

<b>ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>COMMITTEE:</b>	Standards Committee
<b>DATE:</b>	14th December 2010
<b>TITLE OF REPORT:</b>	Protocol on Members' Access to Information
<b>PURPOSE OF REPORT:</b>	To introduce the Protocol in order that the Committee recommends its adoption into the Constitution.
<b>REPORT BY:</b>	Corporate Information Officer

## **1. Background.**

- 1.1 Access to relevant information is essential to the exercise of the role of the County Councillor.
- 1.2 Advice about the rights of access to information is contained in part 5.3.8 of the Council's Constitution (Members' Access to Information and to Council Documents).
- 1.3 The information contained in part 5.3.8 of the Council's Constitution, whilst accurate, is not currently presented in an easily digestible form. It is important that Councillors' rights of access and the Council's obligations to provide access to information is expressed in a clear and unequivocal statement.
- 1.4 The draft Information Protocol provides a summary of how the Members' rights of access to information are established in statute and common law and also expectations in relation to confidentiality.
- 1.5 Providing this information in the form of a single, self-contained Protocol will present a definitive statement on access to information issues. A protocol will also enable the Council to develop its content in order to better reflect changes to the legal landscape.
- 1.6 The Protocol refers to visits by Members to Council facilities, briefings and the interactions of Councillors with others, because these matters are underpinned by the law of confidentiality and related issues.

## **2. Provision of Information**

- 2.1 This part of the Protocol provides information about Members' rights of access and how the need to know information is worked out. Information about confidentiality and statutory obligations under the Data Protection Act 1998 is provided in this section.

## **3. Visits**

- 3.1 The Protocol stresses that visits by Members to Council facilities should be supported by a reasonable need in order to fulfil his or her duties. The Protocol interfaces with the Council's CRB policy.

## **4 Ward Matters, Briefings and Managing Director's briefings for Group Leaders.**

- 4.1 These issues are linked by the importance of respecting confidentiality and are included in the Protocol in order to regulate behaviour.
- 4.2 The section on Briefings replaces part 5.3.6 of the protocol for Member / Officer relations.

## **4. Recommendations**

- 5.1 That the Standards Committee approve the draft Information Protocol and recommend to the Council its adoption into the Constitution.

[replaces 5.3.8 of the protocol for member/officer relations]

### Member Access to Information Protocol

#### *Provision of information*

1. Every Councillor may inspect and take copies of the reports, minutes and background papers relating to the public part of any agenda for meetings of the Council, its committees and the Executive.
2. A Councillor has the right to information which is not public (including information relating to that part of a meeting of the Council, its committees and the Executive which is exempt from publication) if that Councillor has a reasonable need to know that information in order to carry out their functions as a Councillor.
3. Every Councillor may ask any Council Department to provide them with such information, explanation and advice about the functions of that Department as is reasonably necessary to help that Councillor carry out their role. In other words, Councillors should be able to demonstrate their need to know the information. Councillors should normally ask the Corporate Director or other senior officer of the Department concerned for information.
4. A Councillor has a need to know certain information which is necessary to properly perform his / her duties. The Councillor cannot claim a need to know information which does not relate to the current or recent business of the Council. The Councillor does not have the automatic right to demand access to information where a need to know cannot be demonstrated. The law does not provide the Councillor with a 'roving commission' through the documents of a Council.
5. A Councillor who is a member of a particular committee will normally have a need to know about information relating to the functions of that committee.
6. A Councillor who is not a member of a particular committee can access information that relates to the business of that committee providing that he / she can demonstrate a need to know that information. Where a Councillor seeks confidential or the personal information of other people, he or she must ask the Corporate Director or senior officer for the relevant Council Department in writing, giving reasons for the request. The Corporate Information Officer will decide whether the information should be disclosed if there is a dispute.
7. In accordance with paragraph 5 of the Members Code of Conduct, Councillors will not make public information which is confidential or exempt from publication without the permission of the Monitoring Officer. Councillors will not divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
8. When dealing with personal information, a Councillor must ensure that he or she does not breach the Data Protection Act 1998.

### *Visits*

9. Every Councillor may make an individual visit to any Council Department, depot, facility or place where a Council function is carried out if:-
  - (a) The Councillor has a reasonable need to know about that place in order to fulfil his or her duties; and
  - (b) The Councillor has given reasonable prior notice to the relevant Corporate Director (unless otherwise agreed with that Director); and .
  - (c) In respect of Social Services establishments, the Councillor has undertaken an enhanced Criminal Records Bureau background check, in accordance with the Council's CRB policy.

However, the right of access is not extended automatically to schools.

10. The Managing Director will tell the Councillors of a relevant Ward of public or official visits to be made or organised by the Council to places or people within that Ward. A public or official visit is one which may involve external publicity and/or representatives of bodies outside the Council.

### *Ward matters*

11. The Corporate Director of a Department involved in considering a proposal which would affect a particular Ward or a group of residents in that Ward will tell the Councillors of that Ward of the proposal at the earliest opportunity. The Corporate Director will indicate whether and to what extent such information is confidential. Ward Councillors must not disclose confidential information on proposals in their Ward. Any failure to respect the confidentiality of such information will be referred to the Councillor's Group Leader or (in the case of a Councillor not in a Group) to the Chairperson of the Council, and may also be a breach of the Member Code of Conduct and the Data Protection Act 1998.
12. A Councillor seeking information relating to or intending to speak publically about a matter or place in a Ward for which they are not the Ward Councillor must tell the Councillor(s) for that Ward in advance.
13. If a Councillor seeks information relating to a matter or place in a Ward for which they are not the Ward Councillor, the officer to whom the request for information has been made will tell the councillor(s) for that Ward at the earliest opportunity.

[replaces 5.3.6 of the protocol for member/officer relations]

### *Briefings*

14. Information given by officers to Councillors may be provided as a briefing. Briefings may be provided to individual Councillors, the members of a particular committee or the Executive, the Leader of the Council, the Group Leaders or (as set out below) one or more Group meetings.

15. Officers may only provide information and advice in briefings which relates to the functions and business of the Council, not the individual circumstances of Councillors or matters only relating to a Group.
16. A briefing cannot take decisions on behalf of the Council, though it may provide information about decisions which have been taken and give information to those due to take a decision.
17. Briefings and other meetings should be arranged, with adequate notice of the business to be discussed provided by the Councillor. Briefings should only be provided by or with the consent of a senior officer.
18. If an officer provides a briefing to a portfolio holder on a topic of a corporate nature, then other members of the Executive seeking the same information should obtain it from the portfolio holder, not the officer.
19. If an officer provides a briefing to a Group Leader on a topic of a corporate nature, then other members of the same Group seeking the same information should obtain it from the Group Leader, not the officer.
20. Officers will only attend Group Meetings to provide briefings with the consent of the Managing Director and if the meeting is a formal one. Officers will not attend a Group meeting whilst matters of Group business are discussed. Officers will seek to deal even-handedly with all Councillors but it is inevitable that they will be required to devote more time and effort to the requests of the majority Group(s). Members of minority Groups should not misinterpret this as partisanship by officers and subject them for public or personal attack for this reason.
21. Councillors attending a briefing must not disclose information given in confidence in a briefing.
22. Officers attending a briefing must not disclose to another Group information given in confidence to them in a briefing by one Group. However, officers will be able to disclose such information to other officers where this is necessary for the carrying out of their duties.
23. Officers attending a briefing with both Councillors and people who are not members of the Council must exercise special care to ensure that confidential information is not disclosed outside the Council.
24. Briefings may take place either in person or by telephone or by the internet. Where a meeting takes place other than in person, officers must ensure that the identity of all people taking part is known to all participants.

#### *Managing Directors briefings for Group Leaders*

25. The Managing Director will convene and chair regular briefing meetings with the Leaders of all Groups on the Council.
26. The Managing Director will provide an agenda to the Group Leaders at least three days before the next meeting.
27. Any Group Leader may suggest an item for the agenda to the Managing Director, but the Managing Director alone will determine the agenda.

28. If the Leader of the Council is not a Group Leader, then he/she may attend.