



Access to Information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

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1. Purpose and Scope

The Council is required to deal with statutory requests for information under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR).

This document sets out the general principles and procedures that the Council applies in responding to requests for information under these statutory access regimes.

2. Aims

In dealing with statutory information requests, the Council aims to:

- Provide a framework that ensures consistency and compliance.
- Promote transparency and openness.
- Build public trust and confidence.

These aims are balanced by:

- The need to maintain high standards of care in ensuring the privacy of personal and commercially confidential information.
- The need to preserve confidentiality where disclosure would not be in the public interest, or would breach personal privacy or the confidences of a third party.

3. Roles and responsibilities

Dealing with FOIA/EIR requests is a Council-wide statutory function and many roles have a direct or indirect effect on the Council's ability to carry out this function effectively.

3.1 Chief Executive

As the head of the Council, the Chief Executive has responsibility for ensuring that the Council operates in accordance with current legislation. The Chief Executive is assisted by various staff to ensure that all information held by the organisation is managed in accordance with the law and internally adopted policies and procedures.

3.2 Senior Information Risk Owner (SIRO)

The SIRO is a high level management role with overall ownership of the Council's approach to information risk, acting as champion for information risk, and providing advice on information risk management. The SIRO is the Corporate Director, Legal & Democratic (Monitoring Officer).

3.3 Legal Services

Officers involved in responding to statutory information requests under FOIA/EIR may seek legal advice from the Council's legal staff in relation to particularly complex requests for information, or access to information issues.

The Council's legal staff may carry out internal reviews of FOIA/EIR information requests in appropriate cases.

3.4 Freedom of Information Officer(s) (FOIO)

The FOIO(s) will provide management, advice and guidance in respect of compliance with the access to information regimes under the FOIA and EIR, including:

- Overseeing and co-ordinating responses to requests for information.
- Ensuring that information is only disclosed or supplied to those people who are entitled to receive it.
- Monitoring and tracking requests to ensure that deadlines for responses are met.
- Providing advice and guidance in respect of exemptions to disclosure, including the public interest test where appropriate.
- Providing training.
- Developing and implementing relevant policy, procedures and guidance.
- Encouraging the publication of frequently requested information.

3.5 Records Manager

The records management function forms an important link between the corporate objectives of the Council and the operational business units in terms of the manner in which information is captured, stored, indexed, accessed, preserved or destroyed in accordance with the law and the business requirements. The key tasks of this function in respect of access to information include:

- Working with Information Asset Owners (IAOs) and Administrators (IAAs) to ensure that departmental information is captured, indexed, preserved and destroyed in accordance with the law and the Council's agreed records management procedures.
- Helping to ensure that information can be accessed easily so that information requests can be dealt with efficiently and effectively.
- Providing training.
- Agreeing user group and access rights to documents and records.

3.6 Information Asset Owners (IAOs)

IAOs are senior managers responsible for information assets and managing risks to information in their service areas within the following key responsibilities:

- Lead and foster a culture that values, protects and uses information for the public good.
- Know what information their assets hold, what enters and leaves them and why.
- Know who has access to their assets and why, and ensure use of their assets is monitored.
- Understand and address risks to the asset, and provide assurance to the SIRO.
- Ensure the asset is fully used for the public good, including responding to information requests.

3.7 Information Asset Administrators (IAAs)

IAAs are operational members of staff responsible for the information assets on a day-to-day basis within the following key responsibilities:

- Act as a local contact for information governance in the business area.
- Ensure that policies and procedures are followed.
- Maintain accurate and up-to-date entries in the Information Asset Register.
- Support the IAO in identifying and addressing risks to information.

4. Requests for information under FOIA/EIR

4.1 Differences between FOIA and EIR requests

FOIA and EIR requests are similar, but there are slight differences. FOIA requests must be submitted in writing (which includes email or via the website or social media). To be valid, a request must provide a real name, contact details so that a response can be provided, and must describe the information sought.

EIR requests may also be made verbally, but in such cases the Council will confirm in writing the content of the request with the requester.

When a request is received, the Council will decide on the correct regime. Environmental information is not within the scope of the FOIA.

4.2 General

Information requests can be made by any individual or organisation and are applicant and purpose blind.

Requesters are not required to refer to the FOIA or EIR when requesting information. It is for the Council to decide whether to treat a request as an FOI or EIR, or whether to deal with a request as part of normal business.

The legislation covers recorded information but not opinions and does not require new information to be created. However, Information Commissioner's guidance recommends that requests in the form of questions should be answered and that information should be collated where the "building blocks" of the information is held.

Further information is available at

<https://www.dorsetforyou.gov.uk/your-council/about-your-council/freedom-of-information.aspx>
<https://www.dorsetforyou.gov.uk/your-council/about-your-council/access-to-information-fees-policy.aspx>.

4.3 Making a request

An e-form is available online, but requesters may also submit requests by email, post or social media, provided they are in writing and are valid requests under the legislation. Electronic requests are the most acceptable format as they save time and money for both parties.

5. Provision of information

The Council will respond positively to FOIA/EIR requests and will liaise with requesters as necessary to clarify the information sought.

FOIA/EIR responses will be provided promptly and in any case within 20 working days in accordance with the legislation.

The Council will try to make information available in the format specified by the requester. Where the Council deems it unreasonable to supply information in the format specified by the requester as a result of practical or cost considerations, then it will inform the requester of the reasons. The Council will, however, still supply the information requested by any means that it considers reasonable in the circumstances.

Where appropriate, information may be withheld under FOIA exemptions or EIR exceptions and this may include information being redacted (blacked out). Where information is withheld, the requester will be informed of the parts of their request which cannot be disclosed and an explanation of the FOIA exemptions/EIR exceptions that have been applied.

Where the information requested does not exist, the requester will be informed that the information is not held. If the information is believed to be held by another public authority, the requester will be provided with contact details so that they may make a request to that public authority. In accordance with Information Commissioner's guidance, requests will not be transferred to other public authorities.

Where information is already accessible by other means, requesters will be provided with a link to online information, or appropriate explanation of where the information can be found.

If the information requested is intended for future publication, the requester will be informed of the likely timing of such publication.

Request responses will all contain information on how to request an internal review or refer a decision to the Information Commissioner.

6. Publication of information

The Council will seek to progressively publish more non-personal information online, usually on the Dorsetforyou website or other appropriate means. This will include frequently-requested information and information that must be published under the Government's Transparency Code or other statutory publication requirements. Such publication promotes openness and transparency of decision making.

Where a request is received for information that is already published online, the requester will be provided with a link to it.

7. Provision of advice and assistance

The Council is under a legal obligation to provide advice and assistance under FOIA to enable requests for information to be made and this may include:

- Publishing information request processes and guidance.
- Advising applicants about their rights of access to information.
- Advising applicants about other agencies (eg, the CAB) that may be able to help them to make requests for information.

Where the Council has offered advice and assistance and the requester still fails to describe the information requested in a way which enables the Council to identify and locate it, the Council will, however, provide whatever information it believes to be relevant to the request, subject to any exemptions and/or the public interest test.

8. Transfer of requests

In accordance with Information Commissioner's guidance, requests will not be transferred to other public authorities.

Where the Council does not hold information but believes that another public authority is likely to hold it, the Council will help the requester by:

- Advising the requester that information is not held and providing contact details of other public authorities believed to hold such information, where such details are known.
- Suggesting that the requester submits the request to the authority which is believed to hold the information.

The Council is deemed to hold information if it is holding a copy of a record produced or supplied by another person or body, but this does not extend to holding a record on behalf of another person or body.

9. Timescale for responses

The Council will respond to all FOIA/EIR requests for information promptly, and in any case within 20 working days of the receipt of a request.

Where a delay in reaching a decision beyond this period is expected to occur due to the consideration of the public interest test, the Council will give a realistic and reasonable estimate of when a decision will be reached, usually no more than 40 working days from receipt of the original request.

10. Fees and charges

10.1 Publication scheme and the Council's website

Wherever possible, information will be published online and requesters will be encouraged to access information via the website. However, to avoid unfair treatment and social exclusion, those requesters that do not have access to the internet will be provided with a paper copy of the information free of charge, provided it is readily available from the website or does not fall into the categories identified below.

Charges may be levied for certain information or publications that are listed in the publication scheme. Where this is the case, the charge will be published and will be payable prior to the information being supplied.

10.2 FOIA requests

Information under FOIA is usually provided free of charge. However, information that falls outside the publication scheme may incur a fee to cover copying and postage charges.

Where applicable, a fees notice will be sent to the requester that must be paid within 3 months. No further action will be taken until such time as the fee is received or the 3 months period expires and the request will be closed.

Section 12 of the FOIA provides an exemption from a public authority's obligation to comply with a request for information where the cost of compliance is estimated to exceed the "appropriate limit", which is currently £450, calculated at 18 hours at £25 per hour. The Council is permitted to include the following activities in calculating whether the cost limit would be exceeded:

- Determining whether it holds the information;
- Locating the information, or a document containing it;
- Retrieving the information, or a document containing it; and
- Extracting the information from a document containing it.

If the Council believes that Section 12 applies, an estimate of the time taken will be made before the work takes place and the requester will be provided with a calculation of the work involved and the time it would take.

In such cases, the requester will be offered the opportunity to:

- Focus and amend their request so that it is likely to be within the appropriate limit; or
- Pay the full costs to have the work undertaken.

10.3 EIR requests

EIR allows public authorities to charge for making environmental information available, but any charge must be reasonable. A reasonable charge includes the staff time taken to supply the information, plus disbursement costs in transferring the information to the requester, eg, photocopying and postage.

In October 2015, the European Court of Justice issued a judgment in Case C-71/14 which confirmed that the costs of supplying the information can be charged, but not the costs of maintaining registers or databases of that information.

If the Council decided to charge under EIR, any fees and charges would be published on the Council's website. Requesters would be advised of any charge and would be given 60 days to pay, in accordance with the EIR. The 20 working day timeframe would be suspended until payment was received. If payment was not received within 60 days, the case would be closed.

10.4 Reuse of public sector information

Information provided under FOI/EIR can be reused free of charge under the terms of the [Open Government Licence for Public Sector Information](#).

11. Application of exemptions/exceptions and the public interest test

11.1 Exemptions (FOIA) and exceptions (EIR)

In some circumstances the Council is not required to provide requested information because it is exempted under FOIA or excepted under EIR. Exemptions/exceptions will be applied fairly, objectively and consistently and they will not be used as a means of obstructing access. Requesters will be provided with explanations where exemptions/exceptions have been applied. Exemptions/exceptions may apply to part of the information requested and, in such cases, the Council will release as much information as it can. In appropriate cases, some information may be redacted (blacked out).

11.2 Public interest test

Some exemptions/exceptions require a public interest test to be applied. Public interest means something that serves the interests of the public, not something which interests the public. The Council must consider whether, in all the circumstances of the case, the public interest in disclosing the information outweighs the public interest in withholding the information (ie, maintaining the exemption). The requester will be provided with details of the public interest test arguments and conclusion.

Under the EIR, public interest factors can be aggregated.

12. Consultation with third parties

The Council will, where necessary and appropriate, consult third parties with regard to the disclosure of requested information which affects them and will take their views into account in deciding what information can be disclosed.

13. Refusal of requests

The Council will provide a written refusal notice of all full refusals, or part refusals, of requests for information. This will include details of any exemptions that have been applied and, where the public interest test is applicable to exemptions, the reasons for the decision not to disclose. The Council is not obliged to confirm or deny the existence of information, or to advise in respect of exemptions applied, where to do so would in itself disclose exempt information.

14. Repeat and vexatious requests

14.1 Repeat requests

The Council is not obliged to comply with repeat requests for information under FOIA where identical or substantially similar information has already been provided and no reasonable interval has elapsed since the previous request. Where the Council deems a request to be a repeat, the requester will be provided with a written refusal notice and explanation.

14.2 Vexatious requests

The Council is not obliged to comply with vexatious requests under FOIA and there is a similar exemption under EIR where requests are “manifestly unreasonable”. The term ‘vexatious’ applies to the request, not the requester, and the Council will apply the term fairly and consistently. In determining whether a request should be refused as vexatious, the Council will consider:

- The history and nature of requests submitted by the requester, including repeat requests;
- Whether the requester is habitually and persistently submitting requests where there is a strong likelihood that such requests are being made to intentionally cause harassment, divert resources or disrupt the proper workings of the Council.
- The prevailing guidance provided by the Information Commissioner and relevant Information Tribunal decisions.

Where the Council deems a request to be vexatious. The requester will be provided with a written refusal notice and explanation.

15. Recording and monitoring

Records will be kept of FOIA and EIR information requests for the purposes of:

- Tracking and monitoring requests and ensuring compliance with the relevant legislation;
- Providing an audit trail of how requests have been dealt with and responded to;
- Ensuring consistency in the application of exemptions and, where applicable, the public interest test;
- Producing management information and publishing compliance statistics in respect of dealing with requests for information.

However, the personal information of requesters will only be kept for as long as necessary – generally no longer than two years or as required by law. The Council’s privacy notices can be viewed at <https://www.dorsetforyou.gov.uk/your-council/about-your-council/data-protection.aspx>.

16. Internal reviews / complaints to the Information Commissioner

If a requester is dissatisfied with the handling of an information request, they may request an internal review. Internal reviews will be carried out by an officer who is more senior than the officer who originally dealt with the request.

The requester will be informed of the internal review decision in writing within a reasonable timescale (usually within 20 working days) and will be provided with the contact details of the Information Commissioner, should they wish to complain about the Council's handling of the request. The Information Commissioner will expect an internal review to have been carried out before it will consider a complaint.

17. Further information

Further information on FOIA/EIR information requests can be found at:

Dorsetforyou website:

<https://www.dorsetforyou.gov.uk/your-council/about-your-council/freedom-of-information.aspx>
<https://www.dorsetforyou.gov.uk/your-council/about-your-council/access-to-information-fees-policy.aspx>

Information Commissioner - <https://ico.org.uk/>