

MELTON BOROUGH COUNCIL

FREEDOM OF INFORMATION POLICY

1. INTRODUCTION

- 1.1 The Freedom of Information Act 2000 came into force with Royal Assent in November 2000 and was implemented in January 2005, when individuals acquired a right of access to information. A Publication Scheme which must be approved by the Information Commissioner and which for local authorities came into force in February 2003.

2. PURPOSE AND SCOPE

- 2.1 The Freedom of Information Act 2000 along with other legislation on access to information allows a general and retrospective right of access to information held - there is no exemption for 'old' records.
- 2.2 The right of access to information is subject to a range of exemptions, some of which are absolute.
- 2.3 There are two statutory codes of practice which must be complied with: that under Section 45 of the Act, covering aspects of compliance for public authorities including the Council, and the other, under Section 46 of the Act, covering the management of records.
- 2.4 From September 2011, there is also the Code of Recommended Practice for Local Authorities on Data Transparency, prescribing how certain items of data should be made specifically available for public scrutiny and reuse.

3. COMMITMENTS

- 3.1 There are five key commitments:
- Respond to requests for information.
 - Devise and maintain a Publication Scheme.
 - Provide information via the Publication Scheme about public services, what they cost, targets, performance, complaints and redress.
 - Supply facts and analysis with major policy decisions.
 - Open up internal guidelines about departments' dealing with the public, supplying reasons with administrative decisions.
- 3.2 The provision of information via the Council's website is one of the key routes by which information can be proactively provided to the public, transparency in relation to the Council's activities achieved, and the objectives behind the commitments realised. The Publication Scheme and the Publication List can be accessed by this means.

3.3 The Council's Customer Relationship Management system is the key system by which information requests are managed, and compliance with legal deadlines maintained.

4. THE PUBLICATION SCHEME

4.1 The Publication Scheme is the definitive list of all available documents, and is structured to aid searching for information and will be classified as below:

Information Class
Subclass
A-Z Heading
Publication ID

The classes have been identified as follows:

1. Information about the Borough – including:
 - 1.1. Economic development
 - 1.2. Population
 - 1.3. Other key statistics
2. Information about the Council's services – including:
 - 2.1. A-Z of services to the public, business and the community
 - 2.2. Publications relating to services
3. Information about the Council's internal structure – including:
 - 3.1. Constitution
 - 3.2. Councillors
 - 3.3. Committees (including minutes, agendas, reports)
 - 3.4. Departments (including service plans) [Services]
 - 3.5. Partnerships with other organizations
 - 3.6. Forums
4. Information about the Council's policies and procedures – including:
 - 4.1. Policy framework
 - 4.2. Plans and strategies
 - 4.3. Procedures and rules
 - 4.4. Codes and protocols
5. Information about the Council's finances – including:
 - 5.1. Revenue budgets and spending
 - 5.2. Capital budgets and spending
 - 5.3. Council Tax and non-domestic rates
 - 5.4. Financial statements
6. Information about the Council's performance – including:
 - 6.1. Best Value performance plans
 - 6.2. Performance indicators and targets
 - 6.3. Audit information (Internal and external audit)
 - 6.4. Best Value reviews and reports

Each document will be identified by the following headings:

- Index reference
- Document name
- Type of information eg. Advice leaflet, register, minutes
- Subject matter eg. Pest control, Council tax, Elections
- Format eg. Paper, Internet, Both
- If Internet, is it downloadable? Yes/No
- Release of information eg. Now, Not yet, Closed to Public
- Is there a charge? Yes (amount)/No
- Available in large print Yes/No
- Available in other languages? Yes (which ones)/No
- Disposal date

4.2. The Scheme will be available in both paper and electronic format and will list all documents that are available to the public, indicating whether they are free of charge or subject to a fee. It may be possible to provide information on other media or in large print upon request.

4.3. All requests for information that are not met by the Council's own Publication Scheme will need to go through the formal process of a written request to Customer Services. An email request counts as a written request for the purpose of the Act. A response will be provided within the statutory 20 working days, unless exemptions apply.

5. EXEMPTIONS

5.1. There are 23 exemptions to the general right of access; 8 of them are in whole or part absolute exemptions. For others, a Public Interest Test applies. (See Annexe A).

6. PUBLIC INTEREST TEST

6.1. When a request is made for information not listed within the Publication Scheme, appropriate action will be taken and a decision made on whether or not the information requested can be disclosed.

6.2. If an exemption applies to information that has been requested, but it is not one of the absolute exemptions, the authority will have to consider releasing the information if it is in the public interest to do so.

6.3. The definition of 'public interest' is specified. The Council must release the information unless:

'in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information'.

6.4. The balance of public interest depends on judgement and balance, and will be referred to the Public Interest Test Panel consisting of senior officers.

6.5. If the requester is not satisfied with the decision, an appeal may be made to the Chief Executive.

6.6. If still not satisfied, the requester has recourse to the Information Commissioner's Office (ICO).

7. RESPONSIBILITY FOR UP-TO-DATE INFORMATION

7.1. Heads of Service are responsible for ensuring that all staff under their control are made aware of the requirements of and compliance with the Act.

7.2. Any document published after the Act comes into force will have to be notified to Customer Services so that it can be included in the Publication Scheme, and the Scheme updated.

7.3. Any document which has reached the end of its retention period should be notified to Customer Services so that it can be removed from the Scheme.

7.4. The Act applies to all employees, elected Members and agents of the Council.

8. FREEDOM OF INFORMATION POLICY STATEMENT

8.1. Melton Borough Council complies with the Freedom of Information Act 2000 in that it supports the culture change required to promote open government with a commitment to raise public awareness of the right of access to information, in that:

- a) This Policy applies to all employees, elected members, and agents of the Council.
- b) The Council will maintain an Information Asset Register. Every effort will be made to ensure that inaccuracies are corrected without unnecessary delay. For practical purposes, this is the same as the range of items in the Council's Publication Scheme.
- c) A Records Management Statement will set out the procedures for handling records (see Annexe B).
- d) The Council will respond to and assist every request for information from the public.
- e) The Council reserves the right to charge for information provided. Requests for information should be in writing and directed to Customer Services.
- f) The Council will provide a Publication Scheme listing all information available.
- g) Requests will be monitored for compliance with the statutory timescale.
- h) Requestors will be advised that the information they are seeking is held by another Public Authority when this is the case.
- i) Complaints will be acknowledged, recorded and dealt with according to the Council's Complaints Procedure.
- j) Information will be retained and disposed of according to the Council's Retention and Disposal Schedule.
- k) The Freedom of Information Policy has been produced for elected Members and employees to provide guidance on compliance with the Act,

and to promote good practice on the part of the Council in its handling of information.

- 8.2. Managers should ensure that their area of operation complies with the Act and that any information already published or as yet unpublished, is made known to the officer responsible for maintaining the publication scheme.
- 8.3. Every employee should be aware of this policy, having the individual responsibility to make themselves aware of the Act and follow the procedures to ensure compliance with the Act.
- 8.4. The Council will respond to and assist every request for access to data from employees or the public.
- 8.5. The Council reserves the right to charge for access to personal data in accordance with the terms of the Data Protection Act 1998.
- 8.6. Requests for access should be made in writing and directed to Customer Services in the first instance. Emails are classed as 'in writing' for the purpose of the Act.
- 8.7. Any member of staff, knowingly or recklessly breaching this Policy will be subject to established disciplinary procedures.

9. FEES

- 9.1. Melton Borough Council will publish its Fee Statement as part of this Policy. Under the Freedom of Information Act 2000, all requests under s1 of the Act where the estimated cost is less than £450 are to be treated as free. The estimated cost must be calculated in accordance with the regulations.
- 9.2. Time involved in:
 - determining whether the Council holds the information
 - locating the information
 - retrieving the information
 - extracting the informationis to be calculated at £25 per hour. The Council is allowed to charge for disbursements.

10. ENVIRONMENTAL INFORMATION

- 10.1 Environmental information under Section 39 FOIA 2000 is dealt with under the Environmental Information Regulations 2004 (SI 2004:3391). Exceptions to disclosure under these Regulations tend to be qualified, rather than absolute.
- 10.2 From the point of view of requesters, requests for disclosure should be made as for freedom of information requests to Customer Services in the first instance, so that requests can be logged and processed appropriately.
- 10.3 Charging for requests under EIR 2004 differs from the requirements of the main FOI Act, as only the cost of physical production of the documents for

disclosure can be recovered. For practical purposes, this is charged at 20p per single A4 monochrome sheet, the same as the cost at Leicestershire public libraries, to ensure fairness of treatment for costs of access to information.

11. PUBLIC SECTOR INFORMATION, OPEN DATA AND TRANSPARENCY

- 11.1 The Reuse of Public Sector Information Regulations 2005 (SI 2005:1515) entitle anyone to ask a public authority in England, Wales and Northern Ireland, including Government Departments, to be able to reuse public information ('information assets') identified in an Information Asset Register for that purpose. For practical purposes, this is the same range of items as the Publication Scheme.
- 11.2 Local authorities falling within the scope of the Reuse of Public Sector Information Regulations are also covered by the September 2011 Code of Recommended Practice for Local Authorities on Data Transparency, which set out the requirements for local authorities in relation to Open Data and Transparency.
- 11.3 Local authorities must publish on their websites a specified range of data items to enable both free reuse and transparency of access and inspection. Melton Borough Council is compliant with the Code, and aims to expand the range of data publicly available via its Open Data webpage.

12. THE INFORMATION COMMISSIONER'S OFFICE

- 12.1 The Information Commissioner's Office can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

A telephone helpline is available on 0303 123 1113 or 01625 545745.

- 12.2 Guidance and other information in relation to information legislation can be obtained from the Information Commissioner's Office website, www.ico.gov.uk