

<b>Cabinet Meeting</b>		<b>Agenda Item: 4</b>
<b>Meeting Date</b>	15 July 2015	
<b>Report Title</b>	Information Commissioner's Office (ICO) Freedom of Information Act Publication Scheme	
<b>Cabinet Member</b>	Cllr Dewar-Whalley, Cabinet Member for Finance	
<b>SMT Lead</b>	Mark Radford – Corporate Services Director	
<b>Head of Service</b>	John Scarborough – Head of Legal Partnership	
<b>Lead Officer</b>	Donna Price – Team Leader Corporate Governance	
<b>Key Decision</b>	No	
<b>Classification</b>	<b>Open</b>	
<b>Forward Plan</b>	<b>Yes</b>	
<b>Recommendations</b>	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> <li>1. <b>Note</b> the background information within the report relating to the new ICO model publication scheme.</li> <li>2. <b>Adopt</b> the new ICO model publication scheme, replacing the version SBC currently adheres to.</li> </ol>	

## 1 Purpose of Report and Executive Summary

- 1.1 This report outlines the purpose of a publication scheme and asks Cabinet to adopt the Information Commissioner's updated model scheme as the Council's own. SBC adopted the original version of the model scheme in 2010, but this has now been superseded.

## 2 Background

- 2.1 The Freedom of Information Act 2000 provides public access to information held by public authorities. This is undertaken in two ways: firstly, members of the public are entitled to request information direct from public authorities; and secondly, public authorities are obliged to proactively publish certain information about their activities.
- 2.2 To support the provision and availability of information, every public authority subject to the Freedom of Information Act 2000 is required to adopt and maintain a publication scheme.
- 2.3 The publication scheme sets out what information we routinely make available to the public, how it can be obtained, and whether there is a charge for it. Charges are limited to actual disbursements, i.e. photocopying, postage and packaging and costs directly incurred in as a result of viewing information. Such costs must be reasonable and justifiable. The current level of costs charged for printing and photocopying are as follows:

- A4 Black & White = 10p per page
- A4 Colour = 25p per page
- A3 Black & White = 20p per page
- A3 Colour = 50p per page
- A1 and A0 Plans = £4.00 per plan

Due to the cost of processing the payment it is not cost effective to request payment unless this would exceed £20.

In addition, a fee of £25 per hour can be charged if the time needed to comply with a request will exceed 18 hours, this being the appropriate limit set down in the Act. In these circumstances we can also refuse to comply with the request which due to capacity is the stance we have taken when such requests are received.

Costs related to Freedom of Information Act requests will be reviewed and included in the Fees and Charges for 2016/17.

- 2.4 Under the Act, the Information Commissioner has to approve councils' publication schemes, but the Commissioner can also produce a 'model' scheme which can be adopted wholesale by councils without further approval or amendment.
- 2.5 Swale Borough Council has previously adopted the model scheme, but this has recently been updated by the ICO and so now needs to be re-adopted in its revised format by the Council.
- 2.6 The revisions to the publication scheme now additionally requires an authority:
- to publish any dataset held by the authority that has been requested, and any updated version it holds, unless the authority is satisfied that it is not appropriate to do so;
  - to publish the dataset, where reasonably practicable in an electronic form that is capable of re-use; and
  - if any information on the dataset is a relevant copyright work and the public authority is the only owner, to make the information available for re-use under a specified licence.
- 2.7 Decisions not to publish or disclose information will be made on advice from the Freedom of Information Officer who must be satisfied that one of the exemptions set down in Part II of the Freedom of Information Act 2000 applies. These include, but are not limited to, confidential, commercial and personal information.

### **3 Proposals**

- 3.1 The new ICO model publication scheme can be found at Appendix I.
- 3.2 The release of the updated model scheme has provided a good opportunity to undertake a gap analysis looking at whether SBC is currently compliant with the

requirements of the new scheme. We estimate that we are currently 97% compliant, and are looking to address any gaps over the coming quarter.

- 3.3 Cabinet is now recommended to adopt the new ICO model publication scheme at Appendix I.

## 4 Alternative Options

- 4.1 The Council has a statutory obligation to adopt a publication scheme. To comply with this, it can either adopt the Information Commissioner's model scheme, as recommended in this report, or it can create its own scheme and have this approved individually by the Commissioner.
- 4.2 Given the additional resource implications of the latter option, as well as the fact that we are almost fully compliant with the model scheme, the latter option is not recommended.

## 5 Consultation Undertaken or Proposed

- 5.1 Consultation with the Legal and Communications Teams has been undertaken in order to ascertain both the legal implications, and ensure that communication is underway regarding the future updating of the website to ensure compliance.

## 6 Implications

Issue	Implications
Corporate Plan	The Corporate Plan priority 'A Council to be Proud of' could be at risk due to the legal implications if the new publication scheme is not adopted and the requirements met.
Financial, Resource and Property	Work to ensure compliance to the new model publication scheme is undertaken within the existing budget for 2015/16.
Legal and Statutory	s19 & s20 of the Freedom of Information Act 2000 requires the authority to adopt a publication scheme. Failure to do so would be a breach of the Act. The ICO are the enforcing authority for the Act.
Crime and Disorder	No implications identified at this stage.
Sustainability	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.
Risk Management and Health and Safety	Reputational risk for breaching the Act, and possibility of enforcement action being taken by the ICO.
Equality and Diversity	No implications identified at this stage.

## **7 Appendices**

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: ICO Model Publication Scheme

## **8 Background Papers**

8.1 Freedom of Information Act (2000) Model Publication Scheme, current SBC webpage link:

- [Freedom of Information Act \(2000\)](#)