

## PERFORMANCE AND GOVERNANCE COMMITTEE – 27<sup>TH</sup> SEPTEMBER 2011

### ITEM 9 - COMPLAINT HANDLING - ADDENDUM

The following Legal advice should have been attached to item 9 on the Committee's agenda as Appendix A and should be added to the papers for the meeting.

Appendix A

#### Legal Advice provided on 31<sup>st</sup> May 2011

“At present the Council when acknowledging a complaint asks the complainant whether or not they would like their District Councillor to be involved. Therefore, the complainant is required to forward consent for the disclosure of any information relating to a complaint unless the complainant goes to the Councillor whereby consent would not be required as in such a situation the Councillor would be deemed to be representing the complainant.

The correspondence received by the Council during the process of a complaint is personal data and potentially sensitive. In order to comply with the principle of fair processing a local authority should ensure that individuals whose personal information is being processed give their consent to information being passed onto a particular District Councillor. Without such consent the Council opens itself up to a possible complaint to the Information Commissioner's Office.

The Council's current complaints process which is based on the Complainant's consent before disclosing details of the complaint to a Councillor is compliant with legislation and legal principles.

The Council's standard acknowledgement letter offers the complainant a double selection when seeking their permission to pass their letter/personal data to Councillors in relation to a formal complaint as follows:

- Provide a copy of my letter of complaint to my local District Councillor
- Provide copies of any supporting correspondence related to my complaint

In order to clarify the position still further and ensure that there is no misunderstanding as to what data will be shared the following amendment is suggested to the second bullet point:

“Provide copies of all supporting data/correspondence (including personal information) held in the Council's systems which are relevant to my complaint to my local District Councillor”.