



# **Access to Information Policy**

Our commitment to sharing Information

Department: Legal Services  
Reviewed: March 2011  
Version: 1.0

## Policy Statement

The Council will ensure that:

- 1.1 It has appropriate procedures and processes in place to manage the requirements of the Freedom of Information Act 2000, Environmental Information Regulations 2004 and the Data Protection Act 1998.
- 1.2 It monitors and reviews its Freedom of Information, Environmental Information and Data Protection request handling processes periodically and ensures that procedures for handling requests are communicated to staff effectively.
- 1.3 Information shall only be withheld if a legitimate exemption or exception applies and that in such cases the application of the exemption will be explained to the customer.
- 1.4 It implements and maintains the Freedom of Information Publication Scheme.
- 1.5 It maintains a principle of openness in relation to contracts & tendering, and ensures that confidentiality clauses are drafted to reflect this, and used only in limited circumstances.
- 1.6 All staff are aware of their responsibilities under the Acts' and Regulations and training is provided.
- 1.7 A publication scheme and request coordinator is appointed.
- 1.8 It provides as much information as is practicable in electronic format, to assist requesters.
- 1.9 Advice and assistance will be offered to help customers make requests and the progress of their requests, including the reasons for any delays, will be communicated to them.
- 1.10 It processes all personal data securely and has appropriate security measures in place when providing information to other bodies.

## **Purpose of the Policy**

The purpose of this policy is to ensure that the provisions of the Freedom of Information Act 2000 (FOI), the Environmental Information Regulations 2004 (EIRs) and the Data Protection Act 1998 (DPA) are complied with. This policy replaces the previous Freedom of Information and Data Protection policies which were adopted in 2004.

This policy supports the legislative framework for responding to requests for information under these statutory access regimes and promotes the presumption in favour of disclosure of information to the public, wherever possible, to ensure a transparent, open and accountable Council.

This policy applies to all employees of the Council, including elected members, contract, agency and other temporary staff, volunteers and employees of partner organisations working for the Council and any other related third party organisations. It is the responsibility of managers to ensure that these groups are made aware of them and any subsequent guidance that is issued.

## **Requests for Information**

Any person anywhere may request information under the Freedom of Information Act (FOI), Environmental Information Regulations (EIRs) or the Data Protection Act (DPA) and they do not have to specify for what purpose they are requesting the information.

All requests will be co-ordinated and responded to centrally by Legal Services, with the information being provided within the statutory timeframes be the relevant departments.

- Requests under FOI must be in writing, giving a name and correspondence address plus a description of the information sought. A response must be provided by the Council within 20 working days,
- Requests under the EIR's do not have to be in writing, however a name and address for correspondence will still need to be provided. The Council will encourage written requests wherever possible as this can help clarify the information sought. A response must be provided within 20 working days, although extensions of this time may be applied in limited circumstances.
- Requests under the DPA must be in writing and the requester must specify the information they believe the Council is processing as well as being required to pay a statutory £10 fee. The Council has developed a form to help customers frame their requests. A response must be provided within 40 calendar days.

The Council will provide any necessary advice and assistance to those making requests and will, wherever practicable, make information available in the format requested.

## **Copyright**

The supply of information under the Freedom of Information Act and the Environmental Information Regulations does not give the person or organisation who receives it an automatic right to re-use the information in a way which would infringe copyright.

Any information which is supplied by the Council in response to a request will continue to be protected by copyright law. In most cases, copyright will belong to Blaby District Council, although copyright may belong to other organisations or individuals.

In some cases, Blaby District Council may have to provide information in response to a request where the copyright of the information is owned by another organisation or individual. If FOI or the EIRs requires the Council to release the information, any copying or reproduction which the Council has to do, will not infringe copyright. However, the person who receives the information is likely to need the permission of the copyright owner should they wish to re-use the information.

## Fees and Charges

The Council aims to provide as much information free of charge on the website for customers to download or view at home. The Council will not therefore charge for requests for information, unless there is a charge set out in the Council's publication scheme or schedule of charges.

The Council may charge for the cost of disbursements such as photocopying and postage.

The Freedom of Information Act imposes a statutory limit on the amount that can be spent on locating and extracting the information required to answer a request. This limit is currently set at £450, which the legislation says is equivalent to 18 hours of staff time.

When estimating the cost of complying with a request for information, the Council may take into account the staff time reasonably incurred, when involved in the following activities:

- determining whether we hold the information,
- locating the information or a document which may contain the information,
- retrieving the information, or document that may contain the information, and
- extracting the information from a document containing it.

Actions which the Council may then consider taking when the estimated cost of complying with a request has been determined:

1. Request less than £450 (<18hrs)
  - The Council must respond to request.
2. Request between £450-£1000 (18-40hrs)
  - FOIA – the Council will refuse all requests.
  - EIRs – the Council can refuse the request if it is formulated in too general a manner or is manifestly unreasonable or we have reason to believe that the requests are cumulative or campaign requests.
3. Request greater than £1000 (>40Hrs)
  - FOIA – the Council will refuse all requests.
  - EIRs – the Council will refuse all requests as being formulated in too general a manner or manifestly unreasonable or where the Council has reason to believe that the requests are cumulative or campaign requests.

There is a presumption in all cases that the Council will offer advice and assistance to help the customer refine or narrow down their request.

Data Protection requests carry a statutory £10 charge.

## **Complaints**

Any person who is unhappy with the way in which the Council has dealt with their request for information has been handled may ask for the matter to be reviewed, and all complaints should be in writing to:

Legal Services  
Blaby District Council  
Council Offices  
Desford Road  
Narborough  
Leicester  
LE19 2EP

Should the requester still be unhappy with the outcome of this review they have the right to pursue their complaint to the Information Commissioners Office:

Information Commissioners Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire

## Background to the Access Regimes

### What is the Freedom of Information Act (FOI)?

The Freedom of Information Act 2000 received Royal Assent on the 30th November 2000. The Act gives the public a general right to all types of information held by public authorities, and puts in place requirements for public authorities to disclose information where no exemptions apply. The Act also requires the Council to produce and maintain a publication scheme.

The Act came in to force on the 1<sup>st</sup> January 2005 and from this date anyone has been able to make a request for information. Requests must be in written format, email and fax are acceptable.

Key points under the Act are:-

- § that the enquirer has the right to be told whether the information exists
- § and that the information requested (subject to any exemptions) be released within 20 working days and where possible in the manner requested.

A person may request any information under the Act however there are a number of exemptions these being known as qualified (requiring a public interest test) and absolute exemptions (no test required)

Absolute exemptions include environmental information which is handled by the Environmental Information Regulations and personal data which is handled by the Data Protection Act 1998.

### What is a Publication Scheme?

The publication scheme is a complete guide to the information routinely published by the Council. The scheme is not aimed to be a comprehensive list of actual publications (although many are included) since this will change over time, rather it is a guide to the information the Council holds.

In order to show this, the information is set in classes. Classes have been defined by the Information Commissioners Office to cover broad areas within which the Councils roles and responsibilities are listed.

Some classes of information will include elements required by existing legislation. All publications and information will be accessible unless they carry an exemption. Reasons for exemptions will be clearly indicated and can be challenged by contacting the scheme co-ordinator.

## **What are the Environmental Information Regulations (EIR's) ?**

The Environmental information Regulations 2004 (“the regulations”) came in to force on the 1<sup>st</sup> January 2005. The aim of the regulations is to make bodies more open and accountable in relation to the environmental information that is held by them.

As with Freedom of Information requests should be responded to within 20 working days, however unlike FOI requests do not have to be in writing and so verbal requests must also be actioned.

The information specifically covered by the regulations is:

1. The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components. Including genetically modified organisms and the interaction among these elements.
2. Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in 1.
3. Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the state of the elements and factors referred to above, and as well as measures or activities designed to protect those elements.
4. Reports on the implementation of environmental legislation.
5. Cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to above, and.
6. The state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures in as much as they are or may be affected by the state of the elements of the environment or, through those elements by any factors or measures referred to above.

## **What is the Data Protection Act (DPA)?**

There has been Data Protection legislation since 1984 with the most recent Act coming in to force in 1998.

The purpose of the Act is to protect the rights of the individual about whom data is obtained, stored, processed or supplied rather than those of the people or organisations who control and use personal data. The Act applies to both computerised and paper records.

The Act requires that appropriate security measures will be taken against unauthorised access to, or alteration, disclosure or destruction of personal data and against accidental loss or destruction of personal data.

## **Principles of Data Protection**

The Act is based on eight principles stating that data must be:

Fairly and lawfully processed  
Processed for limited purposes  
Adequate, relevant and not excessive  
Accurate  
Not kept longer than necessary  
Processed in accordance with the data subjects rights  
Secure  
Not transferred to other countries without adequate protection

Sensitive information is given further protection in addition to the above.

## **Disclosure and Data Security**

The Council will normally only disclose information to third parties, other authorities or bodies with the data subject's approval, or where there is a statutory or legal obligation to do so.

The Council recognises that simply because information regarding services or residents is held within one department, it does not give a general or automatic right of access to other departments. Information may only be reused if it is compatible with the reason for which it was originally gathered. Data may be disclosed without the consent of the Data Subject only in specific and limited circumstances. These are as follows:-

- On production of court order.
- Where the purpose of disclosure is to enable the authority to assess or collect taxes and duties.
- Where the disclosure would lead to the prevention or detection of a crime, the apprehension or prosecution of offenders.
- Where the Council is obliged by law.
- By order of the Secretary of State.
- For matters of national security.
- To provide generalised or anonymised information for research

purposes.

- To Elected Members –
  - as part of their role as a committee member,
  - whilst acting at the request of a constituent (in respect of information about that constituent and not others)
- Where the disclosure is in the legitimate interests of the Council (e.g. disclosure to staff - personal information can be disclosed to other Council employees if it is clear that those members of staff require the information to enable them to perform their jobs or statutory duties.)
- For the performance of a contract.

As a Local Authority, the Council is required by many Government Departments and other bodies to make statutory returns of information to them for auditing and other purposes. The Council requires that all data is transmitted or transported in an appropriately secure manner.

In most cases it is the receiving body which stipulates the manner in which data is sent to them, however recent cases have shown that as the data provider the Council is still responsible for any data sent and will be liable if the data goes astray, particularly if no attempt to protect the data is made.

The Council requires that all data when transmitted or transported is done in an appropriately secure manner and applies encryption, password protection and tracked delivery of all data sent from the Council.