SHDC MONITORING OFFICER GUIDANCE

TO COUNCILLORS

ACCESS TO INFORMATION

Produced by SHDC Monitoring Officer - May 2023

Adopted by Brixton Parish Council - 27th September 2023

Reviewed by Brixton Parish Council - 25th September 2024
24th September 2025
30th September 2026

This policy will be reviewed on an annual basis

Date of next review – September 2027

Kirstie Aldridge - Clerk Brixton Parish Council
clerk@brixtonparishcouncil.gov.uk

Brixton Parish Council Access to information

SHDC Monitoring Officer Guidance to Councillors

1.	Same rights as a member of the public	2
2.	The need-to-know principle	2-
3.	Documents containing information relating to items to be considered at a public meeting	2
4.	Exception for members of Overview and Scrutiny Committee	2
5.	Use of Council information	2
6.	The legal bits	3
Appendix		4

The Council holds a great deal of information including some that is published routinely, some that is personal data and some that is exempt from publication or confidential. As a councillor you might require information to help you to carry out your role, for example, representing your constituents or carrying out official duties such as being a member of a committee, a lead member or representing the Council on an outside body.

The following guidance is to help you to understand what information you can access.

1. **Same rights as a member of the public.**
   Being a councillor does not mean that you cannot use those rights to access information that are enjoyed by members of the public. So, you continue to have access to information that is held by the Council and which is publicly available under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or any other statutory entitlement to information or public register.

2. **The need-to-know principle.** As a councillor you have a right to access information that is held by the Council where the information is required to allow you to perform your role as a councillor. This does not mean that you have a roving commission to access any information that the Council holds. The need-to-know principle means that you will usually need to know something if the information involves your official council duties. A need to know will arise where the information sought relates to a committee upon which you sit or where it is reasonably required to deal with a ward matter. When you request access to information, the officer receiving the request has the right to ask why you want the information. If your request is refused by an officer or the officer has doubts about whether you need-to-know, the Chief Executive decides if you should have the information.

3. **Documents containing information relating to items to be considered at a public meeting**. You may inspect any document that is in the Council's possession and contains material relating to any business to be considered at a meeting of the Council, a committee or sub-committee. However, you do not have the right to inspect a document where it appears to the Chief Executive acting as the Head of Paid Service that it discloses exempt information. The categories of exempt information are set out in the Appendix to this guidance and in the Access to Information Procedure Rules in the Council's Constitution.

4. **Exception for members of Overview and Scrutiny Committee.**
   If you are a member of the Overview and Scrutiny Committee then there will be a presumption that you have the need to know where access is required as part of the scrutiny function to agenda items that are exempt.

5. **Use of Council information.**
   You have a responsibility to deal with the information in a responsible manner particularly if it is information about an individual or that is confidential. Any information you get in the course of your official duties and which is not public information, must not be used apart from for the specific purpose of fulfilling your work as a member. It must not be used for party political purposes.

6. **The legal bits.**
When accessing Council information, consider:

6.1. Code of conduct. When accepting office as a councillor, you agreed to comply with the standards of behaviour set out in your Council's Code of Conduct. Failure to comply with the Code of Conduct can result in a standards complaint against you.

6.2. The Code of Conduct reinforces the principle that you should act at all times in the public interest. You should not therefore seek to obtain or use Council information that is not available publicly for your own private interests or those of any other person.

6.3. A breach of confidentiality will be a breach of the Code of Conduct except where you have consent to disclose the information; are required by law to disclose it or the information is disclosed to another person for the purpose of obtaining professional advice provided that the other person agrees not to disclose the information to any other person. Disclosure of confidential information may be made if it is in the public interest, made in good faith and in accordance with the Council's requirements for example in accordance with the Council's whistleblowing policy.

6.4. Data Protection Act 2018 and the General Data Protection Regulations. These give people specific rights in relation to their personal information and place certain obligations on those organisations that are responsible for processing it. As a councillor you have three different roles; ward member; member of the Council and party political, depending on which of these you are carrying out at a particular time will determine what personal information the Council can share with you. Further advice will be provided separately.

ACCOUNTABILITY **INTEGRITY** **OPENNESS**

Appendix

Category	Condition
1. Information relating to any individual	See General Note above.
2. Information which is likely to reveal the identity of an individual.	See General Note above.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information in Category 3 is not exempt if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986, or the Charities Act 1993. Also see General Note below.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	"Labour relations matters" are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute. Also see General Note below
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	See General Note below
6. Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	See General Note below
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	See General Note below

General Note: In all categories, information is not exempt if it relates to development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Subject to this, and the qualification in Category 3, Information in Categories 1 to 7 is exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing it