



Subject:	Code of Conduct – Disclosure of Restricted Information
Date:	24th November 2023
Reporting Officer:	John Walsh, Chief Executive
Contact Officer:	Nora Largey, Interim City Solicitor / Director of Legal and Civic Services

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please indicate the description, as listed in Schedule 6, of the exempt information by virtue of which the council has deemed this report restricted.	
Insert number <input type="checkbox"/>	
<ol style="list-style-type: none">1. Information relating to any individual2. Information likely to reveal the identity of an individual3. Information relating to the financial or business affairs of any particular person (including the council holding that information)4. Information in connection with any labour relations matter5. Information in relation to which a claim to legal professional privilege could be maintained6. Information showing that the council proposes to (a) to give a notice imposing restrictions on a person; or (b) to make an order or direction7. Information on any action in relation to the prevention, investigation or prosecution of crime	
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	At the Council meeting on 4 th October, the Chief Executive, in response to a Member's query, agreed to consider in conjunction with the City Solicitor, any internal measures which could be taken in respect of Members posting restricted information on social media, particularly when there were commercial sensitivities.
1.2	The City Solicitor has provided this report, which outlines the general duty of confidence in this regard and the steps that may be taken if a Member discloses confidential information.
2.0	Recommendation
2.1	<p>The Committee is asked to:</p> <ul style="list-style-type: none"> i. note the contents of this report, including the provisions within the 2014 Act and the Northern Ireland Local Government Code of Conduct for Councillors in respect of the treatment of restricted information; ii. note the steps that may be taken should a disclosure of confidential information be suspected; and iii. consider the proposal to include a reference to 'restricted' reports and the duty of confidence in the Chairperson's statement.
3.0	Main Report
3.1	<p><u>Access to Meetings and Documents</u></p> <p>Part 8 of The Local Government Act (Northern Ireland) 2014 ("the 2014 Act") sets out the rules around public access to council meetings and documents.</p> <p>A meeting of the council must be open to the public at all times, except where the council by resolution has excluded the public during an item of business whenever it is likely, due to the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, that either:</p> <ul style="list-style-type: none"> - 'confidential information' would be disclosed to the public in breach of the obligation of confidence, or - 'exempt information' would be disclosed to the public. - <p>'Confidential information' means 'information provided to the council by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by or under any statutory provision or by the order of a court'.</p>

'Exempt information' is defined in Section 51 and Schedule 6 of the 2014 Act.

The Council has the power by resolution to mark certain reports as "restricted" and to exclude the public from proceedings whilst such reports are discussed. Reports which are marked restricted are required to describe the nature of the 'exempt information' from the categories listed in Schedule 6 of the 2014 Act.

The Northern Ireland Local Government Code of Conduct for Councillors

3.2

The Code of Conduct for Councillors Paragraph 4.15 is clear that a Member must not disclose any confidential information to the public unless authorised to do so. Confidential information includes any information discussed during a closed session of a council meeting.

Code paragraph 4.15

"You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent; or unless required to do so by law."

The Commissioner's Guidance for Councillors includes the following guidance in relation to the disclosure of confidential information:

"Confidential information may take a number of forms. Sometimes, the confidential nature of the information will be explicit, such as when a document is marked 'confidential'. In other cases it will be clear from the nature of the information or from the circumstances in which it was provided to you that the information is confidential: all of the following types of information are confidential in nature:

- *commercial information, such as information relating to a contract or a contractor's business;*
- *personal information such as information relating to a person's employment;*
- *information which is confidential as a result of a statutory provision. For example, the Commissioner's investigations must be conducted in private and therefore all information relating to his investigations should be regarded as confidential;*
- *information discussed in the closed sections of meetings should always be treated as confidential; and*
- *legal advice obtained by your council, whether it was provided by external lawyers or by your council's own legal staff, is covered by legal privilege and should not be disclosed without the permission of the council".*

3.3	<p><u>What are the next steps if a disclosure of information is suspected?</u></p> <p>It is clear from reading the provisions in both the 2014 Act and the Code of Conduct that Members are not permitted to disclose any confidential or exempt information which is the subject of discussion during a closed session of a council meeting.</p> <p>If such an occurrence takes place, whether intentionally or otherwise, there are a number of steps that could be taken, including:</p> <ul style="list-style-type: none"> - that the Council deal with the matter internally; - that the Council may refer the matter to the Commissioner for Standards; or - that any person may refer the matter to the Commissioner for Standards.
3.4	<p><u>Steps the Council may take Internally</u></p> <p>In the majority of cases, the Chief Executive or the City Solicitor may recommend that the Council deal with the matter internally and will immediately alert the Member concerned to their duty of confidence under the Code of Conduct. This may take place during the council proceedings or immediately afterwards if the disclosure is not apparent at the time. The Member will also be advised to remove any such disclosure of confidential information from social media or any other medium where it may be viewed or listened to.</p> <p>(Note: Whilst the Council has developed an Internal Dispute Resolution Protocol, it can only be used to deal with potential breaches under “Code Paragraph 4.13(a) – You must show respect and consideration for others”. The Protocol is not designed to deal with complaints made under any other provisions of the Code and such complaints should be made directly to the Local Government Commissioner for Standards).</p> <p><u>Recommendation to add to the Chairpersons statement re restricted items</u></p> <p>As Members will be aware, prior to dealing with restricted items the Chairperson reads a statement seeking approval to exclude members of the press and public from the meeting (see excerpt below).</p> <p><u>Proposal to Exclude the Public from the Committee Meeting</u></p> <p><i>“That the Committee agrees to exclude the members of the Press and public from the Committee meeting during discussion of agenda items <> to <> inclusive as, due to the nature of those items, it is likely that there would be disclosure of exempt information as described in Section 42 (4) and Schedule 6 of the Local Government Act (Northern Ireland) 2014.”</i></p> <p>It is recommended that the following short sentence is added to this statement:</p>

	<p><i>“Members are reminded that the content of ‘restricted’ reports and any discussions which take place during closed session must be treated as ‘confidential information’ and that no such information may be disclosed to the public as per Paragraph 4.15 of the Code of Conduct”.</i></p> <p><u>Member Training on the Code of Conduct</u></p> <p>Members are also reminded that Council officers offer regular training on the Code of Conduct with the last session having been provided after the election in June 2023 and delivered by the Chief Executive, the City Solicitor and the Commissioner for Standards. Members are encouraged to avail of this training as and when it is offered.</p>
3.5	<p><u>Council may refer a matter to the Commissioner for Standards</u></p> <p>Depending on the nature and seriousness of the disclosure, the Chief Executive or the City Solicitor may in certain circumstances decide that it is in the interests of the Council that they refer a matter to the Commissioner for Standards to investigate an alleged breach of the Code of Conduct. These instances are rare and often involve allegations of serious misconduct and/or conduct which could cause reputational damage to the Council.</p>
3.6	<p><u>Any person may refer a matter to the Commissioner for Standards</u></p> <p>Any person can refer a matter to the Commissioner for Standards with respect to an alleged breach of the Code of Conduct for Councillors. Such referrals will usually be from another Councillor or from a member of the public and will often be in relation to allegations of serious or clear breaches of the Code of Conduct.</p>
3.7	<p><u>Financial and Resource Implications</u></p> <p>There are no financial or resource implications connected to this report.</p>
3.8	<p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>There are no equality or good relations implications connected to this report.</p>
4.0	Documents Attached
	None