

# Orkney Islands Area Licensing Board

## Model Publication Scheme

### Introduction

The Freedom of Information (Scotland) Act 2002 ("FOISA") requires Scottish public authorities to produce and maintain a publication scheme. Authorities are under a legal obligation to:

- Publish the classes of information that they make routinely available.
- Tell the public how to access the information and whether information is available free of charge or on payment.

FOISA also allows for the development of model publication schemes ("MPS") which can be adopted by more than one authority.

The Scottish Information Commissioner has issued Guidance to accompany the MPS (available at <http://www.itspublicknowledge.info/ScottishPublicAuthorities/PublicationSchemes/TheModelPublicationScheme.aspx>). This is essential reading for authorities adopting the MPS as it explains the requirements of the scheme in detail and provides lists of types of information the Commissioner expects authorities will publish.

### Definition of "published" information

For the purposes of this MPS, to be "published", information must be:

- Already produced and prepared.
- Available to anyone to access easily without having to make a request for it.

Research and information services which involve the commissioning of new information are not "publications".

### Adopting the MPS

It is expected that the MPS will be adopted by any authority which is subject to FOISA. For more information about which bodies this applies to, please visit <http://www.itspublicknowledge.info/YourRights/Whocanlask/Whocanlask.aspx>.

Adoption of the MPS commits an authority to:

- Using the MPS as its publication scheme and accepting any updates to the MPS without amendment.
- Publishing the information, including environmental information, it holds which falls within the classes of information explained below.
- Ensuring that the way it publishes its information meets the MPS Principles explained below.
- Producing a Guide to Information which sets out:

- The information the authority publishes through the MPS.
- How to access it.
- Whether there is a charge for it.
- How to get help to access information.
- Notifying the Scottish Information Commissioner that it has adopted the MPS.

Where an authority fails to meet the above commitments, it cannot be considered to have adopted the Commissioner's MPS and may be failing in its duty to adopt and maintain a publication scheme in line with section 23(1) of FOISA.

## **Notifying the Commissioner**

Authorities adopting the MPS for the first time must notify the Commissioner that they have done so. Thereafter no further notification is required unless either:

- The Commissioner has revoked approval (because the authority is not complying with the MPS) or
- The authority's legal status has changed (for example through a merger with another authority or a legal change of name).

The Commissioner will regularly review the MPS and update it from time to time, notifying authorities of any changes. The Commissioner will consult authorities before making any substantive changes.

The Commissioner will continue to monitor authorities' compliance with the MPS. As required, the Commissioner may contact individual authorities about practice issues (the Commissioner's Enforcement Policy is available at <http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Briefings.aspx#procedures>).

## **MPS Principles**

The following principles apply to all information published through the MPS by any authority:

### **Principle One: Availability and formats**

The information published through the MPS should, wherever possible, be available on the authority's website.

There must be an alternative arrangement for people who cannot reasonably access the information either online or by inspection at the authority's premises. An authority may, for example, arrange to send out information in paper copy on request (although there may be a charge for this).

### **Principle Two: Exempt information**

If information described by the classes of information (see below) cannot be published and is exempt under Scotland's freedom of information laws, for example

sensitive personal data or a trade secret, the authority may withhold the information or provide a redacted version for publication, but it must explain why it has done so.

### **Principle Three: Copyright and re-use**

The authority's Guide to Information must include a copyright statement which is consistent with the fair dealing provisions of the Copyright, Designs and Patents Act 1988. Where the authority does not hold the copyright to information it publishes, this should be made clear.

Any conditions applied to the re-use of published information must be consistent with the Re-use of Public Sector Information Regulations 2015.

The Commissioner recommends that authorities adopt the Open Government Licence and / or the non-commercial Government Licence, produced by the National Archives for their published information.

### **Principle Four: Charges**

The Guide to Information must contain a charging schedule, explaining any charges and how they will be calculated.

No charge may be made to view information on the authority's website or at its premises, except where there is a fee set by other legislation, for example for access to some registers.

The authority may charge for photocopying, computer discs, postage and packing and other costs associated with supplying information. The charge must be no more than these elements actually cost the authority, for example cost per photocopy or postage. There may be no further charges for information in Classes 1 – 7 below. An exception is made for commercial publications (see Class 8 below) where pricing may be based on market value.

### **Principle Five: Advice and assistance**

The authority must provide contact details for enquiries about any aspect of the model publication scheme or Guide to Information.

FOISA requires authorities to provide reasonable advice and assistance to anyone who wants to request information. This includes information which is not published through the MPS. The authority's Guide to Information must provide contact details to access this help.

### **Principle Six: Duration**

Once published through the Guide to Information, the information should be available for the current and previous two financial years. Where information has been updated or superseded, only the current version need be available (previous versions may be requested from the authority under section 1(1) of FOISA).

## The Classes of Information

<b>Class 1: About the authority.</b>
Class description: Information about the authority, who we are, where to find us, how to contact us, how we are managed and our external relations.
<b>Class 2: How we deliver our functions and services.</b>
Class description: Information about our work, our strategy and policies for delivering our functions and services and information for our service users.
<b>Class 3: How we take decisions and what we have decided.</b>
Class description: Information about the decisions we take, how we make decisions and how we involve others.
<b>Class 4: What we spend and how we spend it.</b>
Class description: Information about our strategy for, and management of, financial resources (in sufficient detail to explain how we plan to spend public money and what has actually been spent).
<b>Class 5: How we manage our human, physical and information resources.</b>
Class description: Information about how we manage our human, physical and information resources.
<b>Class 6: How we procure goods and services from external providers.</b>
Class description: Information about how we procure goods and services and our contracts with external providers.
<b>Class 7: How we are performing.</b>
Class description: Information about how we perform as an organisation, and how well we deliver our functions and services.
<b>Class 8: Our commercial publications.</b>
Class description: Information packaged and made available for sale on a commercial basis and sold at market value through a retail outlet, for example a bookshop, museum or research journal.
<b>Class 9: Our open data.</b>
Class description: Open data made available by the authority as described by the Scottish

Government's Open Data Strategy and Resource Pack, available under an open licence.

## **Guide to Information available through the Orkney Islands Area Licensing Board Model Publication Scheme**

The Freedom of Information (Scotland) Act 2002 (“FOISA”) requires Scottish public authorities to produce and maintain a publication scheme. Authorities are under a legal obligation to:

- Publish the classes of information that they make routinely available.
- Tell the public how to access the information and what it might cost.

Orkney Islands Area Licensing Board has adopted the Model Publication Scheme (“MPS”) produced by the Scottish Information Commissioner.

You can see this scheme on our website at <http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm> or by contacting us at the address below.

The purpose of this Guide to Information is to:

- Allow you to see what information is available (and what is not available) in relation to each class.
- State what charges may be applied.
- Explain how you can find the information easily.
- Provide contact details for enquiries and to get help with accessing the information.
- Explain how to request information we hold that has not been published.

### **Availability and Formats**

For the purposes of this MPS, to be “published”, information must be:

- Already produced and prepared.
- Available to anyone to access easily without having to make a request for it.

Research and information services which involve the commissioning of new information are not “publications”.

The information we publish through the MPS is, wherever possible, available on our website at <http://www.orkney.gov.uk/>.

We offer alternative arrangements for people who cannot reasonably access the information either online or by inspection at our premises. For example, we can usually arrange to send information to you in paper copy (although there may be a charge for this).

All our written information can also be made available, on request, in a range of different formats and languages.

## **Exempt Information**

If information described by the classes of information (see below) cannot be published and is exempt under Scotland's freedom of information laws, for example sensitive personal data or a trade secret, we may withhold the information or provide a redacted version for publication, but we will explain why we have done so.

## **Copyright and Re-use**

The Board holds the copyright for the vast majority of information in this MPS.

Where the Board holds the copyright in its published information, the information may be copied or reproduced without formal permission, provided that:

- It is copied or reproduced accurately.
- It is not used in a misleading context.
- The source of the material is identified.

Where the Board does not hold the copyright in information we publish, we will make this clear.

## **Charges**

This section explains when we may make a charge for our publications and how any charge will be calculated.

There is no charge to view information on our website or at our premises or where it can be sent to you electronically by email.

We may charge for providing information to you, for example photocopying and postage, but we will charge you no more than it actually costs us to do so. We will always tell you what the cost is before providing the information to you.

For photocopying, we will charge a standard rate of 10p per A4 side of paper (black and white copy) and 30p per A4 side of paper (colour copy).

Information provided on CD-Rom will be charged at £1.00 per computer disc.

Postage costs will be recharged at the rate we pay to send the information to you.

If providing copies of any pre-printed publications, we will charge no more than the cost per copy of the total print run.

We do not pass any other costs on to you in relation to our published information.

We do charge in relation to information not published under this scheme:

### **General information request:**

- There will be no charge for information requests which cost us £100 or less to produce.

- Where information costs between £100 and £600 to provide to you, you may be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50, that calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.
- We are not obliged to respond to requests for non-environmental information which will cost us over £600 to process.
- Where environmental information costs over £600 to provide to you, we may ask you to pay the additional cost over that amount in full. For example, if you were to ask us for information that costs us £800 to provide, you may be asked to pay £250. This fee would be calculated on the basis of a waiver for the first £100 costs of providing the information, 10% of the next £500 costs, and full cost recovery for cost over £600 (in this example, £200).
- In calculating any fee, staff time will be calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour.
- We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you.
- In the event that we decide to impose a charge we will issue you with notification of the charge (a fees notice) and how it has been calculated. You will have three months from the date of issue of the fees notice in which to decide whether to pay the charge. The information will be provided to you on payment of the charge. If you decide not to proceed with the request there will be no charge to you.

**Request for your own personal data:**

FOISA does not give a person the right to obtain copies of information which the Board may hold about them personally. You are however entitled to request your personal data from the Board under the Subject Access provisions contained in Section 7 of the Data Protection Act 1998.

The Board may charge a maximum fee of £10 for providing your own personal data.

Requests for information in terms of Section 7 of the Data Protection Act must be:

- Made in writing.
- Give your name and address.
- Include proof of your identity.
- Specify the information or documents sought.
- Include any fee applicable.

Such requests should be addressed to the Clerk to the Licensing Board at the address shown below.

**Advice and Assistance:**

You can contact us for assistance with any aspect of this publication scheme by the following methods:

Email: [licensing@orkney.gov.uk](mailto:licensing@orkney.gov.uk)

Telephone: 01856 873535 extensions 2229 or 2232.

Write To:

The Clerk to the Licensing Board, Council Offices, Kirkwall, Orkney KW15 1NY.

We will also be pleased to advise you how to ask for information that we do not publish, or how to complain if you are dissatisfied with any aspect of this publication scheme.

## **Duration**

We publish information that we hold within the classes detailed below. Once information is published through the Guide to Information we will continue to make it available for the current and previous two financial years.

Where information has been updated or superseded, only the current version will be available. If you would like to see previous versions, you may make a request to us for that information.

## **Class 1: About Orkney Islands Area Licensing Board**

The Licensing Board is a Scottish public authority as defined in Part 3 of Schedule 1 of FOISA.

Orkney Islands Area Licensing Board can be contacted at Orkney Islands Council, Council Offices, Kirkwall, Orkney KW15 1NY. We can be contacted by email to [licensing@orkney.gov.uk](mailto:licensing@orkney.gov.uk) or by telephone to 01856 873535 extensions 2229 or 2232.

The Board comprises eight elected members of Orkney Islands Council. Details of the current membership are available at <http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board.htm>. Councillor profiles can be found at <http://www.orkney.gov.uk/Council/Councillors/councillor-profiles.htm>. Councillors are required to adhere to the Councillors' Code of Conduct set out by the Standards Commission for Scotland and published at <http://www.gov.scot/Publications/2010/12/10145144/0>.

The Board is a separate legal entity from the Council. It does not employ any staff or own any assets. All staff carrying out the Board's responsibilities are recruited and employed by the Council. The Council provides accommodation for the meetings of the Board and necessary expenses for the work of the Board. All revenue received by the Board from licence application fees must be transferred to the Council and the Board's budget is held by the Council. The Council's Model Scheme of Publication and Guide to Information is published at [http://www.orkney.gov.uk/Council/P/Guide\\_to\\_Information\\_publication\\_scheme.htm](http://www.orkney.gov.uk/Council/P/Guide_to_Information_publication_scheme.htm).

The Board makes decisions on policies and applications. It is assisted and advised in its work by its Clerk, who is the Head of Legal Services within the Council. The Clerk is assisted by officials of the Licensing Team within Legal Services.

Normal working hours for the Board and its staff are 9am to 1pm and 2pm to 5pm Mondays to Fridays inclusive.

Any enquiries or complaints regarding the Board's work can be directed to the postal, email or telephone contact details shown above.

The Board's Model Publication Scheme and this Guide to Information are available at <http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

The Board's charging schedule for published information and environmental information is shown in the Charges section above.

To contact the Board or ask for advice about how to request information from us, please use the contact details shown in the Advice and Assistance section above.

The Board is established under the Licensing (Scotland) Act 2005. We are required to publish a Policy explaining our function under the legislation and this is published at <http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>. We also carry out other functions and further information on this is provided in Class 2 below.

## **Class 2: How We Deliver Our Functions and Services**

The Board is responsible for administering the alcohol licensing system under the Licensing (Scotland) Act 2005 within the Orkney Islands Area.

Our Alcohol Licensing Policy is published at <http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

The Board also deals with applications for premises licences and permissions under the Gambling Act 2005.

Our Gambling Policy is also published at <http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

These policies contain Schemes of Delegation which provide that some decisions are delegated to the Clerk to the Board, whilst others must be made by the Board.

We are also required to publish a policy on how we are complying with the equality requirement under the Equality Act 2010. Our Multi-Equality Strategy is published at <http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>. Since 2015, we have been included in the Council's Equality and Diversity Strategy for publication purposes, to avoid duplication. The Strategy is available at <http://www.orkney.gov.uk/Council/C/Equality-and-Diversity.htm>.

Information about the types of alcohol licence applications we deal with, application forms, criteria, fees and guidelines are published at [http://www.orkney.gov.uk/Service-Directory/L/Alcohol\\_Licensing.htm](http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm).

Information about the types of gambling applications we deal with, application forms, criteria and fees and guidance are published at <http://www.orkney.gov.uk/Service-Directory/G/Gambling.htm>.

Any concerns regarding the Board's work can be directed to the postal, email or telephone contact details shown in the Advice and Assistance section above.

### **Class 3: How We Take Decisions and What We Have Decided**

The Board takes decisions in accordance with the Licensing (Scotland) Act 2005 and the Gambling Act 2005.

Decisions are recorded in public registers published at <http://www.orkney.gov.uk/Service-Directory/C/Current-Register-of-Premises.htm> and <http://www.orkney.gov.uk/Service-Directory/O/Occasional-Licences.htm> for alcohol licensing; and at <http://www.orkney.gov.uk/Service-Directory/G/Gaming-Machines.htm> and [http://www.orkney.gov.uk/Service-Directory/L/Lotteries\\_2.htm](http://www.orkney.gov.uk/Service-Directory/L/Lotteries_2.htm) for gambling.

Agendas, reports and minutes of the Board's meetings are also published at <http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board.htm>.

The Board is required to advertise some types of application to enable public comment. The Board also carries out, from time to time, public consultations on matters such as its policies. Applications and consultations are published in the Public Notices section of the Council's website at <http://www.orkney.gov.uk/Council/P/public-notices.htm>.

### **Class 4: What We Spend and How We Spend It**

The Board is a separate legal entity from the Council. It does not own any assets. The Council provides accommodation for the meetings of the Board and necessary expenses for the work of the Board. All revenue received by the Board from licence application fees must be transferred to the Council and the Board's budget is held by the Council.

The Council's Model Scheme of Publication and Guide to Information is published at [http://www.orkney.gov.uk/Council/P/Guide\\_to\\_Information\\_publication\\_scheme.htm](http://www.orkney.gov.uk/Council/P/Guide_to_Information_publication_scheme.htm).

### **Class 5: How We Manage Our Human, Physical and Information Resources**

The Board is a separate legal entity from the Council.

It comprises eight elected members of Orkney Islands Council.

It does not employ any staff or own any assets.

It is assisted and advised in its work by its Clerk, who is the Head of Legal Services within the Council. The Clerk is assisted by officials of the Licensing Team within Legal Services.

All staff carrying out the Board's responsibilities are recruited and employed by the Council.

The Council provides accommodation for the meetings of the Board.

The Council's Model Scheme of Publication and Guide to Information is published at [http://www.orkney.gov.uk/Council/P/Guide\\_to\\_Information\\_publication\\_scheme.htm](http://www.orkney.gov.uk/Council/P/Guide_to_Information_publication_scheme.htm).

The Board's Model Publication Scheme and this Guide to Information are available at <http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

## **Class 6: How We Procure Goods and Services from External Providers**

The Board does not hold information within this class. Goods and services are procured by the Council rather than the Board.

The Council's Model Scheme of Publication and Guide to Information is published at [http://www.orkney.gov.uk/Council/P/Guide\\_to\\_Information\\_publication\\_scheme.htm](http://www.orkney.gov.uk/Council/P/Guide_to_Information_publication_scheme.htm).

## **Class 7: How We Are Performing**

The Board processes applications in accordance with timescales provided under alcohol and gambling licensing legislation.

The Board produces policies in accordance with timescales provided under legislation dealing with alcohol and gambling licensing, the equality duty and the publication of a scheme explaining how to access information which it holds.

Primary legislation and secondary regulations are published at <http://www.legislation.gov.uk/>. We can help you to locate specific information – use the contact details shown in the Advice and Assistance section above.

## **Class 8: Our Commercial Publications**

The Board does not hold information within this class.

## **Class 9: Our Open Data**

The Board's open data, including links, is specified throughout the information narrated in Class 3 above.