

<b>Report on</b>	Processing and Transacting Confidential Business - Update
<b>Date of Meeting</b>	Thursday 4 <sup>th</sup> March 2021
<b>Reporting Officer</b>	Philip Moffett, Head of Democratic Services
<b>Contact Officer</b>	Philip Moffett, Head of Democratic Services

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	The paper has been prepared to provide members with background and an overview on the approach taken by Council on processing and transacting confidential business through its committee and council meetings.
<b>2.0</b>	<b>Background</b>
2.1	At the January meeting of Council a number of members remarked upon an incident whereby it was made known to them that an item that was discussed in confidential business at a Planning Committee meeting, had appeared on a social media platform. The members expressed concern at the incident and that it appeared to be now a regular occurrence.
2.2	It was agreed that the matter be deferred to Policy & Resources Committee for reflection and to receive an update on current practice and ways of eliminating such instances be explored/considered.
2.3	The following provides an overview on (i) the rationale for and foundation for confidential business, (ii) the council's arrangements on processing confidential business and (iii) committee business practice to manage its distribution.
<b>3.0</b>	<b>Main Report</b>
	<b>Rationale for Confidential Business</b>
3.1	There are times when any organisation, the council included, needs to discuss and consider an issue in confidence before it is naturally actioned and becomes a decision for implementation. Such issues are primarily around personnel matters, finances of the council, procurement exercises and in some cases areas of policy development to allow space to tease out legal matters.
3.2	Transacting business in confidence is allowed for under Schedule 6 of the 2014 Local Government (NI) Act where is lists different types of information that can be classified as exempt information. These are: <ul style="list-style-type: none"> <li><i>Information relating to any individual</i></li> <li><i>Information which is likely to reveal the identity of an individual</i></li> </ul>

	<ul style="list-style-type: none"> <li>• <i>information relating to the financial or business affairs of any particular person (including the council holding that information)</i></li> <li>• <i>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the council or a government department and employees of, or office holders under, the council</i></li> <li>• <i>Information in relation to which a claim to legal professional privilege could be maintained in legal proceedings</i></li> <li>• <i>Information which reveal as that the council proposes:</i> <ul style="list-style-type: none"> <li>○ <i>to give under any statutory provision a notice by virtue of which requirements are imposed on a person; or</i></li> <li>○ <i>to make an order or direction under any statutory provision</i></li> </ul> </li> <li>• <i>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</i></li> </ul> <p>Refer to appendix A.</p>
3.3.	<p>Where it is determined that the subject of the business being transacted or part of the report up for consideration contains information that fall within one or more of the above categories of exempt information then it can be taken in confidential business. This is a determination made by the reporting officer/report author and authorised/checked by the relevant Director. Council management takes the approach that reports taken in confidential business are by exception only and they must align with at least one of the above exempt categories from the 2014 Local Government Act.</p> <p><b>Arrangements on Processing Confidential Business</b></p>
3.4	<p>Papers taken in confidential business are by exception only. However, when it is, the reporting officer/report author is required to select the relevant category within the report template from the list shown at 3.2 above. The categories appear on the report template. The relevant Director subsequently reviews reports who will validate whether or not it should be in confidential business, before been passed to Democratic Services for final processing.</p>
3.5	<p>All reports considered in confidential business appear in a separate minute to the business taken in open business.</p> <p><b>Business practice to Manage Distribution of Confidential Reports/Documents</b></p>
3.6	<p>Committee Services use a number of business practices as part of the administration and management of council/committee meetings to ensure only those who need to see confidential business have access to it. These mitigating practices include:</p> <ul style="list-style-type: none"> <li>• The CMIS system (Committee Management Information System) has a series of security levels for different types of users who access our papers i.e. <ul style="list-style-type: none"> <li>○ All councillors have access to all council and committee papers</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ All senior council officers have access to all council and committee papers, except for Audit Committee which has restricted access to limited officers only</li> <li>○ Departmental Business Managers who support Directors have restricted access to committee papers and only to those committees which their department reports into</li> <li>○ Other Council Officers do not have access to any council/committee confidential business and reports</li> <li>○ Should an officer need access to a report taken in confidential business they must request it from their Department's Business Manager with Director approval</li> <li>○ Approval is required from the Chief Exec. to be permit anyone to access confidential business</li> </ul> <ul style="list-style-type: none"> <li>• Committee Services issue all council/committee via the CMIS system</li> <li>• The security level set against each user of the system determines what, if any, confidential business they can access and view</li> <li>• The office has discontinued the general practice of emailing and copying off meetings papers. This is by exception only.</li> <li>• Meeting papers accessible from the MyCMIS App cannot emailed or printed from it</li> </ul>
3.7	<p>There are robust processes in place to manage access to and circulation of council/committee papers to only those who are entitled to view them. We routinely monitor the number of users on the system with users being removed when they leave the council.</p> <p><b>Maintaining Confidentiality and the Code of Conduct</b></p>
3.8	<p>Councillors are expected to treat as confidential all confidential papers/report that they receive in the course of council business unless they are made public by law, or by the Council's express or implied consent. The Code of Conduct for Councillors (2014) provides that a member must not:</p> <ul style="list-style-type: none"> <li>• <i>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.</i></li> </ul>
3.9	<p>In short, confidential papers, reports and minutes should remain confidential unless the Council has given authority to make them public. The Council at its establishment in 2015 also signed up to a Media Protocol around liaison and interaction between council, councillors and the press/media.</p>

3.10	<p><b>Strengthening our Processes</b></p> <p>We will continue to build resilience into our processes to minimise as much as possible opportunities for confidential business being passed to sources who do not have requisite permission to view it. To add robustness we are currently reviewing:</p> <ul style="list-style-type: none"> <li>• If confidential papers, reports or minutes can be restricted from being printed, downloaded or emailed once accessed/opened from our website after logging in</li> <li>• Options on how minutes of meetings in open business and confidential business are recorded</li> </ul>
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<p><b>Financial, Human Resources &amp; Risk Implications</b></p> <p>Financial: not applicable</p> <p>Human: not applicable</p> <p>Risk Management: The issue of maintaining in confidence matters taken through council/committee in confidential business continues to be monitored by Democratic Services and new practice employed to control access to and circulation of it to avoid any reputational damage to the Council.</p>
<b>4.2</b>	<p><b>Screening &amp; Impact Assessments</b></p> <p>Equality &amp; Good Relations Implications: Not applicable</p> <p>Rural Needs Implications: Not applicable</p>
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	<p>That members' review and consider the contents of the report on the council's current practice on processing and transacting confidential business.</p>
<b>6.0</b>	<b>Documents Attached &amp; References</b>
	<p>Appendix A – extract of Local Government (NI) 2014 on Exempt Information</p>