

WYRE FOREST DISTRICT COUNCIL

ETHICS AND STANDARDS COMMITTEE

31st JULY 2007

Protocol on Disclosure of Confidential Information

OPEN	
Responsible Officer:	Monitoring Officer
Contact Officer	C S Newlands Ext. 2715

1. Purpose of the Report

- 1.1 To consider recommending to Council the adoption of a protocol on the disclosure of confidential information.

2. RECOMMENDATION

2.1. RECOMMENDED TO COUNCIL:

The Protocol on disclosure of confidential information, as contained within this report be adopted.

3. BACKGROUND

- 3.1. The Local Authorities (Model Code of Conduct) Order 2007 came into force on 3rd May 2007.
- 3.2. Wyre Forest District Council adopted the Code without any amendments at its Annual Council meeting on 16th May 2007.
- 3.3. In part 4 of the General Provisions the Code sets out the exceptions that apply regarding the disclosure of confidential information.
- 3.4. The exceptions are listed below:
- (i) You have the consent of a person authorised to give it.
 - (ii) You are required by law to do so.
 - (iii) The disclosure is made to a third party for the purpose of obtaining professional advice provided the third party agrees not to disclose the information to another person.
 - (iv) The disclosure is:
 - (a) reasonable and in the public interest and

(b) made in good faith and in compliance with the reasonable requirements of the authority or

3.5. The Standards Board for England has helpfully, in its Guide for members May 2007 on the Code of Conduct set out some guidance on what is 'reasonable' disclosure. This guidance is incorporated in the protocol detailed overleaf.

4. LEGAL AND POLICY IMPLICATIONS

The Standards Board for England has encouraged Local Authorities to adopt protocols which give Members guidance on the disclosure of confidential information.

6. CONCLUSION

To assist Members in interpreting the Code of Conduct regarding the disclosure of confidential information, it is appropriate to adopt a protocol to be read alongside the Code of Conduct.

Consultees:

Chairman/Vice Chairman of Ethics and Standards Committee

Background papers:

The Local Authorities (Model Code of Conduct) Order 2007

The Code of Conduct Guide for Members, May 2007

WYRE FOREST DISTRICT COUNCIL

PROTOCOL FOR THE DISCLOSURE OF CONFIDENTIAL INFORMATION

The first requirement, that the disclosure must be reasonable, requires a Member to consider matters such as:

- Whether the Member believes that the information disclosed, and any allegation contained in it, is substantially true. If the member does not believe this, then the disclosure is unlikely to be reasonable.
- If the disclosure is made for personal gain e.g. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made: it may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for a Member to disclose the information to the world at large through the media.
- The extent of the information disclosed: the inclusion of unnecessary detail, and in particular private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter - the more serious the matter disclosed the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure - if the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure is less likely to be reasonable than if the matter is continuing or is likely to re-occur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness that has either happened in the past is currently happening, or is likely to happen in the future:

- (a) A criminal offence is committed.
- (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
- (c) A miscarriage of justice occurs.

- (d) The health or safety of any individual is in danger.
- (e) The environment is likely to be damaged.
- (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.

The third requirement, that disclosure is made in good faith, will not be met if you act with an ulterior motive, for example to achieve a party political advantage or to settle a score with a political opponent.

The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

Members should contact the Monitoring Officer in order to decide whether a disclosure is reasonable and in the public interest.