

SWAFFHAM Town Council

CONFIDENTIALITY POLICY

The purpose of this policy is to draw together all aspects of confidentiality from all other Town Council Policies and to act as a guide to Councillors in their role as Employers and Staff as Employees of the Council.

MEMBER & OFFICER PROTOCOL - Confidentiality

- All confidential Agendas/Reports are circulated on pink paper or marked as "Confidential" and/or "exempt information" as defined by the Local Government Act 1972. Reports or discussions thereon should not be revealed outside any Council meeting and the facility is available at the Town Council's Offices for shredding confidential Agendas/Reports. All such confidential papers shall be handed in at the close of the meeting where it is considered. Retention of copies or photocopying of such confidential papers for retention is forbidden and shall be regarded as a breach of the code of conduct.
- Members must not raise matters relating to the conduct or capability of individual Officer(s) or Outside Staff (either individually or collectively) at any meeting which is open to the press and public. Any such criticism must be raised initially with the Town Clerk, or other appointed officer. Employees must not raise matters relating to the conduct or capability of Members (either individually or collectively) at any meetings which is open to the press and public.
- Members shall be allowed reasonable access to all confidential documents that they are entitled to by their status to inspect. This shall be managed by appointment with the Town Clerk (or such officer delegated by the Town Clerk as appropriate). No confidential documents shall be photocopied or removed from the Town Hall. If the Member is refused permission by the Town Clerk (or such officer) then they shall be given the reason for refusal in writing by the said officer within five working days. The Member concerned shall be entitled to raise the matter at the next Council meeting (in the private session) or with the Personnel Committee.

Inspection of confidential documents for Personnel:

- a) *All Councillors shall have access to Personnel Committee Minutes, which shall only be read within the office by appointment with the Town Clerk or designated officer.*
- b) *All Personnel reports, correspondence or advice shall be available within the Town Hall for Personnel Committee members for meetings and by appointment with the Town Clerk or designated officer.*
- c) *All Personnel files, time sheets, holiday, TOIL and sick leave records, PAYE records, disciplinary & grievance records, appraisal reports, training records, health and safety files and any other personal data are available to Personnel Committee members only by appointment with and at the discretion of the Town Clerk or designated officer in accordance with the above Member and Officer Protocol.*
- d) *All Councillors shall have access to the Town Clerk or designated officer by appointment, to discuss any related Personnel/ Confidentiality issues within the office.*
- e) *All confidential protocols are contained within the Councillor Guide & Information File and the Staff Handbook, within the various current Policies agreed by the Council.*

INTERNET, E-MAIL & SOCIAL MEDIA

- Elected members of the Council and all members of staff have no right of privacy when using the Council's computer system for outgoing or incoming e-mails.

- Confidential information should not be sent by e-mail externally to members and in some cases internally to staff without express authority from the Town Clerk or such delegated officer; and if required it should be password protected.
- Messages sent over the e-mail system or on social networking sites such as Facebook and Twitter can give rise to legal action against the Council. Claims for defamation, breach of confidentiality or contract could arise from a misuse of the system.

Be safe, be sure using the Internet, E-mail & Social Media

- Councillors and Staff must remember that their general conduct could be called into question when using the internet, communicating by E-mail or Social Media, details relating to confidentiality are contained within the full policies and protocols - any misuse could be deemed as bringing the Council into disrepute.*
- As a general rule Councillors and Staff should err on the side of caution before sharing confidential information, using the "if in doubt, leave it out" benchmark as their default.*
- Councillors ultimately have a duty to be responsible for their own actions, a breach of confidentiality protocol individually as an elected member can adversely impact the Council as an employer.*
- Staff as individual employees can be held responsible for their actions breaching confidentiality protocol by their Line Manager, by the Personnel Committee or by the Council as the employer.*

DATA PROTECTION, FREEDOM OF INFORMATION

- The **General Data Protection Regulations 2018 Act** relates to the handling of all data including employee information as well as client or customer related data. Data under the Act breaks down into two categories: ordinary personal data and sensitive personal data. The Act requires the Council to take additional steps to protect sensitive data.
- The Freedom of Information Act provides public access to information held by public authorities. It does this in two ways: public authorities are obliged to publish certain information about their activities; and members of the public are entitled to request information from public authorities.
- The Freedom of Information Act and the **General Data Protection Act Regulations** come under the heading of information rights and are regulated by the Information Commissioners Office

Where are the lines drawn between Data Protection & Freedom of Information?

- A member of Staff requesting their own Personal Data held by the Council i.e. Personnel file, time sheets, holiday, TOIL and sick leave records, PAYE records, disciplinary & grievance records, appraisal reports, training records, health and safety files and any other personal data - can do so under the Data Protection Act. Equally the Town Council has a duty as their Employer and must use the **General Data Protection Act Regulations** to protect the employee from misuse of this data and breaches of confidentiality.*
- Councillors and Staff have to be mindful of the requirements in law under both the Data Protection Act and the Freedom of Information Act (FOI). To this aim the Council has a 'Publications Scheme' which clearly sets out what information is available to the public, this is published on the Council's website.*
- Some requests that are made under the Freedom of Information Act cannot be fulfilled if they contravene the right to privacy of an individual under the **General Data Protection Regulations Act**. i.e. Any FOI request that includes personal data cannot be released to the public if it breaches the data protection principles of confidentiality.*