

## CABINET ITEM COVERING SHEET PROFORMA

### AGENDA ITEM

### REPORT TO CABINET

11 MARCH 2010

### REPORT OF CORPORATE MANAGEMENT TEAM

## CABINET DECISION

### Corporate Management & Finance – Lead Cabinet Member – Councillor Laing

#### FREEDOM OF INFORMATION REQUESTS

1. Summary

This report summarises the procedures currently in place across the organization for the receipt of and replies to Freedom of Information (FOI) requests, outlines the implications arising from those procedures and indicates how it is proposed to address them.

2. Recommendation

Cabinet is asked to note the contents of the report.

3. Reasons for the Recommendations/Decision(s)

To note/ratify, as appropriate, the procedures for handling FOI requests.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's Code of Conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgment of the public interest (**paragraph 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held:-

- In a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or

otherwise, immediately after making representations, answering questions or giving evidence as the case may be;

- In any other case, whenever it becomes apparent that the business is being considered at the meeting;
- And must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

**Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.**

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MANAGEMENT TEAM**

**CABINET DECISION**

**FREEDOM OF INFORMATION REQUESTS**

**SUMMARY**

This report summarises the procedures currently in place across the organisation for the receipt of, and replies to Freedom of Information (FOI) requests outlines the implications arising from those procedures and indicates how it is proposed to address them.

**RECOMMENDATION**

Cabinet is asked to note the contents of the report.

**DETAIL**

**Receiving Requests**

1. FOI requests including requests for information which do not specifically refer to FOI, are received in a variety of ways e.g. by letter/fax; via generic (service) email addresses; the Customer First Team; other services/FOI Officers or the Council's Principal Contact Officer (Director of Law and Democracy).
2. Whichever route the request takes into the organisation, there are specific officers in each service area, with responsibility for ensuring that the request is dealt with in accordance with FOI legislative requirements, including where appropriate coordinating a multiple service or "corporate" request on behalf of the Authority.

**FOI Officers**

3. The named officers are as follows:-

CESC	Liz Paylor
DANS	Laura Johnson
Resources	Mike Wray
Law and Democracy	Allen Squires
Tristar	Oliver Rodgers

**Types of Request**

4. Types of request can be categorised in two principal ways, either being:-

Normal business	Where the information requested may be already publicly available (e.g. on the website/publication scheme), or where
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it is a simple request for information which is readily accessible (and not contentious, confidential or otherwise sensitive) and can be provided quickly by one service.

Other requests Where the information is not readily available (e.g. necessitating a records search across the Authority); is potentially contentious, confidential or otherwise sensitive in nature and may therefore be non-disclosable or legitimately ought not to be disclosed and where consultation with other parties and specialist advice (e.g. regarding exemptions/public interest) may be necessary.

### **Procedure for dealing with Requests**

5. The Council's culture is one of openness and transparency, and being customer focused. This often involves officers doing everything that they can to ensure that requests are replied to as fully and efficiently as possible, often "going the extra mile" to do so, by compiling information that is not readily available, or spending time confirming that the information requested is not held.
6. Clearly, there is a real risk, if not properly managed that this approach could become disproportionate and could constitute an inefficient use of resources, at a time when currently they are in short supply and need to be focused on key priorities.
7. Recent concerns in this respect has been specifically expressed by officers in CESC, particularly in relation to requests around safeguarding, the obvious risk being that operational officers become distracted from their key priority work.
8. Whilst FOI officers have, over time, gained experience and expertise in exercising discretion and judgment when dealing with the second category of requests (other requests as referred to in paragraph 4 of this report), knowing when to refer requests to other officers (e.g. senior management) or services (e.g. Legal Services; Public Relations etc), it was agreed by the Corporate Management Team that a consistent, more proactive procedure, involving senior management, should be established.
9. Currently, therefore, each Corporate Director/Director of Service sees all requests for their service area when they are received, as well as the proposed replies before they are sent. The Chief Executive/Corporate Management Team/Communications' Team are also informed of any requests of note because of their sensitivity (requests regarding Members' Allowances and officers salaries are recent examples).
10. In addition, the FOI Officers meet regularly as a sub-group of the Officer Corporate Governance Group, to discuss requests received and the effectiveness of the procedures for handling them and ways in which they can be refined and become more efficient.
11. In this way, it is intended that decisions can be taken about how best to handle particular requests, taking into account the nature of the information required, officer availability, operational workloads and other priorities. The procedure should also assist in avoiding duplication of effort across the organization, achieving consistency of approach to the same or similar requests and maximizing available knowledge and resources.
12. In particular, these arrangements will assist in spotting trends within service areas and across the organization, so that steps can be taken, for instance, to share

information about responses already provided, and to publicise relevant information on the website and in other ways, in order to minimise the work and costs associated with the same or similar future requests.

### **FOI Statistics**

13. To supplement this approach, it has also been agreed that information regarding the number and nature of FOI requests being received by Services will be reported to the Corporate Management Team Performance Clinics. This information will in turn be reported to the Executive Scrutiny Committee and Cabinet, along with the existing information relating to Complaints, Compliments, Commendations and Comments.
14. In the meantime, details of requests received during 2008/09 by service area are attached at **Appendix 1**.
15. Similar details for requests received during the period 1 April 2009 to 31 December 2009 are also attached.
16. The costs involved have been estimated on a standard basis for each Service and relate only to the Officers who deal directly with the administration of requests. They do not include the time spent by other Officers in relation to FOI (eg Heads of Service, Corporate Directors). The details are set out in the Appendix. In future FOI Officers will record and cost the total time spent on FOI requests specific to their own service area. This will provide a much more analytical picture of the resources which are being used.
17. Appendix 1 also includes an assessment of requests by type over the period October to December 2009. This provides specific details of where the requests came from and what topics were asked about in each service area.

### **Charging for FOI Requests**

18. An FOI charging policy has recently been drafted by the FOI Officers Group. A copy of the draft policy is attached at **Appendix 2**. This is in the process of being finalized by the Group. Guidance regarding the application of the Policy is also being formulated. Once the Policy has been finalized and published, and the related guidance has been agreed, charging will take place in appropriate cases.
19. To date, in the absence of a published policy, no charges have been levied for any replies to FOI requests. Charging for incidental expenses has also not taken place because the view was taken that the administration costs of recovery did not justify it and the approach to requests where the time required to respond would exceed the threshold, has been to exercise the option to refuse the request.

### **Next Steps**

20. Steps are now being taken to:-
  - extend and improve the FOI Officer Group's data gathering, sharing and statistical analysis processes
  - review and refine the procedures for dealing with requests
  - finalise the charging policy and related guidance

- subject to this, to ensure that, wherever appropriate, the charging policy is applied and costs are recouped
- become more effective in minimizing the time and costs expended on dealing with requests, by information sharing and more extensive publication
- embed the reporting arrangements regarding requests.

## **FINANCIAL AND LEGAL IMPLICATIONS**

### **Financial**

21. There are costs in terms of disbursements and more particularly officer time involved in responding to FOI requests. The estimated costs of Officer time are detailed at **Appendix 1** to the report. Currently no charges have been made in relation to such requests and the costs involved are therefore being met, in full, from service budgets.

### **Legal**

22. Failure to comply with FOI requirements may lead to complaints to the Information Commissioner and enforcement action under the legislation, including court proceedings.

## **RISK ASSESSMENT**

23. FOI compliance has been considered to be a low risk category activity given the arrangements in place in services. However, the risk could become greater if detrimental effects on resources and services are not managed appropriately and effectively.

## **EQUALITY IMPACT ASSESSMENT**

24. It is not considered that an assessment is required at this stage. No changes to services or policies are currently proposed.

## **SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS**

25. Access to information is a cornerstone of open local government and an important element of the modernization agenda, and is therefore an inherent part of the Council's governance and organisational development.

## **CONSULTATION**

26. The issues within the report have been the subject of discussions with all relevant officers. FOI information will be reported to Executive Scrutiny Committee and Cabinet on a quarterly basis.

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Background Papers: Not applicable  
Ward(s) and Ward Councillors: Not Ward Specific  
Property Implications: None