

# Freedom of Information Policy



## 1 Policy Statement

- 1.1 This Policy applies to all Employees working for or on behalf of the Council with any form of access to Council information, computer devices or ICT systems. For the purpose of this Policy the term 'Employee' refers to all full-time and part-time employees, temporary employees, agency workers and consultants. All are bound by the legal requirements of Freedom of Information (FOI) / Environmental Information Regulations (EIR).
- 1.2 This Policy should be read in conjunction with the Publication Scheme Guide and other associated relevant policies, procedures and guidance as contained within the Information Management Framework.

## 2 Requests for Information

- 2.1 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.
- 2.2 To be a valid request it must be made in writing, contain the applicant's name, an address for correspondence and a description of the information required.
- 2.3 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 data protection legislation, 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 EIR.
- 2.4 Employees are responsible for responding to requests and will provide advice and assistance to anyone making requests for information.
- 2.5 Line Managers are responsible for all FOI/EIR matters within their operational area and should ensure all Employees in their operational area adhere to the Policy.
- 2.6 Employees are responsible for ensuring all requests are added to the FOI database so that the Council holds a record of all requests and responses.
- 2.7 Requests for information, including internal reviews, 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 Commissioner's 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).

- 2.8 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.
- 2.9 A request for information shall not be refused because the recorded information is out of date, incomplete or inaccurate.
- 2.10 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 FOI.
- 2.11 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.
- 2.12 For advice on any matters relating to FOI/EIR, including the application of exemptions, the Senior Information Management Officer (SIMO) should be consulted. Head of Legal should also be consulted if there are legal implications.

### **3 Applying Exemptions and Refusing Requests**

- 3.1 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.
- 3.2 In order to refuse a request for information based on cost, it must be estimated to take more than 18 hours of officer time. At £25 an hour this would exceed the reasonable cost of £450. The requestor should be given the opportunity to narrow their request to something that is achievable within the cost limit.
- 3.3 The Council may consider refusing a request for information, or part of it, if the request meets an exemption/exception under FOI/EIR. The Council may also refuse to confirm or deny whether it holds information where this is allowed by the exemption/exception.
- 3.4 Where any exemption/exception is to be used the Employee involved must conduct a Prejudice Test and Public Interest Test if appropriate.
- 3.5 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.
- 3.6 All refusals should include details of how to request an Internal Review of the decision made.
- 3.7 The SIMO is responsible for monitoring the correct application of exemptions.
- 3.8 Internal Reviews will be dealt with by the SIMO in conjunction with the Head of Legal Services and opinion may be sought from the appropriate senior officer from the Department which originally dealt with the request.
- 3.9 If the requester is still not satisfied after the Internal Review, they should be advised to contact the ICO.

### **4 Fees and Charges**

- 4.1 Under EIR the Council is 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.
- 4.2 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, both FOI and EIR.

## 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
May 2018	3.0	Review for legislative changes (GDPR)
January 2021	4.0	Review for new ways of working