



The Linden Centre

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Freedom of Information (Information Rights Policy)

Signed by:		
	Headteacher	Date:
	Chair of Management Committee	Date

Last Updated	04 th January 2021
Review Due:	04 th January 2022

1. Purpose and Scope of Policy

- 1.1 Information rights is the collective name for 3 pieces of legislation that give rights of public access to information held by public authorities:
- **Data Protection Act 2018** – looks at personal information relating to individuals
 - **Freedom of Information Act (FOIA) 2000** – encompasses any information held by the Council
 - **Environmental Information Regulations (EIR) 2004** – information with an environmental impact
- 1.2 This policy is a statement of what the Council intends to do to ensure compliance with information rights legislation.
- 1.3 This policy will include information that the Council has produced internally as well as information that is maintained by the Council about another organisation or received from another organisation following a mutual exchange of information, e.g. a contract or partnership agreement
- 1.4 The Council has an agreed Data Protection Policy and therefore this policy will only cover information rights as part of the FOIA 2000 and EIR 2004.

2. What Constitutes an Information Request

- 2.1 The Council will comply with all requests for information in accordance with Council procedures and appropriate legislation. It will endeavour to assist the public in exercising their 'right to know'.
- 2.2 The FOIA 2000 and the EIR 2004 allow anyone to request any recorded information from the Council regardless of their age, nationality, location, motive or history, subject to a few specific exemptions and exceptions laid down by law.
- 2.3 Not all requests for information received by the Council have to be processed under information rights legislation. Requests may be deemed 'Business As Usual' (BAU) if they are concerned with relatively standard functions/operations, do not take much time to answer and it is intended to provide all the information requested, e.g. an individual requesting a copy of a leaflet, contact details, opening hours, etc. **BAU requests should be dealt with by the relevant service area** and not the Information Governance (IG) Team.
- 2.4 For an information request to be considered a valid FOI request it needs to:
- Be written (email, letter, fax, social media posting) and legible
 - Contain the name of the applicant
 - Contain an address or email address for the reply
 - Clearly describe the information that is sought
- 2.5 Requests under the EIR 2004 do not need to be made in writing; however a written record should be made of any verbal requests that are received. The other elements of 2.4 above apply to EIR.
- 2.6 The Council has 20 working days to respond to either an EIR or FOI request from the date it is received by the Council (not the date the IG team receives it).
- 2.7 Where the request is not clear then the Council can request clarification from the requester. In these cases the 20 working day 'clock' stops and does not restart until adequate clarification has been received.

3. Exemptions and Exceptions

3.1 The Council will not withhold information in relation to an FOI or EIR request, unless:

- An exemption (FOI) or exception (EIR) to disclosure applies
- The request is considered to be vexatious or manifestly unreasonable
- The request is identical or substantially similar to another request that the Council has received in the previous six months.

3.2 Exemptions under FOI are either 'Qualified' or 'Absolute' as per the FOIA 2000. If a 'Qualified' exemption applies then the Council will complete a Public Interest Test (PIT - see separate PIT Policy) to ascertain if information should be released even if the exemption applies. The PIT does not apply to 'Absolute' exemptions.

3.3 Under EIR all exceptions are subject to the public interest test.

4. Processing Requests

4.1 All requests are recorded and processed by the Information Governance (IG) Team. Appendix 1 of this policy details the steps taken by IG to process a request.

4.2 Any information held by the Council in a recorded form (electronic or paper) must be considered for release. **It is an offence to destroy or amend information relating to a request after the request has been received.**

5. Appeals

5.1 If a requester is unhappy with the response they receive from the Council then they can appeal directly to the Council in the first instance. All appeals are sent to the IG team and are dealt with by officers who did not directly process the initial request.

5.2 If the requester is unhappy with the outcome of their appeal they have the right to refer the matter to the Information Commissioners Office (ICO – www.ico.org.uk)

Appendix 1

Basic Process Flow

1	IG receive request and carefully read it
2	IG determine if request is FOI, DPA, EIR, BAU (business as usual), a complaint or a mix of these
3	If clarification is needed to determine what the nature of the request is then IG contact the requester

4	<p>If the request (or part of it) is:</p> <ul style="list-style-type: none"> • BAU - forward request (or part of) to the relevant Service Delivery Unit (SDU) to answer directly. • Complaint – forward request (or part of) to CQT
5	If the request is FOI, EIR or DPA then IG log request on Respond
6	IG send acknowledgement to requester
7	Request for information sent by IG to relevant service areas (include any clarification received from the requester). Any obvious exemptions should be flagged at this stage
8	After 10 days the information requested should be received by IG from the service area
9	A reminder will be sent by IG to the nominated service area contact/SDM and copied to the SDM or AD (whichever is applicable) if the information is not received. For requests sent that cover numerous nominated contacts/SDM's then reminders will only be sent to officers that have not replied
10	If after 12 days (or deadline agreed with service area) information is still not received then this will be escalated to the relevant AD by IG
11	IG gather all information received and ensure ALL points in request have been answered and time information provided
12	IG ascertain if response requires possible exemptions/exceptions applying and whether a public interest test is required
13	IG draft a response using the appropriate template in Respond; quality review (which may include AD/Director/Managing Director comments) and send out response
14	IG Update Respond record and close request

Document Version Control

Version	Date	Author	Sent To	Comments
V1	29/4/19	R Montgomery	IG Team SIRO	Sent to IG for initial comments. Sent to SIRO for approval
V2	03/05/19	R Montgomery	Intranet	Final version including SIRO comment.