

COUNCIL MEETING – 13TH OCTOBER 2011

Extract from the Minutes of the Constitution Committee Meeting on 22nd September 2011

23 MEMBER ACCESS TO PART 2 AND CONFIDENTIAL REPORTS

The Committee considered proposed changes to the Council's policy on providing access for Members to Part 2 and confidential reports.

Most reports which were presented to the Council's decision-making and other bodies were freely available and open to inspection by Members and members of the public. However, certain reports, which officers believed contained "exempt information" or confidential information, could be held back from public circulation, for example, because the contents appeared to involve the financial or business affairs of an individual, or information about a proposed prosecution.

Members of the body in question were generally entitled to receive copies of Part 2 or confidential reports. However, where a Member was not a member of that body, there was no automatic right of access. Where this was the case, the Member had to demonstrate a "need to know" such information in order to properly carry out their duties as a Councillor. There was currently no formally agreed mechanism in place which provided for a judgement to be made as to whether or not a legitimate "need to know" existed, when this was claimed to be the case by a Member. In the absence of a formally agreed mechanism, therefore, the judgement had to be made by Officers. In practice, this could put Officers in a difficult position, requiring them to make a decision as to whether or not legal criteria had been met, potentially against a backdrop of strong views expressed by the Member in question.

The Council had previously reviewed the arrangements for access to Part 2 papers and had extended a right to receive such papers to

- Group Leaders
- Ward Members affected, in accordance with the Ward Member Protocol.
- Relevant scrutiny committee Chairmen and Vice-Chairmen.
- Members visiting the meeting in question, who would receive the papers upon arrival.

However, while this approach appeared to have addressed the needs of most Members wishing to see Part 2 reports, it could be argued that the approach was not entirely logical. It was therefore proposed that the arrangements for access to Part 2 and confidential papers be reviewed to address the perceived problems with the current arrangements. In this respect, it was suggested that all Part 2 and confidential reports could be released to Members upon request, except for reports containing the following sensitive categories, which would be excluded from automatic release:

- Staffing information, where the identity of Officers would be revealed; and

- Information relating to vulnerable children or adults

Even in respect of reports containing the above categories of information, it was quite possible that a Member might still claim to have a “need to know”. In order to provide for these circumstances it was suggested that a revised ‘need to know’ procedure as set out at Appendix B to the report could be adopted.

It was recommended that the arrangements be introduced initially for a six month trial period, after which they would be reviewed.

RESOLVED

That Council be recommended that

- (1) the proposed approach to access to Part 2 and confidential papers, including the revised ‘need to know’ procedure set out in Appendix B to the report, be approved subject to the category relating to staffing information being amended to refer to the identity of *individual* Officers;
- (2) the Borough Solicitor be authorised to make such changes and additions to the Constitution as she considers are necessary in order to give effect to the wishes of Council, and that
- (3) the arrangements be put in place for a trial period of 6 months, after which they be reviewed.

[Note: a revised version of Appendix B incorporating the amendments agreed at the Committee’s meeting is attached.]