

Hurst Green Parish Council

Information Commissioner's Office model publication scheme: transparency and compliance review

Background:

Following updating of various outdated references on the parish council website, during December 2017 and January 2018, with gracious assistance from the Chairman, the Clerk and the Responsible Financial Officer (RFO), on behalf of this council, Councillor Brown, based on information freely available from the Information Commissioner's Office (ICO) and gov.uk website undertook an informal review of this council's compliance to the Freedom of Information Act 2000 model publication scheme, an important non-optional, legal requirement for this council.

As part of this work, Councillor Brown also became aware of and reviewed the council's obligations to those under the Local Government Transparency Code 2015, a legally binding code of practice on data transparency which sets out both the minimum expectations of the data to be published by parish councils and also the way the UK Government expects this data to be published i.e. wherever possible data must be published on the authority's website. *It should also be noted that by way of this council's turnover, the code does not consider this council to be a small authority.*

Councillors should note that Councillor Brown is not a trained Clerk, RFO, or a legal specialist. However, the outcome of this review has highlighted a number of areas where this council should take immediate action to ensure compliance with its legal obligations and commitment to transparency. This paper therefore proposes a number of recommendations and suggests a proposed course of action.

Hurst Green parish council notes:

The parish council has made a commitment to the ICO model publication scheme, as it is legally required to do. The publication scheme is not optional. Every public authority must use the model model publication scheme as published by the ICO. For a copy of this, see Appendix 3. By way of background, the publication scheme consists of two parts:

- 1) a a high-level commitment to proactively publish information, it consists of seven commitments and seven classes of information and commits the parish council to publish this information. It also needs to specify how we will make the information available, for example on our website and what we charge for access to the information, such as the cost of photocopying document - this additional item is referred to as 'the schedule of charges'.
- 2) The second part of the publication scheme is actually publishing the information as listed within the publication scheme.

The only exceptions to making information available that the ICO have defined in their model definition document available are unless:

1. the parish council does not hold the information;
2. the information is exempt under one of the FOIA exemptions or Environmental Information Regulations exceptions, or its release is prohibited by another statute;
3. the information is readily and publicly available from an external website; such information may have been provided by the public authority or on its behalf. The authority must provide a direct link to that information;

4. the information is archived, out of date or otherwise inaccessible; or,
5. it would be impractical or resource-intensive to prepare the material for routine release.

For the avoidance of doubt, the ICO considers 'publishing' to mean publishing information by way of the council's website for the public to access. The ICO states that they expect the vast majority, if not all documents to be published online.

As of the 18th of January 2018, the status of ICO FOI mandatory documents published online on the parish council's website was:

	Status of ICO FOI Mandatory Documents	
	<i>Documents published online</i>	<i>Documents not published online</i>
Class 1	4	0
Class 2	5	10
Class 3	0	4
Class 4	3	5
Class 5	4	8
Class 6	1	4
Class 7	0	6
total	17 (32%)	37 (68%)

Figure 1: Table showing compliance with ICO FOI mandatory document publishing

It was noted during the review that the council has not published its schema, nor has it published how information is made available, for example what is on the council's website and what we charge for access to the information, such as the cost of photocopying documents.

Mandatory documents that may need to be created

The act is very clear, if the parish council does not hold the information, then it cannot publish them. Likewise the FOI Act only covers information the council holds. It does not require the council to create new information or to record information we do not need. However, undertaking this exercise has highlighted that this council may need to create a series of important documents and policies that may be required under the FOI and/or other legislation, such as a Health and Safety Policy and a Training Policy. A summary of documents possibly fitting this category is shown in the following table.

Status of ICO FOI Mandatory Documents that may need to be created	
Class 1	0
Class 2	To Be Determined
Class 3	0
Class 4	0
Class 5	8
Class 6	To Be Determined
Class 7	To Be Determined
<i>total</i>	To Be Determined

Figure 2: Table showing documents not published as they may need to be created

The FOI act makes it clear that parish councils are expected to add to the model publication scheme to form a complete view of the council activities, for example although not listed as a class 7 core document, the council would be expected publish details of its link, support and involvement with the Breakfast Club and the Hurst Green community shop. There are also a number of documents that are required to be shared under the Local Government Transparency Code 2015. As such the following table provides the fullest view of the council's compliance as of January 18th 2018:

	ICO FOI Mandatory Documents		Additional ICO FOI Relevant Documents	
	Documents published online	Documents not published online	Documents published online	Documents not published online
Class 1	4	0	0	3
Class 2	5	10	2	8
Class 3	0	4	1	0
Class 4	3	5	0	0
Class 5	4	8	2	6
Class 6	1	4	0	1
Class 7	0	6	1	3
<i>total</i>	17 (32%)	37 (68%)	6 (22%)	21 (78%)

Figure 3: Table showing Hurst Green parish council compliance as of January 18th 2018

In addition to these requirements, it is possible that this council has obligations under Employment law, Data Protection Act 2008, the Environmental Information Regulations 2004, Re-use of Public Sector Information Regulations 2005, Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2009, and sections 25 and 26 of the Local Audit and Accountability Act 20149 which provide rights for persons to inspect a local authority's accounting records and supporting documentation, and to make copies of them.

As Councillor Brown is not a legal professional, nor a trained Clerk or similar, it must be for others to make these determinations. Indeed, it may be appropriate to review and challenge these recommendations and findings, however as a fundamental principle, this council must comply with its legal obligations and whilst there is no suggestion within this paper of otherwise, and that the parish's electorate and ratepayers must be provided with a clear picture of the council's activities.

This council has a fully functioning website with the ability to publish information, therefore I would notion that we must ensure that we do so, and I would recommend that Councillors vote to adopt all of these recommendations, as well as to also carry the proposed motion to ensure compliance with the Government's Transparency Code.

Recommendations:

Recommendation 1: To adopt and publish the schedule of charges as shown at Appendix 1 of this report (as we are legally required to do so) on our website under the FOI section of the parish council's website by no later than the next council meeting.

Recommendation 2: To adopt and publish the model publication scheme (as we are legally required to do so), with relevant additions as shown at Appendix 2 of this paper on our website under the FOI section of the parish council's website, formatted using the ICO's standard table format by no later than the next council meeting.

Recommendation 3: To empower the RFO to prepare all Class 2 documents contained within the adopted model publication scheme that are not currently published for public publication on the parish council's website, in a clear and concise format by no later than the next council meeting.

Recommendation 4: To empower the Clerk to prepare all non-class 2 documents contained within the adopted model publication scheme that are not currently published for public publication on the parish council's website, in a clear and concise format by no later than the next council meeting.

Recommendation 5: To form a task and finish group comprising all Councillors, empowering the Clerk to prepare and distribute a task and action list no later than the next council meeting which details which Councillors will be responsible for producing or providing information to support any documents that the Clerk has been unable to provide.

If motion 1 (below) is passed, then in accordance with the resolution and with reference to standing order 32 B [to amend the council's standing orders]:

- **Recommendation 6:** that the the council resolves to add to the list contained within standing order 9. This item shall read 'Draft minutes from all meetings will be published to the attendees, Councillors and the public not later than 14 days after the meeting has taken place' This will ensure compliance with the resolution passed at a meeting of council held on the 30th January 2018.

- **Recommendation 7:** to add to the list contained with standing order 3 B to add to the list of duties the councils proper officer shall do. This item shall read 'Publish draft minutes from all meetings to the attendees, Councillors and the public not later than 14 days after the meeting has taken place' This will ensure compliance with the resolution passed at a meeting of council held on the 30th January 2018.

Hurst Green parish council resolves:

Proposed Motion 1: Hurst Green parish council resolves that to comply with its obligations under the Local Government Transparency Code and the Freedom of Information Act, that this council will publicly publish the draft minutes from all meetings not later than two weeks after the meeting has taken place, and to publish meeting agendas and associated meeting papers not later than three clear days before the meeting to which they relate is taking place. This will ensure legal compliance, conform to generally accepted best practice and provide residents of the parish with a clear picture of the council's' activities, spending and governance.

Proposed Motion 2: Hurst Green parish council resolves that to comply with its obligations under the Local Government Transparency Code and the Freedom of Information Act, that this council will seek to immediately adopt all of the recommendations made within Councillor Brown's report on the same topic that was brought before this council at its January 2018 meeting.

Councillor A. Brown

Hurst Green Parish Council

January 2018

Appendix 1: Schedule of Charges

Schedule of Charges

Most Freedom of Information requests are free as these can be sent via e-mail, or are available on our website, but you might be asked to pay a small amount for photocopies or postage. You will be told by the parish Clerk in advance if you have to pay anything.

TYPE OF CHARGE	DESCRIPTION	BASIS OF CHARGE
Disbursement cost	Photocopying estimated at @ 3p per sheet (A4 black & white)	Actual cost *
	Photocopying estimated at @ 7p per sheet (A4 colour)	Actual cost *
	Postage	Actual cost of Royal Mail standard 2 nd class

* the actual cost incurred and will be confirmed prior to copying being undertaken.

Appendix 2: Proposed Hurst Green parish council Publication Scheme

	Class1 - Who we are and what we do (Organisational information, structures, locations and contacts)
Doc #	This will be current information only.
C1 / 001	Who's who on the council and its Committees
C1 / 002	Contact details for parish Clerk and council members (named contacts where possible with telephone number and email address [if used])
C1 / 003	Location of main council office and accessibility details
C1 / 004	Staffing structure
C1 / 005	Election flyer
C1 / 006	Election results
C1 / 007	Notification form for councillor vacancies
	Class 2 – What we spend and how we spend it (Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit)
Doc #	Current and previous financial year as a minimum.
C2 / 001	Annual return form current 16/17
C2 / 002	Annual return form previous 15/16
C2 / 003	Notice of Public Rights and Publication of Unaudited Annual Return
C2 / 004	Report by auditor current 16/17
C2 / 005	Report by auditor previous 15/16
C2 / 006	Electors Rights 16/17
C2 / 007	Electors Rights 15/16
C2 / 008	Finalised budget 17/18
C2 / 009	Finalised budget 16/17
C2 / 010	Precept 16/17
C2 / 011	Precept 15/16
C2 / 012	Statement of Accounts year ending 31 March 2016
C2 / 013	Statement of Accounts year ending 31 March 2017
C2 / 014	Drewitts Field Charity return (#305263)
C2 / 015	Latest Risk Assessment
C2 / 016	Past Risk Assessments
C2 / 017	Risk Assessment Schedule (dates the council will review policies, risks, records, insurance etc)
C2 / 018	Borrowing Approval letter(s)
C2 / 019	Financial Standing Orders and Regulations
C2 / 020	Grants given and received
C2 / 021	Grants policy

C2 / 022	List of current contracts awarded and value of contract
C2 / 023	Members' allowances and expenses
C2 / 024	Certificate of Compliance from the Pensions Regulator
C2 / 025	Certificate of Employer's Liability Insurance and Summary of Insurance Cover
	Class 3 – What our priorities are and how we are doing (Strategies and plans, performance indicators, audits, inspections and reviews)
Document #	Current and previous year as a minimum.
C3 / 001	Neighbourhood Plan information
C3 / 002	parish Plan (current and previous year as a minimum)
C3 / 003	Annual Report to parish or Community Meeting (current and previous year as a minimum)
	Class 4 – How we make decisions (Decision making processes and records of decisions)
Doc #	Current and previous council year as a minimum.
C4 / 001	Timetable of meetings (council and any committee/sub-committee meetings and parish meetings)
C4 / 002	Agendas of meetings (as above)
C4 / 003	Minutes of meetings (as above) –n.b. this will exclude information that is properly regarded as private to the meeting.
C4 / 004	Reports presented to council meetings –n.b. this will exclude information that is properly regarded as private to the meeting.
C4 / 005	Meeting notice
C4 / 006	Responses to consultation papers
C4 / 007	Responses to planning applications
C4 / 008	Bye-laws
	Class 5 – Our policies and procedures (Current written protocols, policies and procedures for delivering our services and responsibilities)
Doc #	Current information only.
C5 / 001	Policies and procedures for the conduct of council business including: Policy statements
C5 / 002	Delegated authority in respect of officers
C5 / 003	Code of Conduct
C5 / 004	Committee and subcommittee terms of reference
C5 / 005	Procedural standing orders
C5 / 006	Policies and procedures for the provision of services and about the employment of staff, including: Equality and diversity policy

C5 / 007	Health and safety policy
C5 / 008	Sickness and Absence policy
C5 / 009	Recruitment policies (including current vacancies)
C5 / 010	Policies and procedures for handling requests for information
C5 / 011	Complaints procedures (including those covering requests for information and operating the publication scheme)
C5 / 012	Internal instructions to staff and policies relating to the delivery of services
C5 / 013	Disciplinary Policy
C5 / 014	Child protection Policy
C5 / 015	Press and Media Policy
C5 / 016	Grievance Policy
C5 / 017	Training & Development policy
C5 / 018	Information security policy
C5 / 019	Breakfast Club constitution
C5 / 020	Records management policies (records retention, destruction and archive)
C5 / 021	Byelaws For Pleasure Grounds, Public Walks And Open Spaces
C5 / 022	Data protection policies
C5 / 023	Schedule of charges (for the publication of information)
C5 / 024	Staff Job descriptions
	Class 6 – Lists and Registers
Doc #	Currently maintained lists and registers only - Any publicly available register or list (if any are held this should be publicised; in most circumstances existing access provisions will suffice)
C6 / 001	Assets register
C6 / 002	Disclosure log (indicating the information that has been provided in response to requests; recommended as good practice, but may not be held by parish councils)
C6 / 003	Register of members' interests
C6 / 004	Register of gifts and hospitality
C6 / 005	Asset Summary Report (current year)
C6 / 006	Meeting Attendance Record
	Class 7 – The services we offer (Information about the services we offer, including leaflets, guidance and newsletters produced for the public and businesses)
Doc #	Current information only
C7 / 001	Allotments
C7 / 002	Community Shop
C7 / 003	Village hall

C7 / 004	Parks, playing fields and recreational facilities
C7 / 005	Footpaths and open spaces
C7 / 006	Breakfast Club
C7 / 007	Newsletters
C7 / 008	Others
C7 / 009	Mobile Library
C7 / 010	Seating, litter bins, clocks, memorials and lighting

Appendix 3: ICO model publication scheme

See attached separate document.

Appendix 4: Detailed ICO Model Compliance Tables

See attached separate document.