

# **EXETER CITY COUNCIL**

## **ACCESS TO INFORMATION POLICY**

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### **1. INTRODUCTION**

- 1.1 Exeter City Council is committed to being an open and transparent Council, whilst at the same time protecting the privacy of personal and sensitive information. This policy explains how the Council will respond to requests for information. It has been developed in accordance with the legislation contained in the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR), the Data Protection Act 1998 (DPA), the General Data Protection Regulation and other statutory access legislation (Appendix A).

### **2. SCOPE**

- 2.1 The policy sets out the general principles that will be adopted by the Council in response to any requests for information. The policy is supported by the Council's Information Governance Framework.

### **3. AIMS**

- 3.1 The aims of the policy are:
- To provide a framework that ensures that the Council complies with the requirements of the FOIA, EIR, DPA, GDPR and other statutory access legislation.
  - To show transparency of decision making by the Council.
  - To improve and enhance the democratic process.
  - To build public trust and confidence.

### **4. ROLES AND RESPONSIBILITIES**

- The Corporate Manager, Executive Support is the Senior Information Risk Owner (SIRO). They are responsible and accountable for the secure and effective handling of the Council's information. They have overall responsibility for managing and overseeing the Council's duties in relation to the FOIA, EIR, DPA, GDPR and other statutory access legislation, as set out in this policy. This includes investigating all related complaints and responding to internal reviews.
- The Data Protection Officer is responsible for advising staff and Members of their data protection obligations. This includes ensuring that there is appropriate training and support for staff and Members, monitoring compliance with the DPA and acting as the contact point for the Council on all data protection related matters.
- The FOI Officer is responsible for developing guidance and procedures for processing requests for information, ensuring that there is appropriate training and support for staff and Members, ensuring all requests for information are processed in accordance with the legislation within the stipulated timescales and making the public aware of their rights of access to information.
- All Council employees, including temporary staff and contractors, will be responsible for responding to requests for information in accordance with this policy and the relevant guidance.

- Legal Services and the Strategic Management Board (SMB) will, when consulted, ensure that the Council takes a fair and consistent approach to applying exemptions/exceptions and the public interest test.
- Directors will be responsible for ensuring that staff comply with this policy and the relevant guidance.
- The Information Governance Forum will ensure information security objectives and plans are established, consider supporting policies that sit within the information governance framework, establish roles and responsibilities for information security and initiate plans and programs to maintain information security awareness.

## **5. REQUESTS FOR INFORMATION**

- 5.1 The Council will comply with all valid requests for information in accordance with the relevant legislation and will assist the public and others (e.g. local press) in exercising their 'right to know'. The Council will ensure that this policy and associated guidance is understood by its employees and internal procedures are in place to facilitate access to information.
- 5.2 All employees of the Council will respond positively to a request for information in accordance with the relevant guidance.

## **6. PROVISION OF INFORMATION**

- 6.1 The Council will, wherever practical, make information available in the format requested by the applicant. Where it is unreasonable to supply information in the format requested because of practical or cost considerations, the Council will inform the applicant of the reasons for its decision. If the applicant does not specify a preferred format, the Council will provide the information in a format which is reasonable in the circumstances.
- 6.2 The Council will make all of the information it publishes routinely or automatically available in its Publication Scheme and will pro-actively publish information that is in the public interest.

## **7. PROVISION OF ADVICE & ASSISTANCE**

- 7.1 Council employees will provide, where necessary, advice and assistance to help an applicant submit an information request.
- 7.2 Where the Council has offered all the advice and assistance that it deems to be reasonable and the applicant 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 application, subject to any exemptions/exceptions and/or the public interest test.

## **8. TRANSFER OF REQUESTS**

- 8.1 Where a request is for information held by another organisation, the Council will inform the applicant that the information requested may be held by another organisation and suggest that the applicant re-applies to that organisation.

## **9. TIMESCALE FOR RESPONSES**

- 9.1 The Council will aim to respond to all requests for general information within 20 working days of the receipt of the application.
- 9.2 Where a request is from an individual who wants to access his/her own personal information, the Council will respond within one month.
- 9.3 It is recognised, however, that there will be some cases where it will not be possible to deal with requests within these periods, for example if the public interest test needs to be applied or if the case is complex. Where a delay in reaching a decision is expected to occur due to the consideration of the public interest test or other valid reason, the Council will provide the applicant with a realistic and reasonable estimate of when a decision will be reached and inform the applicant if the estimated timescale is likely to be exceeded.
- 9.4 Where deadlines for the provision of information are stipulated under other statutory access regimes, the deadlines will continue to apply.

## **10. FEES AND CHARGES**

- 10.1 Wherever possible and reasonable, the Council will always seek to provide the information free of charge although there will be a number of publications for which a charge is made. However, some requests for general information that fall outside the publication scheme may incur a fee to locate and retrieve the information together with a charge to cover communicating the information to the applicant, for example, copying and postage charges. Where this is the case, the Council will issue the applicant with a fees notice.
- 10.2 Some requests for general information may exceed the maximum fee as stipulated in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. In this case the Council will inform the applicant as soon as possible and try to seek an alternative solution.
- 10.3 Where charges for information exist under other statutory access regimes, those fees will continue to apply.

## **11. APPLICATION OF EXEMPTIONS/EXCEPTIONS**

- 11.1 There are certain circumstances under which the Council may not be obliged to release information. The Council will endeavour to apply exemptions/exceptions to requests for information fairly, objectively and consistently and will not seek to use them as a means of obstructing access. There will be occasions, however, when the Council will need to balance access rights to information against a person or persons' right to privacy, third parties' rights to confidentiality and what may or may not be in the public interest at the time of the request.
- 11.2 Exemptions/exceptions may apply to only some of the information requested by an applicant. In such cases the Council will release as much information as it can by blocking out (redacting) the information that is deemed to be exempt.

### The Public Interest Test:

- 11.3 There is no definition within the FOIA or the EIR as to what such a test should contain. Therefore, the Council will apply the public interest test as fairly and consistently as it is able to, in accordance with the advice provided by the Information Commissioner. The Council will reach a decision by carefully balancing opposing factors, based on the particular circumstances of the case. Where the factors are equally balanced, the information will be disclosed.

## **12. CONSULTATION WITH THIRD PARTIES**

- 12.1 The Council will not automatically presume a duty of confidence and will, where necessary and appropriate, consult with and seek the views of third parties with regard to the disclosure of requested information.

## **13. REFUSAL OF REQUESTS**

- 13.1 The Council will provide written notice to applicants of refusals, or part refusals of requests for information. Such notices will provide details of any exemptions/exceptions applied and, where the public interest test has been applied resulting in the non-disclosure of information, the reasons for the decision not to disclose. It will also include details of the applicant's right of appeal.
- 13.2 The Council is not obliged to confirm or deny the existence of information, or to advise in respect of exemptions/exceptions applied where to do so would in itself disclose exempt information.
- 13.3 The Council may also refuse to process requests which it deems to be vexatious or repeated.

## **14. RECORDING AND MONITORING**

- 14.1 The Council will not record routine requests for information.
- 14.2 All formal or complex requests for information, including requests for personal information made by the person to whom the information relates, will be recorded and tracked by the Executive Support Team.
- 14.3 If the decision is taken to refuse the release of part or all of the information requested, a fully documented record of the reasons for the decision will be retained.

## **15. COMPLAINTS/INTERNAL REVIEWS**

- 15.1 If an applicant is not satisfied with the handling of their request, they can ask the Council to review what has happened. The Corporate Manager, Executive Support will formally review the handling of the request under a one-stage review procedure which will be completed within 20 working days. If the Council is unable to satisfactorily resolve the complaint, the Council will advise the applicant to contact the Information Commissioner's office.

15.2 Any reply from an applicant expressing dissatisfaction with the Council's response to a valid request for information will be treated as an internal review.

## **16. REVIEW**

16.1 This policy will be reviewed in 2022 and every three years thereafter by the Executive Support Team. Ad-hoc reviews will be undertaken when changes to access legislation occurs. Significant changes will require the approval of the Council's SMB.

## **APPENDIX A**

### **List of access to information legislation**

The Freedom of Information Act 2000

The Data Protection Act 1998

The General Data Protection Regulation

Local Government Act 1972

Local Government (Access to Information) Act 1985

The Local Government Act 2000

The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006

The Environmental Information Regulations 2004

Audit Commission Act 1998

The Accounts & Audit Regulations 2003

The Protection of Freedoms Act 2012

**This list is not definitive**

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## DOCUMENT CONTROL

This document is subject to change control and any amendments will be recorded below.

## CHANGE HISTORY

Version	Date	Changes
Final 1.1	10/10/06	Hyperlinks added linking the policy to the relevant associated policies
Final 1.2	02/11/06	Amended text to make it clear that the timescale for a SAR was 40 calendar days
Final 1.3	26/07/11	Updated inline with legislation and current Council procedures. 'Review' section added.
Final 1.4	13/02/18	Updated inline with GDPR legislation and current council procedures.
Final 1.5	23/01/19	Reviewed and updated