

Leicestershire County Council

Public Access to Information and Data Policy

Version: 1.1

Agreed by: I&T Board

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1 Introduction

The Council aims to create a climate of openness and dialogue with all its stakeholders, enabling public confidence in the way that the Council is operating. The law provides rights of access to information held by public authorities, with some needing to be published (proactively), and other information to be made available on request.

Whilst it is vital that information and data is made available, we must take appropriate care of the personal information we hold. Access/use of data relating to individuals (personal data) must not be excessive, inappropriate, or unlawful. Inappropriate access, use or disclosure of personal data can put people at risk of serious harm, the Council at risk of reputational damage and be a breach of the law.

Robust practices for making information available / dealing with information requests, enables the Council to meet its obligations, helps us to develop an understanding of what the public is interested in, and encourages public involvement in decision making and service improvement.

In setting out the principles for availability of information/data to members of the public, this policy underpins a key aim of the Integrated Information and Technology Strategy - that the Council will embrace a culture that is open, accessible and accountable, with an intention to make available as much information as possible.

2 Scope

This policy:

- applies to all staff (including temporary staff, volunteers and third parties) carrying out work on behalf of the Council.
- covers what the Council intends to do to: ensure compliance with legislation; promote transparency regarding the work of the council; uphold privacy for individuals whom information may be about
- covers all forms of information and data owned, administered, stored or controlled by the Council, including electronic and hard copy formats, held in any system/environment, however hosted, held for any purpose (including where it is about another organisation or received from another organisation following a mutual exchange of information, eg a contract or a partnership)
- is not a statement of how compliance will be achieved. This will be a matter for operational procedures and processes (which may include specific roles and responsibilities)
- is part of the council's Information and Data Governance Framework and relates to other relevant supporting policies, procedures and guidance for staff

3 Information Classification

When making decisions about public access to information, staff will need to consider the nature/sensitivity of the information (Eg. whether the information is personal or non-personal, and if the information is of an environmental or spatial nature). The laws/codes governing each type and the processes for dealing with each, will differ

Further guidance regarding sensitivity of information is available for staff.

(NB. Throughout the policy requests for information or data will be called 'information requests' unless a further distinction is necessary)

4 Policy Statement

We will make information available, where it is lawful, appropriate and reasonable to do so.

This policy sets out how information owned, administered, or controlled by Leicestershire County Council (personal or non-personal) should be shared with, or be made available to the public (individuals or organisations).

By following this policy, staff can be confident that they are handling access to information and data in the correct way.

5 Duties and Responsibilities

General roles and responsibilities for information and Data are set out in the Information and Data Governance Policy.

By law, we must comply with:

- The Data Protection Act 1998 (DPA) including Subject Access
- The Freedom of Information Act 2000 (FOI)
- The Environmental Information Regulations 2004 (EIR)
- The Infrastructure for Spatial Data in Europe Regulations 2009 (INSPIRE)
- The Re-use of Public Sector Information Regulations 2005, 2015
- Copyright laws

The main laws/codes (relevant to public access to information), are briefly described throughout Sections 5.1, 5.2 and 5.3, that is: what each law is about; our main duties/responsibilities; what constitutes a request /entitlement; when we must be proactive in publishing information; other requirements such as timescales. If staff need further advice regarding application of those laws/codes, please contact the I&T Policy and Assurance Team.

All parties identified in Section 2 above must also comply with this policy, and have a responsibility to:

- facilitate appropriate access to the information we hold, lawfully, and in accordance with this policy, the Council's rules, procedures and contractual arrangements, and the Local Government Transparency Code
- uphold the right of individuals to access the information that they are entitled to and respond appropriately and promptly to requests for information.

There are also further, more specific, roles and responsibilities within processes related to this policy.

5.1 General Availability of Information

The Council will endeavour to assist the public in exercising their "right to know" by ensuring that their rights are understood by its employees, and by ensuring internal procedures are in place to facilitate access, enabling staff to comply with requests for information in accordance with the appropriate legislation.

Some information will be published proactively, see Section 7 (Eg. under FOI, the Council aims to provide some non-personal information via the website for the public to download). Other information will be made available on request (unless there is a lawful reason not to).

Providing a request is suitably clear, the council will provide whatever information has been identified/located that it believes to be relevant, (subject to any legal exemptions/exceptions/public interest test, Eg. where information is commercially sensitive).

Information will usually be made available free of charge although in some exceptional circumstances, Eg. where more substantial/printed publications or multiple copies have been requested, a decision may be made to charge reasonable costs (in alignment with limitations under relevant legislation).

Where there is a charge for information (Eg with commercial publications) we will make this clear.

Information will normally be made available in the format in which it currently exists, unless a different format is requested. Where it is reasonably practicable, datasets will be made available in a machine-readable format. Where a specific format is requested, providing the cost involved in re-formatting is not unreasonable, we will supply it in that format. We will not charge where re-formatting is to meet reasonable adjustments under the Equalities Act

When we disclose information, if there are any attached conditions/restrictions regarding use we will make them clear. See also Section 6 (Re-use)

Laws/codes relevant to general public access to information includes:

- **The Local Government Transparency code**
 - encourages authorities to see data as a resource valuable not only to themselves but also to partners and local people
 - lists information that must be published by local authorities (required sets) quarterly, annually, or as a one-off
 - lists information that is recommended to be published

The code recommends that information should be published under an Open Government Licence (see Open Data below) that allows re-use.

Leicestershire County Council publishes the required information and aims to publish the recommended items (usually on our website).

- **Open Data**
Supports the demand led release (where possible) of public data sets in an easily modifiable format that allows re-use, made available at no/marginal cost. Standard “Open Government licences” (various levels) can be applied to released information, and encourage no/minimal restriction with regards to use, re-use/re-distribution
- **Copyright, Database Rights and Intellectual Property Rights**
Copyright, Database Rights and Intellectual Property Rights give owners the ability to protect their original work against commercial exploitation by others. Where these rights apply, staff must abide by them

5.2 Personal Information

- **The Data Protection Act 1998**
 - states that personal data should be obtained only for specified and lawful purposes, and shall not be further processed in any manner incompatible with those purposes (Principle 2)
 - supports (on request) the release of personal information about themselves to an individual (or, where it is appropriate, about another living individual to whom they are parent/guardian). This is known as a Subject Access Request. (Principle 6)
 - prohibits the release of personal information to others, except for under particular circumstances (as defined by the Act) where it is justified (necessary, appropriate and lawful) to do so. The Data Access and Use Policy also gives staff more detail about conditions that must be satisfied

A Subject Access Request must be in writing but applicants do not need to give a reason for wanting the information. If we hold the information, we must provide a copy of it (in a suitable format) within 40 calendar days, unless there is a legal exemption. The recipient can challenge any inaccuracies and we must respond promptly.

Staff must deal with requests from the public for personal information (of living individuals) via the Subject Access Process (See Section 8)

Where personal or personal sensitive information (Levels 2 and 3) cannot be disclosed in a DPA compliant manner, it may still be possible to provide some information whilst continuing to safeguard individuals' privacy, by de-identification (techniques used to prevent peoples identities from being connected to the information)

5.3 Non-Personal Information

- **The Freedom of Information Act 2000**

Supports the availability of recorded information held by a local authority, that is **non-personal** in nature (Eg. budget information for particular services) through both a proactive publication scheme, and the ability to request it.

Requests must be in writing. Applicants do not need to give a reason for wanting the information. If we hold the information, we must provide it within 20 working days, unless there is a legal exemption (there is a presumption to disclosure).

We are obliged to deal with requests (applicant blind /equally) and help requesters should they require this, including in terms of framing their request as there are some limitations regarding hours/cost to the authority. In our FOI publication scheme we commit to making certain information routinely available by proactively publishing it.

Staff must deal with requests for non-personal information via with the Freedom of Information/EIR process (see Section 8)

This process is also used to deal with requests for the personal information of deceased individuals.

- **The Environmental Information Regulations 2004**

Support the availability of, and the ability to request, information (by easily accessible electronic means) that is of a **non-personal AND environmental nature**. (Eg. about land development, pollution levels, energy production and waste management).

The law promotes public access to environmental information in order to encourage greater awareness of issues affecting the environment, and so public involvement in decision making.

Requests must be in writing and applicants do not need to give a reason for wanting the information.

Staff must deal with requests for non-personal information of an environmental nature via the Freedom of Information/EIR process (see Section 8)

- **INSPIRE Regulations 2009**

Supports the availability by easily accessible electronic means (in a consistent and useable electronic format) of **datasets of a spatial nature** (information or data linked to geographical locations) **and their metadata**

In order to make spatial information easier to find, share and re-use across the European Community, public authorities are required to publish information they hold (relating to 34 themes) in line with an agreed set of standards.

- **Re-use of Public Sector Information Regulations 2015**

Helps to ensure (unless inappropriate) information produced in carrying out the Public task is made available for re-use, with as few conditions as possible. Our obligations include the ready identification of information held (via a list), with clarity of any conditions for re-use, charges specified.

Requests for re-use should be in writing with name and address of requester, specifying the document requested and the purpose for which it is to be re-used. We must respond within 20 working days, making it available for re-use in a re-usable format (unless disproportionate effort is involved in re-formatting), or issuing a refusal with reasons why.

6 Access and Use of Information for Commercial Purposes

The Council will make clear any conditions or restrictions regarding use of the information, however, where a person/organisation wishes to re-use public sector information in a way that was not originally intended (or not covered by the licence under which it is issued) it is classed as re-use. They should contact the I&T Policy and Assurance Team regarding this (re-use would typically mean using information we have produced and republishing/using it to produce a new product or resource – may include copying, adapting, developing, adding value, broadcasting or commercially exploiting)

7 Proactive Publication

Where it has been decided that the council will be proactive in publishing information:

- it will usually be made available on our website
- relevant Data Owners should ensure that the information is published and updated in a timely manner

Where strong trends emerge with regards to the requirement for particular information that is not currently proactively published, staff should contact the I&T Policy and Assurance Team for advice.

8 Processing Information Requests

When receiving a request, staff should decide:

- if the information requested is personal or not
- whether the information is already available to the requester
- whether the request can be dealt with as part of their day-to-day role

If not, where the information requested :

- Is non-personal information, it must be dealt with under Freedom of Information/EIR procedures
- Is personal information requested by an individual about themselves (or another living individual for whom they are parent/guardian), it must be dealt with under Subject Access Request procedures
- Is a mixture of personal and non-personal, you will need to consider both processes and treat the respective parts of the request accordingly. (if in any doubt, contact I&T Policy and Assurance for advice)

Who is requesting it, why they want it, or whether they mention any specific legislation, should have no bearing on how we respond.

8.1 Freedom of Information/EIR Process

- [Making an FOI/EIR Request and our Publication Scheme \(Public\)](#)
- FOI/EIR Guidance (Staff)

Where another authority/partner agency would like access to non-personal information, they should contact us directly rather than requesting it under FOI/EIR

8.2 Subject Access Process

- [Making a Subject Access Request \(Public\)](#)
- Subject Access Guidance (Staff)

8.3 Requests to re-use information

Any requests to re-use information (See Section 6) should be forwarded to the I&T Policy and Assurance Team.

9 Breaches of this Policy

Where a requester is unhappy with our response to their request for information, they can make a complaint. There are procedures for responding with complaints included within the relevant process.

Staff should report all breaches and suspected breaches of this policy to any of the following:

- their line manager
- the ICT Service Desk
- the I&T Policy and Assurance Team

Any inappropriate disclosure/non-disclosure of information/data by staff whether malicious or unintentional, may lead to disciplinary action up to and including dismissal. Breaches of this policy by a person who is not a direct employee of Leicestershire County Council may result in action being taken against the person and/or his/her employer

Actions or neglect leading to a breach of this policy, or failure to report a breach will be investigated.

10 Monitoring

Data Owners should evaluate whether information is made available in accordance with the requirements of this policy within their service areas, and resolve any issues. Adherence to this policy may be monitored. Results may be used to address any issues, and to shape future policy.