



# Ryedale District Council

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**REPORT TO:** Policy & Resources Committee

**DATE:** 2 October 2008

**REPORTING OFFICER:** Council Solicitor & Monitoring Officer  
Anthony Winship

**SUBJECT:** **Freedom of Information – Model Publication Scheme**

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## **1.0 PURPOSE OF REPORT**

1.1 To adopt the Model Publication Scheme issued and approved by the Information Commissioner with effect from 1 January 2009 and to consider updating the officer delegation scheme.

## **2.0 RECOMMENDATIONS**

2.1 That the Model Publication Scheme is adopted with effect from 1 January 2009.

2.2 That the Council's website be used to publicise the publication scheme and provide information under the Scheme as far as reasonably practicable.

2.3 That the Council Solicitor be given delegated authority to ensure compliance with the Freedom of Information Act 2000 including:

- (i) Developing, implementing, monitoring and renewing the publication scheme required by the Freedom of Information Act 2000.
- (ii) Responding to specific requests for information and issuing decision notices.

## **3.0 BACKGROUND**

3.1 The Freedom of Information Act 2000 (FOIA) received Royal Assent on 30 November 2000 and introduced a new right to obtain all types of recorded information held by almost all public authorities. A public authority is widely defined and includes government departments, local authorities and parish councils. The FOIA Act was intended to herald a new culture of openness throughout the public sector and brought about:-

- (i) A general right of access to all information held by public authorities (subject to stated exceptions). The right applies to all information "held" and is in effect retrospective and there is no exemption for old records.
- (ii) A requirement for public authorities to adopt a Publication Scheme specifying the classes of information the authority intends to publish, the manner of publication and whether it will be free of charge.
- (iii) The establishment of an Information Commissioner and an Information Tribunal to ensure compliance.

The date for implementing the Publication Scheme was February 2003 but the right to request information did not come into full operation until January 2005. Previously, publication schemes expired four years after the date of approval. The Information Commissioner decided to extend approval of all existing schemes until 31 December 2008.

3.2 A publication scheme is the policy document of a public authority on:

- What types of information will be made public as a matter of course; and
- When that information will be made public

3.3 Section 19 of the Freedom of Information Act 2000 obliges every public authority to adopt and maintain an approved Publication Scheme. The intention of a Publication Scheme is to require authorities to make certain kinds of information routinely available to the public.

#### **4.0 REPORT**

4.1 The approval of all current schemes expires on 31 December 2008. The Council needs to adopt a new publication scheme before the expiry of the existing scheme. The Information Commissioner's Office (ICO) is refreshing its approach to proactive disclosure of information. The ICO's aim is to encourage maximum disclosure but also to reduce the burden on public authorities. The ICO has therefore approved (under section 20 of the Act) a model scheme which is suitable for every public authority to adopt with effect from 1 January 2009. A copy of the model scheme is attached to this report.

4.2 The model publication scheme has been prepared and approved by the Information Commissioner. It may be adopted without modification by any public authority without further approval and will be valid until further notice.

4.3 Sections 19 and 20 of the Freedom of Information Act provide that publication schemes must be approved by the ICO; the exception is model publication schemes, where approval is not needed provided that the scheme is used without any alterations.

4.4 Any deletions made to the model scheme require the approval of the Information Commissioner's Office. Deletions to the scheme would only be considered for approval in exceptional circumstances.

- 4.5 This publication scheme commits an authority to make information available to the public as part of its normal business activities. The information covered is included in the classes of information mentioned in Annex 1 attached .
- 4.6 The scheme 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.
  - To proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme.
  - To 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.
  - To review and update on a regular basis the information the authority makes available under this scheme.
  - To produce a schedule of any fees charged for access to information which is made proactively available.
  - To make this publication scheme available to the public.
- 4.7 It is proposed to use as far as is reasonably practicable the Council's website as a repository for all information available under the Model Publication Scheme.
- 4.8 Members are asked to note that the register of Councillors' financial and other interests is open to public inspection. The Model Publication Scheme makes reference to this.

## **5.0 FINANCIAL IMPLICATIONS**

- 5.1 The cost of implementing the model publication scheme in terms of updating the Council's website has been accommodated within the budget for the Council's website development.
- 5.2 Information available through an authority's publication scheme should be readily available at minimum cost to the public.
- 5.3 Some efforts will be required by Council staff and its web manager to ensure that data has been uploaded to comply.

## **6.0 LEGAL IMPLICATIONS**

- 6.1 By not adopting a Publication Scheme the Council would be in breach of the Freedom of Information Act 2000 which may result in the Information Commissioner serving an enforcement notice on the Authority. If an authority fails to comply with an enforcement notice the Information Commissioner can

certify this in writing to the High Court who may find the authority in contempt of court. This may well result in an unlimited fine or imprisonment.

- 6.2 The adoption of the model publication scheme will ensure that the Council complies with its statutory duty to adopt and maintain an approved public scheme.

## **7.0 RISK ASSESSMENT**

- 7.1 The risk of failing to comply with the requirements of Section 19 of the Freedom of Information Act 2000 are minimal if the Council adopts the new model publication scheme.

## **8.0 CONCLUSION**

- 8.1 Members are recommended to adopt the Model Publication Scheme.

## **BACKGROUND PAPERS**

The Model Publication Scheme published by the Information Commission in May 2008

Definition Document for the Model Publication Scheme for Principal Local Authorities (County Councils, Unitary Authorities, District Councils, Metropolitan District Councils, the Council of the Isles of Scilly)

### **OFFICER CONTACT:**

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