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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