

report



meeting **COUNTY COUNCIL**

date 18th January 2006

agenda item number

REPORT OF THE MONITORING OFFICER

INFORMATION POLICIES

1 Purpose of the Report

- 1.1 To seek County Council approval to a number of required information policies namely a Data Protection Act Policy, an Information Security Policy, an Environmental Information Regulations Policy, and a Regulation of Investigatory Powers Act Policy.

2 Legal Requirements

- 2.1 The County Council has legal obligations under the Data Protection Act 1989, the Environmental Regulations 2004 and the Regulation of Investigatory Powers Act 2000 as to how it manages, disseminate and gathers, stores and retrieves information it obtains or collects.
- 2.2 This report sets out some of the key legal requirements and proposes policies to regulate and demonstrate how the County Council will meet these legal obligations.
- 2.3 Each of these policies and associated guidance have been on the County Council's intranet web site since September for review and consultation. It is now proposed that these policies, which have been trialled and proved to be workable solutions to meet the County Council's obligations, are formally adopted as policy by the County Council. Links for all the information on the County Council intranet site as set out as background information.

3 Data Protection Act Policy

- 3.1 Data protection is the legal requirement to handle “personal data” like names, addresses, dates of birth, telephone numbers or photographs properly and securely to give people confidence that they will not be misused.
- 3.2 People should know what personal information we record about them, why and how we will use it. This is called “**fair processing**” and is often set out in a notice when information is first recorded.
- 3.3 Individuals have specific legal rights:
- 3.4 They can write a “**subject access request**” to find out what information we have about them – we have 40 days to comply but may withhold some “exempt” information like other people’s information
- 3.5 They can ask us to amend our records to keep them up to date – since a court can make us do this we should normally comply
- 3.6 They can ask us not to send them “direct marketing” information. Since we can be prosecuted for this we should normally comply with this request.
- 3.7 It is proposed that the County Council formally adopts the data protection act policy at **Appendix 1**. This policy should be read in conjunction with the guide to the data protection act and the data protection act frequently asked questions which can be found on the County Council's intranet site.
- 3.8 The Council has a Data Protection Officer based in the Chief Executive’s Department who can advise on how to deal with “subject access requests” or other issues.
- 3.9 There is a separate Access to Records guide on the intranet and the County Council has an Investigations Team who advise on social care related “subject access requests”.

4 Information Security Policy

- 4.1 Because of the legal obligations placed on the County Council to process personal data and information a security policy is proposed which sets out guidelines for how certain information should be dealt with in order to ensure compliance with the Data Protection Act principles. The proposed Information Security Policy set out at **Appendix 2.**

5 Regulation of Investigatory Powers Act Policy (“RIPA”)

- 5.1 The County Council has been working to a policy document and to guidance and standardised forms and procedures, available on the intranet; however the intention of this report is to formalise these arrangements by the formal adoption the RIPA policy set out at **Appendix 3.**
- 5.2 Although the application of RIPA is limited in terms of County Council activities (it being mostly applicable to aspects of the County Council's trading standards functions) it is a requirement that each department considers the impact of RIPA on its activities and nominates an “authorising officer” in each department.
- 5.3 A programme of training and awareness around RIPA issues is being arranged and will be made available early in the New Year.

6 Environmental Information Regulations Policy

- 6.1 Anyone (including individuals, the media, businesses or pressure groups) has the legal right to ask in writing or verbally for Council information which relates to the environment.
- 6.2 This is policy in complementary to the County Council’s existing Freedom of Information Act policy (approved by Council meeting in December 2004). The legal obligations for disclosure of environmental information under the regulations are very similar to the Freedom of Information Act obligations but relate specifically to the “environment” including the air, land and sea. So recorded information whenever it was created and in whatever format including e-mails, details about contracts, draft documents, briefing notes, photographs, plans, computer aided designs, internal memos and notebooks could all be requested if

they are about the environment.

6.3 This legal right only applies to “environmental information” such as:

Details of proposed road building – this will affect the land

Details of waste disposal – this could affect the land or air

Details about water or air pollution.

6.4 When the County Council considers an environmental information request we always have to consider whether the public interest in disclosing the information outweighs withholding it. There is a presumption in favour of disclosure.

6.5 A policy document which incorporates all the necessary legal requirements is set out at **Appendix 4**.

RECOMMENDATIONS

It is recommended:

That the County Council approves the policy documents set out in Appendices 1, 2, 3 and 4

Legal Services Comments

Council meeting has the constitutional delegation to approve the recommendations in this report [EB 21.12.06]

Director of Resources Comments

There are no specific financial implications arising from this report (NS 21/12/06)

Background Papers

<http://intranet.nottscc.gov.uk/index/workingfornc/wfncc-smartwork/dpa.htm>

<http://intranet.nottscc.gov.uk/index/workingfornc/wfncc-smartwork/ripa.htm>

<http://intranet.nottscc.gov.uk/index/workingfornc/wfncc-smartwork/eir.htm>

Electoral Divisions Affected

All