

Individual Decision

Title of Report:	Freedom of Information Act 2000 – Policy and Publication Scheme Amendment		
Report to be considered by:	Cllr Anthony Stansfeld	on:	26 May 2005
Forward Plan Ref:	ID1001		

Purpose of Report:

To:

- (1) Seek approval for a change in the Freedom of Information Policy (fees)**
- (2) To approve the revised Publication Scheme, required under the Act**
- (3) Highlight to the Executive West Berkshire Council's nationally recognised good practice**

Recommended Action:

To note the contents of the report and approve the revised policy, fees schedule and publication scheme.

Reason for decision to be taken:

Change to policy

List of other options considered:

No change

Key background documentation:

- The Freedom of Information Act 2000

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Supporting Information

1. Background

- 1.1 The Freedom of Information Act 2000 (“the Act”) came fully into force on 1 January 2005. The Act creates a general right of access to all recorded information held by in excess of 100,000 public bodies, of which WBC is one.
- 1.2 The Act places 2 main responsibilities on public bodies:
- a The requirement to adopt and maintain a publication scheme. This requirement has been in place since February 2003.
 - b To provide information to any person requesting it within 20 working days. The requirement to provide information is subject to certain caveats, such as cost ceiling (£450 for local authorities) and defined categories of information which are exempt.
- 1.3 Compliance with the Act is monitored by the Information Commissioner, who also has responsibility for ensuring all organisations comply with the Data Protection Act 1998 (DPA). Whilst the two pieces of legislation are apparently contradictory (“freedom” vs “protection”), there is a logical link as both are essentially about ensuring information is handled and processed in a proper way. The main difference between the two acts, which has caused confusion even in the media, is that data processed under DPA relates and belongs to individuals, whereas information caught under FOIA relates to the business of public sector organisations.
- 1.4 To assist local authorities in complying with the requirements of the Act, the Lord Chancellor announced last year that they would be reimbursed for the cost of responding to requests for information (RFIs). It is not yet clear how this process will be administered.
- 1.5 Responsibility within West Berkshire Council rests with the Information Management Team, reporting to the Head of Information and Communications. The Team has in place a framework of policies and procedures to support compliance with the Act.

2.0 FEES FOR THE PROVISION OF INFORMATION

- 2.1 As stated in para 1.2b, the authority must absorb the costs of identifying, locating, retrieving and editing information when responding to RFIs. The authority can however pass on to the person making the request charges for photocopying and postage. These charges are known as disbursements. A proposed WBC-wide pricing structure for disbursements is shown at Appendix A. These fees are based on those published by The National Archive, which has some lead responsibilities under the Act, and have been subject to consultation by Corporate Directors and Heads of Service. The Freedom of Information policy at Appendix B has been amended to reflect these fees. The Executive is requested to approve the fees schedule and the amended policy.

3.0 PROACTIVE PROVISION OF INFORMATION

- 3.1 As stated at 1.2a, the authority is also required to proactively make information available. The “classes” (or categories) of information that will be published should be outlined and defined in the authority’s publication scheme. Once adopted, the council should then “maintain” the scheme, actually making information available. This is not the administrative burden that it may at first glance appear. It is, rather, an opportunity to allow the authority to legitimately claim an exemption from

complying with a (reactive) RFI; the exemption being that the information has already been (proactively) made public.

- 3.2 The Information Commissioner must approve all publication schemes and amendments. The existing WBC publication scheme received approval in 2003, very much in the early days of everyone's learning of FOIA. The bringing fully into force of the Act has created a natural opportunity to re-examine how the authority will handle pro-active publication of information. A revised publication scheme, on which all Corporate Directors and Heads of Service have had the opportunity to comment, is attached at Appendix C. The Executive is requested to approve its submission to the Information Commissioner.
- 3.3 The other area of pro-activity in compliance with the Act, and one for which WBC is recognised as a leader in local government, is the use of a "disclosure log". The log outlines, on the corporate website, RFIs received to date and the response, in full, given by the authority. Not only is WBC's log cited as being best practice by the IDeA and other Freedom of Information practitioners, it also has a real, useful function. As any information provided in the log is published, any further RFIs on the same subject can be referred to the website as the information is already in the public domain and therefore compliance is subject to the same exemption as outlined in para 3.1. This approach has already proved its worth in the handling of RFIs, keeping down use of officer and financial resource.
- 3.4 A press release promoting the authority to this effect has been issued to the media locally and to those publishing for the public sector.
- 3.5 Information gleaned from the disclosure log will be used to inform periodic reviews of the publication scheme. It is expected that as the authority matures in its use of the Act, the amount of information made pro-actively available through the publication scheme will grow.

4.0 CONCLUSION

- 4.1 The authority is well positioned to minimise the capacity impact of RFIs made under the Freedom of Information Act 2000. The measures outlined in this paper will ensure that it remains so.

Appendices

Appendix A	Freedom of Information Act 2000 fees schedule
Appendix B	Freedom of Information Policy
Appendix C	West Berkshire Council Publication Scheme

Implications

Policy:	Policy amended
Financial:	None
Personnel:	None
Legal:	Compliance with legislation
Environmental:	None
Equalities:	None
Partnering:	None

Property: None
Risk Management: Risk is assessed as low
Community Safety: None

Consultation Responses

Members:

Leader of Council: Councillor G Jones

Select Committee Chairmen: Councillor G Lundie

P&L Committee Chairman N/A
(where appropriate):

Ward Members: N/A

Opposition Spokesperson: Councillor D Gaines

Advisory Members: N/A

Local Stakeholders: N/A

Officers Consulted: Corporate Director Strategy and Commissioning
Head of Information and Communications

Trade Union: N/A