

**CORPORATE AFFAIRS COMMITTEE**

**19 NOVEMBER 2008**

**INFORMATION PROTOCOL**

**RICHARD LONG: DIRECTOR OF LEGAL & DEMOCRATIC SERVICES**

**PURPOSE OF THE REPORT**

- 1 To obtain Committee approval to an Information Protocol in relation to requests for information by elected Members.

**BACKGROUND**

- 2 As indicated in the attached draft protocol, all Councillors can reasonably expect to be provided with information that is sufficient to fully and properly undertake their various duties and responsibilities as elected Members.
- 3 Generally this works well. Members regularly request information in relation to their roles as Members. Most of the requests for information are reasonable, and much of the information provided is “off the shelf” information, already held in the Members’ Library. However, every so often requests for information are received that have significant resource implications, and there have been recent instances where Members have requested information that has taken substantial amounts of staff time to produce.

**FREEDOM OF INFORMATION ACT (FOI)**

- 4 Members are, ultimately, entitled to information under the provisions of the FoI Act, as is any other person, although we do not require them to submit written requests for information under the terms of the Act.
- 5 Where a request is received from a member of the public under the FoI Act, and the Council assesses that the cost of providing that information would exceed the ‘appropriate limit’ (currently £450, or 18 hours of staff time), then the Council can choose not to provide the information, or to charge for the provision of the information.

- 6 In essence, the attached draft protocol recognises that elected Members have a particular right to information that they require in connection with their role as a Councillor. However, where a Member submits a request for information that cannot be seen as a requirement of their role as a Councillor, then the protocol treats them, in effect, in the same way as any other person requesting the information.
- 7 The protocol also reminds Members that certain types of information is treated as confidential or exempt information, or is otherwise unavailable to Members.
- 8 The attached draft protocol was considered and approved by Standards Committee on 9 September 2008 and by Constitution Committee on 28 October 2008.

## **REASONS**

- 8 There are three main reasons for proposing this Protocol.

First, whilst recognising the rights of elected Members to information necessary to their role, it protects the Council where requests are not reasonable, and do not relate directly to their particular Councillor role.

Second, it ensures that the reasons for refusal are clear and transparent, and equally applied to all Members.

Third, it protects staff against personal conflict with Members, and from pressure and coercion from Members, where information has to be refused.

## **RECOMMENDATIONS**

- 9 That the draft protocol as attached at Appendix 1 is approved, and incorporated into the Constitution.

## **BACKGROUND PAPERS**

Section 12(1), Freedom of Information Act 2000

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## **INFORMATION PROTOCOL**

### **Introduction**

All Councillors can reasonably expect to be provided with information that is sufficient for them to fully and properly undertake their duties and responsibilities as elected Members.

Members undertake a number of different roles. All Councillors are elected to represent the interests of their Ward and their constituents. Some Members chair Committees, some chair Scrutiny Panels; others are appointed to the Executive. The Mayor is directly elected to represent the interests of the town, its residents, and to have an Executive responsibility for ensuring the development and wellbeing of the whole of Middlesbrough. Each of these roles will require access to different levels of information.

Whilst recognising the right of all Members to access such information as they require to undertake fully their role as Councillor, it has to be recognised that there will be some requests which will impose a substantial burden on the financial and human resources of the Council.

Most of the information requested by Members can be provided at minimal cost, as it is available “off the shelf”. Under the requirements of the Freedom of Information Act, all such information (ie “off the shelf” information) is listed in the Council’s Publication Scheme.

Other information requested by Members has to be researched and compiled from original documents, records, and a variety of other sources. In these cases there is clearly a cost to the Council in terms of Officer time. In some instances these costs can be considerable. In order to balance the information needs of the Members against the costs of providing information requested and the efficient running of the Council, the following protocol shall apply.

## **General Provisions**

1. Any information that is readily available, and is contained in the Council's Publication Scheme, shall be provided to any Member on request.
2. Any information that relates directly to the work of a Member in respect of their role as Ward Councillor shall be provided as requested, so long as the Member can demonstrate the relevance of the information requested to their role as Ward Councillor.
3. Any information that relates directly to the specific role of the Mayor or any other Member (for example Chairs of Committees, Chairs of Scrutiny Panels, Executive Members, etc.) shall be provided as requested, so long as the Member can demonstrate the relevance of the information requested to their specific role.
4. In respect of paragraphs 1 and 2 above, the information requested will only be provided where the cost of compiling and providing that information does not exceed 18 hours of staff time, which equates to a cost of £450. This is the "appropriate fees" limit as set down by the Freedom of Information Act 2000.

## **Aggregated Requests**

Where a Member requests information relating to a matter, and then submits requests for similar information relating to other Departments, years, etc., and it becomes apparent that these requests are being submitted separately to avoid the "appropriate fees" limit set out above, then these requests will be aggregated and the "appropriate fees" limit applied accordingly.

## **Information not covered by this Protocol**

Information cannot be provided under this Protocol where it relates to:

- Information that is confidential or exempt as prescribed by Schedule 12A of the Local Government Act 1972 (as amended)
- Information that comes within the Data Protection Act 1998
- Confidential or personal case records, such as social care records, staffing or personnel records, etc

All information requests must be submitted through the Members' One-Stop system.

Any difficulties in respect of implementing this Protocol should be referred to the Members' Office Manager or the Head of Legal & Democratic Services.

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