



Aspiring for Excellence in Local Government

The Freedom of Information Act 2000
'Lessons from Birmingham's Pilot'

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The Freedom of Information Act 2000 'Lessons from Birmingham's Pilot'

My Brief :

- ★ Highlight some **organisational considerations** **and** briefly cover **some legal aspects** and
- 🕒 Share **some experiences** from Birmingham's pilot

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'Lessons from Birmingham's Pilot'

Some Organisational aspects ...1

- 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!

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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

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Some legal aspects ...2

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

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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)

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Some legal aspects ...4

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)

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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)

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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

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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!**

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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?

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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 ...**

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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!

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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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