

# THE ASSEMBLY

1 MARCH 2006

## REPORT OF THE CORPORATE DIRECTOR OF RESOURCES

<b>Title: Access to Local Authority Information</b>	<b>For Decision</b>
<p><b>Summary:</b></p> <p>Following the full implementation of the Freedom of Information Act 2000, a Government Review Group was established to ensure that the Local Government Access to Information rules established in 1985 through amendments to the Local Government Act 1972 are compatible with both the Data Protection Act 1998 and the Freedom of Information Act 2000.</p> <p>As a result Regulations are being introduced from 1 March 2006 amending the Access to Information framework and specifically the categories and circumstances of exemption where local authorities are able to withhold information from disclosure to the public.</p> <p>This report sets out the proposed amendments which need to be incorporated in the Constitution and which require Assembly approval.</p> <p><b>Wards Affected:</b> None.</p>	
<p><b>Implications:</b></p> <p><b>Financial:</b> None.</p> <p><b>Legal:</b></p> <p>The Council is obliged to adopt the Regulations concerning the Access to Information to apply to all meetings constituted in accordance with the Local Government Acts 1972 and 2000.</p> <p><b>Risk Management:</b> None.</p> <p><b>Social Inclusion and Diversity:</b> None.</p> <p><b>Crime and Disorder:</b> None.</p>	
<p><b>Recommendations</b></p> <p>The Assembly is asked to:</p> <ol style="list-style-type: none"><li>1. Note the affect of the Regulations insofar as changing the categories and circumstances of exemption where local authorities are able to withhold information from disclosure to the public and</li><li>2. Amend Article 14 of Part B of the Council's Constitution accordingly as set out in Appendix B.</li></ol>	

## Reasons

The amendments to the Constitution provide for meeting papers, including agendas, reports and minutes for all meetings established under the Local Government Acts of 1972 and 2000 (the Assembly, Executive, Scrutiny Management Board and associated Panels, various quasi-judicial Boards and the Standards Committee), to be produced in accordance with the Access to Information Act as amended by Regulations.

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## 1. Access to Information

- 1.1 Schedule 12 A of the Local Government Act 1972 describes the categories of information that may be considered exempt from the requirements of the 1972 Act to make available to the public papers relating to local authority meetings and access to those meetings.
- 1.2 Since the provisions were established the Data Protection Act 1998 and the Freedom of Information Act 2000 have been introduced. The Data Protection Act restricts the disclosure of personal information and has had a considerable impact in the way local authorities handle information, as personal information, albeit classed as confidential can be accessed by individuals who have a right to see information held relating to themselves. The Freedom of Information Act introduced further significant changes with the public able to access the majority of information held by a local authority.
- 1.3 With these changes the Government was keen to ensure the access to information rules were compatible with both Acts, with the introduction of new Regulations effective from 1 March 2006, the effect of which seeks to achieve a balance between compatibility with both Acts and a simplification of the exemptions. From an original list of 15 exemptions (Appendix A) there will now be 7 categories of exempt information (Appendix B) which will apply to all meetings in the political structure established in accordance with the Local Government Acts 1972 and 2000. In addition existing exemptions relating specifically to the Standards Committee will remain un-amended but renumbered and incorporated in Schedule 12A, as paragraphs 7A-7C.
- 1.4 In line with the Freedom of Information Act 2000, a public interest test will now apply to all the exemptions to ensure that information can only be withheld from the public if the public interest in maintaining that exemption outweighs the public interest in disclosing the information. This test will only apply at the point that an individual seeks access to that information. However it will be important that report authors apply the test at the point of considering a confidential exemption to a particular report, and for which separate guidance will be issued.

1.5 Finally information falling within the exemption categories contained in the Schedule will not be regarded as exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town & Country Planning Act General Regulations 1992.

## **2. Consultees**

2.1 The following have been consulted in the preparation of this report:

Muhammed Saleem, Divisional Director of Legal Services and Monitoring Officer  
Nina Clark, Assistant Chief Executive, Democracy & Partnerships

### **Background Papers Used in the Preparation of the Report:**

- The Local Authorities (Access to Information) (Exempt Information) (Amendment) (England) Order 2004
- The relevant Local Authority (Standards Committee) (Amendment) Regulations 2006
- Article 14 (Access to Information) pages B105-B107 of Part B of the Council's Constitution