



St. Helens  
Council

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# Freedom of Information Policy

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## Version Control

Date	Version	Comments
October 2013	1.0	First finalised version
September 2015	1.1	Subject to a full review – First draft to IMG
December 2015	1.2	Draft approved at IMG
February 2016	1.2	Union Consultation
March 2016	2.0	Approved by Executive Decision
March 2017	2.1	Annual Review

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# 1 Introduction

- 1.1 The Freedom of Information Act (herein referred to as The Act) 2000 came into force on 1 January 2005, and gives the public a general right of access to information held by Public Authorities. This was amended under the Protection of Freedoms Act 2012.
- 1.2 The Act also requires Public Authorities to have a Publication Scheme in place.
- 1.3 This policy also covers the Environmental Information Regulations 2004 (EIR) which are aligned with The Act, and grants the public access to information held by the Council relating to the environment.

# 2 Policy Statement

- 2.1 This Policy sets out the Council's key commitments in relation to The Act and EIR.
- 2.2 The Council is aware of its obligations under The Act and EIR and is committed to a policy of openness and access by the public.
- 2.3 As a Public Authority, we have a duty to 'Advise and Assist' anyone who has, or proposes to make a request for information under The Act or EIR.

# 3 Scope

- 3.1 This Policy applies to all Employees and third parties working for or on behalf of the Council. For the purpose of this Policy the term 'Employee' refers to all full-time and part-time employees, temporary employees, agency workers, contractors and consultants. All are bound by the legal requirements of The Act/EIR.
- 3.2 This Policy applies to all requests for information falling under The Act/EIR.
- 3.3 The Data Protection Act 1998 provides rights of access to Data Subjects in respect of personal data. If a request is received from someone for their own personal data please see the Subject Access Request Procedure.
- 3.4 The Council has developed a Publication Scheme, which is a means of providing information that an authority proactively publishes, how it can be obtained, and whether there is any charge applied for it.
- 3.5 This Policy should be read in conjunction with other associated relevant policies, procedures and guidance as contained within the Information Management Framework.

# 4 Making Requests for Information

- 4.1 An individual can request any information (not necessarily the document or records that contain it) held by the Council, this gives them two rights:
  - The right to be informed whether or not the Council holds the requested information;
  - The right to have that information communicated to them.
- 4.2 To be a valid request it must be made in writing, contain the applicants name, an address for correspondence and a description of the information required.
- 4.3 Any written request for information shall be regarded as a request for recorded information unless:

- Information can be dealt with as a normal customer enquiry and therefore more sensibly under the usual customer service procedures;
- It forms a request for personal data relating to the individual requesting the information. This shall be dealt with under the Data Protection Act, and consequently shall be processed in line with the Councils Subject Access Request Procedure;
- If the person is asking for 'environmental information', the request shall be considered under the Environmental Information Regulations 2004.

4.4 The Council will acknowledge all requests.

## 5 Dealing with Requests for Information

5.1 The Council through its Employees will provide advice and assistance to anyone making requests for information.

5.2 Any request should be added to the FOI database so that the Council holds a record of all requests and responses.

5.3 Requests for information shall be met within 20 working days of receipt. A maximum extension of a further 20 working days can be allowed in the following circumstances:

- If a Public Interest Test is being conducted and is sufficiently complex to require extra time, this can be taken in line with the Information Commissioners Office (ICO) guidance (FOI only);
- The complexity and volume of the information make it impracticable for you to comply, or decide to refuse to do so, within the 20 working days (EIR only).

5.4 Ambiguous requests shall be clarified with the requestor where it is deemed necessary to enable the identification and location of the information sought. If no clarification is received a response should be issued to any part of the request which doesn't require clarification.

5.5 A request for information shall not be refused because the recorded information is out of date, incomplete or inaccurate.

5.6 The Council shall not make any changes or deletions to records as a result of a request as it is criminal offence to destroy information to prevent disclosure under the FOI Act.

5.7 If the Council is not able to comply with a request (in whole or in part) because it does not hold the information requested the Council will confirm that it does not hold that information.

## 6 Refusing a Request for Information

6.1 The Council may consider refusing a request for information in line with the ICO guidance under the following circumstances:

- It would cost too much or take too much staff time to deal with the request;
- The request is vexatious;
- The request repeats a previous request from the same person.

6.2 The Council may consider refusing a request for information if the request meets an exemption/exception under The Act/EIR. The Council may also refuse to confirm or deny whether it holds information where this is allowed by the exemption/exception.

6.3 Where any exemption/exception is to be used the Employee involved must conduct a Prejudice Test and Public Interest Test if appropriate.

6.4 A written refusal notice shall be issued to the requestor if the Council either refuses to say whether it holds information at all, or confirms that information is held but refuses to release it. In the latter case the specific exemptions/exceptions must be stated and why it applies.

- 6.5 All refusals should include details of how to request an Internal Review of the decision made.
- 6.6 Any request for an Internal Review will be acknowledged by The Council with a date by which it will be complete.
- 6.7 Internal Reviews will be dealt with by the Senior Information Management Officer (SIMO) in conjunction with a Legal Officer and opinion may be sought from the appropriate senior officer from the Department which originally dealt with the request.
- 6.8 A response will be sent as soon as possible, but should be issued no later than 20 working days (40 working days for EIR requests) after its receipt.
- 6.9 If the requester is still not satisfied after the Internal Review they should be advised to contact the ICO.

## **7 Fees and Charging**

- 7.1 Charges will not be made for Employees time in sourcing information under The Act, if the estimated cost to do this is less than £450, (this equates to 18 hours of Employee time at £25 per hour).
- 7.2 If the estimated cost to source the information under The Act is over £450, the Council is not obliged to comply with the request. Written notification should be sent to the applicant confirming the charge to meet the request in full. The option of providing part of the information, at a cost below the £450 threshold, should be offered and assistance provided to the applicant in making their decision as to how to progress.
- 7.3 Under EIR the Council are permitted to make a charge for the costs of staff time spent on answering individual requests for information and a proportion of overhead costs which are attributable to the supply of the information.
- 7.4 The Council can also make reasonable charges in respect of disbursement costs (copying, printing, translation, postage etc.), to reflect the costs incurred in meeting any request.

## **8 Publication Scheme**

- 8.1 The Council's Publication Scheme and transparency page is available on the Council website:  
<https://www.sthelens.gov.uk/council/data-protection-freedom-of-information/local-transparency/>
- 8.2 The transparency page will be monitored so that amendments to the scheme can be made as the need arises.
- 8.3 Specific information published under the Council's transparency page under the Publication Scheme covers the following:
  - Who we are and what we do
  - What we spend and how we spend it
  - What our priorities are and how we are doing
  - How we make decisions
  - Our policies and procedures
  - Lists and registers
  - The services we offer
- 8.4 The Council will publish any datasets it holds on request, and any updated versions it subsequently produces, unless it is deemed inappropriate to do so.

- 8.5 Datasets, where reasonably practicable, will be produced in an electronic form that is capable of re-use. If any information in the dataset is a relevant copyright work and the Council is the only owner, the Council will make the information available for re-use under a specified licence.

## **9 Responsibilities**

### **Senior Information Risk Officer**

- 9.1 The Senior Information Risk Officer (SIRO) will ensure that SIMO receives training in relation to The Act and any relevant updates which become available.

### **Information Management Group (IMG)**

- 9.2 The role of the Information Management Group (IMG) is to co-ordinate the approach to every aspect of Information Management, and not just compliance with DPA 1998.
- 9.3 The group is made up of Departmental Information Management Representatives who are senior managers in each Department and are responsible for a multi-disciplinary approach to the management of information throughout their Departments.
- 9.4 The IMG is responsible for the overarching governance and implementation of the Policy throughout the Council.
- 9.5 Members of the IMG will co-ordinate compliance within the Council's Departments and provide guidance and support to ensure that each service is meeting its own responsibilities.
- 9.6 IMG Representatives will be the initial point of contact for cross-departmental requests.

### **Senior Information Management Officer**

- 9.7 The SIMO will provide a central point of information regarding the Act, for monitoring the Council's performance in providing information requested, for responding to queries relating to the implementation of the Policy and for co-ordinating cross-departmental requests.
- 9.8 The SIMO is responsible for ensuring that the Policy remains accurate and up to date.
- 9.9 The SIMO is responsible for monitoring correct application of exemption/exception criteria.
- 9.10 The SIMO will report on compliance with the legislation at the Information Management Group (IMG) quarterly meeting.

### **Head of Legal Services**

- 9.11 The Head of Legal Services will provide a central point for guidance to managers in dealing with any requests that may have legal implications to protect the Council's interests.

### **Line Managers**

- 9.12 Line Managers are responsible for ensuring all Employees in their operational area adhere to the Policy.
- 9.13 Line Managers are responsible for all matters relating to FOI/EIR in their operational area.
- 9.14 Line Managers are responsible for identifying FOI/EIR representatives for processing requests in their operational area, and for disseminating information relating to the FOI/EIR to their Employees.

## **Business Support Managers**

- 9.15 Business Support Managers will be responsible for supporting Departments in their responses in relation to financial matters

## **Employees**

- 9.16 All Employees will be responsible for processing any requests received with regard to this Policy, and for providing advice and support to any member of the public who may wish to make a request under FOI/EIR.

## **10 Review and Governance**

- 10.1 The Policy will be subject to governance through the IMG, and will be formally approved by Strategic Directors Group via the Executive Decision Framework.
- 10.2 The Policy will be subject to at least an annual review, and where changes in legislation require, more frequent.

## **11 Policy Compliance**

- 11.1 If you are found to have breached this Policy, the matter will be considered and investigated under the Council's disciplinary procedure.
- 11.2 Serious breaches of this policy may constitute gross misconduct and lead to summary dismissal. Breaches, where applicable, may also result in civil action and/or criminal charges.