4.13 That officers will at all times comply with the Code of Conduct for Officers.
- 2.5 Officers can expect and will receive from members:-
- 2.5.1 A working partnership;
  - 2.5.2 An understanding of and support for respective roles, workloads and pressures;
  - 2.5.3 Political leadership and direction;
  - 2.5.4 Respect, dignity and courtesy;
  - 2.5.5 Integrity, openness, mutual support and appropriate confidentiality;
  - 2.5.6 Not to be subject to bullying, harassment or to be put under undue pressure. Members should have regard to the seniority of officers in determining what reasonable requests are, having regard to the relationship between members and officers, and the position of officers, particularly at junior levels;
  - 2.5.7 That members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
  - 2.5.8 That members will at all times comply with the Code of Conduct for Members.

If these expectations are not met then difficulties are likely to arise and this may lead to complaints and the dispute resolution procedure in section 8 may need to be used.

- 2.6 The remainder of this Protocol will address specific areas of member-officer interaction

### **3. Working Arrangements**

- 3.1 Members and officers work together on a regular basis in meetings, committees and less formal settings. It is inevitable that relationships will form and to ensure the principles of member-officer relations are upheld, the following guidance applies.

#### **Forms of Address and Conduct at Meetings**

- 3.2 In formal Council, Executive, committee or sub-committee meetings:-
- 3.2.1 Members should normally be referred to by their office: e.g. Leader, Chairman or Councillor and, otherwise, normal courtesies shall be observed;
  - 3.2.2 Relations can be friendly and cordial but not over familiar, as the public or other members and officers could perceive this as inappropriate or favouritism;
  - 3.2.3 Criticism should be constructive and not personal;
  - 3.2.4 Officers will not allow themselves to be drawn into a party political debate.
- 3.3 This guidance also applies to informal meetings to the extent that all present consider it necessary. Members and officers should ensure that their interaction does not embarrass others, suggest favouritism or personal dislike or otherwise damage working relationships.

#### **Personal Relationships**

- 3.4 If a friendship or closer relationship (including relatives) exists or forms between a member and an officer, this needs to be addressed openly. Friendship is likely to be something closer than an acquaintance or work colleague and include some social interaction. In such situations:-
- 3.4.1 Members should seek advice from the Monitoring Officer and, if in doubt, must declare their interest at formal and informal meetings;

- 3.4.2 Officers must raise the matter with their Assistant Director or Director to discuss appropriate action.

#### **4. Supporting Political Groups and Individual Members**

##### **Support for Political Groups**

4.1 Political groups (including the Cabinet) may ask the Chief Executive (~~or, in his/her absence, or~~ the relevant Director) for a briefing on Council business. If the Chief Executive or the Director agrees, the following principles will apply:-

4.1.1 Only senior officers will give briefings (although they may be accompanied by junior officers with specialist knowledge);

4.1.2 Briefings will cover Council business only and officers will not be asked or allow themselves to be involved in a political discussion or discussion of any other matter than the subject of the briefing;

4.1.3 Briefings given to one group will be available to any political group, on request;

4.1.4 Officers will respect the confidentiality of political group meetings;

4.1.5 Officers may refuse to brief meetings attended by a non-member (except for other council officers), as they are not bound by the Code of Conduct's obligations of confidentiality and also, other than the above, officers must not attend political party meetings, as this may jeopardise their impartiality;

4.1.6 Briefings are not a substitute for the provision of information and advice in formal Council meetings.

4.2 For clarity, briefings are restricted to the political groups within the Council and do not include any meeting arranged by a political party itself.

#### **5. The Management of Officers**

5.1 Although officers will support, advise and respond to members' requests, the law is clear that only other officers can manage officers. This means that:-

- 5.1.1 Day to day management of officers is the responsibility of managers and ultimately the Chief Executive, acting as Head of Paid Service.
- 5.1.2 Officers will comply with all reasonable requests from members but individual members cannot instruct officers to do any piece of work or take any course of action.
- 5.1.3 Officers will not seek any member's support in any employment or other dispute or a Council appointment or promotion except in so far as is provided at paragraph 1.2 of the Officer Employment Procedure Rules at Part H4 of the constitution.
- 5.1.4 Members are responsible for the recruitment and appointment of the Chief Executive, Directors, Chief Finance Officer and Monitoring Officer, in accordance with the Council's Officer Employment Procedure Rules.
- 5.1.5 Officers are responsible for recruitment of all other officers.
- 5.1.6 Members' role in any formal action against an officer or grievance involving an officer is limited to reporting an officer's actions to their manager and/or as a witness (except where the Officer Employment Procedure Rules at Part H4 of the constitution provide otherwise).
- 5.1.7 When representing the Council at meetings about industrial relations matters, members must remember that they represent the Council as an employer and are not there to represent the officers. This applies in particular to meetings with trade union representatives. If a member considers that they cannot undertake this task from this perspective, they should withdraw from this role.

## **6. Access to Information**

- 6.1 To carry out their duties effectively, members must have broad access to Council information. The following principles apply here:-
  - 6.1.1 Members' access to information will be compliant with their statutory and common law rights (see Appendix A for details);

- 6.1.2 Officers will not withhold information from a member who is entitled to receive it (see Appendix A for details);
- 6.1.3 Where confidential, personal or otherwise sensitive information is provided to a member, they will deal with that information in accordance with the Members' Code of Conduct at Part F2 of the constitution;
- 6.1.4 Any disputes relating to access to information will be referred to the Monitoring Officer for determination;
- 6.1.5 Further information on access to information is available at **Appendix A**.

6.1.6 Use of IT Systems

a) Members are bound by the terms of the Council's Acceptable Use Policy when using Council systems and must sign the Policy prior to accessing systems and data.

b) Members must use Council email for all council business and must not auto-forward or copy any Council information to non-Council email accounts or software programmes. Under no circumstances should commercially sensitive or personally identifiable information be forwarded from Council email addresses to Members' private email addresses.

c) Access to Council email from a fixed location, such as a home or workplace address, will be provided using a personally owned device, such as a laptop or PC, and the Council's Citrix system and a two factor authentication token.

d) Members may synchronise their Council email and calendars with their smart phone or tablet devices providing the approved Mobile Device Management solution has been installed and configured on the device. Members agree that the Council can wipe just the Council email and calendar information from the smartphone device if it is lost or stolen. This application does not provide the Council with access to any other data stored on the device.

### **Members' Enquiries**

- 6.2 Members' enquiries may be made by any means.

- 6.3 Officers will make every effort to provide a substantive response to a member enquiry within **2 working days**, but if a substantive response cannot be provided officers will acknowledge receipt of the enquiry. If it is not possible to provide a substantive response within 5 working days, officers must explain:-
- 6.3.1 The reason for the delay;
  - 6.3.2 What action is being taken to pursue the enquiry; and
  - 6.3.3 The timescale within which a substantive response will be sent, which must be within 15 days, unless agreed otherwise by the member and officer.
- 6.4 Directors are responsible for ensuring that member enquiries are dealt with promptly and accurately in their Directorates.
- 6.5 Where an enquiry imposes a disproportionate burden on officers' work, this should be explained and discussed with the member concerned and senior management to agree an alternative deadline and/or response.
- 6.6 Members' enquiries, which are in fact constituent complaints, will be handled under the Council's Complaints Procedure.
- 6.7 This members' enquiry procedure supplements and does not replace members' statutory and common law rights to information.
- 6.8 Co-opted and independent members' rights of access to information will be limited to those areas that fall within the remit of the body to which they are appointed and their statutory rights.

## **7. Media Relations and Publicity**

- 7.1 The Council's Communications Service leads on all media and publicity events. The following principles are relevant to member-officer relations and the media:-
- 7.1.1 Members and officers will comply with the Council's Media and Publicity Protocol when speaking for or on behalf of the Council;

- 7.1.2 Members are free to speak to the media on any matter on behalf of a political party or as an individual but should make this clear in any statement made;
- 7.1.3 Officers must also act in accordance with the Code of Conduct for Officers when speaking about the Council in public.

## **8. When things go wrong: dispute resolution**

- 8.1 The Council's experience is that members and officers work well together and with few formal complaints. However, it is still necessary to have a clear process to handle complaints.
- 8.2 The key principle for dispute resolution is that both members and officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a manager.
- 8.3 When an informal resolution is not possible, the following processes will apply.

### **Formal complaints about officers**

- 8.4 Members should make any formal complaints about officers to their Director or the Chief Executive, copied to the Monitoring Officer. The matter will be investigated and the member will be informed of its progress and outcome.
- 8.5 In appropriate cases, breaches of this Protocol may also constitute offences under the Code of Conduct for Officers and in such cases, disciplinary action may be taken.
- 8.6 Members must remember that the decision to take formal action against an officer and the action taken is the sole responsibility of management. A member's evidence will be considered but members must:-
  - 8.6.1 Respect the confidentiality of the investigation and disciplinary process;
  - 8.6.2 Not seek improperly to influence the action taken against an employee;
  - 8.6.3 Accept the management decision.



### **Formal complaints about Members**

- 8.7 An officer's complaint about a member should be reported to the Chief Executive and copied to the Monitoring Officer and the officer's Head of Service or Director.
- 8.8 The Monitoring Officer will, where appropriate, investigate the complaint and report the outcome to the Chief Executive, the member, the officer and officer's Director or Head of Service.
- 8.9 In appropriate cases, the Monitoring Officer will notify the relevant political group leader of the complaint and his/her findings.
- 8.10 The Monitoring Officer will seek to find a resolution to the complaint which is mutually acceptable to the member and officer concerned. If this is not possible then the Monitoring Officer will recommend necessary actions.
- 8.11 If the Monitoring Officer considers that in breaching the terms of this Protocol, the member may have breached the Code of Conduct for Members then a referral will be made to the Council's Standards Committee (see also paragraph 8.12 below).

### **Interaction with the Members' Code of Conduct and the Whistleblowing Policy**

- 8.12 A complaint against a member may disclose evidence of a breach of the Code of Conduct. The Protocol's aim is, in part, to provide guidance and resolve disputes informally and thereby prevent Code of Conduct complaints. However, an officer's use of the dispute resolution procedure in this Protocol does not prohibit them from making a complaint under the Code of Conduct about the same matter.
- 8.13 Equally, officers and members are not prevented by this Protocol from using the Council's Confidential Reporting Policy (also known as 'Whistleblowing'), particularly for matters involving potential fraud, deception or other criminality.

## **9. Monitoring and Review**

- 9.1 The Protocol will be monitored and reviewed by the Council's Standards Committee on an annual basis.

**10. Further sources of information**

<b>Topic</b>	<b>Source</b>
Employment and appointment of officers	Officer Employment Procedure Rules Officer Terms and Conditions of Employment
Member conduct	The Code of Conduct for Members The Monitoring Officer <a href="http://www.standardsboard.co.uk">www.standardsboard.co.uk</a> Planning and Licensing Codes of Good Practice
Officer conduct	Code of Conduct for Officers
Media and Publicity	Media and Publicity Protocol Statutory Recommended Code of Practice on Local Authority Publicity
Complaints	Corporate Complaints Policy
Whistleblowing	Confidential Reporting Policy and Anti-Fraud Strategy
Members' Access to Information	Appendix A. Access to Information Procedure Rules
Freedom of Information and Data Protection	Freedom of Information and Data Protection Acts <a href="http://www.informationcommissioner.gov.uk">www.informationcommissioner.gov.uk</a>

**APPENDIX A**

**PROTOCOL FOR MEMBER/OFFICER RELATIONS**

**Members' Rights of Access to Council Information**

This is a summary of the legal rights of access to Council information available to Councillors. To make a complex area simpler to understand, this guidance is a summary document and not a complete statement of the law. If in doubt, members are recommended to seek further advice from the Monitoring Officer. In short, a member's rights of access to information depend on their role within the Council. The key rights of access to council information are summarised in the table below and refers to the relevant section below.

<b>Person seeking access</b>	<b>Right of access</b>
<b>Public and Press</b>	<p>Access to all Council reports, agendas and minutes, except those reports which are exempt from public access</p> <p>Access to the Forward Plan of Executive decisions</p> <p>Rights under Freedom of Information Act 2000, Environmental Information Regulations 2004 and Data Protection Act 1998.</p>
<b>Independent Standards Committee Members</b>	<p>Public and press rights:</p> <p>Reports for local determination hearings under the Code of Conduct (including exempt information)</p>
<b>All elected members</b>	<p>Public and press rights plus:</p> <p>"Need to know"</p> <p>Right to inspect "business to be transacted" by the Council</p>
<b>Scrutiny committee members</b>	<p>All the rights above and additional rights to Executive reports and information relating to matters it is scrutinising.</p>
<b>Executive members</b>	<p>All rights above and also full access to Executive reports</p>

**1. Common Law – The “Need To Know”**

- 1.1 The primary rights are in common law, i.e. case law built up over the years. Members have rights of access to information so far as access is reasonably necessary for them to perform their duties. The case law says this is not a “roving commission” to access any documents and the member needs to prove they have a right to know. A committee member generally has a need to know about matters in relation to that committee or its sub-committee. This right is not limited to formal committee papers.
- 1.2 Refusals can take into account the effects on disclosure on third parties and the need to know must be in “good faith”.
- 1.3 It should be noted that this is a right of access to the member only and for carrying out their official duties. It does not allow a member to further disclose the information and indeed the unauthorised disclosure of confidential information is a breach of the Code of Conduct.

**2. Members’ Statutory Rights of Access**

**2.1 Access to Council and Committee documents – Local Government Act 1972**

**Public Access**

- 2.1.1 Members have generally the same rights of access as members of the public in respect of the formal council meetings.
- 2.1.2 The default position is that there is access to all agendas, reports and minutes of council, committee and scrutiny meetings. Schedule 12A of the LGA 1972, however, sets out a list of categories of exempt information which may be excluded from public access before the meeting and by a vote of the committee itself at the meeting. The categories of exempt information within Schedule 12A are set out in the table at the end of this document.
- 2.1.3 It should also be noted that the application of an exemption is now subject to a public interest test. The Council will now have to show that the public interest is against public access.

### **Additional Rights of Members**

- 2.1.4 Members have rights of access to information that are greater than the rights available to the public. Specifically, members have the right to inspect any document in the possession or under the control of the Council which contains material relating to any business to be transacted at a council, committee or sub-committee meeting.
- 2.1.5 It is important to note that this right is limited in the following ways:-
- ⇒ It is a right to inspect not receive a copy.
  - ⇒ It applies only to access before the meeting.
  - ⇒ It only applies to documents held at that time.
- 2.1.6 If a report contains exempt information, the right to inspect at 2.1.4 does not apply unless the information comes within either of the following categories:-
- ⇒ Paragraph 3 – information about the financial or business affairs of any person (including the Council) where the information is not about terms proposed during contract negotiations.
  - ⇒ Paragraph 6 – proposals to issue statutory notices, directions or other orders.

## **2.2 Access to Executive documents**

### **All Members**

- 2.2.1 The members' rights of access to executive (i.e. Executive members) documents are very similar to the regime described above but there are some key differences due to the nature of executive arrangements.
- 2.2.2 The access regime described above applies equally to executive documents so that:-
- ⇒ Executive agendas are publicly available, unless the information falls within Schedule 12A.

⇒ Members have the additional right to inspect information about business to be transacted at meetings of the Executive, subject to the same restrictions outlined above.

2.2.3 In addition, the Leader is required to publish a Forward Plan of all Key Decisions to be made by the Executive in the next 4 months. (Note: Central Bedfordshire has decided to publish a Forward Plan of all Key Decisions to be made by the Executive in the next 12 months.) The Forward Plan provides specified details of the decisions to be made and is publicly available. Key Decisions are defined in Part C2 of the constitution.

2.2.4 Executive meetings where Key Decisions are made must be held in public and there is public and member access to the agenda, reports and minutes of such meetings. At Central Bedfordshire Council, all Executive meetings are in public.

### **Members of Scrutiny Committees**

2.2.5 Members of overview and scrutiny committees have additional rights. Scrutiny members are entitled to a copy of any document which is in the possession or under the control of the Executive of that authority, and which contains material relating to one of the following:-

⇒ Any business transacted at a private or public meeting of a decision-making body of that authority.

⇒ Any decision made by an individual Executive Member.

⇒ Any Key Decision made by an officer of the authority under the urgency procedure.

2.2.6 This right is limited as follows. No Scrutiny member is entitled to:-

- ⇒ A copy of such document or part of a document as contains exempt information under Schedule 12A, unless that information is relevant to an action or decision that they are reviewing or scrutinising, or which is relevant to any review contained in any programme of work of the committee or one of its sub-committees.
  - ⇒ A copy of a document or part of a document containing advice provided by a political adviser or assistant.
- 2.2.7 Scrutiny's right is a broader entitlement to copies of documents but is still limited when exempt information is being considered.
- 2.2.8 Where members of overview and scrutiny committees receive copies of Executive reports containing exempt information, they must preserve the confidentiality of that information. Therefore, before considering that item of business, the committee should pass a resolution excluding the press and public from the meeting during the consideration of the item.

### **3. Freedom of Information and other Statutory Rights**

- 3.1 The Freedom of Information Act 2000 gives anyone the right to request information held by the Council. The Council is under a duty to confirm or deny that it holds the information and, if it does, to supply the information. The Council has 20 working days to supply the information, although in certain cases, this time limit can be extended. This right of access is subject to a number of exempt categories of information. Fees are payable for requests that take over 18 hours to provide a response.
- 3.2 Environmental information is available under the Environmental Information Regulations 2005, again within 20 working days for straightforward requests, although a fee may be charged immediately for all responses.

3.3 The Data Protection Act 1998 gives members rights of access to personal information about themselves held by the Council. It also provides for members to seek personal information about constituents they are representing subject to certain restrictions and provided that they have the consent of the constituent. The primary purpose of the Data Protection Act is to protect personal information about individuals and so generally its effect is to restrict access by members to personal information held by the Council about people unless the individual concerned is aware that it may be disclosed in this way.

3.4 The Council has approved a Data Protection Policy and a Freedom of Information Policy copies of which are available to members on request.

### 3.5 **Qualifications**

3.5.1 All information within paragraphs 1-7C of Schedule 12A of the Local Government Act 1972 (reproduced below) is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (the “public interest test”).

3.5.2 Information within paragraph 3 is not exempt information if it is required to be registered under:-

3.5.2.1 The Companies Act 1985;

3.5.2.2 The Friendly Societies Act 1974;

3.5.2.3 The Friendly Societies Act 1992;

3.5.2.4 The Industrial and Provident Societies Acts 1965 to 1978;

3.5.2.5 The Building Societies Act 1986; or

3.5.2.6 The Charities Act 1993.



**4. The Code of Conduct**

- 4.1 Members have wide rights of access to information held by the Council but this does not mean that they may share all this information with other people or the public. Much of the information disclosed under the “need to know” or the additional rights of access to Council and Executive documents will include access to confidential information, either about individuals, the Council or other persons/organisations.
  
- 4.2 The Code of Conduct prohibits the disclosure of confidential information, unless the member can show that the public interest in seeing the information outweighs the confidentiality, or unless the member can show that the information was already fully in the public domain. Such disclosure may also breach the Code by bringing the Council into disrepute or constitute the conferring of an improper advantage or disadvantage on any person. The Council may also face legal action for breach of confidentiality due to the member’s actions.
  
- 4.3 Members are strongly advised to seek advice from the Monitoring Officer in the first instance before considering the disclosure of information given to them in confidential or otherwise restricted circumstances.

<b>SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972- SUMMARY</b>
1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes <del>—</del> <ul style="list-style-type: none"> <li>• to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>• to make an order or direction under any enactment.</li> </ul>

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
<b>Exempt Information in Local Determination Hearings of the Council's Standards Committee Only</b>
7A. Information which is subject to any obligation of confidentiality.
7B. Information which relates in any way to matters concerning national security.
7C. The deliberations of a standards committee or a sub-committee