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# Proposed Variation to Constitution: Access to Information Procedure Rules

Report by the Head of Administration

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## Matters for Information

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### 1. INTRODUCTION

1.1 On 18th January 2006, the first Secretary of State made the following Statutory Instruments (SIs) -

- ◆ The Local Government (Access to Information) (Variation) Order 2006;
- ◆ The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006; and
- ◆ The Relevant Authorities (Standards Committee) (Amendment) Regulations 2006.

They come into force on 1st March 2006 and apply to all principal councils in England.

1.2 The Order and Regulations make changes to Part 5A and Schedule 12A to the Local Government Act 1972 in relation to access to meetings and documents of principal councils and certain committees of those councils. The changes are intended to align the access to information provisions in the local government legislation with the Freedom of Information Act.

1.3 As a consequence of the publication of the SIs and their effective date, changes to the District Council's constitution are required.

### 2. EFFECT OF STATUTORY INSTRUMENTS AND PROPOSED CHANGES TO THE CONSTITUTION

2.1 Essentially, the Order substitutes a new Schedule 12A (which contains the definitions of exempt information) using simpler and clearer descriptions and some of the previous qualifications are replaced by a public interest test. Consequential amendments are made to those sections relating to "additional rights of access to documents for members of principal councils" and the regulations referred to apply the same changes to meetings of the Cabinet and the Standards Committee and any sub committee of a Standards Committee.

2.2 Changes to the constitution will be required and these are listed below with appropriate references -

(a) **Delete** existing paragraph 10.3 on page 181 and **insert** the following:-

**“10.3 Meaning of Exempt Information**

Exempt information means information falling within the following 7 categories subject to the relevant condition(s):-

Category	Condition
1. Information relating to any individual.	
2. Information that is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt information if it is required to be registered under – (a) The Companies Act 1985 (b) The Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Act 1965 – 1978 (e) The Building Societies Act 1986; or (f) The Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	

<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p> <p>7A Information which is subject to any obligation of confidentiality.</p> <p>7B Information which relates in any way to matters concerning national security.</p> <p>7C The deliberations of the Standards Committee or of a sub committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to under the provisions of Section 60 (2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.</p>	
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Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992. “.

“Information which –

- (a) falls within any of paragraphs 1-7 above; and
- (b) is not prevented from being exempt by virtue of the conditions attached to paragraph 3 and to regulation 3 of the Town & Country Planning General Regulations 1992, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, the Director of Central Services and Monitoring Officer (or in his absence the Head of Administration) shall determine the public interest case.”.

- (b) **Delete** existing paragraph 22.1 on page 189 and **insert** the following:-

**“22.1 Material relating to previous business**

Any document which is in the possession or under the control of the Cabinet and contains material relating to any business to be transacted at a meeting of the Cabinet or relates to any key decision shall be open to inspection

by any Member of the Council unless it appears to the Director of Central Services and Monitoring Officer that it discloses exempt information.


Notwithstanding paragraph 22.1, the document will remain open to inspection if the information it contains falls within paragraphs 3 or 6 of Schedule 12A to the Local Government Act 1972 (with the exception of information relating to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.)”.

### **3. CONCLUSION**

The Council is recommended to approve the changes to the Constitution as set out in paragraph 2.2 as a consequence of the variations to that part of the Local Government Act 1972 relating to access to information.

### **BACKGROUND PAPERS**

The Local Government (Access to Information) (Variation) Order 2006.  
The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006. The Relevant Authorities (Standards Committee) (Amendment) (Regulations) 2006.  
The Councils Constitution  
Local Government Act 1972

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