

## **AGENDA ITEM NO**

### **DUDLEY METROPOLITAN BOROUGH COUNCIL**

### **CABINET – 15<sup>TH</sup> DECEMBER 2004**

### **JOINT REPORT OF THE DIRECTOR OF LAW AND PROPERTY AND THE DIRECTOR OF FINANCE.**

### **FREEDOM OF INFORMATION ACT 2000**

#### **1.0 PURPOSE**

- 1.1 To consider the attached Freedom of Information Act Policy as a statement of what the Council intends to do to ensure compliance with the Freedom of Information Act 2000.

#### **2.0 BACKGROUND**

- 2.1 The Freedom of Information Act 2000 is part of the Government's commitment to greater openness in the public sector, a commitment supported by the Council. The Freedom of Information Act 2000 will further this aim by helping to transform the culture of the public sector to one of greater openness. It will enable members of the public to question the decisions of public authorities more closely and ensure that the services we provide are efficiently and properly delivered.

- 2.2 The main features of the Act are:

- A general right of access from 1<sup>st</sup> January 2005 to recorded information held by public authorities, subject to certain conditions, fees and exemptions;
- In cases where information is exempted from disclosure, except where an absolute exemption applies, a duty on public authorities to:
  - Inform the applicant whether they hold information requested; and
  - Communicate the information to him or her, unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure;
- A duty on every public authority to adopt and maintain a Publication Scheme;
- A new office of Information Commissioner with wide powers to enforce the rights created by the Act and to promote good practice, and a new information Tribunal;
- A duty on the Lord Chancellor to promulgate Codes of Practice for guidance on specific issues.

- 2.3 The Freedom of Information Act Policy is attached at Appendix 1 and will apply to all Council employees and will enable compliance with the above.
- 2.4 The Policy will provide a framework within which the Council will ensure compliance with the requirements of the Act.
- 2.5 The Policy will underpin any operational procedures and activities connected with the implementation of the Act.
- 2.6 The Policy supports the principle that openness and not secrecy should be the norm in public life. The Council wants too create a climate of openness and dialogue with all stakeholders and improved access to information about the Council will facilitate the development of such an environment.
- 2.7 The Council believes that individuals also have a right to privacy and confidentiality. This Policy does not overturn the common law duties of confidence or statutory provisions that prevent disclosure of personal identifiable information. The release of such information is still covered by the subject access provisions of the Data Protection Act 1998 and employment law and is dealt with in other Council policies.
- 2.8 The Council believes that public authorities should be allowed to discharge their functions effectively. This means that the Council will use the exemptions contained in the Act where absolute exemption applies or where a qualified exemption can reasonably be applied in terms of the public interest of disclosure.
- 2.9 The Council believes that staff should have access to expert knowledge to assist and support them in understanding the implications of the Act. The Policy sets out a framework to provide this knowledge.
- 2.10 The Council believes that common standards are required to ensure that the organisation is compliant with the Act. The Policy outlines the areas in which common standards will be established through other Council policies and procedures.

### 3.0 PROPOSAL

- 3.1 That the Cabinet confirms that the Policy attached at Appendix 1 shall be adopted by the Council to assist in meeting the requirements of the Freedom of Information Act 2000.

### 4.0 FINANCE

- 4.1 Under the Freedom of Information Act the Council may charge a fee for providing applicants with information.
- 4.2 It is understood that the fee mechanism will be as follows for local authorities:
- Requests for information where the “Prescribed Costs” (those costs relating to staff time) are less than £450, information will be provided to the applicant free of charge.

- Requests for information where the “Prescribed Costs” are above £450 may be refused on cost grounds, charged as appropriate or offered free of charge at the discretion of the Local Authority.

4.3 Final fee regulations are due to be published by the Lord Chancellor in mid to late December.

4.4 Charges that already exist and are already in place for information regularly and routinely produced by the Council, and information which is accessible via other statutory mechanisms, continue to be valid. These charges should be included in the Council’s Publication Scheme, that under the terms of the Freedom of Information Act, provides a menu detailing information that the Council wishes to place into the public domain.

4.5 The new fee regulations apply to that information which is not contained within the Publication Scheme and is not regularly and routinely available through other routes with existing fee structures.

4.6 Disbursement costs, defined as those costs directly associated with communicating the information to the applicant (e.g. Post, packaging and photocopying charges), can be fully recovered.

4.7 The Director of Law and Property will enable the development of a standard fee regime for “Prescribed Costs” where costs exceed £450 and development of a standard approach for charging for “Disbursement Costs”.

## 5.0 LAW

5.1 The Freedom of Information Act 2000 comes into full force on 1<sup>st</sup> January 2005.

## 6.0 EQUAL OPPORTUNITIES

6.1 This report takes into account the Council’s policy on Equal Opportunities.

## 7.0 RECOMMENDATION

7.1 That the Cabinet approves the Policy and authorises the Director of Law and Property to: -

- agree a standard fee regime for prescribed costs where costs exceed £450 and a standard approach for charging for disbursement costs, and
- refuse any request for information in accordance with the Policy and to apply the public interest test on information subject to a qualified exemption.

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