

# PUBLIC VERSION

**Title of Report:** WORKING GROUP ON ACCESS TO INFORMATION

**Paper No:** 165/10

**Date:** 29 July 2010

**Report of:** Attorney General

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## **1.0 Purpose**

**1.1** To inform Executive Council about a CMT decision to establish this Working Group, and seek Executive Council's agreement to the terms of reference and proposed work programme.

## **2.0 Recommendation**

**2.1** Executive Council is recommended to agree to the proposed terms of reference and work programme.

## **3.0 Summary of Financial Implications**

**3.1** None

## **4.0 Background**

**4.1** Executive Council agreed in 2004 that the Committees (Access to Information) Ordinance 2000 should be repealed and re-enacted with amendments, reconciling it with the FIG Code of Practice on Access to Information, and incorporating that Code.

**4.2** That was never done, and the task has remained on the list of outstanding legislative tasks.

**4.3** The inadequacies of the Ordinance, and the mismatch with the Code of Practice, has continued to cause problems for FIG. We are in the bizarre situation that material which if disclosed would harm the national security of the Falkland Islands is protected from disclosure under the Code, but has no protection under the Ordinance. Further problems arise from time to time, such as the position (which arose in 2009) of internal audit reports, which have no protection from disclosure under the Ordinance.

**4.4** CMT agreed in March 2010 that the carrying out of further work on this issue was long overdue, and decided that a Working Group should be established to take this forward.

**4.5** The Working Group which has been established has the following members: David Pickup (chair), John Barton, Lynn Brownlee, Rob Granger, Manfred Keenleyside and Phyl Rendell.

**4.6** Following its first meeting, the Working Group has agreed draft terms of reference, and a proposed work programme, under which recommendations will be made to CMT by the end of January 2011 and thereafter proposals will be put before Executive Council.

**4.7** In considering the terms of reference the Working Group considered that before accepting that the 2004 approach was correct, it should first revisit the question whether the UK Freedom of Information Act 2000 provided a more appropriate basis for providing public access to information held by FIG (subject to appropriate modifications and safeguards).

**4.8** The draft terms of reference reflect this proposal.

**4.9 ...**

**4.10** The draft terms of reference and the proposed programme of works was approved by CMT at its meeting of 5 July, who suggested that the Working Group might also consider the extent to which a protective marking scheme (such as classifying some documents as Restricted, Confidential, Secret) should be adopted by FIG. This has been incorporated into the terms of reference and work programme.

## **5.0 Financial Implications**

**5.1** None

## **6.0 Legal Implications**

**6.1** None

## **7.0 Human Resources Implications**

**7.1** None

## **Working Group on Access to Information**

### **Revised Terms of Reference**

#### (A) Access to FIG information

To consider whether the UK Freedom of Information Act 2000 provides a more appropriate basis for providing public access to information held by FIG (subject to appropriate modifications and safeguards) than the combination of the Committee's (Access to Information) Ordinance and the FIG Code of Practice on Access to Government Information;

If the Working Group conclude that it does, to consider how the Act might be adapted so as to be suitable for enactment in the Falkland Islands by the Legislative Assembly;

If the Working Group conclude that it does not, to consider amendments to the Ordinance and the Code of Practice to ensure that these are consistent and represent the right balance between the interests of the public in disclosure of information, and the interests of FIG in preventing disclosure that would be contrary to the public interest;

To consider the impact of the Public Accounts Committee Ordinance 2009 on public access to information, and in particular on disclosure of internal audit reports;

To consider the application of any revised legislation to the statutory corporations and other bodies which receive public money, or in which FIG is a shareholder, or which provide services of a public nature;

#### (B) ...

; and

#### (C) Public Folders

To consider whether the public should have access to everything on public folders; if not, to consider what should be placed on public folders, and whether the name should be changed;

#### (D) Protective Marking Scheme

To consider whether FIG should adopt a protective marking scheme for FIG documents, and if so, to consider what that scheme should be.

To make recommendations to CMT during February 2011 and thereafter Executive Council.

## **Working Group on Access to Information**

### **Work Programme**

(A) Freedom of Information Act

Paper from AG outlining scheme of Act and comparing/contrasting current approach in FIG. Consider at meetings end August and mid September.

(B) Adapting Act to FIG, or considering amendment to Ordinance/Code of Practice (depending on outcome of (A))

Paper from AG. Consider at meetings early and late October.

(C) Impact of PAC Ordinance and Application of revised legislation to bodies outside FIG

Papers from Rob Granger and AG. Consider at meeting mid November.

(D) ...

(E) Public Folders

Paper from Lynn Brownlee. Consider at meeting mid December.

(F) Protective Marking Scheme

Paper from Gary Finchett. Consider at meeting early January 2011.

(G) Final Report

Draft from Lynn Brownlee/AG to be considered late January 2011.

AG  
06.07.10