

COTSWOLD DISTRICT COUNCIL

ACCESS TO INFORMATION POLICY

Section 1 Introduction

The Council has developed policies to embed its approach to openness and transparency, aligning to Government guidance. It is the Council's intention to be proactive in maintaining this culture of openness, transparency and accountability in the way we work, the information we record, and the services we provide.

We recognise our corporate responsibility to provide a general right of access to information that we hold, and this is detailed in Sections 2, 3 and 4 of this Policy*, which focus on the rights of access to information under the ***Data Protection Act, the Freedom of Information Act, and the Environmental Information Regulations***.

We will practice good customer care by providing as much advice and assistance as reasonably possible when receiving, handling, transferring or refusing requests and also endeavour to provide extra help to applicants with special needs, difficulties or language requirements.

This Policy and related Standards will apply to all employees of the Council, including elected Members, contract, agency and other temporary staff, volunteers and employees of partner organisations working for the Council. It is the responsibility of Heads of Service and managers to ensure awareness and issue guidance.

This Policy and Standards will be communicated to individuals and organisations handling this information, acting as an agent, or providing a service on behalf of the Council to ensure they are aware of their legal obligations and responsibilities.

Intentional breaches of this Policy may lead to disciplinary action in accordance with the Council's disciplinary procedures.

The Information Management Officer is responsible for maintaining this policy, issuing subsequent guidance, and ensuring that this policy is disseminated across this Council. It will be reviewed on a regular basis and subject to compliance audit at appropriate intervals to assess its efficacy.

Complaints will be handled in accordance with our corporate complaints procedures and should be directed to the relevant Head of Service or the Monitoring Officer.

* Other rights of access to information exist in other legislation, such as the Local Government Act 1972 Section 100. This relates to public notice of certain meetings, inspections of minutes and other background documents after a meeting. These rights of access are not specifically dealt with under this policy but the same fundamental principles apply in handling requests and providing information, and will continue in accordance with existing procedures.

Section 2 Access to Information under the Data Protection Act 1998

Policy Scope

This section of the policy and related standards applies to the information held by the Council that is governed by the **Data Protection Act 1998**. The Council needs to collect and use personal information about its employees, elected members, clients and customers, suppliers and others with whom it communicates. We have a responsibility to ensure that this personal information is handled in accordance with statutory requirements; however it is collected, recorded and used; whether on paper, in a computer, or in other material. The Council will take all necessary steps to ensure that this duty is observed and that all personal information collected and used by it is managed and processed fairly and lawfully in line with the Data Protection Act 1998.

To this end we are committed to following the eight Data Protection Principles to ensure that personal information is:

1. Fairly and lawfully processed;
2. Obtained and processed for one or more specific purposes;
3. Adequate, relevant and not excessive in relation to those purpose(s);
4. Accurate, and where necessary kept up to date;
5. Not kept longer than necessary;
6. Processed in accordance with the data subject's rights;
7. Secure against unauthorised and unlawful processing and accidental loss or destruction;
8. Not transferred to countries without adequate protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Aims and Objectives

The Council fully supports the objectives of the Data Protection Act 1998 which are:

- To promote high standards in the handling of personal information and protect an individual's right to privacy;
- To give individuals certain rights, including the right to see information that is held about them and be informed about the purpose for which it is held, the sources of the information, and who is entitled to receive it. To be open about how the information is used, and to follow the eight principles of 'Good Information Handling'.
- To ensure that our employees and those working on our behalf adopt a professional and organised approach when recording information about people and managing records accordingly.
- To respect the rights of people whose information we hold and have systems and processes in place to provide access to information relating to them. We will inform applicants whether or not we hold the requested information, and if held we will supply it unless there is a justifiable reason or any of the Act's exemptions apply as specified in the Act.
- In circumstances where information is covered by an exemption we will give consideration as to whether the information in any case should be released.

Standards

The Council will make every effort to ensure that it meets the following standards of good practice:

- Where a request for access to information is received, we will inform the applicant (or person acting on their behalf) whether or not we hold it, unless we have a justifiable reason not to do so or any of the Data Protection Act exemptions apply.
- Requests must be in permanent form (e.g. in writing or email). If information is held and can be provided, we will supply it unless this would involve disproportionate effort, or the applicant agrees otherwise.
- We may charge the statutory fees in accordance with such Regulations issued by the Secretary of State. We will publish our charging policy and fees and charges.
- We will act promptly when handling requests, taking into account any duties of confidentiality to third parties whose information may also be found on an applicant's record and endeavour to provide the information within 40 days. Applicants are only entitled to see information that relates to them.
- We will keep the applicant informed of any delays involved in handling their request or providing information.
- If information is found to be inaccurate it will be corrected or deleted and the applicant informed.
- Personal data will not be disclosed to unauthorised personnel.
- Relevant physical and electronic security measures will be taken to ensure that personal data is kept secure at all times.
- We will review and monitor how well we handle information access requests. We will ensure that our employees are appropriately trained and aware of their responsibilities for handling and managing personal information.

Consent and Use

Personal data will only be used for the purpose(s) advised to the individual at the time they supplied the information unless a significant benefit can be proven. In these circumstances, where practicable, consent for use will still be sought.

Where the Council requires the consent of the individual to hold/process information about him/her, they will be informed of:

- all the purpose(s) for which the data is to be used
- the identity of the processor (normally the Council)
- the identity of the Information Management Officer
- any other information that may enable them to make an informed decision as to whether they will give consent.

Data Management

Personal data held about an individual, including opinions and/or statements, should be kept up to date and accurate. It should also be adequate, relevant and not excessive in relation to the purpose(s) for which it is held. Once it is no longer relevant it will be destroyed.

Data Subject Notices

Everyone has the right on written request (irrespective of age) to:

1. See a copy of information held about them.
2. Prevent processing likely to cause damage or distress.
3. Prevent processing for direct marketing purposes.
4. Request a review of an automated decision.
5. Apply to the Court for rectification, blocking, erasure and destruction of personal information.
6. Request an assessment by the Information Commissioner's Office.

Breach of Policy and Standards

Disciplinary action may be taken in accordance with the Council's disciplinary procedures against any employee who knowingly or recklessly:

- Withholds or conceals information that should be provided in response to a request to access for information.
- Makes amendments or deletions which would not otherwise have been made in the normal handling of information once a request has been received. The information should not be altered in any way to make it acceptable to the applicant.
- Contravenes any instruction contained in or following from this Policy and Standards.

Section 3: Access to Information under the Freedom of Information Act 2000

Policy Scope

This section of the policy and related standards applies to the information held by the Council that is governed by the ***Freedom of Information Act 2000***. To promote a culture of openness and accountability, and to comply with the Freedom of Information Act 2000 (FoIA) we have a responsibility to ensure that this information is either routinely made available or provided on request unless there is a legal reason for withholding it.

Aims and Objectives

The Council fully supports the objectives of the Freedom of Information Act 2000 and will take all necessary steps to ensure that this duty is observed and that all information collected and used by it is managed in line with the Act. We will ensure:

- A general right of access to recorded information we hold, subject to certain conditions and exemptions;
- In cases where information is exempted from disclosure, except where an absolute exemption applies, we will:
 - Inform the applicant whether we hold the information requested, and
 - Communicate that information to him or her, unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure.
- We adopt and maintain a Publication Scheme, approved by the Information Commissioner, which relates to the publication of information we publish.
- We provide adequate and relevant advice and assistance to applicants to aid them in their application.
- That we provide access to all information described in our Publication Scheme which we will endeavour to keep as up to date as possible with information that we routinely make available to the public.
- That we will respond to written requests for information that are not covered by our Publication Scheme. We will inform applicants whether or not we hold the requested information, and if held we will supply it unless there is a justifiable reason or any of the Act's exemptions apply as specified in the Act.
- In circumstances where information is covered by an exemption we will give consideration as to whether the information in any case should be released.

Standards

The Council will make every effort to ensure that it meets the following standards of good practice:

- We will maintain our Publication Scheme ensuring it is as up to date and comprehensive as possible and give access to the information promptly and efficiently.
- Where a request for access to information is received, we will inform the applicant (or person acting on their behalf) whether or not we hold it, unless we have a justifiable reason not to do so or any of the Freedom of Information Act exemptions apply.
- Requests must be in permanent form (e.g. in writing or email). If information is held and can be provided, we will supply it subject to exemptions, and/or where appropriate supply an

estimate of how much it will cost in accordance with the regulations issued by the Secretary of State.

- We reserve the right to charge for information supplied that is not available under the Publication Scheme or reasonably accessible to the applicant. We may charge the statutory fees as issued by the Secretary of State. We will publish our schedule of charges.
- We will act promptly in response to requests and endeavour to provide information within 20 working days, unless exceptional circumstances require more time. We will keep the applicant informed of any delays in providing information.
- We will make every effort to effectively manage the information we hold and have sufficiently secure systems in place to protect it and enable us to retrieve it quickly and efficiently.
- We will review and monitor how well we handle information access requests. We will ensure that our employees are appropriately trained and aware of their responsibilities for handling and managing personal information.

Breach of Policy and Standards

Disciplinary action may be taken in accordance with the Council's disciplinary procedures against any employee who knowingly or recklessly:

- Alters, defaces, blocks, erases, destroys or conceals any record held by the Council, with the intention of preventing the disclosure of all, or any part, of the information that has been requested as part of a Freedom of Information request.
- Contravenes any instruction contained in, or following from, this Policy and Standards.

Complaints Procedure

Freedom of Information complaints must be related to a failure to comply with Part 1 of the Act as follows:

- Exceeding the time limit
- Excessive fees
- Failure to advise and assist
- Failure to publish in accordance with the Publication Scheme

When communicating any decision made in relation to a request under the Act's general right of access, we will notify the applicant of their rights of complaint.

Section 4: Access to Information under the Environmental Information Regulations 2004

Policy Scope

This section of the policy and related standards applies to the information held by the Council that is governed by the ***Environmental Information Regulations 2004 (EIR)***. The Council fully supports the objectives of the EIR to ensure freedom of access to, and dissemination of, information on the environment held by public authorities and to set out the basic terms and conditions on which such information should be made available.

Aims and Objectives

The Council will take all necessary steps to ensure that this duty is observed and that all environmental information collected and used by it is managed in line with the requirements of the EIR and will develop its procedures in line with the approved Code of Practice developed by DEFRA under Regulation 16 of the EIR 2004.

Environmental Information is any information in written, visual, aural, electronic or any other material form, including historical data, on:

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);

The interpretation of this is generally very broad and includes:

- **Air** includes the air within buildings and other natural and manmade structures above or below ground, i.e. not only ambient air but indoor and workplace air as well.
- **Water** includes underground and surface waters (both natural and in man-made structures) sewage and foul water; the latter to include inland waters (i.e. rivers, canals, lakes), estuaries and seas; water table and aquifers.
- **Soil** includes the *in situ* upper layer of the mantle rock in which plants grow.

- **Land and Landscape** includes all land surfaces, caves and underground strata. Land covered by water is also included.
- A **natural site** includes areas identified by reason of their flora, fauna, geological or physiographical features (e.g. Sites of Special Scientific Interest) or general environmental quality (e.g. Areas of Outstanding Natural Beauty). This could also include for example a tree or park of local significance.
- **Radiation** may also be considered as an element of the environment.
- **Biological diversity** should be taken to include species of flora and fauna The AIG refers to *“Article 2 of the Convention on Biological Diversity [which] gives the following definition of biological diversity: “the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems”. Biodiversity includes, but is not limited to, ecosystem diversity, species diversity and genetic diversity.”*
- **Human health and safety and conditions of human life covered by EIR** include human response to physical, chemical and biological agents delivered through environmental media of water, air, land, and biodiversity etc. Thus the incidence of disease such as skin cancer which is linked to exposure to the sun might be environmental information, whereas incidence of a cancer that does not have an environmental link is unlikely to be environmental information.
- **Built structures** include structures, roads and other infrastructure created by mankind and ancient and historic monuments.
- The **state** should be taken to include physical, chemical, electromagnetic, radiological and biological conditions at any moment in time.
- **Emissions** are not defined in either the Regulations or in the Directive on Public access to environmental information but are defined in the Aarhus Implementation Guide as a “direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land”.
- **Measures could** include administrative measures and environmental management programmes such as permit schemes, management contracts, land-use planning regimes and permits, regeneration and transport development plans and proposals. The measures or activities may not be labelled as environmental.
- **Environmental agreements** could cover voluntary agreements such as those negotiated between government and industry, and may also apply to bilateral or multilateral environmental agreements among States.
- **Economic analyses** could include financial analyses.

Standards

The Council will make every effort to ensure that it meets the following standards of good practice:

- Ensure that our employees and those working on our behalf adopt a professional and organised approach when recording environmental information and managing records accordingly.
- Organise our environmental information and disseminate it proactively where possible so that requests can be met promptly and economically.
- Any application for environmental information, however made, will be treated as an EIR request even if it does not mention the EIR.
- Provide advice and assistance to persons making requests for environmental information.
- Make environmental information available to any person who requests it within 20 working days or where a request is both voluminous and complex the deadline may be extended to within 40 working days.
- Refuse access only in accordance with the limited exceptions available, giving reasons and details of the mechanisms available for reconsideration and appeal.

- Have in place an internal procedure to consider any complaints.
- All environmental information that is automatically available should be listed in the Council's Publication Scheme.
- We will make every effort to effectively manage the information we hold and have sufficiently secure systems in place to protect it and enable us to retrieve it quickly and efficiently.
- We reserve the right to charge for information supplied in accordance with the guidance from the Secretary of State. We may charge the statutory fees as issued by the Secretary of State. We will publish our schedule of charges.
- We will review and monitor how well we handle information access requests. We will ensure that our employees are appropriately trained and aware of their responsibilities for handling and managing personal information.

Breach of Policy and Standards

Disciplinary action may be taken in accordance with the Council's disciplinary procedures against any employee who knowingly or recklessly:

- Alters, defaces, blocks, erases, destroys or conceals any record held by the Council, with the intention of preventing the disclosure of all, or any part, of the information that has been requested as part of a Freedom of Information request.
- Contravenes any instruction contained in, or following from, this Policy and Standards.

Complaints Procedure

Where a request for information is refused for any reason we will notify the applicant of this and give the reasons. For exceptions we will state which exception has been claimed, and unless apparent, why that exception applies, specifying the public interest factors (for and against disclosure) which we have taken into account (unless by doing this we would disclose the excepted information). We will not simply repeat the wording of the exception unless the explanation would involve the disclosure of information which would itself be excepted information.

When notifying an applicant of a refusal to supply information for any reason, we will give the applicant details of our complaints procedure and tell them about the right to appeal to the Information Commissioner for a decision.