

Argyll and Bute Council encourages openness in its dealings with members of the public, communities and other organisations and encourages public access to information. There are, however, certain circumstances where information will be of a nature where it should not be disclosed to outside parties. These are:

1. Certain Council documents which are submitted to the Council or a Committee will be marked by the Director of Corporate Services as “exempt” and “not for publication” in terms of the appropriate provisions of the Local Government (Scotland) Act 1973. There has to be a good reason for classifying documents in this way because they may contain certain classes of information which should not be disclosed. Directors must ensure employees are aware that the contents of any such documents must not be disclosed to those who are not authorised to receive it. It should be borne in mind that reports marked “Not for Publication” or “Confidential” containing information not open to the public at a meeting may require to be subsequently disclosed and made available in compliance with a request for information in terms of the Freedom of Information (Scotland) Act 2002.
2. In the course of their employment with the Council, employees will receive information across a whole range of circumstances. In general the rule is that information which is received in confidence by the Council should not be disclosed to other parties unless there is a statutory, legal or genuine requirement to disclose that information and it should only be disclosed to the person and for the purpose which arises from the legal requirement to disclose it. There are particular rules in relation to the release of information held by the Council in response to a relevant request under the Freedom of Information (Scotland) Act 2002 and also in relation to the Social Work and Education Services and Directors should ensure that the employees affected are familiar with these rules.
3. The personal circumstances, including salary, private address and telephone number of employees should not be disclosed to outsiders

parties unless there is a legal obligation to do so or in response to a genuine request, for example, a request to provide a reference to a Bank or Building Society for mortgage purposes or in relation to a request to provide a job reference.

4. Similarly, the personal circumstances of clients or customers of the Council should not be disclosed unless there is a legal or genuine requirement.
5. The Data Protection Act requires the Council to register with the Data Protection Registrar the purposes for which it holds data about individuals and the Act prohibits the disclosure of that information other than for the purposes registered.
6. There can be issues with regard to information on matters of commercial confidentiality. This can relate to information held or being prepared by a number of Services in the context of Competitive Tendering under Best Value. Council services may compete over a whole range of works and services with external firms and agencies. Disclosure of that kind of information may place Council Services (and thus Council employees), at a severe disadvantage in tendering for Council contracts.
7. There is an obligation on all employees to maintain commercial confidentiality in relation to business dealings with outside organisations and in particular in relation to, for example, prices or tenders quoted by companies for the provision of works, goods or services to the Council.

In conclusion, employees should bear in mind the following principles in relation to breaches of confidentiality:

- a. *In particular circumstances a breach of confidentiality may itself be a criminal offence.*
- b. *It may adversely affect the interests of the Council.*

- c. It may adversely affect the interests of an employee or a client or customer of the Council, or cause that person personal difficulty or embarrassment.*

- d. A breach of confidentiality could adversely affect the interests of a third party which could give rise to legal proceedings and damages against the Council or, indeed, against the employee who has disclosed confidential information.*

Notwithstanding the above there may be a legal obligation on the Council to release such information as is referred to above under the Freedom of Information (Scotland) Act 2002.