

Committee: Full Council

Date: 16 December 2008

Title: Freedom of Information Act model publication scheme

Author: Catherine Nicholson, Solicitor, ext 420

Agenda Item

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Item for decision

Summary

The Freedom of Information Act 2000 gives the public rights of access to information held by public authorities. The Act requires every public authority to adopt and maintain a publication scheme which has been approved by the Information Commissioner. The approval of all current schemes expires on 31 December 2008. The Information Commissioner's Office has approved a new model publications scheme, which the Council is required to adopt with effect from 1 January 2009.

Recommendations

To adopt the Freedom of Information Act Model Publications Scheme 2009 set out in Annex 1 without modification.

Background Papers

Model Publication Scheme guidance issued by the Information Commissioner

Impact

Communication/Consultation	The Scheme will outline the Council's commitment to make available to the public Council information as a matter of course.
Community Safety	None
Equalities	None
Finance	None
Human Rights	None
Legal implications	Failure to adopt the model publication scheme would result in the Council being in breach of the FOIA. Failure to provide information under an adopted publication scheme can lead to an enforcement notice being served by the Information Commissioner.

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Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

1. The Freedom of Information Act 2000 (FOIA) requires local authorities to maintain a publication scheme which must be approved by the Information Commissioner. The publication scheme sets out the information which is available from the Council as a matter of course.
2. Under the FOIA local authorities are required to deal with requests for access to non-personal information unless a relevant exemption applied. One of the exemptions is that the information is already published and available by other means, provided that it is included on the local authority's publication scheme. It is therefore in an authority's interest to include as much information as possible in the scheme to reduce dealing with individual requests.
3. The Council's current publication scheme was approved by the Information Commissioner and adopted from January 2005. It is required to be reviewed every four years. The Information Commissioner has now come to the conclusion that rather than having to approve each authority's scheme, it has published a Model Scheme which, if adopted without modification, satisfies the Information Commissioner and no separate approval is required. The Model Publication Scheme is designed to create consistency across all local authorities.
4. The previous Publication Scheme was an actual document containing the information that the Council routinely makes available. The new model publication scheme is a commitment to proactively publish as much information as possible and sets as a minimum seven classes of information under which the Council would be expected to publish information. The classes of information cannot be deviated from. The Model Publication scheme is attached at Annex 1.
5. The Information Commissioner has also produced a definitions document to accompany the model publication scheme, which is attached at Annex 2. This contains detailed guidance on the types of information that it is considered by the Information Commissioner to be good practice to publish under each category set out in the publication scheme.
6. The classes and the types of information that they include are:
 - a. **Who we are and what we do**
Organisational and constitutional information, structure, location, contacts
 - b. **What we spend and how we spend it**
Financial information projected and actual income and expenditure, procurement, contracts, audits

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c. What our priorities are and how we are doing

Strategies, plans, performance indicators, audits, inspections

d. How we make decisions

Decision making process and records of decisions

e. Our policies and procedures

Current policies, procedures and protocols on delivering services and our responsibilities

f. Lists and Registers

Current information available on public registers or other registers and lists kept by the Council

g. The Services we offer

Information about the types of services the Council provides including leaflets, guidance and newsletters.

7. If the authority does not hold any information in a category then it obviously cannot provide it. However, the class cannot be deleted from the scheme. The scheme also sets out in general terms how the information can be accessed and whether any information contained within the classes is subject to a charge.
8. The Scheme commits the Council to:
 - a. Proactively publish information (including environmental information) which is held by it and contained within each class
 - b. Proactively publish information in line with the access and charging statements
 - c. A means by which the authority can ensure that the public are aware of the sorts of information the authority is committed to make readily available, how they can access this and whether they will have to pay for it. Generally this will be the website
 - d. Review and update the information on a regular basis
9. In addition the Council must provide a guide to the specific information it holds under any of the seven classes and set out how that information can be accessed. The guide can be the Council's website providing all the information is set out therein. A draft guidance document is being prepared by Officers which will be made available on the website and in hard copy. It will follow the categories of information set out in the definitions document and include all the information in the council's current publication scheme.
10. Failure to adopt the model publication scheme would result in the Council being in breach of the Freedom of Information Act unless it produced its own scheme and obtained specific approval from the Commissioner for it.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
The model publication scheme is not adopted by 1 January 2009	1	3	Members adopt the scheme
Guide to Information is not produced	1	2	The majority of the information is already provided on the website. Officers will have the guidance prepared for 1 January 2009

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.