The Freedom of Information Act 2000
‘Lessons from Birmingham’s Pilot’

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My Brief:

- Highlight some **organisational considerations** and briefly cover **some legal aspects** and

- Share **some experiences** from Birmingham’s pilot
Some Organisational aspects ...

- Public access to local authority information is not new.
- Information about areas such as housing, planning and personal data is already available upon request.
- Need to look ahead, now, at information which is not contained in a scheme, from Jan 2005, and which is “reasonably accessible” - will be subject to an individual’s right to request information.
- LA’s will be able to resist individual requests for information, if the information is placed in the scheme - potential savings for being open!
Some Organisational aspects ...2

- Publication schemes should be a LA’s commitment to the **pro-active** disclosure of information

- This could lead to a **cultural change** in way LA’s provide information to citizens - more openness

- LA’s encouraged to consider release of exempt information, after a period, if in the **public interest**

- Not the sole domain of lawyers - need a corporate approach to FOIA!

- **Time to prepare** - FOIA in full effect from Jan 2005
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Some legal aspects ... 1

- **Section 19 FOIA** - Statutory duty on LA to:
  (i) adopt and maintain a publication scheme,
  (ii) publish information in accordance with it and,
  (iii) from time to time, to review the same

- **Publication scheme must show** :
  - What **information** is available - not documents!
  - Where they can **obtain** the relevant information
  - If there is a **charge** for the information - the Act does not give a separate right to charge for information
Citizens rights under the Act...

- **Right to request information** - Section 1, subject to important absolute or qualified (PI) exemptions & safeguards re resources / excessive / vexatious requests!

- LA is under ‘a duty to confirm or deny’ information is held by them within 20 working days and, if confirmed, have that information communicated

- **Right of appeal** to the Information Commissioner, with a right of appeal to the Information Tribunal and a further right of appeal on grounds of law to High Court

- **Information Commissioner** has power to overturn LA decision and other legal sanctions
Some legal aspects ...3

**Absolute Exemptions** relevant to LG under the Act...

- Information which is accessible to the public by other means (Section 21)
- Information which constitutes personal data for the purposes of the Data Protection Act 1998 (Section 40)
- Information which was provided in confidence and the disclosure of which would constitute a breach of confidence (Section 41)
- Information which may not be disclosed under any statute or rule of law (Section 44)
Qualified Exemptions relevant to LG under the Act...

- Information intended for future publication (Section 22)
- Information which may prejudice the UK economy (Section 29)
- Information held for the purposes of criminal investigations or criminal proceedings (Section 30)
- Information the disclosure of which would prejudice law enforcement (Section 31)
Some legal aspects ...5

**Qualified Exemptions** relevant to LG under the Act...

- Information the disclosure of which would endanger the physical or mental health of any individual or the safety of any individual (Section 38)
- Legally privileged information (Section 42)
- Information which is a trade secret or which may prejudice the commercial interests of any person (Section 43)
Some legal aspects …6

Section 17 - The reasons for not complying with an access request must:

☑ be given in writing
☑ state the exemption relied on; and
☑ state why the public interest requires the information to be withheld.
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Birmingham City Council’s Corporate FOI Group:

Corporate Lead:
Chief Legal Officer

[1.1 million population
£4 Billion Annual Budget
Approx. 50,000 staff]

18 different Departments / Service Units involved

1  Central IT Services
2  Central Personnel Services
3  Communications & PR Unit
4  Eastside Team
5  Economic Development Dept
6  Education Dept
7  Environment & Consumer Services Dept
8  Equalities Division
9  Finance Dept
10  Housing Dept
11  Legal Services Office
12  Leisure & Culture Dept
13  Planning Dept
14  Policy Development Team
15  Records Management Section
16  Social Services Dept
17  Transportation Dept
18  Urban Development Dept
Some of Birmingham’s Pilot experiences … 1

- Publication Scheme - corporate lead by Chief Legal Officer

- Legal Services staff drafted scheme and went to each dept to discuss with them what information was available

- Used the customer focussed website approach as a starter for the scheme

- Developed a more ‘citizen focus’ approach to the scheme … explaining citizen rights and responsibilities, including complaints / suggestions / comments procedures … classes of citizen!
Some of **Birmingham’s Pilot experiences ...2**

**Audit of existing information – Time & resources!**

- What information do we currently hold?
- What information do we currently publish?
- What additional information ought we to publish?
- What don’t we publish certain types of information?
- What new information may be added to scheme?
- What needs to change to obtain a more open culture re access to info?
- ... a more proactive approach to FAQ’s, partners’ (non-confidential) information & records management?
Some of **Birmingham’s Pilot experiences** …3

- Some narrow classes of information, i.e. tourism strategy, best value performance plan
- Other broader classes of information, e.g. housing
- Similarly broad for internal workings - i.e. the Lord Mayor, Elections Office
- **Classes of citizen & different needs** - Parent, Resident (new & established), Students (Schools / Colleges / Universities), Visitors, Businesses, Unemployed, Aged, Ethnic Minorities, Emergency Services ... **SIGNPOSTS to different needs** ...
Some final thoughts …

Do not forget:

> Constitutional stuff (e.g. Forward Plans, SO, Protocols …)
> Key and other decision-making aspects
> Parish Council requirements, if you are the MO
> Monitor, review and continuous improvement!
Some personal reflections …

• KISS! Make it workable - Not legalistic!

• Make it citizen-centered / user friendly!

• Take opportunity to focus on putting the customer first!

• Take opportunity to change culture of local government!

• Do not forget rights exercisable by members & employees!
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