



# East Herts District Council

## Access to Information Policy

### Document Control

<b>Organisation</b>	East Hertfordshire District Council
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<b>Author – name and title</b>	Tyron Suddes, Information Governance and Data Protection Manager
<b>Owner – name and title</b>	Tyron Suddes, Information Governance and Data Protection Manager
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## **1. Policy Statement**

East Herts Council ('the council') is committed to promoting and actively developing, a culture of openness, transparency and accountability embodied in the Access to Information legislation. This refers to the general right of access that the public have to the information held by the council. This right of access comes from:

- The Data Protection Act 2018 (DPA)
- The Environmental Information Regulations 2004 (EIR)
- The Freedom of Information Act 2000 (FOIA)
- The Re-use of Public Sector Information Regulations 2015 (RPSI).

This policy establishes a framework, which underlines this commitment and underpins the council's detailed guidance and procedures in the areas of Access to Information.

## **2. Purpose**

This policy and the procedures which implement it will ensure that the council conforms to the Access to Information legislation and associated codes of practice, the key requirements of which are that:

- The lawful and correct treatment of personal information recognising the need to maintain confidence between the council and those with whom it deals.
- Information which is routinely published by the council will be made available in accordance with its publication scheme, and the Local Government Transparency Code 2014.
- Information which is not covered by the publication scheme is made available to applicants on request, within the statutory time limit, unless a valid exemption/exception applies.
- Exemptions/exceptions under the FOIA, DPA and EIR are applied consistently and appropriately, and in accordance with the legislation.
- A fair and efficient internal appeal system is administered.

## **3. Responsibilities**

- 3.1.** The council has a corporate responsibility to ensure that it conforms to and implements the Access to Information legislation. The council is

accountable to the Information Commissioner for its compliance with this legislation.

- 3.2.** The Information Governance and Data Protection Manager has a responsibility to ensure this policy is implemented, monitored and updated accordingly.
- 3.3.** The Information Governance and Data Protection Manager and Freedom of Information Officer are responsible for the effective day-to-day management of compliance with the legislation, including the:
- development of policies, procedures, guidance and standards of good practice and their dissemination to staff;
  - maintenance and periodic review of the publication scheme;
  - management of the information request processes within statutory timescales;
  - disclosure of requested information and the application of exemptions/exceptions that prevent disclosure;
  - provision of advice and assistance on access to information issues;
  - promotion of good records management practices
- 3.4** An appointed member of staff within each service will act as a point of contact for access to information requests depending on the type of information requested. The point of contact will be responsible for the coordination, gathering and the forwarding of information to the Freedom of Information Officer for appraisal.
- 3.5** All staff must handle information and requests for information in a way that complies with this policy and the council's related procedures, guidance and standards of good practice. Staff should note that the deliberate concealment, amendment or destruction of information which has been the subject of a request, in order to prevent its disclosure, is a criminal offence under the legislation for which individual staff as well as the council can be held liable.

## **4. Overview**

### **4.1 Transparency**

The council believes that transparency is a key condition and driver for the delivery of our services. As a publicly funded organisation, we have a duty to

be transparent in our business operations and outcomes in order to deliver value for money.

The council will publish information on its website, in accordance with the Local Government Transparency Code 2014. In addition, the council affirms its commitment to the routine publication of as much non-sensitive information about our policies, procedures and activities as possible.

## **4.2 The Freedom of Information Disclosure Log**

The Freedom of Information Act 2000 requires public bodies to be proactive in the release of official information. As a result, the council has produced an internet based Freedom of Information Disclosure Log, which allows users to search a database, using keywords or categories, of previous Freedom of Information requests to ascertain whether their request may be similar.

## **4.3 Requests for information**

Information which is not covered by the council's Freedom of Information Disclosure Log or which is not made routinely available can be requested by any individual, including corporate or public bodies under the FOIA and EIR. The legislation provides the public with the right to be informed whether the information is held by East Herts Council, and if so, to have the information communicated to them unless an exemption/exception or limit applies. There is a maximum of 20 working days under the legislation to provide the response or notify of a refusal. The deadline can be extended, but only in certain circumstances.

A subject's personal information can be requested under the DPA and the Council has a maximum of 1 month in which to process a request unless an exemption applies. The deadline for response can be extended to a maximum of 2 further months for large or complex requests.

The council is committed to processing requests for information in accordance with the requirements of the applicable legislation. The council will ensure that requests are processed in accordance with the Code of Practice issued by the Secretary of State at the Ministry of Justice under section 45 of the Freedom of Information Act. Similarly, requests under the Environmental Information Regulations will be handled according to the Code of Practice issued by the Department for Environment, Food and Rural Affairs.

Procedures and systems for dealing with information requests have been developed to promote conformity to these codes and the legislation, and will be coupled with appropriate training for staff handling requests. Subject access requests will be processed under the DPA according to the Data Protection Principles.

#### **4.4 Charges**

Whilst the council does not normally charge for information requests, it still needs to be able to calculate how much a request would 'cost' even though the council may not be making a charge. The FOIA 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 £450.00, which equates to 2.5 days of staff time.

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

- determining whether the council holds the information;
- locating the information or a document which may contain the information;
- retrieving the information, or a document that may contain the information;
- extracting the information from a document containing it

The following actions will be taken once the estimated cost has been determined:

- If the request is estimated to amount to less than £450.00 of work (less than 2.5 days), the council will respond to the request at no cost.
- If the request is estimated to amount to in excess of £450.00 of work (more than 2.5 days); dealing with the request will be at the council's discretion and may incur a fee in line with the council's access to Information fees.

Prior to charging for an information request, the council will provide the applicant with reasonable advice and assistance in an attempt to refine or narrow down the request so that it may be processed free of charge.

#### **4.5 Exemptions/exceptions**

Although the council upholds the principle that information should be accessible wherever possible; there are times when it has to withhold

information to protect its legitimate interests and those of other organisations and individuals. The council will only refuse to disclose information in response to a request if a valid exemption/exception applies under the FOIA, DPA or the EIR.

Where information is withheld, applicants will be informed of the relevant exemption/exception and why the council believes it applies, including if necessary our consideration of the public interest test. Applicants will be provided with details of the relevant complaint and appeal procedures.

The Freedom of Information Officer or Information Governance and Data Protection Manager must be consulted in all cases where staff believe that the release of the requested information is felt to be inappropriate.

The Freedom of Information Officer or Information Governance and Data Protection Manager will appraise the information against the available exemption/exceptions in order to decide whether or not an exemption/exception to disclosure applies.

## **4.6 Appeal procedures**

### **4.6.1. Freedom of Information and Environmental Information Regulations**

The Council has a statutory duty to provide an internal review process against our initial responses to requests for information. The review will be conducted in accordance with section 45 of the Freedom of Information Act.

This procedure will be followed if an applicant expresses dissatisfaction, whether justified or not about the way their request was handled and about the information supplied or not supplied.

### **4.6.2. Data Protection Act and UK GDPR**

Following ICO good practice guidance, the council will conduct an internal review where requested by the applicant in relation to a request about their personal data.

### **4.6.3. Re-use of Public Sector Information Regulations**

The council will use its internal review process against any complaints received about how it handled a request for re-use. The complaint should be

submitted to the council in writing and the council will aim to respond to the complaint within a reasonable time, explaining the reasons for its decision.

Applicants can appeal to the Information Commissioner if they remain dissatisfied after going through our internal review procedure. If the Information Commissioner decides to investigate, they can request all the relevant information in order to review the case. The Information Commissioner can overturn our refusal of a request.

#### **4.7 Third Parties**

The above mentioned legislation covers all information held by the council, including information provided to us by third parties such as contractors, tenderers, suppliers, other public or regulatory bodies. The council does not have to consult with third parties on every occasion, however, there may be occasions when the council feels it is necessary, for example due to the type of information requested, the relationship the council has with the third party or any previous notification that information may be confidential.

#### **4.8 Re-Use of Information**

Requests may be made to the council for the re-use of information under the Re-use of Public Sector Information Regulations 2015 (RPSI). These regulations apply to information that the council produces as part of its public task. Information held that is not part of the council's public task is not covered by RPSI.

RPSI should not be confused with other information access legislation, i.e. the DPA, FOIA or EIR apart from the fact that RPSI does not apply to information that would be exempt from disclosure under this legislation.

Re-Use, in this context, means using public sector information for a purpose other than the initial public task it was produced for. Typically, this would mean the requestor taking the information produced and republishing it or using it to produce a new product or resource, often by combining it with other information, sometimes on a commercial basis. RPSI aims to permit and encourage the re-use of information and how it is made available as opposed to accessing information, which is dealt with under the information access legislation above.



#### **4.8.1. Requests for re-use**

A request for re-use must be made in writing, with the requestor's name and address for correspondence, and must specify the information they want to re-use and the purpose they intend to use it for.

When a request is received, the council will respond within 20 working days, unless there is a need to extend this time where the information is extensive or the request raises complex issues. The council will inform the requestor of any delay within the 20 day period. If the requested information has not previously been disclosed then the council will, additionally, deal with the request as an access request under the appropriate legislation in order to decide whether the information is exempt.

The council will ensure that the information for re-use is made available in the format and language in which it is held and, where required, will make the information available in an open and machine readable format where it is not held in such a way.

The council may impose conditions on re-use but the conditions must be as open and non-restrictive as possible.

#### **4.8.2. Charges for re-use**

The council may charge for the marginal costs of reproducing, providing and disseminating information where this is excessive or where the council is required to generate revenue to cover:

- A substantial part of the costs relating to the public task;
- Documents for which the council is required to generate revenue to cover a substantial part of the costs;

In most cases, the above costs will be negligible and no charge will be made. Additionally, if the information is published on the council's website, then it is unlikely that a charge will be made.

If a charge is made, then the council will use regulation 15 of RPSI to determine how the charge should be calculated.

### **5. Help and Assistance**

Please contact either the Information Governance and Data Protection Manager or Freedom of Information Officer if you need help or assistance.

Alternatively, you may find that the following resources available on the council's intranet may help:

- [GDPR and Data Protection](#)

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