

CONSTITUTION COMMITTEE AGENDA



Friday 21 November 2008

at 2.00 pm

**in Committee Room A,
Civic Centre, Hartlepool**

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond

Councillors R Cook, Fenwick, Flintoff, James, Laffey, A Marshall, Morris, Preece, Richardson, Simmons

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes of the Constitution Committee of 10th October 2008.
 - 3.2 To receive the minutes of the Constitution Working Group of 3rd November 2008
- 4. ITEMS REQUIRING DECISION**
 - 4.1 Clarification of Access to Information Rules and Distribution of Confidential Papers – *Chief Solicitor*
- 5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

10 October 2008

The meeting commenced at 2.00 p.m. in the Civic Centre, Hartlepool.

Present:

Councillor Richardson (In the Chair)

Councillors: R W Cook, Fenwick, Flintoff, Laffey, A Marshall, Preece and Simmons.

Also Present: In accordance with Council Procedure Rule 4.2 Councillor McKenna as substitute for Councillor Dr Morris.

Officers: Peter Devlin, Chief Solicitor
David Cosgrove, Democratic Services Team

19. Apologies for Absence

Councillor Dr Morris and James.

20. Declarations of interest by Members

None.

21. Minutes of the meeting of the Constitution Working Group held on 26 September 2008

The minutes of the meeting of the Constitution Working Group held on 26 September 2008 were received.

In relation to Minute 26 "Revisions to the role and remit of the Contract Scrutiny Panel", Members discussed further the number of members that should be appointed to the Panel. The Working Group had considered the membership issue in detail and had recommended a membership of five members permanently appointed to the Panel. Members of the Committee considered that the problem of ensuring a quorum would still remain and after a short discussion, in which the present chair of the Contract Scrutiny Panel, Councillor Laffey commented on the issue of the quorum and membership, the Committee agreed that they should recommend a membership of eight as this would ensure that there was always a high likelihood that a quorum of three would be achieved at every meeting.

Subject to the above comments, the minutes of the Constitution Working Group were received.

22. Confirmation of the minutes of the meeting held on 29 August 2008

Confirmed.

23. Revisions to the Role and Remit of the Contracts Scrutiny Panel (*Chief Solicitor*)

The Chief Solicitor outlined the proposals set out in his report which had been agreed at the meeting of the Working Group on 26 September 2008. The membership proposed for the Panel would now be eight, in line with Members earlier discussion. The Working Group had made the following recommendations: -

- (i) That the Contract Scrutiny Panel be appointed on an annual basis, as with other Committees and Forums, to ensure a consistent arrangement is in place. The membership of the Panel to include Executive and Non-executive Members.
- (ii) That the Panel be involved in the monitoring of contract performance – it was considered that this would be best achieved by the Panel selecting a number of contracts to examine as part of its work programme. It was recognised that Members did not need to be involved in technical aspects associated with the award of contracts. Difficulties arising from Executive Members being involved in the monitoring of contracts were highlighted.

The Committee discussed in detail some the issues that were of concern in relation to the operation of the Contracts Scrutiny Panel including the operation of tenderers lists, tender submission, the potential for collusion between contractors and the involvement of voluntary groups in the submission of tenders. The Chief Solicitor indicated that he would pursue some of the detailed issues in relation to transport contracts raised by Members during the discussion.

Decision

That Council be recommended to approve the revised role and remit of the Contracts Scrutiny Panel as set out in the report and that eight Councillors be appointed to the Panel on an annual basis, with the current Chair remaining in place for the remainder of this municipal year.

The meeting concluded at 3.15 p.m.

CHAIRMAN

CONSTITUTION WORKING GROUP

3 November 2008

The meeting commenced at 4.00 pm. in the Civic Centre, Hartlepool

Present:

Councillor Richardson (In the Chair)

Councillors R Cook, Flintoff, Laffey, Dr Morris, Preece and Simmons

Officers: Peter Devlin, Chief Solicitor
David Cosgrove, Principal Democratic Services Officer
Denise Wimpenny, Principal Democratic Services Officer

27. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of the Mayor, Councillors James and A Marshall.

28. DECLARATIONS OF INTEREST

None

29. MINUTES

The minutes of the meeting held on 26 September 2008 were confirmed.

30. MATTERS ARISING FROM MINUTES

Minute 26 – Revisions to the Role and Remit of Contract Scrutiny Panel – The Chair advised that at the meeting of Council the membership of the new Committee had been increased to 9 and the Mayor had been appointed to the additional seat.

31. CLARIFICATION OF ACCESS TO INFORMATION RULES AND DISTRIBUTION OF CONFIDENTIAL PAPERS – *Chief Solicitor*

As part of the work programme, consideration was given to the access to information provisions with particular reference and emphasis upon exempt and confidential information. The report provided an overview of the relevant legislation and annexed to the report was “A Guide to Local Government Access to Information Regulations and the use of “Pink Papers” attached at Appendix 1.”

Members were advised that all public authorities should proceed on the premise that meetings should ordinarily be open to members of the public. Details of the statutory context were included in the report. The Local Government (Access to Information) Act, 1985 introduced a new regime for the regulation of public access to meetings as well as access to reports and documentation associated with a local authority. Such information should generally be available for inspection in the absence of such information being considered as either “exempt” or “confidential”.

Details of access to information requirements and the Freedom of Information Act 2000 were provided, as set out in the report.

The Chief Solicitor referred to the requirement to pass an appropriate resolution which identified that part of the meeting wherein members of the public and press were excluded in relation to certain exempt or confidential information in accordance with Schedule 12A of the Local Government Act 1972, as amended and subsequently defined within the Local Government (Access to Information) (Variation) Order 2006.

Members attention was drawn to the appended categories of such “exempt” information, attached at Appendix 1 and various applicable exemptions were explained by the Chief Solicitor. Members were reminded that even where they believed information should be disclosed in the public interest, the opinion of the Council’s Chief Solicitor in his capacity of Monitoring Officer should be undertaken as the disclosure of information could conflict with a Members obligations pursuant to the Code of Conduct.

With regard to Members rights to exempt information, the Chief Solicitor explained that Members did not have an automatic right to access exempt information. However, if a Member could establish a “need to know” basis for disclosure, then this would allow a permissible right to access that information. The Chief Solicitor, by way of illustration, referred to various examples of case law where the “need to know” principle had applied.

The Principal Democratic Services Officer added that the information attached at Appendix 1 relating to the use of pink papers had been provided to resident representatives as a result of their concerns regarding restricted access to confidential information. Reference was made to the role of the Chief Solicitor, as Monitoring Officer, who was the consistent source of advice in terms of whether or not any information fell within the definitions in the Act. Over recent years, with the encouragement of the Chief Solicitor, officers had developed a practice of increasing the amount of information that was publicly available on matters that were previously considered wholly exempt. This had been done by extracting the information that fell within the exempt definition from a report and moving it to an exempt appendix.

A lengthy discussion ensued on the “need to know” principle and whilst Members were of the view that exempt information should not be available to resident representatives it was considered that Elected Members should have a right of access to exempt information if an Elected Member had a genuine

concern regarding a particular issue with the exception of say, child protection issues etc.

The Chief Solicitor provided clarification in response to Member queries regarding the circumstances in which Elected Members would be asked to leave a meeting during consideration of exempt information. Members were advised that normal practice was that only those Elected Members nominated to that particular Committee would be allowed to remain in the meeting and take part in the discussion and decision making process. However, this was dependant upon the nature of the information being discussed. The Chair highlighted concerns regarding this practice as well as the decision as to whether a Member could remain in the meeting being determined by an unelected officer.

Following a Member's suggestion that the Constitution Working Group further examine the legality of Elected Members being asked to leave a meeting during consideration of confidential information as well as the issue of Members rights to remain in a meeting being determined by unelected officers, the Chief Solicitor stated that a Member's requirement to leave a meeting was clearly in compliance with the law and the Code of Conduct provisions and that it was the role of the Monitoring Officer to advise Members in this regard. Members acknowledged the importance of the Chief Solicitor's advice in relation to matters of law and the reasoning behind the "need to know" principle.

Further discussion ensued on the "need to know" principle and the procedures in place to pursue this. The Chief Solicitor clarified that in the event that a Member wished to seek a review of the Chief Solicitor's advice on such matters, this could conceivably be taken up with the Head of Paid Service. In addition, there was a protocol in place with the other Tees Valley local authorities if a Member required independent legal advice in matters relating to a possible breach of the Members Code of Conduct.

A Member highlighted that there was a perception that the level of confidential information was greater than the actual figure of 5%. Reference was made to the importance of confidential information remaining confidential and the requirements of the Members Code of Conduct relating to confidential information. It was suggested that Members be reminded of the importance of confidentiality in accordance with the Code of Conduct.

Recommendation

That the Constitution Committee note:-

- (i) the general principle of Members rights to information on a "need to know" basis.
- (ii) the contents of the report and the comments of the Working Group, as outlined above.

32. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

(i) Communications with Elected Members re: Ward Issues

The Chair referred to an event that had recently been held in Ward Jackson Park which resulted in complaints from residents to Ward Councillors of noise issues. Concerns were expressed that this event had taken place without any consultation with Local Ward Members. The importance of communicating with local Ward Councillors in relation to such issues was highlighted and the possibility of including communication issues in the Constitution was suggested. In response, the Chief Solicitor stated that this was already a part of the officer/member protocol and such themes could also be included in the Officer Code of Conduct which was presently subject to consultation. Another example of an issue that had not been communicated to Ward Councillors was highlighted. The Chief Solicitor agreed to raise this with the Chief Executive and Assistant Chief Executive.

Recommendation

That the concerns outlined above relating to communications with Local Ward Members be referred to the Chief Executive and Assistant Chief Executive .

(ii) Member Question to Council

The Chair referred to a recent question submitted by a Member of the Council for consideration at the last Council meeting that had been refused. The Chair considered that any question relating to Fire Authority issues should be considered in the same way as questions raised of the police authority. The Chief Solicitor made reference to Rule 11.2 (ii) of the Council Procedure Rules regarding questions of the Fire Authority and indicated the reasons why the question had been refused. The Chief Solicitor suggested that a paper be prepared in this regard for consideration at the next meeting of the Working Group.

Recommendation

That a report be submitted to the next meeting of the Working Group to clarify the Council Procedure Rules in relation to questions of the Cleveland Fire Authority.

The meeting concluded at 5.15 pm.

CHAIRMAN

Report of: Chief Solicitor

Subject: CLARIFICATION OF ACCESS TO INFORMATION
RULES AND DISTRIBUTION OF CONFIDENTIAL
PAPERS

1. BACKGROUND

- 1.1 As part of the “Work Programme” of the Constitution Working Group is an item to consider and to clarify the access to information provisions with particular reference and emphasis upon exempt and confidential information. This report was therefore submitted to the Working Group on 3rd November, 2008, and provides an overview of the relevant legislation. Further, annexed to this report is “A Guide to the Local Government Access to Information Regulations and the use of “Pink Papers” ” as drafted by the Council’s Principal Democratic Services Officer (**Appendix 1**). The attention of Members of the Committee is also drawn to the minutes of the Working Group convened on 3rd November, 2008.

2. STATUTORY CONTEXT

- 2.1 The provisions of the Local Government Act, 1972, as amended, regulate the meetings and proceedings of “Principal Councils” in England and Wales. The definition of a “Principal Council” comprises those non-metropolitan Counties, Districts and London Boroughs Councils. This legislation provides for local authorities to introduce Standing Orders (now covered through Council Procedure Rules) as part of the overall governance arrangements operating within an authority. There are also certain statutory provisions which cover specifically, for example, the recording of votes and the signing of minutes and extraordinary meetings. Further, the governance arrangements of a local authority will therefore provide for the rules of debate in the absence of any statutory provision. Where local authorities own procedure rules do not sufficiently cover a point, or the same is not covered by way of statutory provision, reliance will be placed upon common law principles.
- 2.2 All public authorities should proceed on the premise that meetings should ordinarily be open to members of the public. The Public Bodies (Admission to Meetings) Act, 1960, provides that local authorities in exercising their public functions should conduct meetings that are open to the public in the absence of specific requirements which would require interference with that general proposition. For the avoidance of doubt, the provisions of the 1960 Act are cited in the Local Government Act, 1972, insofar as providing for access to meetings which comprise, for example, Committees, Joint

Committee arrangements between local authorities and also advisory Committees under Sections 101 and 102 of the Local Government Act, 1972.

- 2.3 The Local Government (Access to Information) Act, 1985, introduced a new regime for the regulation of public access to meetings, as well as access to reports and documentation associated with a local authority. It is also noteworthy, to mention, that where an authority operates “Executive Arrangements” comparable provisions apply under the Local Government Act, 2000 and regulations made thereunder, in particular the publication of information relating to “key decisions” wherein the record of a decision and the reasons behind it and other supplementary information, should be available for public access. In this regard, the term “document” has a wide application incorporating a report and background papers. Again, such information should generally be available for inspection in the absence of such information being considered as either “exempt” or “confidential” in nature.

3. ACCESS TO INFORMATION

- 3.1 The term “information” has a wide connotation and has been taken to include for example an expression of opinion and any recommendations and decisions made. Clearly, local authorities wish to operate on the basis of openness and transparency and equally being accountable where some demarcation needs to be taken in the event that information falls under the banner of being either exempt or confidential. Access to information, provides for agendas and any reports to be available for inspection five clear days before a meeting or when the meeting is convened if a shorter notice period applies. Thereafter, there is a general requirement for such information to be maintained for public access and inspection for a period of six years. It is also noteworthy to mention, the provisions of the Freedom of Information Act, 2000, wherein there is a general right of access to information held by a public authority although again, certain “exemptions” apply in relation to the application of this particular legislation.
- 3.2 For the avoidance of doubt, a member under a “need to know” basis, is able to inspect documents which are “reasonably necessary” for that Member to carry out his/her duties. However, this common law principle does not provide for a Member the right to a “roving commission” to inspect documents. Consequently, “a mere curiosity or wish” to see a document, which is “exempt” or otherwise “confidential”, will not be sufficient.

4. APPLICABLE EXEMPTIONS

- 4.1 Members will be patently aware, that there is a requirement to pass an appropriate resolution which identifies that part of the meeting wherein members of the public and press are excluded in relation to certain exempt or confidential information. Further, Members may also pass such a

resolution if it appears “likely” the information may contain exempt information wherein they have discretion to proceed through the passing of the appropriate resolution. The term “exempt” information has the meaning prescribed for Schedule 12A of the Local Government Act, 1972, as amended and subsequently defined within the Local Government (Access to Information) (Variation) Order 2006. The attention of Members is drawn to the appended categories of such “exempt” information as contained within the “Guide to the Local Government Access to Information Regulations” as appended to this report and prepared by the Council’s Principal Democratic Services Officer.

- 4.2 “Confidential” information, has a meaning of information provided to a local authority by a Government Department on terms that forbid disclosure or information whose disclosure is prohibited by or under any enactment or by a Court Order. Regulations, also provide for general exemptions in respect of exempt and confidential information which emanate from the advice of political advisors or political assistants. As mentioned within the appended document, the vast majority of information coming before Members through reports are considered in the context of “open” reports and discussion of the same. However, there are occasions wherein a determination is required for the “labelling” of information under categories of either being exempt or confidential which does not allow for public dissemination. Such information may initially have a connotation of being exempt and/or being confidential but is able to be publicly disclosed at some point thereafter depending upon the particular circumstance pertaining to that information. Members should also be mindful that even were they believe the information should be disclosed in the public interest, the opinion of the Council’s Chief Solicitor in his capacity as Monitoring Officer should be undertaken as the disclosure of information would conflict with a Members obligations pursuant to the Code of Conduct. Members will therefore be aware, that the Council operates within the parameters of statutory and other requirements, namely its own Council Procedure Rules and as mentioned, common law principles, relating to the overall conduct of business by the authority.

5. RECOMMENDATION

- 5.1 To note the contents of this report and the appended document and to discuss.

6. CONTACT OFFICER

Peter Devlin, Chief Solicitor



A Guide to the Local Government Access to Information Regulations and the use of “Pink Papers”

1. Introduction and background

- 1.1 The principle of local councils being able to discuss certain issues in private has existed for many years. The current rules on how local councils should manage the discussions they wish to hold in private were first set out in Chapter 43 of the 1972 Local Government Act, with detailed definitions of confidential or ‘exempt’ information being set out in Schedule 1 of that chapter. These rules were brought up-to-date in 1985 with an amendment included in the Local Government (Access to Information) Act 1985. The Government then decided to further refine and simplify the definitions in 2006 with the Local Government (Access to Information) (Variation) Order 2006.
- 1.2 This note explains briefly how these rules in relation to exempt information are applied in Hartlepool Borough Council. All the definitions will be based on the 2006 Variation Order as that sets out the current rules.
One term that is often used is “exempt information”. This is what most people refer to as private or confidential information.
- 1.4 It is important to understand that what is set out in the schedule is a set of descriptions of the type of information that can, and in some circumstances must, be declared as “exempt information” and not discussed in public. These descriptions, attached as Appendix 1, are quite broad and open to interpretation. Council officers have to assess each case individually to decide whether or not the information they are disclosing in a report or verbally to councillors falls within one of those definitions. Each local authority needs an officer who can be the ‘final arbiter’ and consistent source of advice as to whether or not any information falls within the definitions in the Act. At Hartlepool, the officer is the Chief Solicitor.

2. The Practice of Interpretation in Hartlepool

- 2.1 The Council has an internal guidance document, “The Officers’ Report Writing Guide”, which sets out a range of legal and corporate guidance on the production of reports for any committee, panel or forum of the Council. That guidance includes advice on “exempt” information. Officers must consider the information they are including within a report against the definitions set out in the 2006 Variation Order and make a judgement as to whether the contents of their report fall within those definitions (See Appendix A). If, in their opinion, they do, then the report is considered ‘**Not for Publication**’ and will have the appropriate exemption set out on it. Officers writing reports are not on their own when it comes to making this judgement.
- 2.2 When preparing reports that may contain confidential information, Officers have many sources of advice: -
- Colleagues and senior managers in their own division/department
 - Previous reports on the same/similar matters
 - The advice of the Democratic Services Team
 - The advice of solicitors within the Legal Division
 - The decision of the Chief Solicitor.
- 2.3 **In all cases, the final arbiter of whether a report contains information that can be defined as exempt is the Chief Solicitor. To this end, the practice that exists within Hartlepool BC is that ALL reports that are considered as exempt under the regulations MUST be approved by the Chief Solicitor or his designated deputy before they are included on any agenda.**
- 2.4 Over recent years, with the encouragement of the Chief Solicitor, officers have developed a practice of increasing the amount of information that is publically available on matters that were previously considered wholly exempt. This has been done by extracting the information that falls within the exempt definition from a report and moving it to an exempt appendix. The purpose of this was to increase the public awareness of the Council’s business whilst not breaching the Local Government Act. This practice has worked very well, for instance, in the Council’s business of selling and purchasing land and property. It may not always be possible to do this, but where it can be done, officers are routinely advised to do so.
- 2.5 At any meeting where exempt information is going to be discussed, councillors must vote to exclude the public and the press from that part of the meeting. The agenda for the meeting must clearly show which reports contain exempt information. If, during a meeting, it becomes clear that councillors are starting to deal with matters or information that would fall within the definitions of exempt information, the councillors must take a vote to exclude the public and press during these discussions.

3. Why 'pink papers?'

- 3.1 The Local Government Act requires that any documentation that is considered to contain exempt information must include a specific reference to the relevant paragraph from Schedule 1. This explains what type of information has been exempted. All reports, therefore, must have the following statement on the front page of the report and on any relevant appendices that also contain exempt information: -

"This item contains exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, [followed by the paragraph definition]"

- 3.2 In Hartlepool, as with many other local authorities, a practice has been adopted of printing these reports on a different coloured paper and headed on each page "**Not for Publication**" so they stand out from the rest of the agenda papers for the meeting. This also makes it easier for officers administering meetings to maintain information security. Hartlepool adopted the colour pink for these papers many years ago. There is no set rule on what colour paper should be used, or that it should be used at all.

4. Types of exempt information

- 4.1 The decision to make information exempt must be treated on a case-by-case basis. There are, however, some generalisations that can be applied and in the following section a guide as to what can usually be considered exempt under each of the appropriate paragraphs (shown in **bold**) in Schedule 1 is set out. This is only a GUIDE and by no means exhaustive or binding.

There are seven types of exempt information: -

1. Information relating to any individual.

This covers personal information relating to individuals, including employees, former employees, and applicants to become an employee of, a particular office-holder, former office-holder, or applicant to become an office-holder under the authority. This definition also includes people who are or have been occupiers or applicants for accommodation provided by or at the expense of the authority; applicants or previous recipients of services or financial assistance provide by the authority.

Simply, this means that the authority should always keep any personal information on any individual confidential.

2. Information which is likely to reveal the identity of an individual.

This paragraph is closely linked to 1 above. If any details could lead to the reader of a report being able to conclude or discover to whom they relate, they must remain confidential. If an application for financial support, for instance, disclosed the address but not the name of the applicant, it would take little effort to find out who that person was. The address would therefore be considered exempt information. Again, as with paragraph 1 above, this relates to any individual including employees and office holders, both current and past.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

This paragraph is probably the one most frequently used and most frequently misunderstood. The reference to 'any particular person' includes companies and businesses. This means that when the council is involved in discussing and awarding contracts for works or the purchasing of goods or services, the details of those discussions/negotiations are exempt. That includes the Council's estimates for those contracts and the bids/tenders submitted by individuals or companies. What is not exempt is the name of any individual or company that the council offers or awards a contract to and the amount of that contract. Essentially, the public has the right to know with whom the Council is spending its money and how much.

This paragraph does extend, however, beyond simple 'buying and selling'. The business affairs of an independent company or individual must be kept confidential by the council during any other considerations it may have on an issue. Essentially, paragraphs 1, 2 and 3 are there to protect second and third parties when they become involved in any way with the council from having their private or business affairs disclosed to the public.

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.

This paragraph is quite a simple one in that it prevents the publication of the details of the council's negotiations with its staff on issues such as pay and conditions of service, for example.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Again, a simple paragraph to define. If the council is involved in legal proceedings, on any matter, those proceedings and the advice of counsel (i.e. lawyers advising the council) should remain exempt as disclosure could prejudice the council's case.

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.**

If the Council proposes to issue enforcement action under, for example, Health and Safety or Food Safety regulations, those details are kept exempt.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Again, a simple paragraph to define and understand and frequently linked to matters that are exempt under paragraph 5.

- 4.2 There is a second part to the Schedule containing paragraphs 8, 9 and 10. These are used to qualify paragraphs 1 to 7 (see Appendix 1, Part 2). Of these three paragraphs, 10 is the most important in that it introduces a 'public interest' argument. Paragraph 10 indicates that "*information which — (a) falls within any of paragraphs 1 to 7 above; and (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, 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*". Only the Chief Solicitor can make such a determination and these cases are rare.

5. Conclusion

- 5.1 Councils are sometimes accused of conducting too much of their business behind closed doors. The reality is that less than 5% of all the decisions made by Hartlepool Borough Council are made when the press and public are excluded from a meeting and there is always good reason for doing so. It is perhaps unavoidable that, occasionally, high profile issues will involve the consideration of exempt information and some members of the public will feel that there should have been wider dissemination of that information.

Appendix 1

- 5.2 **In all exempt information cases, the Council, through the Chief Solicitor, is very careful to ensure that only that information that falls within the definitions set out in the schedule is considered exempt. Wherever possible, the Council makes as much information public as it can and makes as many decisions as it is able to in public.**

David Cosgrove
Democratic Services Team
Corporate Strategy Division

www.hartlepool.gov.uk/democraticservices

**Local Government (Access to Information)
(Variation) Order 2006**

PART 1

DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

- 1.** Information relating to any individual.
- 2.** Information which 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).
- 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.
- 7.** Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

PART 2

QUALIFICATIONS: ENGLAND

- 8.** Information falling within paragraph 3 above is not exempt information by virtue of that paragraph 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 Acts 1965 to 1978

(e) the Building Societies Act 1986; or

(f) the Charities Act 1993.

9. 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.

10. Information which—

(a) falls within any of paragraphs 1 to 7 above; and

(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

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.