



<b>Title:</b>	<b>Constitution of the Council (Part 4Aa: Freedom of Information Policy)</b>
<b>Owner:</b>	<b>Angela Wakefield</b>
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**Adopted by Full Council on 19<sup>th</sup> May 2017**



# FREEDOM OF INFORMATION POLICY

## 1 PURPOSE

- 1.1 The aim of this policy is to provide a framework within which the Council will comply with the requirements of the Freedom of Information Act 2000 (“FOIA”).
- 1.2 This policy applies to all officers and Councillors.
- 1.3 The policy applies to all recorded information the Council holds, including any information that is created, received and maintained by officers and Councillors in the course of their work. Information can be held in a number of different media including paper, electronic, audio and video formats.

## 2 THE ACT

- 2.1 FOIA is intended to promote a culture of openness and accountability amongst public authorities (including local government) by providing people with rights of access to the information held by them. It is expected that these rights will facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money. This is in accordance with our commitment to openness, accountability and transparency.
- 2.2 FOIA sits alongside the Data Protection Act 1998 and the Environmental Information Regulations as the principle mechanism for access to information.
- 2.3 The main features of FOIA are:
  - 2.3.1 a general right of access to recorded information held by public authorities, subject to certain conditions and exemptions;
  - 2.3.2 where information is to be provided and is not exempt from disclosure, there is a duty on public authorities to:
    - 2.3.2.1 inform the applicant whether they hold the information requested, and

- 2.3.2.2 communicate the information to him or her<sup>1</sup>
- 2.3.3 the establishment of an office of the “Information Commissioner”, who has wide powers to enforce the rights created by the Act and to promote good practice, and an Information Tribunal;
- 2.3.4 a duty on every public authority to adopt and maintain a scheme (“the Publication Scheme”), approved by the Information Commissioner, which relates to the publication of information by the authority, and to publish information in accordance with the scheme;
- 2.3.5 a duty on the Lord Chancellor to promulgate Codes of Practice for guidance on specific issues.

### 3 LEGAL OBLIGATIONS FOR THE COUNCIL

- 3.1 The Act creates two principal obligations for public authorities:
  - 3.1.1 Each public authority must adopt and maintain a Publication Scheme, setting out details of information it will routinely make available, how the information can be obtained and whether there is any charge for it. The Publication Scheme for the Council is in accordance with the Information Commissioner’s model scheme and is under continual review. It is comprehensive and may be accessed from our website or from the address at the end of this Policy.
  - 3.1.2 From 1 January 2005 each public authority must comply with requests for the information that it holds, unless an exemption from disclosure applies. Public authorities will normally have a maximum of 20 working days to respond to the request. However there are circumstances when this time limit can be extended (i.e. where the information required will require a significant amount of investigation to locate it, and in such circumstances a fee may also be levied for undertaking such work).

### 4 DEALING WITH REQUESTS FOR INFORMATION

- 4.1 A detailed set of procedures has also been published to assist officers and Councillors in complying with FOIA.

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<sup>1</sup> In some cases a qualified exemption may apply and a public interest test will need to be applied to see whether the public interest to disclose the information is outweighed by the need to retain the information and not disclose it.

- 4.2 A person may make a request in writing for specific information. This includes requests by email. There is no need for requests to indicate they are made under FOIA and all such requests will be dealt with under this policy. The Council offers advice and assistance to any person wishing to make a request for information.
- 4.3 The Council must then deal with it in accordance with the provisions of FOIA. The Council is committed to completing information requests within the statutory timescale of 20 working days and sooner wherever reasonably possible. In certain circumstances this timescale may be extended. Repeated or vexatious requests for information will be refused. The Council will maintain its commitment to openness, scrutiny and the public interest whilst claiming exemptions where appropriate.
- 4.4 A list of the exemptions is attached at Appendix A. The Council has in place an appropriate procedure for measuring the public interest when considering an exemption which requires such a test.
- 4.5 The Council may refuse requests where the cost of supply of the information would exceed the appropriate limit in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. This limit is currently £450. The cost of officer time for this purpose is taken as £25.00 per hour.
- 4.6 Where the Council requires clarification of a request or a fee before providing the information, it will inform the requester in writing. The requester will be given three months in which to provide the clarification or fee. This date will be communicated to the requester.
- 4.7 Where a request is for environmental information the Council will apply the Environmental Information Regulations 2004 ("EIR") as appropriate. Under the EIR it is possible to make a verbal request.
- 4.8 Where the Council does not hold the information being requested but another organisation does, the Council will advise the requester to contact that other organisation. Wherever possible the Council will provide up to date contact details for that organisation.
- 4.9 Where the information being requested is held by the Council but was created by a third party, the council will make every reasonable effort to contact that third party to determine if they object to release.

## 5 COMPLAINTS AND REVIEW OF REQUESTS

- 5.1 Where a person making a request complains or requests a review of the response to their information request, the Council will deal with this in accordance with the relevant section of the Corporate Complaints Policy.
- 5.2 Following the initial review of the request, if the person making the request remains dissatisfied, they will be directed to the Information Commissioner's Office.
- 5.3 The Council will accept a complaint or request for review in relation to an information request no more than six months after the date the response was originally sent.

## 6 TRAINING

- 6.1 Everyone working in the Council who deals with correspondence, or who otherwise may be required to provide information, should be familiar with the requirements of FOIA and the Codes of Practice issued under its provisions and take account of any relevant guidance on good practice issued by the Information Commissioner.
- 6.2 In addition, there is an Officer Working Group made up of officers from various services which meets to explore best practices and eliminate any bad practices in relation to FOIA, the Data Protection Act 1998 and the EIR and to review the Authority's policies and working practices in relation to these Acts and Regulations.

## 7 IMPLEMENTING THE POLICY

- 7.1 In order to support this Policy:
  - 7.1.1 The Monitoring Officer will monitor the council's overall compliance with this policy and FOIA.
  - 7.1.2 Heads of Service are responsible for compliance with this policy and FOIA in respect of their service area.
  - 7.1.3 The Council has established an Officer Working Group, made up of officers from various Services who are trained and will be able to deal with requests and issues relating to Freedom of Information, the Data Protection Act 1998, and other related legislation within their Service;

- 7.1.4 All officers and Councillors who hold or process information covered by the FOIA are responsible for complying with this policy, irrespective of whether information is released or not. Officers and Councillors are also responsible for good information handling practice and implementing records management policies and procedures as appropriate to their post.
- 7.1.5 Guidelines have been prepared to assist officers in activities relating to the processing of Freedom of Information requests and there are appropriate safeguards and controls in place to ensure information security and compliance with FOIA.
- 7.1.6 Regular training is provided to new and existing staff to ensure that they understand their responsibilities regarding requests under the FOIA so that they carry these duties out effectively and consistently.
- 7.1.7 Information is made available on the Council's website to inform members of the public of the ability to request information under Freedom of Information and how this can be done and assistance is provided to those requesting information under Freedom of Information.
- 7.1.8 All contracts between the Council and external third parties make reference to the Act as appropriate, for example concerning commercial in confidence information;
- 7.1.9 This policy and the guidelines are kept under review to ensure that they are still relevant, efficient and effective.

## FOI EXEMPTIONS

### ABSOLUTE EXEMPTIONS (WHERE THE PUBLIC INTEREST TEST DOES NOT APPLY)

- Information accessible to applicant by other means e.g. via the Publication Scheme.
- Information supplied by, or relating to, bodies dealing with security matters.
- Court records.
- Parliamentary privilege.
- Prejudice to effective conduct of public affairs (only applies to information held by the House of Commons or the House of Lords).
- Personal information (where the applicant is the subject of the information).
- Information provided in confidence.
- Where a disclosure is prohibited by an enactment or would constitute contempt of court.

### QUALIFIED EXEMPTIONS (WHERE THE PUBLIC INTEREST TEST APPLIES)

- Information intended for future publication.
- National security.
- Defence.
- International relations.
- Relations within the United Kingdom.
- The economy.
- Investigations and proceedings conducted by public authorities.
- Law enforcement.
- Audit Functions.
- Formulation of government policy.
- Prejudice to effective conduct of public affairs (except information held by the House of Commons or the House of Lords).
- Communications with Her Majesty, etc and honours.
- Health and safety.
- Environmental information (as this can be accessed through the Environmental Information Regulations).
- Personal information (where the applicant is requesting information about a 3<sup>rd</sup> party).
- Legal professional privilege.
- Commercial interests.