

SECTION E

WHISTLE BLOWING POLICY FOR MEMBERS

1. Preamble

Chiltern District Council ('the Council') aims to make information it holds freely available to the public in fulfilling its responsibility for openness, transparency and accountability. However, in doing so, it must also respect the data privacy and confidentiality rights of individuals, commercial entities and not for profit organisations to the extent permitted or required by the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. It is also in the public interest that the Council's commercial interests are protected and that these rights are not undermined by unwitting or deliberate disclosure, whether by officers or members.

Disclosure of confidential information can be a criminal offence and/or constitute a breach of the Member Code of Conduct.

2. Purpose of Policy

This policy sets out the arrangements agreed by the Council for the treatment by Members of Confidential Information in a manner which is also consistent with the requirements of the Members Code of Conduct. It also constitutes a statement of the Council's reasonable requirements in relation to the 'public interest' disclosure of confidential information, whether belonging to the Council or to a third party.

3. Confidential information

3.1 Confidential information is information

- given to the Council by a Government Department on terms which forbid its public disclosure
- which cannot be disclosed by the Order of an English Court
- obtained and/or given to the Council in confidence and to be duly respected as such under the provisions of the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004
- which is contained within exempt reports – Schedule 12A Part 1 Local Government Act 1972.

Receiving Confidential Information

3.2 Confidential information will be identified in one of the following ways:

- (i) Clearly marked as such by the use of terms such as 'confidential', 'in confidence', 'private', 'private and confidential', 'not for publication' or 'exempt'.

- (ii) Included in Part 2 of an agenda (confidential reports and appendices) for a formal meeting of the Council, or one of its Committees or Sub-Committees or the Cabinet or one of its Committees or a Council or Cabinet Joint Committee or a Sub-Committee of such Joint Committee; or
- (iii) Received with a covering letter or other communication which indicates that the document is confidential

Disclosing Confidential Information

3.3. If you receive confidential information you should assume that it is provided to you personally and you should not disclose it to anyone unless one of the following applies:-

- (i) Information at Paragraph 1(ii) above (confidential reports and appendices) will be supplied to all other members attending the meeting in question and may be shared and discussed with them. It should not however be shared with officers who are not involved in the meeting other than the Chief Executive, relevant Director or Head of Service, Head of Financial Services or the Monitoring Officer.
(Full Council reports and appendices - and Cabinet reports – are sent to all members. However all reports for all committees - including part 2 reports are available to all Members electronically on the Internet (part 1) and intranet (part 2) - however confidentiality should be respected).
- (ii) You have the written consent of the person who provided you with the information or the written consent of the Chief Executive, Director of Resources or the Monitoring Officer/Deputy Monitoring Officer to the specific disclosure you intend to make;
- (iii) You have received legal advice that you are under a legal obligation to disclose that information to a person who has requested it. The Monitoring Officer/Deputy Monitoring Officer will provide advice on this point if requested; or
- (iv) You may disclose the information if it is necessary for you to do so in order to obtain advice from a professional adviser, provided that adviser gives a binding obligation not to disclose the information themselves.

3.4 If none of the circumstances outlined in paragraph 2 apply, but you still wish to make a disclosure of confidential information, you can only do so lawfully and in compliance with the Members' Code of Conduct if there is a clear and overriding public interest to do so. In this regard, it is the requirement of Chiltern District Council that before disclosing confidential information on a 'public interest' basis you first seek the advice of the Chief Executive or Monitoring Officer/Deputy Monitoring Officer. Where an approach to any of these officers is inappropriate due to their

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personal involvement in the subject matter considered for disclosure – advice should be sought from the Council's Auditor.

Paragraph 3(4) of the Members Code of Conduct dealing with the obligation to respect confidentiality is set out below.

3(4) You must:-

respect the confidentiality of information which you receive as a member –

i. not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and

ii. not obstructing third parties' legal rights of access to information