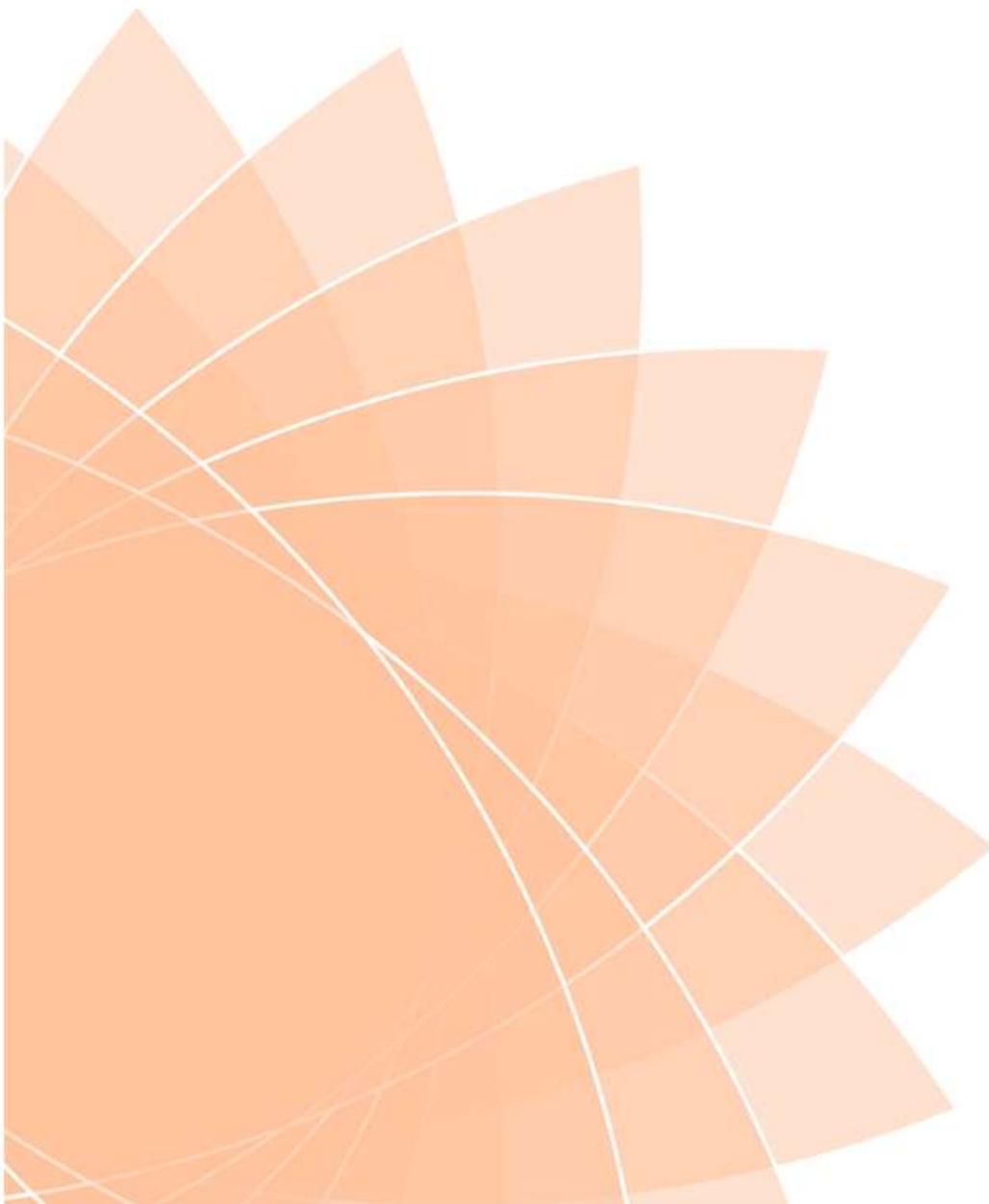


# Freedom of Information and Environmental Information Policy

April 2018



## Alternative Formats

This document can be made available in large print, Braille, audio tape, electronic formats such as CD, or in a different language. Our website is ReadSpeaker enabled. For a copy please contact the Corporate Information Team at the Council using the following options:

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## **Introduction**

The Freedom of Information Act (FOIA) 2000 and the Environmental Information Regulations (EIR) 2004 provides public access to information held by public authorities. The legislation/regulation helps the Council promote greater openness and dialogue with its residents and provide increased transparency of decision making, which in turn will help to increase public confidence in the way the Council is operating. Robust FOI and EIR practices will not only enable the Council to meet its obligations, but will also aid the Council in understanding what people are interested in.

This Policy covers both the FOIA 2000 and the EIR 2004. Requests for information under both will be called 'information requests' unless a further distinction is necessary. This Policy is a statement of what the Council intends to do to ensure compliance with the legislation/regulation and outlines our approach in responding to requests for information made under the FOIA and the EIR. It also provides a framework that fully endorses and adheres to the principles of the legislation/ regulation and ensures a consistent approach.

This Policy applies to all information held by the Council regardless of how it was created or received; regardless of the way information is stored; and whether the information is in paper or electronic format. It also applies to all employees, elected members, contractors, agents, representatives and temporary employees working for the Council.

This Policy covers all requests for information, except requests from individuals for their own personal data (please see the Council's Data Protection Policy) and requests for information as part of a Division's 'day to day' role. Information requested as part of a Division's 'day to day role' is a request for information or services that a Division would expect to receive in its normal day to day operation. Any request that indicates it is an FOI or EIR request cannot be treated as a 'day to day' request.

## **What is the Difference between the FOIA and EIR?**

Requests relating to environmental information are excluded from the FOIA and dealt with under the EIR. The definition of 'environmental information' is very broad and includes information relating to planning, planning enforcement, waste and recycling, traffic, noise nuisance, food safety, emissions and contaminated land. The Council does not treat EIR requests differently from FOI requests except in two specific circumstances:

- Where an EIR request is complex and voluminous, we may extend the response deadline by 20 working days; and
- The EIR uses exceptions (rather than exemptions) in relation to withholding information.

## **What Constitutes an Information Request?**

The Council will comply with all requests for information in accordance with the appropriate legislation/regulation and will endeavour to assist members of the public by ensuring that these are understood by its employees and internal procedures are in place to facilitate access.

The FOIA 2000 and the EIR 2004 allow anyone to request information from the Council regardless of their protected characteristics, location, motive or history, subject to a limited number of exemptions and exceptions. This 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, for example, a contract or partnership agreement.

Under the FOIA requests need to:

- Be written (e-mail, letter or fax)
- Describe the information being sought

- Must be legible
- Contain the name of the requester (individual or organisation)
- Contain an email address or postal address for the reply.

Requests under the EIR do not need to be made in writing; however a written record will be made by the Corporate Information Team of any verbal requests that are received.

Under the FOIA, public authorities are obliged to publish certain information about their activities. In addition, the FOIA provides public access to information held by public authorities and provides requesters two key rights:

- The right to be told whether information is held; and
- The right to receive the information (subject to exemptions).

Specifically, the EIR gives certain rights of access to environmental information held by the Council and will be released if requested, unless subject to an exception.

Requesters (under both the FOIA and the EIR) will not be required to explain the purpose of their request, although in the course of clarifying requests and ascertaining exactly what information is being sought, it may be necessary to seek further information. Information requests do not need to mention the legislation/regulation to qualify as an official request.

The Council should read the request objectively and impartially. Where the request is ambiguous, the Council will need to seek clarification from the requester in order to ensure that it can comply with the request properly. The Council should not:

- Provide the requester with the information we think they want, rather than what the request asks for;
- Try to guess the meaning of an ambiguous request, make assumptions, or attempt to work it out from background knowledge of the requester;
- Refuse a request on the grounds that the information would not meet the stated purpose or interest of the requester;
- Refuse an otherwise clear request because the requester does not use the same terminology to describe the information as used by the Council; or
- Refuse a request because the requester uses derogatory language or because the request is intended to make a point, unless it is vexatious.

### **Clarifying a Request**

If the request is unclear, the Council has a duty to clarify the request with the requestor. However, the requestor is not obliged to reveal their aims or motives for making the request. If the request is not clear, the relevant Officer needs to inform the Corporate Information Team promptly for them to contact the requester. A request is not valid until it is clear and understood. Asking for clarification could arise if the request:

- Can be read in more than one way;
- Is so general and open-ended that it is impossible to determine what information falls within its scope; or
- Is rendered unclear by the context.

When asking for clarification, the Council must make sure that:

- The purpose of asking for clarification is only to ensure the Council understands what information the requester wants;
- It does not give the impression that the requester is obliged to explain their reasons for making the request; and
- The requester's interest in the information is only taken into account in so far as it helps to determine the scope of the request; it should not have any bearing on the Council's response.

Where the Council has offered all the advice and assistance that it deems to be reasonable and the requester still fails to describe the information requested in a way which enables the Council to identify and locate it, no further attempts will be made to seek clarification. The Council will, however, provide whatever information it has identified and located that it believes to be relevant to the request, subject to any exemptions, exceptions and/or the public interest test.

However, the Council must consider whether it can provide the requester with advice and assistance to enable them to clarify or rephrase the request, for example, by explaining what options may be available to them. There is no duty to comply with a request until clarification has been received. The 20 working day deadline for a response begins when the Council receives the clarification it needs. If no clarification is received after three months, the request will be closed.

### **What Information is Covered**

The FOIA and the EIR cover all information held by the Council, no matter how it was obtained and not just information that the Council has produced or uses for its own business purposes. The Council will be classed as holding the information in a report if we have a copy of it, even if the 'ownership' or copyright rests with another body, or if it is also held by another authority. Information released may be subject to copyright and if the requester wishes to re-use the information, they must apply to the copyright holder. However, it must be noted that copyright does not prevent information being disclosed.

Information requests surrounding the release of personal information on deceased residents must be handled under FOI as the General Data Protection Regulations, under which access to personal records is normally handled, only applies to living persons (please see the Council's Data Protection Policy).

### **Timescales for Responses**

The Council is committed to complying with the statutory timescale to provide a response within 20 working days. If we need to seek clarification from the requestor, the deadline is suspended until clarification is received. This is the same principle if a fees notice is issued. However, the 20 working day deadline is not suspended if the request or response needs to be translated or if we need to seek information from third parties.

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 provide a realistic and reasonable estimate of when a decision will be reached (this should be no more than an extra 20 working days, which would be 40 working days in total to deal with the request). To utilise the extra 20 working days, the Council must contact the requester in writing within 20 working days specifying the exemption the Council is seeking to use and provide an estimate of when the Council will have completed the public interest test.

In certain circumstances within the EIR, the Council may extend the deadline up to a maximum of 40 working days (if it reasonably believes that the complexity and volume of the information requested means that it is impracticable to comply with or refuse the request within the shorter time period). If this is the case, the Council will inform the requester within 20 working days that more time is needed to respond.

### **Fees and Charges**

The Council aims to provide as much information as possible free of charge on the corporate website or by emailing the requested information. However, within the FOI and DP (Appropriate Limit and Fees) Regulations 2004, Regulation 6 sets out the activities that can be charged for. This includes, but is not limited to, the costs of:

- Reproducing any document containing the information, e.g. printing or photocopying:

- Postage and other forms of transmitting the information; and
- Complying with FOIA Section 11 where the applicant has expressed a preference for means of communication and where this is reasonably practicable.

Within the FOIA (Section 12) the Council is able to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for local government is set at £450. This is a standard rate of £25 per hour (regardless of the grade of the Officer undertaking the work) and represents the estimated cost of one person spending 18 hours in determining whether the department holds the information, locating, retrieving and extracting the information. In this instance, the Council still has a duty to confirm or deny whether it holds the information, unless this alone would exceed the limit. However, it must be noted that the Council is not permitted to take into account any time likely to be spent in considering exemptions that may apply to the information requested and in redacting exempt material.

The Council does not have to make a precise calculation of the costs of complying with a request; instead only an estimate is required. However, it must be a reasonable estimate. If the Council starts to carry out searches without an initial estimate, it can stop searching as soon as it realises that it would exceed the appropriate limit to fully comply with the request. In addition, the Council is not obliged to search up to the appropriate limit.

The Council will avoid providing the information found as a result of its searching and utilise Section 12 for the remainder of the information. It is accepted that this is often done with the intention of being helpful but it ultimately denies the requestor the right to express a preference as to which part or parts of the request they may wish to receive which can be provided within the appropriate limit. Therefore, as soon as the Council becomes aware that it intends to use Section 12, we will stop searching for the requested information and inform the requester, which avoids any further and unnecessary work.

If the request is going to exceed the appropriate limit, the relevant Officer needs to inform the Corporate Information Team promptly for them to issue a fees notice to the requester. The period from the day the fees notice is issued to the day the fee is received does not count towards the 20 working day period. If the Council does not receive payment within three months of issuing a fees notice it is no longer obliged to respond to the request. In addition, if the actual cost of answering a request is higher than the fee specified in the fees notice, the Council cannot issue a second notice and must bear the additional cost. However, if costs are lower than those specified in the notice, the Council will refund the excess amount to the requester.

The Council will provide advice and assistance when issuing the fees notice by:

- Either indicating if it is not able to provide any information at all within the appropriate limit;
- Provide an indication of what information could be provided within the appropriate limit; or
- Inform the requester that they may wish to consider a narrowed or refocused version of their request.

The EIR allows public authorities to charge for making environmental information available, but any such charge must be reasonable. In general a reasonable charge is one that covers the actual costs incurred by the Council in producing the information. No charge will be made for inspection of the information or for accessing public registers or lists of environmental information.

### **Aggregated Requests**

Requests can be aggregated when two or more requests have been made to the Council relating to the same or similar information within the space of 60 consecutive working days. The requests must also be either from the same person, or from different people who seem to be working together.

## **Advice and Assistance**

The Council is obliged to provide advice and assistance to the requester under Section 16 of the FOIA, so far as it would be reasonable to expect it. The Council will offer advice and assistance to any individual or organisation that wishes to make a request for information.

Where the records are not held by the Council, but are held by another public body, the requester (where possible) will be informed of this by the Corporate Information Team. However, if the Council holds any of the information that has been requested it will treat that part of the request within the legislation/regulation and process it accordingly. At the earliest opportunity the Council will inform the requester of the information it does not hold and inform them it is held elsewhere (where possible).

## **Repeated Requests**

The Council is not obliged to comply with a request that is identical or substantially similar to a previous request from the same person, unless a reasonable time period has elapsed between those requests. In reaching a decision about whether an information request is a 'repeat request', the Council will have regard to:

- The time that has elapsed since the previous request;
- Whether the request is identical or substantially similar to the previous request (i.e. the wording and scope precisely matches that of a previous request or the wording is different, but the scope of the request is the same or the scope does not differ significantly from that of the previous request);
- Whether any relevant, new information has been generated since the previous request.

In this instance, a 'reasonable interval' will be deemed to be 40 working days. Where a request is refused because it is considered repeated, the Council will issue a refusal notice within 20 working days of the request. The requester will also receive information about the Council's Internal Review Process and details of the rights of appeal to the Information Commissioner.

## **Vexatious Requests**

The Council is not obliged to comply with vexatious requests. The Council will apply the term 'vexatious' fairly and consistently. In determining whether a request should be refused because it is vexatious the Council will consider all the circumstances of the request, including:

- The context and history of requests submitted by the requester;
- Whether the request is likely to cause a disproportionate or unjustified level of disruption, distress or irritation;
- Whether there is a strong likelihood that such requests are being made to intentionally cause harassment, cause distress to staff, divert resources or to disrupt the proper workings of the Council.

The Council is aware that the term 'vexatious' should be applied to the activities of the requester and not to their nature or attitude. The Council will assess whether a request is vexatious based on the type of information requested and not on the identity of the requester. Where a request is refused on the grounds that it is deemed to be vexatious, a refusal notice will be provided within 20 working days of receipt of the request. The requester will also receive information about the Council's Internal Review Process and details of the rights of appeal to the Information Commissioner.

## **Third Party Information**

The Council understands that unless a valid exemption or exception is applicable there will be a requirement to disclose the requested information about a company, other public authorities or an individual in response to a legitimate information request. The Council should inform the third party of the request as they may be able to identify exemptions, exceptions or public interest factors that would prevent some or all of the information from being released, but also to seek their consent

regarding disclosure. Their views will be important if it is necessary to assess the balance of public interest in the disclosure of information. However, a third party's refusal to consent to the disclosure of information does not necessarily mean that information will not be disclosed. Also, the time for responding to the request cannot be extended because the Council is consulting with third parties. If the Council needs to consider the public interest test, under the FOIA, we may extend the time if it is reasonable to do so. Under the EIR this can be extended to an additional 20 working days if necessary given the complexity and volume of the information.

### **Information Provided in Confidence**

Information provided in confidence by a third party is exempt information under Section 41 of FOIA. This states that information will be exempt if it was obtained from another person or organisation and disclosure would result in a breach of confidence over which a person could take legal action (i.e. an actionable breach of confidence). If a person or organisation seeks to provide information in confidence they will be told if it can or cannot be treated confidentially.

### **Use of Personal Information**

The General Data Protection Regulations prohibits the disclosure of personal data without the explicit consent of the data subject. Therefore, personal and identifying information that is contained within documents collated in response to an information request will be redacted to ensure the integrity of personal data is not compromised.

### **Contracts**

Unless an exemption under the FOIA applies in relation to any particular part of a contract, the Council will be obliged to disclose that information in response to a request, regardless of the terms of a contract. Trade secrets and information which would prejudice the commercial interests of any person, including the Council, might be classed as exempt information. If a non-public organisation has a contract with the Council to provide a Council function or service, then that organisation will be deemed to be part of the Council for the purposes of the FOIA and be subject to its terms.

### **Redaction**

If a document contains exempt information, the Council will not refuse access to the whole document unless it is absolutely necessary to do so in order to ensure that exempt information is not disclosed. Redaction is the process of editing the requested information to remove exempt material by blocking out words, names, phrases, sentences, paragraphs or sections of a document before release. When redacting information, please contact the Corporate Information Team for advice.

### **Exemptions and Exceptions**

There is a legal duty to release the information requested unless it falls within an exemption or exception. Within the FOIA exemptions most involve a public interest test, which means that as well as showing that releasing the information will cause harm (for example, to commercial interests) the Council also has to show that it is not in the public interest to release the information. Under EIR all exceptions are subject to the public interest test. A list of the possible FOI Exemptions is attached at Appendix 1, and EIR Exceptions at Appendix 2.

However, the Council recognises that there will always be some information which it cannot disclose, or which is not in the public interest to disclose. In these cases the Council will ensure that the requester is given clear and accurate reasons for the refusal of their request and assistance in finding relevant alternative information. However, requesters have the right to have the decision reviewed and will be informed of this right and may seek such a review if dissatisfied with the Council's response.

If the Council uses an exemption or exception to refuse a request for information the requester will be notified of the appropriate exemption or exception and why it applies.

The Council will not withhold information unless:

- An exemption or exception to disclosure applies or;
- The information sought is not held or;
- The request is considered to be vexatious or manifestly unreasonable.

### **The Public Interest Test**

Many FOIA exemptions and all EIR exceptions are 'qualified', meaning that they are subject to a public interest test. The term 'public interest' is not defined in either the FOIA or the EIR, however it may be summarised as something which serves the interests of the public.

In order to apply an exemption or exception the public interest in withholding the information must outweigh the public interest in releasing it. The public interest test will be a matter of judgement on a case by case basis made by the relevant Officers in conjunction with the Corporate Information Team. To reach a decision, the Council will carefully balance opposing factors, based on the particular circumstances of the case. Where the factors are equally balanced, the information will be disclosed. If the Council decides that the public interest in maintaining the exemption outweighs the public interests in disclosure, then this will be stated in the response together with the public interest factors which have been considered, and which form the decision.

### **Provision of the Information**

The Council will provide the information in the format requested by the requester, in line with our obligations under the Equality Act. In addition, requesters who submit their requests in a language other than English should not be penalised for doing so. As such the 20 working days response time starts when the request is received by the Council, and not the date it is received in English. Similarly, if the response needs to be translated, it should still be sent out within 20 working days. Please contact the Corporate Information Team for advice in relation to the Council's duty within the Equality Act.

There are a number of ways of making information available, including email, printed copy, on a disk, or by arranging for the requester to view the information. A requester has the right to specify their preferred means of communication in their initial request. However, if no preference is specified, the Council may communicate the information 'by any means which are reasonable in the circumstances', which will usually result in an email exchange. However, as stated in the 'Fees and Charges' section, the Council will charge the requester for the cost of communicating the information, for example, photocopying and posting costs.

### **Roles and Responsibilities**

#### **Corporate Information Team**

It is the responsibility of the Corporate Information Team to:

- Comply with the relevant legislation/regulation
- Co-ordinate the FOI and EIR process and logging information regarding requests
- Providing advice and guidance to Officers on this Policy and legislation/regulation
- Consider requests and responses to ensure the information being sought is provided and does not conflict with the General Data Protection Regulations
- Provide training on the FOIA and the EIR
- Advise requesters about their rights of access under the relevant legislation/regulation
- Advise requesters about other agencies that may be able to help them with their request
- Identify and communicate any FOI or EIR issues to Corporate Management Team and Divisional Teams.

## **Heads of Service and Managers**

Heads of Service and Managers will retain a responsibility for:

- Ensuring compliance with this Policy and legislation/regulation
- Ensuring their Teams maintain their information in a way that can be utilised to provide an efficient and effective response to a request (please see the Records Management and Retention Policy)
- Ensuring that the information is provided to the FOI inbox within the 20 working days and that any clarification, etc is sought at the earliest opportunity.

## **All Employees**

- Identifying a request that falls under the FOIA or EIR and forwarding the request to [foi@n-kesteven.gov.uk](mailto:foi@n-kesteven.gov.uk)
- Responding to FOI and EIR requests promptly (at the very least within 20 working days) and forwarding that response to [foi@n-kesteven.gov.uk](mailto:foi@n-kesteven.gov.uk)
- Having an understanding of the FOIA and the EIR.

## **Making a Request**

FOI/EIR requests should be submitted to the Corporate Information Team via:

- [FOI@n-kesteven.gov.uk](mailto:FOI@n-kesteven.gov.uk) or
- North Kesteven District Council, Corporate Information Team, Kesteven Street, Sleaford, NG34 7EF.

## **Publication Scheme**

The Council will maintain a publication scheme and update it regularly. It will also undertake a review of the scheme at least every two years.

## **Monitoring and Reporting**

The Corporate Information Team will submit six monthly reports on FOI and EIR performance to the Corporate Management Team and the relevant Divisional Teams.

These reports will include, but not be limited to:

- Total number of requests
- The timeliness of those requests
- The outcomes of those requests
- Breakdown of exemptions/exceptions used for requests
- The number of public interest tests
- Whether a request was being made on behalf of a pressure group, media company, individual, etc.
- The number of requests that went to internal reviews
- The number of requests referred to the Information Commissioner.

The monitoring results will be used to guide information on the corporate website. Where strong trends in requests emerge, the Corporate Information Team will liaise with the relevant Teams to evaluate if the information they publish meets the requirements of its audience, and work with the Corporate Information Team to develop online content accordingly.

The Council also maintains a central record for monitoring purposes of all FOI and EIR requests and will proactively audit decisions to ensure that where information requests are refused, refusals are justified and reasonable.

## **Appeals and Complaints**

Where a requester is dissatisfied with a decision or the handling of their request they are entitled to an independent internal review of the decision. Reviews relating to requests will be dealt with within 20 working days of a written complaint being received by the Council. The Information Commissioner is unlikely to investigate any complaint about the Council's handling of an information request unless the complaints procedure has been exhausted. After the Council's internal review procedure has been exhausted, further reviews about the same information request must be directed to the Information Commissioner for adjudication.

### **Role of the Information Commissioner (ICO) and Information Tribunal**

The Information Commissioner's Office is the enforcement body for FOI and EIR and is responsible for arbitrating on information requests that have not been resolved to the requester's satisfaction after the Council's appeal process has been completed. The ICO also has the responsibility to enforce and arbitrate on matters of Data Protection. The Information Tribunal provides the avenue of appeals against decisions made by the ICO. The Tribunal has the power to request and inspect all documentation pursuant of the initial request to enable an independent disclosure decision to be made. The Information Tribunal has the authority to use the courts to enforce its disclosure decisions.

### **Policy Review**

This Policy will be formally reviewed every two years to ensure it continues to be relevant and current. In some circumstances it may be necessary to review this Policy more frequently in response to specific events.

## Appendix 1

### FOI Exemptions

#### Absolute Exemptions

Absolute exemptions mean the information does not need to be provided; there is no need for any further consideration.

**S. 21 The information is reasonably accessible by other means**

This includes items that are in the Council's Publication Scheme or published on the corporate website.

**S. 23 Information supplied, or relating to, bodies dealing with security matters**

This exemption is unlikely to be used by the Council.

**S. 32 Court records**

Information specifically held or produced as part of legal proceedings.

**S. 34 Parliamentary privilege**

This exemption relates to central government.

**S. 40 Personal information**

If a person making the request is seeking information about themselves, that person has a right to make a subject access request under the General Data Protection Regulations, therefore the information within an FOI context should be refused. If the information requested contains third party personal information, the exemption should be considered in line with the General Data Protection Regulations and may give rise to the public interest test.

**S. 41 Information provided in confidence**

For this exemption to apply, the information must have been obtained from outside the Council and to disclose that information would lead to a breach of confidence and be actionable in court.

**S. 44 Disclosure of information is prohibited by an enactment or would constitute contempt of court**

If some other law requires that the information should not be released, that law takes precedence. Further, if the release of information could be contempt of court, the information should not be released.

#### Qualified Exemptions (Public Interest Test)

The following qualified exemptions are subject to the 'public interest' test. To determine if the exemption applies, the following tests should be considered:

1. The information must fall within a specific category of the exemption relied upon and
2. Information may be withheld only if in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information (public interest test).

If the above tests are satisfied the information does not need to be released.

**S. 22 Information intended for future publication**

This includes:

- Information held by the Council with the intent to publish, on the date the request is made
- Information held by a third party with the intention to publish at some future, date not yet specified
- Information not yet earmarked for publication, but likely to be done at a future date
- Drafts are not generally exempt and this should not be used as a blanket refusal.

**S. 24 National Security**

This exemption is unlikely to be used by the Council.

**S. 30 Investigations and proceedings by public authorities**

Information obtained or recorded during the course of investigations that the Council has a duty to conduct, or the instigating of criminal or civil proceedings by the Council is exempt. Also, any information relating to a confidential source is exempt.

**S. 35 Formulation of government policy**

Information is exempt if it relates to formulation or development of government policy, Ministerial communications, requests for advice and any advice given by Law Officers, and the operation of any ministerial office. Some of these classes are specifically for central government, but the exemption is not explicitly stated as central government only. Once a decision is made, background papers are no longer exempt.

**S. 36 Prejudice to effective conduct of public affairs**

This exemption allows for frankness and candour in discussions. However, there may be occasions where the right to know takes priority (partly absolute).

**S. 37 Communications with Her Majesty and honours lists**

This also includes Royal family and Royal household.

**S. 38 Health and Safety**

No information should be released if it would endanger the safety, or physical or mental health of any individual.

**S. 39 Environmental Information**

Any information related to the Environment should be dealt with under the Environmental Information Regulations 2004.

**S. 42 Legal professional privilege**

General right to keep legal advice privileged.

**Qualified Exemptions (Prejudice Test)**

The remaining exemptions are qualified and subject to the Prejudice Test. Prior to considering the public interest test (as above), it should be established whether the release of the information might cause prejudice to individuals or processes. If the prejudice test and the public interest test indicate the information should not be disclosed, the request may be refused.

**S. 26 Defence**

Not relevant to the Council.

**S. 27 International relations**

No information should be released if it would cause prejudice to the United Kingdom relations with any other state, its interests abroad, or relates to information obtained from another state or international organisation.

**S. 28 Relations within the UK**

No information should be released if it would cause prejudice between the United Kingdom government, and the devolved assemblies.

**S. 29 The Economy**

No release of information if it would prejudice the financial interests of the United Kingdom, or any administration in the United Kingdom.

**S. 31 Law Enforcement**

Only exempt if the release of information would prejudice an investigation or legal proceedings.

**S. 33 Audit Functions**

Information is only exempt prior to the final report being prepared, if the audit function is a statutory duty to audit another public authority. Internal audits are not covered by this exemption.

**S. 40 Personal Information**

See absolute exemptions above. This exemption also applies to third party information covered by the General Data Protection Regulations.

**S. 43 Commercial Interests**

Information may be exempt if it constitutes a trade secret or disclosure may prejudice commercial interest of any person, including the Council.

## Appendix 2

### EIR Exceptions

All are subject to the public interest test.

Regulation:

- 12 (4) (a): Does not hold that information when a request is received.
- 12 (4) (b) Request is 'manifestly unreasonable'
- 12 (4) (c) Request is too general and the organisation has provided advice
- 12 (4) (d) Information is in draft or is unfinished
- 12 (4) (e) Information is an internal communication.

And if disclosure would adversely affect:

- 12 (5) (a) International relations, defence, national security or public safety
- 12 (5) (b) The course of justice, ability to get a fair trial, ability of public authority to conduct a criminal or disciplinary inquiry
- 12 (5) (c) Intellectual property rights
- 12 (5) (d) Confidentiality of proceedings
- 12 (5) (e) Commercial confidentiality provided by law
- 12 (5) (f) The interests of a person who provided information where they were not obliged to provide the information
- 12 (5) (g) The protection of the environment itself
- 13 Personal Data

However, if the information requested is information on emissions, exceptions

12 (5) (d) to (g) cannot be used.