

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Borough Solicitor
Subject/Title: Notice of Motion - Confidentiality

1.0 Report Summary

1.1 This report invites the Committee to consider the following Motion, proposed by Councillor B Murphy and seconded by Councillor P Edwards - "In the light of the ever-growing demand for public accountability in public services and the need to sustain public trust and confidence in democratic governance, this Council calls for a review of its policies and protocols in relation to confidentiality." which has been referred by Council to the Committee for consideration.

1.2 Councillor Murphy has provided the following additional comments by way of explanation:

"My aim is to maximise transparency and openness. I believe "confidentiality" is frequently applied when it need not be so and, in the context of the values and attitudes that now prevail, there should be a tighter definition of confidentiality and "need-to-know". I would also like to have consideration of the rules on audio/visual recording of meetings open to the press and public.

Clearly, information about personal affairs or 3rd party commercial information that are not relevant or material to an item under consideration and cannot be redacted or securely "anonymised" or are protected by statutory or judicial rulings against publication or have not been placed in the public domain should always be subject to confidentiality.

Commercial contracts should be open to public scrutiny except for those elements which do not relate to the terms and conditions of the contract or that contain confidential technical information or information that has no bearing on the "value for money" considerations or is likely to restrict the Council's freedom of choice.

Where there is doubt, the first option should be to determine whether the information at issue could be redacted."

2.0 Recommendation

2.1 That Committee consider the Motion and offer its advice to Council.

3.0 Reasons for Recommendations

3.1 To enable Council to consider the Committee views on the matter.

4.0 Wards Affected

4.1 None

5.0 Local Ward Members

5.1 All Members are affected by this matter.

6.0 Policy Implications

6.1 None identified.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 None identified.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 None identified.

9.0 Risk Management

9.1 None identified.

10.0 Background and Options

10.1 On 19th July Council considered a Notice of Motion submitted by Councillor Murphy on a review of its policies and protocols in relation to confidentiality.

10.2 Cheshire East Council is committed to making as much information as possible available to the general public while at the same time protecting the privacy and confidentiality of our citizens. The Council has a compliance unit which ensures that Cheshire East Council abides by the following legislation:-

The Freedom of Information Act 2000 - which entitles the public to ask for any recorded information the Council keeps.

The Environmental Information Regulations 2004 - which gives the public and organisations the right to access environmental information.

The Data Protection Act 1998 - which requires anyone who handles personal information to comply with eight principles regarding privacy and disclosure. It also gives individuals rights over their own personal information.

The Re-use of Public Sector Information Regulations 2005 - which provides a framework for encouraging the re-use of public sector information.

10.3 Every public authority subject to the Freedom of Information Act 2000 (FOI) is required to adopt and maintain a publication scheme. A publication scheme is a commitment to routinely and proactively provide information to the public. A publication scheme contains seven classes of information, they are;

- Who we are and what we do
- What we spend and how we spend it
- What our priorities are and how we are doing
- How we make decisions
- Our policies and procedures
- Lists and registers
- The services we offer

Cheshire East Council provides this information through its website. In addition it also publishes details of:

- Payments over £500 made by the council
- an organisational chart of the staff structure of the local authority
- salaries for staff earning over £55,000 a year,
- the powers and responsibilities of senior officers
- Councillor allowances and expenses
- the democratic running of the Council

10.4 Wherever possible information will be provided on the website. Where it is impracticable to make information available on the website or when an individual does not wish to access the information in this way, the Council will indicate how information can be obtained by other means.

10.5 In certain circumstances information may only be available by viewing in person. Where this is specified contact details will be provided and an appointment can be made within a reasonable timescale.

10.6 The Councils Access to Information rules set out the framework that governs the publication of information in relation to the Councils formal decision making arrangements. These are set out in Appendix 1. Minutes and Agenda and decisions of formal meetings are published on the website.

- 10.7 Within the Council there is a culture of openness and transparency, and this is supported by the amount of information published on the website.
- 10.8 If Committee Members believe that a review is required then Committee might wish to invite officers to review the approaches in other local authorities and consult further with all members of the Council on this matter before submitting a comprehensive report on the matter.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

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