

SOUTH HAMS DISTRICT COUNCIL

FREEDOM OF INFORMATION

PUBLICATION SCHEME

Amended: 26th February 2003

SOUTH HAMS DISTRICT COUNCIL
“To improve the wellbeing of the people of the South Hams”

FREEDOM OF INFORMATION ACT 2000

1. An introduction to the Act

The Act received Royal Assent on 30th November 2000 and will come into force in full by 1st January 2005. The aim of the Act is to give the public a general right of access to information held by public authorities subject to certain exemptions (see paragraph 3 below).

The Act becomes fully operational in two stages:

- By the 28th February 2003 the adoption and future maintenance of a Publication Scheme approved by the Information Commission and
- Improved rights of access to information

2. Publication Scheme – What is it?

The Publication Scheme contains details about what types of information the Council publishes or intends to publish and that information is grouped into Classes – see the Appendix for more information on the Classes.

Each Service within the Council was asked to complete a Spreadsheet detailing what information it holds, in what format and whether it is currently available and subject to any charge. The information contained in the spreadsheets was then grouped into the Classes to form the Publication Scheme.

In addition, the Council formed a Working Group of Officers to oversee the preparation of the scheme and to ensure that the Council continuously complies with all relevant legislation and Codes of Good Practice as may be issued by the Information Commissioner and other organisations in order to successfully protect itself from challenge.

When preparing its Scheme, South Hams District Council has considered the following:-

- Frequently asked questions
- Areas of local interest
- The necessity for openness and transparency when the Council makes its decisions
- The continuing publication of information

The Scheme will be available in the following manner:-

- On this Web site
- It will be deposited with all Parish Councils
- It will be deposited with all libraries serving the South Hams area
- It will be deposited at all of the District Council's Leisure Centres (Quayside at Kingsbridge, Totnes Pavilion and South Dartmoor at Ivybridge)
- It will be placed on deposit at the Council's offices at Follaton House, Plymouth Road, Totnes, Devon TQ9 5NE (telephone 01803 861234; fax 01803 861234) and it will be available by post from the same address
- It will also be available in large print format for the visually impaired

3. Exemptions

The act imposes two duties on a public authority:

- the duty to confirm or deny the existence of the information
- the duty to communicate the information

The exemptions are specified by the Act and are classed as "absolute" or "qualified" exemptions. If information falls within an absolute exemption then there is no requirement for this Council to consider whether the public interest favours disclosure where the information falls within the scope of the exemption ie. this Council is not obliged to *communicate* that information to the applicant and would also, in most cases, be relieved from the duty to confirm or deny the *existence* of that information.

Absolute Exemptions are:

- (a) Information reasonable accessible by other means
- (b) Information from, or relating to, certain security bodies
- (c) Information contained in Court Records
- (d) Information disclosure of which would breach Parliamentary privilege
- (e) Information disclosure of which would prejudice the effective conduct of public affairs (when such information is held by the House of Commons or House of Lords)
- (f) Personal information (where the applicant is the subject of the personal information and, in certain circumstances where the applicant is a third party)
- (g) Information provided in confidence
- (h) Information covered by prohibitions on disclosure

Where information falls within the class of a qualified exemption then this Council must comply with both duties unless, having given due consideration to all the circumstances of the case, the public interest in not disclosing it outweighs the public interest in disclosure. Such an exemption may include information of a personal nature or which is commercially sensitive. In such cases the Council may exclude that document from the scheme or exclude part of it.

4. Will I be charged for copies of the information?

The Council will not charge for the inspection of documents or for the viewing of information. However, where a significant amount of copies are requested the Council may wish to make a charge in line with prevailing costs.

5. What are my rights under the Act?

The rights under the Act are in addition to any existing rights which are not affected – for example, the Act does not affect your rights subject to the rules on exemptions (see paragraph 3 above) under the Data Protection Legislation.

From 1st March 2003 any person or organisation will have the right to receive a copy of the information described in the Publication Scheme and, where that information is available in printed format the Council will endeavour to provide copies within five working days of receiving the request or ten working days if the matter is complex.

From 1st January 2005 any person who submits a written request for information (ie. by letter, fax or e mail) must be informed:-

- Whether the Council holds that information and
- If so they must be supplied with that information (provided it is not subject to exemption) and
- If the Council does not hold that information within its Publication Scheme it has 20 days in which to inform that person whether the information is held and to produce a copy of it (subject to any relevant exemption)

To this end the Council is committed to maintaining its Publication Scheme and ensuring that it is kept up to date. The Council aims to review, update and maintain its Publication Scheme at the end of the first six months after its adoption and annually thereafter.

The Council is reviewing its arrangements for the retention and disposal of documents and will make its policy publicly available at the same time as the Publication Scheme.

Mr. Kevin Williams is responsible for maintaining the Publication Scheme and if you have any difficulty in locating the information you require you can contact him at:

**South Hams District Council
Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE**

Tel 01803 861347

Email kevin.williams@southhams.gov.uk

6. What can I do if I am not satisfied or my request is refused?

If you are unhappy with the way in which South Hams District Council have dealt with your request under the Freedom of Information Act 2000 you should raise the matter in accordance with our usual Complaints Procedure, which means contacting the relevant Service Manager in the first instance.

If your request for disclosure of information is refused this Council must give notice to you that it is not disclosing the information sought or stating that, where appropriate, it is reliant on the "neither confirm nor deny" provision. This Council must specify which exemption is being relied upon, and if it is not obvious we must explain why the exemption applies to the information in question. The Notice we give to you must contain particulars of this Council's procedure for dealing with complaints and particulars of the right to apply to the Commission for a decision. If you receive such a Notice, you should in the first instance complain to this Council requesting a review of the decision under our complaints procedure.

If you are still unhappy with the Council's decision you may then approach the Information Commissioner to investigate and adjudicate on the matter.

7. FEEDBACK

South Hams District Council would welcome your comments and any feedback both in respect of the Publication Scheme itself and the operation of it in order to improve its quality of service delivery to you. Please contact Mr. Kevin Williams at the address given at paragraph 5 above.