

Freedom of Information Policy

Team: Corporate
Resources

Date: October 2021



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Version Control

Version	Description of version	Effective Date
1.0	Initial Policy Document	October 2021

Approvals

Approved by	Date
Finance and Management Committee	7 October 2021

Associated Documentation

Description of Documentation	
Freedom of Information Publication Scheme	Available on the Council's website



1.0 Introduction

- 1.1 Information is a key asset for any organisation. As a local authority, the Council relies on information to undertake its statutory duties and to deliver services. However, holding information imposes legal obligations which the Council must be aware of and adhere to. The main legislation that this Policy focuses on is the Freedom of Information Act (FOIA) 2000 and the Environmental Information Regulations (EIR) 2004.
- 1.2 This Policy provides a framework to enable the Council to meet legal and its own corporate requirements regarding information requests that fall within the scope of the FOIA and the EIR.
- 1.3 The Policy covers all information held by the Council regardless of its format or when it came into the possession of the Council. In addition, the information does not have to originate from within the Council. The only criteria is that the Council, at the time of a request, holds the information or it is held on the Council's behalf by a third party.

2.0 Policy Objectives

- 2.1 These are to:
 - Assist the Council to comply with the FOIA and the EIR
 - Ensure free and reasonable access to information
 - Promote transparency in decision-making
- 2.2 These aims will sometimes be balanced against the need to ensure the confidentiality of information relating to areas such as personal privacy, commerciality, health and safety, together with the security of council resources, where disclosure would not be in the public interest at the time of a request.

3.0 Roles and Responsibilities

- 3.1 Under its terms of reference regarding customer access, the Council's Finance and Management Committee is responsible for this Policy. Within this, the co-ordination of requests for information rests with the Strategic Director (Corporate Resources) who has oversight of the process and resources for dealing with requests.
- 3.2 This is supported by the Council's Business Change and ICT Manager in their role as the Council's Data Protection Officer, together with the Council's Monitoring Officer.
- 3.3 Together with the Strategic Director, they are responsible for advising on compliance with the Legislation and in the application of exemptions or the consideration of vexatious requests etc, where this applies.



- 3.4 The application of the Section 36 Exemption contained in the FOIA regarding “legal privilege”, can only be sanctioned by the Monitoring Officer.
- 3.5 The co-ordination of the day-to-day processing of requests is undertaken by the Secretarial Support Team, under the guidance of the Strategic Director. However, the responsibility for supplying the actual information rests with staff in individual services
- 3.6 The Council’s response to any cases forwarded to, or issues raised by, the Information Commissioner’s Office (ICO) are co-ordinated by the Strategic Director.
- 3.7 Periodically, the Council’s Internal Audit Service will review the Council’s approach to freedom of information requests. Any recommended actions to strengthen processes are reported to, and monitored by, the Audit Sub-Committee who have oversight of the Council’s governance and control environments for dealing with access to information.

4.0 Training and Awareness

- 4.1 Mandatory training is provided for all staff regarding security and management of data. Heads of Service, together with staff regularly involved in dealing with information requests, should also attend specific briefing sessions arranged on FOI.
- 4.2 All staff should seek advice as necessary when dealing with requests on a day-to-day basis.

5.0 Handling Requests for Information

- 5.1 Not all requests for information are handled under the FOIA and EIR. For example, requests for personal information belonging to the applicant themselves, are governed by access rights under the Data Protection Act 2018.
- 5.2 In addition, where information requested is of a routine nature, these can be handled as “business as usual requests” and dealt with separately. Requests for information that often fall within this scope are set out in the Council’s Publication Scheme (*Outlined in Section 11 of this Policy*) and include such information as:
 - Organisation Charts
 - The Council’s Accounts
 - The Corporate Plan
 - Committee Reports
 - Procedural Rules
 - Public Registers and Rating Lists
- 5.3 Requestors should first be directed to such information as this will probably satisfy their request. This information is readily available on the Council’s web site.



- 5.4 The Council encourages that all requests should be made on the Council's web site using an [on-line form](#).
- 5.5 As this captures all relevant information and is then logged into a central system, it reduces the risk of the request being mislaid or lost and is the most efficient method of getting the request to the appropriate Officer.
- 5.6 However, legislation does not require the requestor to use this method, and the request should be accepted by other means such as by post, or within a separate e-mail.
- 5.7 Under the FOIA, the Council has 20 days to respond, and this starts as soon as the request is received in the Council. Secretarial Support acknowledge all requests and inform the relevant Service of the deadline to respond.
- 5.8 It should be noted that the 20-day limit is the maximum and requests should be responded to as soon as practical; this will depend on the nature/complexity of the request and available resources.
- 5.9 Although requests cannot be made verbally under the FOIA, requests under the EIR can be made over the phone or in person. However, wherever possible, the requestor should be encouraged to do so in writing for the reasons set out above.
- 5.10 Where a request needs to be clarified by the Council or additional information is sought, the waiting period is not counted towards the 20 days allowed. This also applies where a charge is being proposed, and this is being agreed with the requestor.
- 5.11 In addition, where a request is transferred from another public body, the 20-day period starts on the first working day after the Council receives such a request.
- 5.12 It should be noted that information requests should always be treated as "motive blind". This means that it is important that the requestor is never challenged as to the reason why the information is being requested.
- 5.13 The only relevant factors are whether the Council holds the information and whether any circumstances exist that classify the information as being Exempt under the FOIA.

6.0 Charging For Information and Administrative Limits

- 6.1 The Council aims to make the maximum amount of information readily available at minimum inconvenience and cost to the Public. Information published and accessed on the Council's website is provided free of charge.
- 6.2 Charges may be made for information subject to a charging regime specified by the Government or by law, although none are known at this time. Charges may also be made for making datasets that are relevant copyright works available for re-use.



- 6.3 These charges will be in accordance with the terms of the *Re-use of Public Sector Information Regulations 2015*, where they apply, or with regulations made under Section 118 of the FOIA.
- 6.4 It is not the Council's intention to charge for information requests and it is rare to do so. Most requests are now dealt with electronically and this avoids costs previously associated with paper format.
- 6.5 However, where the costs associated with photocopying, printing, postage or any other costs associated with retrieving the information, **exceed £25**, then the Council reserves the right to recover these costs. This should be made clear to a requestor before the request is dealt with and the appropriate charge will need to be paid before the information is provided.
- 6.6 In addition, where the administrative burden is considered to be excessive in order to answer a request, then the Council reserves the right to refuse the request under Section 12 of the FOIA.
- 6.7 In determining whether a request is excessive, the Council applies a limit of £450 (18 hours of staff time) as set out in Section 12. If the Council considers that this limit will be breached, it will liaise with the requestor to determine what information can be provided within the limit.
- 6.8 It should be noted that in accordance with the FOIA, no charge can be made for staff time in answering requests whether they breach the limit or not.

7.0 Third Party Requests

- 7.1 Some requests for information may require consultation with third parties such as contractors and partner organisations. A refusal to consent to disclosure by a third party does not bind the Council to refuse or exempt a request; the final decision rests with the Council who will consider its compliance with the FOIA and EIR.
- 7.2 Contractors of the Council should be made aware of the Council's obligations under this Legislation and that all information held may be disclosable unless an Exemption applies.
- 7.3 A request can only be transferred to another public body where the Council does not hold the information requested. This normally applies where the Council is not the responsible body for a particular service.
- 7.4 Before transferring the request, the Council should satisfy itself that it is not the data holder and confirm which public body is likely to hold the information requested.
- 7.5 The requestor should be informed as soon as possible and given the contact details of the data holder. This process is co-ordinated by the Secretarial Support team.



8.0 Right of Appeal

- 8.1 A requestor has the right of appeal if they feel that their request has not been dealt with in a timely manner, if they consider that all relevant information has not been supplied, or they have been refused a request for which they wish to challenge.
- 8.2 An internal review will be conducted by the Chief Executive within 20 days of receiving an appeal.
- 8.3 If the requestor is still not satisfied with the outcome of an appeal, they can ask the ICO to review the Council's decision.

9.0 Re-use of Public Sector Information

- 9.1 From time-to-time, requests are made to the Council to re-use information provided under the FOIA, for example, for commercial, research or publicity use. This raises copyright and licensing issues which would generally require specific permission by the copyright owner.
- 9.2 Although the FOIA provides access rights to information, it confers no rights whatsoever to a requestor as to the subsequent use of information. Should a requestor wish to use information that extends beyond their individual use, they are bound by conditions of the copyright owner.
- 9.3 Unless otherwise stated, the copyright owner is the Council. In addition, the Council must have due regard to information it holds, for example, in public registers where company and sole details may be properly disclosed under a FOI request.
- 9.4 However most information is capable of being re-used under an Open Government Licence (OGL). There are exemptions to what type and how information can be used, and it places obligations on a requestor on how they use the information.
- 9.5 If a requestor wishes to re-use Council information, they should be referred to the [Details of the Licence](#) when contacting the Council and provide reasons why and how they wish to apply the OGL. The advice of Legal Services should also be obtained before granting the re-use of the information.

10.0 Disposal and Destruction of Information

- 10.1 The FOIA only applies to information that a public body holds. Where information has been disposed under local procedures as it is no longer required, there is nothing to prevent this occurring as part of the Council's records management responsibilities.
- 10.2 However, it is illegal under Section 77 of the FOIA to wilfully destroy or alter any original documents in order to avoid releasing information.



10.3 It is important to note that it is the individual that is responsible in these instances and not the Council; the offence carries a fine of up to £5,000.

10.4 Anyone found guilty of this offence, will be subject to the Council's Disciplinary Procedure.

11.0 Publication Scheme

11.1 The FOIA requires that the Council's adopts the ICO's Model Publication Scheme, setting out:

- The method by which information published under the Scheme will be made available.
- Charges which may be made for information published under this scheme.
- The classes of information it publishes.

The aim of the Scheme is to set out what information is automatically or routinely published by the Council. This is to ensure that as much information as possible which may be of interest to the Public, is available without the need for specific requests to be made. The [Council's Scheme](#) is available on its web site.

12.0 Retention Periods for FOIA Related Documents

12.1 These are detailed in the Council's Document Retention Schedule, the periods for which are based on best practice recommended by the National Archives. This is summarised below.

Document	Retention Period
FOIA Policy and Procedures	10 years after being superseded
Individual FOIA Case Files	3 years after creation

13.0 Requests to and from other Local Authorities

13.1 The Legislation allows any person or organisation to make a FOI request. The FOIA is not normally used between local authorities, as they usually rely on informal or network arrangements to gather information. In this spirit, the Council will avoid using the FOIA to gather information from other authorities.



13.2 If the Council receives a FOIA request from another authority, the less formal route should be encouraged. However, if the requesting authority do not withdraw their request, then it must be handled under the Council's FOIA procedures.

14.0 Datasets

14.1 The Legislation requires that the Council provides certain information in a format that is compatible with industry standards and is capable of being re-used (*subject to the OGL as detailed in Section 9, above*).

14.2 Such information, known as a Dataset, has the following attributes:

- It was collected in connection with the provision of a service.
- It is factual and not the product of interpretation or analysis.
- Has not been altered or manipulated since it was collected.

14.3 There is not a definitive list of what constitutes a Dataset, but examples of the type of information that usually falls into this category are:

- Property postcodes
- A list of Council assets
- Income and expenditure
- Number of parking spaces in an area

14.4 Where possible, Datasets should be published in the Council's Publication Scheme (*as outlined in Section 11, above*) or readily available elsewhere in electronic format.

