

### Introduction and purpose of this document

1. The Council's 'Access to Information Procedure Rules', contained within part 4 of the Waverley Borough Council Constitution set out the rights elected members and members of the public have to accessing information held by the Council. General obligations 3 and 4 of the Council's Elected Member Code of Conduct sets out the obligations members must adhere to in respect of maintaining the confidentiality of confidential information given to them and allowing access by others to information they are allowed to see. The aim of this guidance note is to provide additional guidance and detail on the principles of elected member access to information to ensure members understand their rights and responsibilities set out within the constitution and code of conduct. It should be read in conjunction with both documents.

### Guiding principles

2. Elected Members have a right to see the majority of information which the Council holds so they can carry out their duties as elected Members. The general rule is that where Elected Members need access to information in order to perform their duties they will be provided with it unless there is a good reason for them not to be provided with it. Usually information will be provided proactively by officers in advance of asking members to make a decision – often within committee papers. On occasion, members may ask to see information that has not already been provided to them by officers. In either case, officers have a duty to ensure members are provided with any information that members need to see in order to fulfil their duties unless there is a good reason not to provide it. Where the information is not provided, officers will advise elected members why this is the case.

### Rights of access

3. Members have a right to see documents, or parts of documents, where this is reasonably necessary to enable them to perform their duties as a Councillor or their role within the Council. This is commonly referred to as the 'need to know' principle. This covers cases where a councillor seeks to see information which relates to a committee of which he/she is a member.
4. This does not amount to an automatic right to see any documents under any circumstances. Councillors do not have a right to a 'roving commission' to examine any document held by an organisation and the access to information rules would not apply where a member is seeking access to information either on a speculative basis or for any improper purpose or purpose not related to their duties as a councillor.

### Exempt information and member obligations

5. The Council's constitution sets out specific types of information which need to be kept confidential ('exempt'). The seven classifications of exempt information are set out within the Constitution. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Confidential papers within agenda packs are coloured pink and clearly marked as being confidential and are not made available to the general public.
6. Under the 'need to know' principle, Elected Members can be given access (either at officer request or in response to a member request for information) to confidential information to allow them to perform their duties. However, as set out within the member code of conduct, where members have access to information which they know is confidential, they believe to be confidential or ought reasonably to be aware is confidential, they are bound not to disclose it unless under those explicitly circumstances set out within the code of conduct.

### Rights under the Freedom of Information Act 2000

7. Members have the same rights as any other member of the public to request information under the FOIA. Any such request should be dealt with under the Council's procedure for FOI requests.
8. It should be noted that a political group is not part of the Council and therefore the Freedom of Information Act does not apply to it.

PROCESS: How will requests for information not proactively provided by officers be dealt with?

