

# **Freedom of Information and Environmental Information Policy**

Information Governance

## Document Control

<b>Version Number</b>	V4.1
<b>Approved by</b>	Corporate Policy and Resources Committee
<b>Date approved</b>	July 2022
<b>Review Date</b>	July 2023
<b>Authorised by</b>	Director of Resources
<b>Contact Officer</b>	Data Protection Officer

## Revision History

<b>Revision Date</b>	<b>Revised By</b>	<b>Previous Version</b>	<b>Description of Revision</b>
July 2021	John Bingham	V4.0	Cover Page updated. Changes to text throughout documents, responsibilities changed to the FOI Officer. Publication Scheme link changed. Section 7 updated. Schedule of Charges EIR updated.
July 2022	John Bingham	W4.1	Review – No changes required.

## Contents

1. Policy Statement.....	4
2. Scope .....	4
3. Responsibilities.....	4
4. Available guidance .....	5
5. The Council's Publication Scheme .....	5
6. Specific requests for information.....	6
7. Charges for Freedom of Information Requests .....	6
8. Charges for Environmental Information Regulation Requests.....	7
9. Complaints .....	9
10. Review of policy .....	8

# 1. Policy Statement

- 1.1 West Lindsey District Council (the Council) takes its responsibilities for the management of the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) seriously.
- 1.2 This Policy outlines our approach to responding to requests for information made under the FOIA and the EIR.
- 1.3 It provides a framework to make sure that we fully support and consistently apply the principles of Freedom of Information, and meet the standards set out in the Lord Chancellor's Section 46 Code of Practice on satisfying public authorities' obligations under the FOIA and the EIR.
- 1.4 The Policy aims to promote greater openness and to build public trust by providing access to information. We believe that access to information about decisions we take can help local people to influence local service provision. This will be balanced against the need to protect the confidentiality of, for instance, personal and commercially sensitive information.

## 2. Scope

- 2.1 This Policy applies to all employees, elected members, contractors, agents and representatives and temporary staff working for the Council.
- 2.2 The purpose of this Policy is to make sure that the Council complies with the terms of the FOIA and the EIR.
- 2.3 This Policy does not cover Subject Access Requests (requests for access to personal information). These are exempt from the FOIA under section 40 and are processed in line with the Data Protection Act 1998 and the UK GDPR.

## 3. Responsibilities

- The Council recognises there is corporate responsibility to give the public a general right of access to all information held by the Council.
- The senior officer with overall responsibility for the Council's compliance with legislation, and therefore this policy, is the Chief Executive.
- Directors, and Team Managers are responsible for promoting openness and accountability in their teams and services.

- The Freedom of information officer is responsible for drawing up guidance on freedom of information and promoting compliance with this Policy to allow easy, appropriate and timely retrieval of information.
- The Freedom of Information Officer is responsible for monitoring and reporting through the Monthly Performance Monitoring Report, on responses to requests for information.
- The Freedom of information officer will provide an advisory service to the remainder of the Council and will lead on any situations where decisions are reviewed or exemptions/exceptions are being considered.
- Line managers must make sure that all staff are aware of the requirements of the legislation and that all new staff receive an introductory briefing on the access to information procedures during their induction. All staff must be aware of how to recognise a valid request for information and training is available should Line Managers require this for their areas.
- All staff must recognise that all recorded information may be given to the public and that in every case the law requires that there will be full and unconditional disclosure unless one of the legal exemptions/exceptions applies.

## 4. Available guidance

- 4.1 Guidance on the procedures necessary to comply with this Policy is available for Council staff from each Team Manager, The Freedom of Information Officer, or on the Information pages on the Council's Intranet.

## 5. The Council's Publication Scheme

- 5.1 The Council's Publication Scheme is available on the website at <https://www.west-lindsey.gov.uk/my-council/how-the-council-works/information-and-information-governance/freedom-of-information/> or in hard copy.
- 5.2 The Publication Scheme specifies:
- what information the Council will make routinely available to the public;
  - how it will do so; and
  - whether information will be made available free of charge or on payment of a fee.

## **6. Specific requests for information**

- 6.1 Information not already made available in the Council's Publication Scheme is accessible through a specific request for information. In this regard the FOIA establishes two related rights:
- the right to be told whether information exists; and
  - the right to receive the information (subject to exemptions or exceptions).
- 6.2 These rights can be exercised by anyone worldwide. Requests for access to information not listed in the publication scheme will be processed through the Council's access to information procedures.
- 6.3 Requestors will be entitled to all the information unless one of the legal exemptions/exceptions applies. However, only those specific pieces of information to which the exemption applies will be withheld.
- 6.4 Where the Council has decided that an exemption/exception applies it will, if appropriate, consider the prejudice test and/or the public interest test and may in some circumstances withhold the requested information.
- 6.5 The Council aims to respond to all requests within 20 working days although further reasonable details can be requested to identify and find the information. If a fee is required, the Council will issue a fees notice and the applicant has 3 months in which to pay before their request is considered as being withdrawn.

## **7. Charges for Freedom of Information Requests**

- 7.1 Unless otherwise specified information made available through the Council's Publication Scheme will be free of charge. Where it would not exceed the appropriate limit to comply with a request, and a public authority wishes to charge a fee, it can only include the charges it reasonably expects to incur in:
- Informing the requestor whether it holds the requested information (even if the information will not be provided), and
  - Communicating that information to the requestor. This generally means that a public authority can only charge for expenses actually incurred, for example, photocopying or postage. It must issue a fees notice advising the requestor of the amount it will charge.
- 7.2 The Council reserves the right to charge a fee for dealing with a specific request for information not listed in the publication scheme in line with the legislation.

## **8. Charges for Environmental Information Regulation Requests**

### **What can be charged?**

- 8.1 There are two types of activity under EIR that public authorities can charge for:
1. The cost of staff time spent locating, retrieving and extracting the information;
  2. The costs incurred when printing or copying the information and sending to the applicant.
- 8.2 However, the EIRs do allow the Council to make a charge to recover the costs of locating the information and collating it in order to make it available for inspection. A charge made for locating and collating information to be inspected must be reasonable. If the information is held in a system that allows for straightforward public access it is unlikely that a charge is reasonable. If a requestor asks for inspection of material that would require a significant cost to prepare for inspection, the EIR allows the authority to make a charge.

### **What cannot be charged for?**

- 8.3 There are costs the Council cannot charge for:
1. The costs of maintaining a register of information or a database;
  2. Overhead costs (i.e. wider staff overheads);
  3. Staff time spent reviewing and redacting information (although there are cases where staff time in this instance can be taken into account when considering if a request is Vexatious/Manifestly Unreasonable due to excessive burden on staff resource and time);
  4. Charge applicants for inspecting the information or accessing public registers or lists of environmental information; and
  5. For allowing access to the information in situ.
- 8.4 In addition, the ICO is clear that requestors should not be unfairly penalised in cases where the authority has failed to keep records in a reasonably accessible state. Therefore where the Council's systems prevent easy access to information purely because of records management issues, staff should fully consider whether it is appropriate to charge.

### **Schedule of Charges**

- 8.5 Public authorities must have a published schedule of charges in order to be able to charge applicants for environmental information. Currently the Council uses the following rate:

Minimum charge of £78 (0% VAT)

<https://www.west-lindsey.gov.uk/my-council/contacts-facts-and-figures/council-spending/budget-book/>

## **Charging Threshold**

8.6 This threshold is based upon the approximated time taken to locate, retrieve, extract and summarise the information required. This charge also covers any disbursement costs.

## **Manifestly Unreasonable**

8.7 Where it is estimated that complying with a request will exceed 18 hours, the Council will consider whether the request is in fact Manifestly Unreasonable under Regulation 12(4) (b) of the Environmental Information Regulation Act 2004 and will use existing procedures for doing so, including applying the Public Interest Test and providing advice and assistance to the requestor in order to narrow down the scope of their request. The 18 hour timeframe is that used under the FOIA to determine if a request exceeds an appropriate limit.

## **Issuing a Charge**

8.8 The decision to issue a charge will be made promptly and within 3 working days of the receipt of the request wherever possible, in order to ensure that deadlines for responding to requests within the 20 working days limit are met. A response will be sent to the requestor, which informs the requestor that a fee is payable and how to make payment.

## **Advance Payment**

8.9 In all cases where a fee is charged, payment will be required in advance of disclosure.

8.10 Requestors will have 60 days for payment to reach the council. Where payment is not received, it will be assumed that the information is no longer required and the request terminated.

8.11 Payment can be made by phone by calling 01427 676676 and selecting the option for 'All other enquiries'. The requestor must advise that payment is in relation to an EIR request, quoting the EIR reference number. The payment will then be assigned under the relevant Ledger Code by the Council.

## **Review of Costs**

8.12 Costs will be reviewed annually to endeavour to keep costs reasonable.



## 9. Complaints

An individual has the right to complain about the response they have received regarding their request for information. Details of the council's Data Protection and Freedom of Information Complaints Procedure can be found at <http://www.west-lindsey.gov.uk/your-council/have-your-say/comments-compliments-and-complaints/> .