

CONSTITUTION & DEMOCRATIC SERVICES COMMITTEE

Date of Meeting	Wednesday, 25 October 2017
Report Subject	Sharing Information within the Council
Cabinet Member	Cabinet Member for Corporate Management & Assets
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The Council is subject to competing legal demands with regards to sharing information which affect only what officers can share with members, what members share with each other and what officers share with each other.

In summary, the Council is not allowed to share personal information unless it is absolutely necessary (under the Data Protection Act). Yet it needs to keep members sufficiently informed that they can fulfil their roles. Neither the current nor the previous rules (in the Constitution) give sufficiently clear and practical guidance on this.

Where information does need to be shared, then practice within the Council (both members and officers) could be more consistent in terms of appropriately highlighting its sensitivity. So, for example, we need to be more consistent in marking emails that contain personal data “confidential” etc.

It is suggested that a member working group be set up to help re-write the current rules within the Constitution.

RECOMMENDATIONS

1	That a working group be established to re-write the rules for officers and members contained within the Constitution on how information is shared inside the Council.
2	That the working group should consist of up to 8 members including the Chair or Vice Chair of the Committee, Cabinet Members for Education, Housing and Social Services (whose portfolios handle the most sensitive personal data) plus 1 member from each of the other political groups.

3	That the working group be asked to report to the Constitution and Democratic Services Committee in time for it to make recommendations to the Annual Meeting of Council in May 2018.
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REPORT DETAILS

1.00	INFORMATION TO MEMBERS
1.01	Under the Data Protection Act 1998 (shortly to be replaced by the General Data Protection Regulation) the Council is obliged to handle personal data in accordance with 8 data protection principles. It is also subject to other requirements such as the common law obligation of confidence to respect the privacy of certain information. Those duties sometimes create tension with the need to keep members properly informed.
1.02	The Constitution currently sets out rules on supplying information to members that do not give sufficient detail on what should be provided. This is in contrast to the “old” rules that were overly detailed. I believe that it is possible to create a clearer set of guidance that would cover not only information sharing between officers and members but also officer to officer and member to member.
1.03	It is not sufficient, however, to describe what can be shared because the method of sharing can be equally important. Given the penalties for failing to follow the Data Protection Act 1998 etc, it is important to clearly identify the status of information that is “confidential” and then to establish procedures for appropriate labelling and more secure handling. Again these are rules that will need to apply equally to officers and members alike.
1.04	The Constitution and Democratic Services Committee has key responsibility for changing the Constitution and the provision of support to members. It should therefore be the lead body. However, Cabinet Members, in particular, sometimes need and are privy to detailed information. Areas such as education, housing and social services are most likely to deal with the most sensitive personal data and so those Cabinet Members should be involved in the process as well.
1.05	Given the complexity of the issues involved and the wide range of circumstances to be covered, this will not be a task that should be rushed. The working group will need time to understand the legal constraints and the needs of the Council before making suggestions for others to comment. There should be extensive consultation to make sure the rules “work” for everyone that needs to implement them. The group should therefore aim to report back by the end of the calendar year to allow time for consultation/consideration. I would suggest the new rules be formally adopted at next year’s annual meeting.
1.06	So that the rules meet the needs of all councillors as well as the legislation it is suggested that the working group should be cross party. The chair or vice chair of the committee should lead the group. The cabinet members for social services, housing and education are asked for and given the

	most sensitive data and so they should also be included. In addition, it is suggested that there should be one representative from each of the other groups.
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2.00	RESOURCE IMPLICATIONS
2.01	This piece of work can be accommodated within existing resources.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	<p>Group Leaders and Cabinet have been consulted on establishing the working group.</p> <p>As discussed within the report consultation on revised rules will be quite wide with draft proposals being considered at Cabinet, Audit and by officers prior to approval at Council.</p>

4.00	RISK MANAGEMENT
4.01	Fines under the Data Protection Act 198 can be high (eg. Gloucester and Hampshire each fined £100K) and under the GDPR they will be higher still. Clarity around what is appropriate to share and how will help to reduce the risk of non-compliance.

5.00	APPENDICES
5.01	None

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Contact Officer: Gareth Owens, Chief Officer, Governance Telephone: 012352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>