

Freedom of Information Act

Purpose of report

For information.

Summary

The Local Government Association is now subject to the Freedom of Information Act (FOIA) from the 1 April 2019, following its change to an unlimited company. This paper summarises the implications of that change and the steps taken to ensure that the LGA is prepared for it.

Recommendations

That the LGA Leadership Board:

1. Notes its legal obligation, as the Board of Directors of the LGA, to ensure that the that the LGA complies fully with the Freedom of Information Act (FOIA)
2. Notes the practical arrangements in place to ensure that the LGA meets its legal obligations.

Contact officer:	Claire Holloway
Position:	Head of Corporate Services
Phone no:	020 7664 3156
Email:	Claire.holloway@local.gov.uk

Freedom of Information Act

Background

1. The Freedom of Information Act 2000 (FOIA) provides public access to information held by public authorities. It does this in two ways:
 - 1.1. Public authorities are obliged to publish certain information about their activities; and
 - 1.2. Members of the public are entitled to request information from public authorities.
2. Until 31 March 2019 the LGA, as an unincorporated Association, was not subject to the provisions of the Freedom of Information Act (FOIA), although its policy was to operate within the spirit of the Act. However as an unlimited company wholly owned by local authorities, the LGA now falls within the definition of a public authority and has a legal obligation to comply with FOIA. As Company Directors, the Leadership Board must ensure that the company meets those obligations.

Duties under FOIA

3. Under FOIA anyone who makes a request to a public authority for information is entitled
 - 3.1. To be informed in writing whether that authority holds information meeting the description set out in the request; and
 - 3.2. To have information the public authority holds relating to the request communicated to them.
4. It is a statutory requirement that the LGA's scheme of publication (the information that we publish and make available) is kept updated and relevant.
5. The presumption is one of disclosure and all records and systems that may fall within scope of a request must be searched for information. Responses must be sent within the timescales set by the Act.
6. The Information Commissioner's Office (ICO) can issue decision notices, which are legally binding, to rectify when a response is deemed incorrect. If either side disagree with the decision notice it can be referred to the Information Tribunal which forms part of HMCS. There are significant financial implications for this. The Commissioner may also use an enforcement notice if an authority repeatedly fails to comply with its obligations. Decision and enforcement notices are public documents and so there are reputational risks associated with them being issued.

7. Whilst some exemptions may apply under certain circumstances, the application of exemptions must be rigorous and are subject to challenge and ultimately appeal to the Information Commissioner's Office (ICO) and courts. Exemptions include:
 - 7.1. Information is accessible by other means
 - 7.2. Information is intended for future publication
 - 7.3. Prejudice the effective conduct of public affairs
 - 7.4. Personal information
 - 7.5. Information provided in confidence
 - 7.6. Legal professional privilege
 - 7.7. Commercial interests

Actions and next steps

8. To ensure that the LGA is ready for its change in status, a number of actions have been put in place:-
 - 8.1. A designated FOI point of contact identified for each service area.
 - 8.2. Following a programme of team briefings on the new legal obligation, a mandatory FOIA e-learning course is being rolled out to all staff.
 - 8.3. The LGA's policy on information and records management is being reviewed and updated in line with FOIA good practice guidance.
9. For further information and a guide to FOIA go to the Information Commissioner's Office website at <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

Financial Implications

10. In general implications should not be significant as the LGA has always sought to work within the spirit of FOIA legislation. How any marked increase in FOIA requests as a result of the new requirement may have implications for staff resources.