

# report



meeting      **COUNTY COUNCIL**

date            6<sup>th</sup> April 2006

agenda item number 9(c)

## **REPORT OF THE MONITORING OFFICER**

### **Amendments to the Constitution – Exempt information**

#### **1. Purpose of the report**

To confirm amendments to the Access to Information Procedure Rules in the Constitution

#### **2. Background**

- 2.1.** The County Council received a report on 1 December 2005 and authorized a delegation to the Monitoring Officer to amend the Constitution to take account of expected alterations to the law relating to exempt information.
- 2.2.** On 26 January 2006 the Government enacted the Local Government (Access to Information) (Variation) Order 2006 which came into force on 1 March 2006 together with the The Relevant Authorities (Standards Committee) (Amendment) Regulations 2006 and the The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 all of which came into force on 1 March 2006
- 2.3.** This new legislation provided seven new general circumstances when information could be classed as exempt and three circumstances when information relating to the business of the Standards Committee could be classed as exempt to replace the previous 15 categories of exempt information.
- 2.4.** In addition to the new categories a new concept was introduced whereby considerations as to whether the public interest in openness should outweigh the application of a particular category of exemption.

**2.5.** Members will recall that the driver for this legislative change was the Freedom of Information Act 2000 which enshrined the presumption in favour of openness and accountability of public bodies like the County Council.

### **3. Amendments made**

**3.1.** The rules on exempt information are contained in part F of the Constitution in the Access to Information Procedure Rules. Set out at **Appendix 1** is the amended version of those rules.

### **4. Guidance**

**4.1.** The Monitoring Officer issued guidance in February 2006 to all Chief Officers regarding the operation of the new categories of exempt information and the consideration of the public interest.

**4.2.** Freedom of Information Act guidance on the impact of the changes to the treatment of exempt information in reports was issued and is at **Appendix 2** from which it should be noted that the previously accepted practice of stamping a report not for publication will no longer be acceptable, the author of the report must specify the reasons for applying the exemption.

**4.3.** Further guidance may be issued as the practicalities of this new way of working become clear.

### **5. Statutory and Policy Implications**

**5.1.** This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, Crime and Disorder and those using the service. Where such implications are material; they have been described in the text of the report.

### **6. RECOMMENDATIONS**

#### **It is recommended:**

**5.1** That the County Council notes the Constitution amendments made by the Monitoring Officer under the delegation given to her by Council on 1<sup>st</sup> December 2005.

#### **Legal Services Comments**

Council meeting has the constitutional delegation to approve the recommendations in this report [EB 23.03.06]

**Director of Resources Comments**

There are no financial implications (PH 23/03/06)

**Background Papers**

Nil.

**Electoral Divisions Affected**

All