

# TONBRIDGE & MALLING BOROUGH COUNCIL

## COUNCIL

09 December 2008

### Report of the Chief Solicitor

#### Part 1- Public

#### Matters For Decision

### 1 PUBLICATION SCHEME

#### Summary

The Council is required to adopt a new model publication scheme which has been prepared and approved by the Information Commissioner. The new scheme commits an authority to make information available to the public as part of its normal business activities.

#### 1.1 Introduction & Requirements of the Scheme

1.1.1 The publication scheme places requirements on the Council and commits an authority to:

- Proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the authority and falls within the classifications below.
- To specify the information which is held by the authority and falls within the classifications below.
- Proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within the scheme.
- Produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public.
- Review and update information the authority makes routinely available on a regular basis.
- Produce a schedule of any fees charged for access to information which is made routinely available.
- Make this publication scheme available to the public.

#### 1.2 Information covered by the scheme and access requirements

1.2.1 The classifications of information are:

1. Who we are and what we do.  
Includes organisational information, locations, contacts, constitutional and legal governance.
2. What we spend and how we spend it.  
Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.
3. What our priorities are and how we are doing.  
Strategy and performance information, plans, assessments, inspections and reviews.
4. How we make decisions.  
Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.
5. Our policies and procedures.  
Current written protocols for delivering functions and responsibilities.
6. Lists and Registers.  
Information held in registers required by law and other lists and registers relating to functions of the authority.
7. The Services we offer.  
Advice and guidance, booklets, leaflets, transactions and media releases. A description of the services offered.

1.2.2 The classes of information will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.
- Information in draft form.
- Information which is no longer readily available as it is contained in files that have been placed in archive storage, or is difficult to access for similar reasons.

1.2.3 The authority must indicate clearly to the public what information is covered by this scheme and how it can be obtained. Information can be provided on a website, however, where it is impracticable to do so, or when an individual does not wish to access the information this way, then the authority must indicate how this information can be obtained by other means and provide it by those means.

1.2.4 Where in exceptional circumstances, some information may only be available by viewing in person, then the authority must specify the contact details and any appointment must be arranged within a reasonable timescale.

1.2.5 Information will be provided in the language in which it is held or in such other language that is legally required. Where an authority is legally required to translate any information, it will do so.

1.2.6 Obligations under disability and discrimination legislation and any other legislation to provide information in other forms or formats will be adhered to when providing information in accordance with the scheme.

### **1.3 Financial and Value For Money Considerations**

1.3.1 The purpose of the scheme is to make the maximum amount of information readily available at minimum inconvenience and cost to the public. Any charges made by the authority for routinely published material must be justified and transparent.

1.3.2 Charges may be made for information subject to a charging regime specified by Parliament. Charges may be made for actual disbursements incurred such as:

- Photocopying
- Postage and packing
- The costs directly incurred as a result of viewing information.

1.3.3 If a charge is to be made, confirmation of payment due will be given before the information is provided. Payment may be requested prior to the provision of the information.

### **1.4 Legal Implications**

1.4.1 The approval of the current scheme expires on 31<sup>st</sup> December 2008 and under the new scheme the ICO has refreshed its approach to proactive information disclosure with the aim to encourage maximum disclosure whilst reducing the burden on public authorities. The new scheme comes into effect from 1<sup>st</sup> January 2009.

1.4.2 The ICO has published a 'Definition Documents' (see Appendix 1). This sets out the types of information that an authority is expected to publish. The authority must publish everything which is listed unless:

- The authority does not hold the information;
- The information is exempt under one of the FOI exemptions or Environmental Information Regulations (EIRs) exceptions, or its release is prohibited under another statute;
- The information is archived, out of date or otherwise inaccessible; or
- It would be impracticable or resource-intensive to prepare the material for routine release.

1.4.3 Accompanying the report (at Appendix 2) is a draft of the publication scheme which needs to be finalised in detail by officers.

## **1.5 Risk Assessment**

- 1.5.1 Subject to this report being endorsed, the remaining risk relates to the need for us to ensure that all requirements by way of information sources are made available as required.

## **1.6 Recommendations**

- 1) Members are asked to adopt the new model publications scheme as set out in the above report for implementation from 1 January 2009.
- 2) Members delegate officers to finalise the detailed content of the scheme.

Background papers:

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