



## Freedom of Information Act

### Procedure for Dealing with Requests for Information

#### Principles

- 1 The Council's Publication Scheme explains how and where certain types of information can be obtained. Information included within the scheme is not subject to the provisions of the Freedom of Information Act (FOIA). Consequently, as much information as possible that is routinely available to the public should be included within it and the scheme should be reviewed on a regular basis in order to achieve that objective.
- 2 The Council will review the Publications Scheme on an annual basis and will include in the Scheme as much information as possible that is and should be available to the public. Members of the public have a legal right of access to any document or information that is referred to in the Publications Scheme. The Scheme will indicate how and where the information is held, what the arrangements for access are, and whether or not there is a charge for access.
- 3 For information not listed on the Publication Scheme, the FOIA now provides a general right to request information held by the Council. This be exercised by anyone, including individuals, companies and organisations. A request must be in writing and this includes e-mail.
- 4 Where possible, the information requested under the FOIA will be provided to the applicant in the manner requested, unless the Council wishes to rely on one or more of the exemptions. However, information covered by an exemption may still be provided if it is in the public interest to do so. If the Council decides that it wishes to rely on one or more of the exemptions, reasons for that decisions will be given to the applicant, as required by the FOIA. In accordance with the spirit of the legislation, the Council will seek not to withhold information by using an exemption that may be available unless it is considered that it is very much in the public interest to do so.
- 5 The Council will seek to provide a response as soon as possible and, in any event within 20 working days, unless it is necessary to ask for further information which it reasonably requires in order to identify and locate the information requested.
- 6 The FOIA states that public authorities do not need to comply with a request for information if the cost of doing so will exceed an appropriate limit. The Government has issued Regulations prescribing the appropriate limit, which for local authorities

is £450, and also setting out the circumstances where fees and charges may be made towards the cost of providing information. Where these apply, the Council will require the fee to be paid before the information is provided.

- 7 If a person requests information about themselves, the request must be dealt with as a subject access request under the Data Protection Act 1998.

## Procedure

- 8 The Council is required to publish its procedure for dealing with requests and to include that procedure within its Publication Scheme.
- 9 It is anticipated that the vast majority of requests for information will fall to be dealt with under the Publication Scheme. The Scheme is published on the Council's website. Applicants seeking information from the Council should check the Publication Scheme first.
- 10 Head of Legal Services will arrange for the Publication Scheme to be updated annually, as a corporate exercise. All Directorates and services will keep their entries on the Scheme under regular review and will notify the Head of Legal Services of additions, deletions or amendments at the earliest opportunity.
- 11 Where information is not contained or referred to in the Scheme, applicants should request the information that they are seeking in writing from the most appropriate service or Directorate. Requests may be made by e-mail or fax. The request should include an address to which the information is to be sent, and other contact details such as a telephone number or e-mail address.
- 12 Where the applicant does not know the service, the request should be made in writing to the Head of Legal Services, who will pass it on to the appropriate Directorate Data Protection Officer.
- 13 It is not necessary to mention the FOIA but it would be helpful if applicants did so in order to alert staff that the Act applies and to ensure a considered response. A request for information form is available on the Council's website to assist in this process.
- 14 Any officer receiving a request to provide information will acknowledge receipt, and will ensure that it is responded to within 20 days. The officer will respond him/herself, or if s/he is not able to do this, will either pass it on to another officer who can respond, or refer it to his/her manager to process. Requests to provide information may not be ignored.
- 15 If the request for information is not clear, the officer receiving it should contact the applicant to seek to clarify the request and, if necessary, to help the applicant to submit the request for information. The 20 day response period will start from the time the request has been clarified.
- 16 If the request is for information held by a number of services, the officer receiving it will pass it on to the Head of Legal Services who will coordinate a Council-wide

response through the Directorate DPA officers (on the same basis as for DPA requests).

- 17 If the Council does not hold the information requested, the applicant will be informed of that and advice will be given as to where that information might be obtained, if that is known. If it is known that the information is held by another public authority, the request will be passed onto that authority and the applicant will be informed of that action.
- 18 If the Council does hold the information requested, the officer responding will confirm this to the applicant and provide the information unless there is an exemption which might apply. In such cases s/he will check with his/her service manager, and if necessary the Monitoring Officer or Head of Legal Services, firstly to confirm that the exemption is appropriate, and secondly to apply the public interest test. The officer will then respond to the applicant within 20 days to confirm that the authority holds the information requested, and to explain why the information is not being provided and to set out the exemption and public interest test.
- 19 The Council will normally supply the information free of charge if it can be provided electronically, or in the form of up to 20 pages of printed or photocopied material. In all other cases the Council will charge the applicant in advance for the actual costs incurred in disbursing the information to him/her, which will include:
  - o Complying with the applicant's request to provide the information in a particular format (eg summary, inspection)
  - o Reproducing or transcribing any document
  - o Postage and other forms of transmission, eg fax
- 20 In cases where the cost of complying with the request for information will exceed the "appropriate limit" set by Government Regulation (which is currently £450), the Council will either:
  - o Tell the applicant that it will not be complying with the request, as permitted under Section 12(1) of the Freedom of Information Act 2000; or
  - o Issue the applicant with a fee notice, under Section 9 of the Act, stating the amount of fee that the Council intends to charge to provide the information. Fees will be calculated on the basis of a cost of £25 per person per hour. The applicant will then have three months in which to confirm to the Council whether or not s/he is prepared to pay the fee: the fee must be paid before the information is provided. If the confirmation and fee are not forthcoming the Council will not provide the information requested.
- 21 In cases where an applicant submits two or more requests for different information, or where a number of people submit similar requests as part of a campaign, the Council will aggregate the work required to meet these requests for the purposes of determining whether the cost of meeting these requests will exceed the "appropriate limit".
- 22 The Council reserves its right, under Section 14 of the Act, to refuse to comply with vexatious requests

23 An applicant may complain about the way in which a request has been handled. If the complaint is about the response received from the Council, the applicant should make the complaint to the officer who responded. If the complaint is about a lack of response, it should be made to the Monitoring Officer. In either case, the complaint will be investigated under stage 1 of the Council's complaints procedure. If at the end of this process the applicant is still unsatisfied, s/he may complain to the Information Commissioner.

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## Freedom of Information Act

## Exemptions

Section	Exemption	Covers
<b>ABSOLUTE</b>		
21	Information available by other means	Already published under Publications Scheme
23	Information supplied by certain security bodies	Under Certificate of Minister
32	Court records	
34	Parliamentary privilege	Certificate of Speaker
36	Prejudice to effective conduct of public affairs	In the reasonable opinion of a "qualified person"
40	Personal data	DPA - data subject
44	Disclosure prohibited by enactment or would be contempt of court	
<b>NON-ABSOLUTE</b>		
22	Information intended to be published	
24	National security	Not covered by S.23
26	Prejudice the defence of the realm or effectiveness of the armed forces	
27	Prejudice international relations	
28	Prejudice relations between parliament and assemblies in UK	
29	Prejudice the economic interests of the UK or any part of it	Relevant to Las
30	Prejudice to information held for criminal investigations or proceedings or informants	<ul style="list-style-type: none"> <li>○ Criminal and other investigations</li> <li>○ Obtaining information from confidential sources</li> </ul>
31	Law enforcement	<ul style="list-style-type: none"> <li>○ Prevention or detection of crime</li> <li>○ Ascertaining whether a person is responsible for improper conduct</li> <li>○ Determining the cause of an accident</li> </ul>

		<ul style="list-style-type: none"><li>○ Ascertaining a person's fitness to carry on a profession</li></ul>
<u>43</u>	<u>Information which constitutes a trade secret; or whose disclosure would be likely to prejudice the commercial interests of any person (including the public authority holding it).</u>	<u>○</u>