



Freedom of Information, Environmental Information Regulation and Personal Data Request Policy

Version number: 2.0
Date: December 2024

Tracking

Policy title: Freedom of information, Environmental Information regulation and Personal Data Request Policy

Head of Service sign off: 12/12/2024


SMT /Director sign off: 12/12/2024

Committee approval: Not required

Review due date: December 2027

Service owner: Customer Service Manager

Revision History

Version No.	Revision Date	Revisor	Previous Version	Description of Revision	Aprover and data	Approval
2	December 2024	Kersty Wood/Kush Chatrath	1	Updated with input from DPP	Andrew Bircher Acting Director Corporate Services 12/12/2024	

Document Approvals

Each revision requires the following approvals:

- Non-administrative updates: Assistant Director / Director
- Administrative updates: Head of Service

Impact Assessment and Consideration

Assessment Type	Required / Not Required	Date Completed	Impact Assessments and Considerations Comment	Completed By
Finance	Not required			
Legal	Not required			
Equality Impact Assessment	Not required			
Counter-fraud	Not required			
Health and safety	Not required			
Data Protection Impact Assessment	Not required			
Climate Change	Not required			

Four Year Plan

Applicable [Four Year Plan](#) theme(s): Effective Council.

1. Introduction

- 1.1. This Policy covers requests made to the Council for recorded information under the Freedom of Information Act 2000 (FOI), Environmental Information Regulations 2004 (EIRs), Data Protection Act 2018 and UK GDPR.
- 1.2. The Council is committed to being open and transparent in the conduct of its operations. To do this the Council will:
 - Publish information as required by the Information Commissioner's Office (ICO) through our Publication Scheme.
 - Provide any information that is not published through its Publication Scheme upon request, save for any exemptions, exceptions or restrictions placed on the publication of said information under FOI, EIR, DPA or any other relevant legislation.
 - Deal with any requests for information that engage FOI, EIR or DPA legislation in line with the legislative framework set out in each relevant piece of legislation.
 - Make available details of the FOI/EIR internal review procedure to requestors upon providing them with a response to their request.
 - Have regard to the guidance published by the ICO when responding to requests for information under FOI/EIR/DPA legislation.

2. Freedom of Information Act Requests

- 2.1. The FOI Act provides public access to recorded information held by the Council. When responding to a valid request, the Council will confirm whether we hold the requested information before either releasing or withholding it should an exemption apply.
- 2.2. A valid request under FOI must be made in writing, (letter, email, social media), although reasonable adjustments will be made when this is not possible due to a disability. The request must also include the requester's real name, and we may ask for a requester's identity if it is clear that they are using a pseudonym. An address for correspondence is also required (email or postal). The request must also describe the information requested.
- 2.3. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings. The Act does not cover information that is in someone's head, therefore the Council are only obliged to provide information that we already have in recorded form. The Council does not have to create new information or find an answer to a question from staff who may happen to know it.
- 2.4. The Council aims to respond to requests within the statutory timeframe of 20 working days, although where the information is especially complex or voluminous, or where we need to consult third parties, the Council may need

additional time. The Council will always aim for the extension of time to be no more than a further 20 working days as per Section 45 Code of Practice. However, in some cases a longer extension may be appropriate.

- 2.5. The response time begins when a request is received by the Council. Day one of the request is the first working day following the Council's receipt of a valid request.
- 2.6. The FOI Act contains several exemptions that allow us to withhold information from a requestor. If the exemption is 'absolute' the Council are not obliged to consider the public interest test. Most exemptions are not absolute (these are sometimes called qualified exemptions), so when using these exemptions the Council will need to consider the public interest test.
- 2.7. If the exemption you wish to apply is qualified the Council needs to weigh the public interest in disclosure against the public interest in maintaining exclusion from the duty to confirm if this data exists and can be provided.
- 2.8. If the Council consider that a qualified exemption is applicable, the Council may require additional time. In line with section 10(3) of the Act, an extension of time in relation to an exemption will be used for further consideration of the public interest test and not in consideration of whether the exemption itself is engaged.
- 2.9. If the Council requires a public interest test extension, the council will issue a formal refusal notice to the requestor, which will include which exemption(s) we are considering and why. The Council will also provide a new deadline for our response.
- 2.10. The FOI Act recognises that requests are not the only demand on the resources of a public authority, and they should not cause a drain on the Council's time, energy, and finances, to the extent that they negatively affect normal public functions.
- 2.11. The cost limit for complying with a request or a linked series of requests from the same person or group is set at £450 for public authorities. This amounts to 18 hours of staff time at a rate of £25 per hour. The Council has the right to refuse a request if it estimates the cost of compliance would exceed this limit.
- 2.12. When calculating the costs of complying, the Council can aggregate (total) the costs of all related requests we receive within 60 working days from the same person or from people who appear to be working together, that is to say, they form part of a concerted action or a campaign.
- 2.13. When calculating costs, the Council can consider determining whether it holds the information; finding the requested information, or records containing the information; retrieving the information or records; and extracting the requested information from records.
- 2.14. If the Council refuses a request on the basis that complying with the request would exceed the cost limit, it will issue a written refusal notice. The Council

are not obliged to provide an estimate of the costs, but it will give the requester reasonable advice and assistance to refine (change or narrow) their request.

- 2.15. The Council has an agreed procedure to handle any disputes or complaints arising from the outcome or handling of a request for information. This procedure is known as an internal review and demonstrates the Council's commitment to openness and transparency.
- 2.16. If the Council receives a complaint which seeks to challenge the outcome of our initial response, it will treat this as an internal review. This is distinguished from a general complaint which can be dealt with through the Council's corporate complaints procedure.
- 2.17. The Council may also consider an expression of dissatisfaction about an FOI request as a request for a review, the requestor does not have to explicitly ask for a review for one to be initiated.
- 2.18. Any requests for an internal review of an FOI request should be made within 40 days of the initial response. The Council will aim to process internal reviews within 20 working days. There may be circumstances where we require more time. In these circumstances we will inform the requestor that we need more time, which we will aim not to exceed a further 20 working days.
- 2.19. When making requests for information under FOI, most people exercise their right of access responsibly. However, the Council will not tolerate misuse or abuse of the right of access under FOI. Requests that are made to cause annoyance, disruption or have a disproportionate impact on the Council may be refused.
- 2.20. The ICO and FOI Act recognises that dealing with unreasonable requests can strain resources and get in the way of delivering services, as well as also damaging the reputation of the legislation itself. Section 14(1) of the FOI Act states that the Council are not obliged to comply with a request for information if the request is vexatious.
- 2.21. If the Council deem a request to be vexatious, it will provide you with a refusal notice and will explain our decision in full.

3. Environmental Information Regulations Requests

- 3.1. The EIRs provide public access to environmental information held by public authorities, that is information that the Council holds that relates to, or affects the environment. This will also include information we hold on behalf of a third party.
- 3.2. Under the EIRs a valid request may be made in writing or verbally.
- 3.3. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings. The EIRs do not cover

information that is in someone's head, therefore the Council are only obliged to provide information that it already has in recorded form. The Council does not have to create new information or find an answer to a question from staff who may happen to know it.

- 3.4. Information is considered environmental when it meets one of the requirements as set out in Regulation 2(1) of the EIRs.
- 3.5. The EIRs state that the Council should always respond in writing, regardless of whether the request was made verbally or in writing; tell the requester whether it holds any information; and make that information available, unless an exception applies.
- 3.6. The Council will make information available as soon as possible, no later than 20 working days from the receipt of the request. The first working day after the receipt of the request is the first day.
- 3.7. The EIRs allow the Council to extend the 20-working day limit to 40 working days should a lot of complex information be requested. This will only be done in exceptional circumstances.
- 3.8. Under the EIRs the Council may refuse a request for information should it believe an exception applies. The EIRs set out exceptions, and these can relate, but are not limited to, unfinished documents, internal communications or harm that may arise from disclosure. In addition, the Council may refuse to respond to a request if it is deemed as manifestly unreasonable, as per Regulation 12(4)(b).
- 3.9. Requests may be manifestly unreasonable if dealing with the request would create unreasonable costs or an unreasonable diversion of resources; and an equivalent request would be found 'vexatious' if it was subject to the Freedom of Information Act 2000.
- 3.10. When considering whether a request is vexatious, (manifestly unreasonable), the Council will consider whether the request is likely to cause a disproportionate or unjustified level of distress, disruption, or irritation.
- 3.11. Requestors are entitled to ask for an internal review if they consider that the Council have failed to comply with a requirement of the EIR. A request for a review must be made in writing within 40 working days from the date a response is sent.
- 3.12. The requester does not have to ask specifically for an internal review, any correspondence from the requester that expresses dissatisfaction with the initial response can be treated as a request for an internal review.
- 3.13. The Council will aim to conduct the internal review within 20 working days, it may require an extension of time of a further 20 days.
- 3.14. The Request Handler shall engage with the requestor where appropriate to validate their identity and contact details to ensure that personal data are not

disclosed to the wrong person. The 'clock' can be paused while waiting for this information. The register will be updated to reflect this.

Acceptable methods of identity verification include requesting and reviewing documentary evidence such as a valid passport, driving license etc.

- 3.15. The Request Handler shall engage with the requestor to clarify the request as necessary. This might be in order to narrow the search to specific information systems or date ranges to enable a prompt response. They shall also agree how the requestor would like the response (e.g. digitally or in hard copy format).
- 3.16. If the requestor fails to respond the request must still be responded to and all data relating to the data subject must be considered to fall in scope of the request. A third party can make a request on an individuals behalf, where this is the case it must be ensured that appropriate identification and authority to act from the request maker can be identified.

4. UK GDPR and Data Protection Act Requests

- 4.1. The Council is a data controller, and as such, it holds information that may contain third party personal data. This data is not available for release under FOI or EIRs but may be disclosable under obligations we have under the Data Protection Act and UK GDPR.
- 4.2. The Council takes its legal duty to control and process personal data very seriously, and any request for information of this nature will be carefully considered with reference to relevant legislation.
- 4.3. Individuals have rights to make requests about their own personal data, otherwise known as Individual Rights Requests, these rights over your data are set out in UK GDPR. A common example is a Subject Access Request (SAR).
- 4.4. The Council will always aim to process requests for your own personal data (SARs) without undue delay and at latest within one calendar month. The Council has the right to extend this timescale by two calendar months if the request is complex or several requests have been received from the same individual. Where this is the case, we will inform the requestee that the deadline has been extended and when they should expect the response and the reason for extension.
- 4.5. The first day of the timescale is the first working day after the request is received.
- 4.6. An organisation or individual may also make a request for personal data concerning a third-party individual. When doing so, they must set out the legal basis upon which they are requesting this data, generally these requests are made under the Data Protection Act, although there are other pieces of legislation which may allow for the provision of third-party personal

data to an organisation. Where a third party acts on behalf of a data subject they should have authority to act which can be demonstrated to the Council.

- 4.7. A Data Protection Act request made for third party personal data has no statutory deadline, however, the Council will endeavour to respond within 20 working days.

5. Third Party Information and Consultation

- 5.1. If non-personal information is requested from the Council that relates to a third party, the request will be considered under the relevant access regime (FOI and EIR), along with any relevant exemptions or exceptions.
- 5.2. The Council will endeavour to consult with third parties affected by the disclosure of information where possible, and if timescales allow. The final decision will always be the Council's.
- 5.3. The Council's Record Retention Policy and Schedules will be used to check each department's own corporate list of file retention timescales. If information has been destroyed or erased in line with this policy and other good record management procedures, it will be deemed that the Council no longer hold the information, even if the record is still held in backup.