

Committee Name and Date of Committee Meeting

Standards and Ethics Committee - 19 January 2023

Report Title

Standards and Ethics Committee – Data Protection Guidance – Personal Data

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

N/A

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

A report providing guidance to members in respect of their obligations relating to the Code of Conduct and in particular the use of Personal Data.

Recommendations

1. That the Committee notes the content of the report.
2. That the guidance note at appendix 1 is circulated to members via the Members Newsletter and forwarded to the Parish and Town Council clerks

List of Appendices Included

Appendix 1 Data Protection Guidance

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Standards and Ethics Committee – Data Protection Guidance – Personal Data

1. Background

- 1.1 The requirements of the Members Code of Conduct in respect of confidentiality and access to information are set out below:

Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

(a) given to me in confidence by anyone

(b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

(i) I have received the consent of a person authorised to give it;

(ii) I am required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is:

1. reasonable and in the public interest; and

2. made in good faith and in compliance with the reasonable requirements of the local authority; and

3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

The guidance within the Code of Conduct states:

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner.

Examples include personal data relating to individuals or information relating to ongoing negotiations

- 1.2 Further guidance in respect of these matters generally is available in the LGA model Code of Conduct which the Council has adopted.
- 1.3 More detailed guidance in respect of the data protection obligations on members in relation to personal data has been prepared and is at Appendix 1. This provides more specific information as to how Councillors are able to use personal information which they come into possession of in their role as a Councillor, and how to avoid breaching data protection requirements. Should the recommendations within the report be approved, this guidance will be provided to Members and Parish and Town Council clerks.

2. Key Issues

- 2.1 The key issues are set out above.

3. Options considered and recommended proposal

- 3.1 The alternative option to following the recommendations set out above is not to provide further guidance to Members and local councils in relation to compliance with data protection obligations. This option is not recommended.

4. Consultation on proposal

- 4.1 Consultation with the Councils Data Protection Officer has taken place in respect of this report and guidance.

5. Timetable and Accountability for Implementing this Decision

N/A

6. Financial and Procurement Advice and Implications

- 6.1 The officer time in dealing with this issue is met within existing Legal Services resources.

7. Legal Advice and Implications

- 7.1 The Council and the Standards and Ethics Committee have a statutory duty to promote and maintain high standards of conduct. Providing further guidance in respect of the Code of Conduct and in particular members obligations in relation to personal data is an effective way to ensure the Code of conduct is complied with in this area.

8. Human Resources Advice and Implications

None

9. Implications for Children and Young People and Vulnerable Adults

None

10. Equalities and Human Rights Advice and Implications

None

11. Implications for Partners

None

12. Risks and Mitigation

None

13. Accountable Officer(s)

Bal Nahal, Head of Legal Services

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