

Thursday, 29 June 2023

Report of the Portfolio Holder for Operations and Finance**Authority to Release Process****Exempt Information**

None

Purpose

To provide Councillors with a revised process and guidance to enable access to personal information processed by the Council with respect to constituents.

Recommendations

1. It is recommended that Cabinet approve the Authority to Release procedure and guidance for Councillors requesting access to information from the Council for immediate implementation.

Executive Summary

It is important that Councillors have access to information to support their constituents.

Councillors have data protection responsibilities for the personal information they process and are **data controllers** under Data Protection legislation. This means they are responsible for making sure all personal data handled is done in a way that complies with the requirements of Data Protection/General Data Protection Regulations.

This applies when:

- representing their constituents, and
- carrying out official duties such as committee or cabinet members, or representing the Council on outside bodies

Representing their constituents

A local authority does not generally need the consent of an individual to disclose their personal information to a councillor as long as:

- a. The elected member represents the ward in which the individual lives;
- b. The elected member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
- c. The information is necessary to respond to the individual's complaint

The Council and Councillors are however required to be able to prove they have acted in accordance with Data Protection principles, as a local authority we are responsible for the information we provide to councillors and ensuring they know how it should be used.

Councillors have a duty not to make public any information which is confidential or exempt without the express consent of the Council, and a duty not to divulge to anyone, other than a fellow Councillor or Officer entitled to know it, any confidential or exempt information received from the Council. Information must be used only used for the legitimate purpose for which it is provided.

To support Councillors and the Council in achieving this a current process is in place using an Authority to Release (ATR) form which is completed and signed by both the councillor and their constituent.

The pandemic brought about a shift in how Councillors were engaging with constituents where a majority of contact was through digital channels. It was recognised to have a form physically signed twice and returned to the Council could amount to delays in supporting our potentially vulnerable residents.

This led to a review of current processes being carried out and a revised Councillor Request for Information Form is attached at **Appendix A** with guidance for the process at **Appendix B**.

The form is for Councillors to complete when requesting access to personal information held by the Council regarding their constituents and will be available in digital format on Members Zone as well as Word/PDF. It will be encouraged for the whole process to take place digitally where possible.

The process has been simplified so that now Councillors make a declaration which states that they are acting on behalf of a ward constituent and that they are aware of data protection requirements.

Options Considered

Do nothing – continue with current process. Feedback has been received to suggest the current process is outdated and can cause unnecessary delays when Councillors are supporting their constituents.

Implement the new process– This is the preferred option as the streamlined process removes the need for the Council to see a signed consent form from both the Councillor and their Constituent, subject to Data protection requirements being met. While the Councillor as a data controller may have received signed consent, as the data controller they are responsible for this in line with data protection legislation.

Resource Implications

There are no finance or human resource implications as a result of this report.

Legal/Risk Implications Background

There is a risk that data breaches could occur which is mitigated by the robust policy and guidance in place. In addition, Councillors will receive training in the new process.

As data controllers in their own right there is a risk that Councillors could be subject to investigation by the ICO if a Data Breach occurs. Again, this is mitigated by the policy, guidance, and training.

Equalities Implications

There are no equality implications as a result of this report

Environment and Sustainability Implications (including climate change)

There are no environmental or sustainability implications as a result of this report.

Report Author

Nicola Hesketh – Information Governance Manager (Monitoring Officer / Data Protection Officer)

List of Background Papers

None

Appendices

Appendix A- Councillor Request for Information
Appendix B Members Guidance – Access to Information

This page is intentionally left blank