

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**11<sup>th</sup> FEBRUARY 2016**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

### **CABINET DECISION**

**Leader of the Council – Councillor Bob Cook**

#### **SCRUTINY REVIEW OF FREEDOM OF INFORMATION REQUESTS**

1. Summary

This report presents the context, findings and recommendations following the officer led review of practice with respect to Freedom of Information requests. This review reported into Executive Scrutiny Committee, details of their scrutiny, challenge and comments are detailed within this report.

2. Recommendations

1. Note the detail of the report
2. Maximise the opportunities presented through recent restructures to provide an effective gatekeeping and signposting function.
3. Consider the wider use of a case management tool, maximising any automated functionality.
4. Provide training to key officers on the use and interpretation of the Freedom of Information legislation including practice and procedures adopted by the council.
5. Review and refresh as required the Councils Publication Scheme linking the publication of information to frequently requested data sets.
6. Continue to participate in sharing good practice, local and regional benchmarking groups.
7. Maximise opportunities resulting from the Parliamentary review of the Freedom of Information Act, once published.

3. Reasons for the Recommendations/Decision(s)

There is no longer a statutory requirement to have a local strategic partnership or a Sustainable Community Strategy. The report and recommendations take account of this and that there are some elements within the LSP infrastructure that remain statutorily required. The recommendations are also based on changes to the LSP infrastructure that take account of feedback from Members, officers and key stakeholders about the on going need for some elements of the infrastructure and proposals to build on what has worked well.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, 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 judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code).

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

### **Disclosable Pecuniary Interests**

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code).

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**SUMMARY**

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**RECOMMENDATION**

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**BACKGROUND**

1. The scoping document (**Appendix 1**) for the Freedom of Information (FOI) Review presented the overall aims as:
  - To provide an understanding of the requirements of Freedom of Information legislation
  - Demonstrate how the council currently manages FOI Requests,
  - Examine the scope within the legislation to consider options that might better support our approach to managing FOI's
  - Share examples of type and complexity of the sorts of requests received
  - Consider recommendations for improvements to the way in which we manage demand and requests going forward.
2. The key lines of enquiry were defined as:
  - Appropriate interpretation and use of the legislation to manage demand.
  - Use of the exemptions, best practice with respect to use of exemptions.
  - Volumes and Officer time spent on collating and responding to FOI's.

- Processes to record and respond to FOI.
- Publication and transparency
- Whether any records management learning opportunities can be gained which lead to further efficiencies.
- Whether learning opportunities are being sought as a result of the information gathered to respond to the initial requests
- Practice elsewhere

## CONTEXT

3. The review provided Members with the detail of the requirements of the FOI legislation for Local Authorities, an overview of the exemptions permitted within the legislation, the current devolved model of practice and procedures used within Stockton to manage FOI's. Volumes of requests and statistics on the source of requests and trends in information requests received over the last three years, have also been shared along with some examples of requests received, to showcase the variety, complexity and how the use of exemptions are applied in certain circumstances.
4. The work of the regulator, the Information Commissioner was shared, particularly their role in upholding information rights in the public interest and the promotion of openness and transparency by public bodies. The regulator regularly publishes outcomes from their case work and provides an advice and guidance service, which is well used by the authority.
5. Members were made aware of the ongoing work undertaken by a small working group, comprising FOI officers from across the services, including system support, who within the boundaries of a devolved practice model have delivered many improvements to the process, recording, and practices used to manage FOI's, over the past few years. This has delivered a more streamlined and consistent process, a central recording system; which in turn has provided a much greater level of intelligence about volumes, source and topics of request, an improved customer experience and importantly a reduced and more managed risk to the authority, its reputation and in compliance with the requirements of the legislation and the Information Commissioner.
6. The working group has facilitated the sharing of good practice amongst FOI Officers, provided a greater level of support across service areas and raised the profile of information governance with respect to records management. Officers involved in dealing with FOI's have gained a greater level of knowledge and understanding of the legislation and through experience, the work of the Information Commissioner in their interpretation of the legislation. This provides as solid basis on which to move forward.
7. In undertaking this scrutiny review the work of this group has contributed to the review enquiries and subsequent development of the recommendations.
8. A further opportunity to streamline processes and provide a more effective gatekeeping, advice and guidance role to officers across the Council, presents itself through a recent review of FOI functions in Children Education and Social Care and Policy Improvement and Engagement, coupled with the recent Senior Management restructure. This will facilitate greater opportunities to drive forward the recommendations, leading to improved operational practices and time efficiencies.

## FINDINGS

9. Case studies considered as part of this review has highlighted some inconsistencies in the interpretation and use of the legislation which impacts on the amount of officer time spent by both the FOI teams and other officers from across the council who contribute to collating responses. Findings suggest that this is down to a lack of knowledge and understanding of the requirements of the act and the appropriate use of exemptions. In some instances this leads to a full response being provided when full or partial exemptions could have been used. Further officer training on the legislation and the councils' approach/ practices will support a wider understanding and interpretation of the legislation.
10. It is recommended therefore that the opportunities presented through restructuring arrangements are maximised to provide better gatekeeping, advice and training to officers across the council, to utilise the legislation more effectively and as a result reduce the overall officer time spent on dealing with requests.
11. The Information Commissioner provides a comprehensive guidance note on Publication Schemes and best practice. The council operates a publication scheme, which has developed over time. An initial review of the scheme and consideration of best practice examples from elsewhere suggest that more effective use of our publication scheme would result in requesters being signposted directly to published information rather than in some instances a more time consuming approach through the FOI process. It is recommended therefore that in conjunction with intelligence provided through FOI monitoring, the publication scheme is reviewed and where appropriate through publication of data sets, more effective use made of the scheme.
12. The Council has for a number of years used a case management system to manage FOI requests within the statutory timescales required. Initially this system was only used in one directorate and over the last few years, all service areas have now migrated to this system. Significant benefits have been realised as a result of using a single recording platform; improved intelligence, reduced risk, more effective monitoring of timescales etc. However, it is recognised that further efficiencies could be realised from this system, for example more effective use of automated functions, such as templates, and a wider rollout of users. Both would lead to greater efficiencies in officer time spent. It is recommended that consideration is given to the wider use of the case management system and better use, through training and development are made of the automated functions currently available.
13. The established cross service area working group has evidenced that working together, sharing knowledge skills and good practice has many wider benefits. The authority also participates in a regional Information Governance group that meet quarterly to share good practice, case law and intelligence on frequent requesters and those who circulate requests to all local authorities. Pooling resources/ intelligence on such matter is beneficial and will continue to be as each local authority's resources reduce. It is recommended that benchmarking and sharing good practice continue to be part of Stockton approach to managing FOI requests with a view to managing demand and reducing risk to the authority?
14. In July 2015 the Government commissioned a review of the Freedom of Information Act 2000 which is being led by Lord Burn. The Commission is considering the balance between transparency, accountability and the need for sensitive information to be protected. The Commission expects to report its finding in late January 2016. It is recommended that the outcome of this review is considered with any opportunities maximized and reflected in Stockton's approach going forward.

## **EXECUTIVE SCRUTINY CHALLENGE**

15. Executive Scrutiny considered the scope of this review on 15<sup>th</sup> September 2015, the baseline challenge and option appraisal was considered on the 24<sup>th</sup> November and the 16<sup>th</sup> December 2015 respectively. An outline of the information received and discussion is detailed below.

16. Key information provided in the baseline data included statutory requirements, the Council's current processes, the volume and complexity of requests and the resources needed to respond.

Areas of discussion included:

- assessments of request and how long they might take to respond to
- how exemptions were used and particularly the 18 hour limit and applying the vexatious/repeated requester section of the FOI Act
- extending the types and amount of information available on the web
- how long information was kept
- provision of CCTV footage and consent
- the potential for streamlining processes

17. The Committee also asked if an estimate of the current total cost to the Council could be provided and details of how many requests were valid and how many were refused.

18. On 16 December, the Committee received a report that presenting the findings and recommendations of the review. Members asked a number of questions and raised issues relating to:

- The role of the information Commissioner
- Opportunities to streamline the system and cut costs
- Training of staff
- Use of the Council website and publication scheme
- Use of a document management system and working more effectively by using technology

19. Members considered the recommendations detailed above and requested that they be presented to Cabinet for approval.

### **Next Steps**

20. Following the approval of the recommendations, an action plan is to be developed to progress the recommendations, with reports on progress referred back to Executive Scrutiny committee as appropriate.

## **EQUALITY IMPACT ASSESSMENT**

As this report is not making any changes to policy or service delivery it has not been deemed necessary to undertake an Equality Impact Assessment.

## FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

## LEGAL IMPLICATIONS

There aren't any legal implications arising from this report.

## RISK ASSESSMENT

This is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk

## CONSULTATION INCLUDING WARD/COUNCILLORS

N/A

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Appendix 1

## Executive Scrutiny Committee

### “Reporting In” Review – Freedom of Information Requests

#### Outline Scope

<b>Scrutiny Chair:</b> Councillor David Harrington
<b>Responsible Officer:</b> Lesley King / Kate Fulton
<b>Scrutiny Link Officer:</b> Judith Trainer
<b>Which of our strategic corporate objectives does this topic address?</b>  Council Plan Objectives – <ul style="list-style-type: none"><li>Continuing to ensure we have strong corporate and ethical governance</li></ul>
<b>What are the main issues and overall aim of this review?</b>  Aim To provide members with an understanding of the requirements of Freedom of Information legislation, how the council currently manages FOI Requests, what potential and scope there is within the legislation that might better support our approach, share good practice examples and to consider recommendations for improvements to the way in which we manage requests.

Key issues :

- Volumes
- Complexity of requests
- Links to Media Enquiries.

There are links with Freedom of Information to the open government/ transparency agenda. The review will highlight the links and potential impact on volumes/ processes.

**What are the key lines of enquiry:**

- Appropriate interpretation and use of the legislation to manage demand.
- Use of the exemptions, best practice with respect to use of exemptions.
- Volumes and Officer time spent on collating and responding to FOI's.
- Processes to record and respond to FOI.
- Publication and transparency
- Whether any records management learning opportunities can be gained which lead to further efficiencies.
- Whether learning opportunities are being sought as a result of the information gathered to respond to the initial requests
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**Who will the Committee be trying to influence as part of its work?**

Central government , Cabinet, Council Services

**Expected duration of review and key milestones:**

Scope – 15<sup>th</sup> September 2015  
Baseline – 24<sup>th</sup> November 2015  
Options and Recommendations – 16<sup>th</sup> December 2015  
Cabinet – 11<sup>th</sup> February 2015.

**What information do we need?**

**(Background information, existing reports, legislation, central government documents, etc.):**

- FOI Legislation
- Transparency Regulations
- Information Commissioner Advice and Guidance
- Volumes and response timescales.
- FOI Management Information
- Process flowchart
- Benchmarking, practice in other Local Authorities; good practice examples.
- Central Government review

**How will this information be gathered? (eg. Financial baselining and analysis, benchmarking, site visits, face-to-face questioning, telephone survey, survey)**

Desktop Analysis, benchmarking.



**Provide an initial view as to how this review could lead to efficiencies, improvements and/or transformation:**

- Effective use of exemptions
- Recommendations to the Parliamentary committee reviewing the legislation
- Publication of information
- Standardised approach
- Managing demand.