

## Corporate Resources:

### Freedom of Information & Environmental Information Policy (Internal)

Title	Freedom of Information & Environmental Information Policy (Internal)
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#### Version Control

To make sure you are using the current version of this policy please check on MMiDerby or contact [Information Governance](#) when using printed copies.

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#### Document Approval

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## 1. Introduction

- 1.1 The aim of the policy is to ensure individuals and organisations have access to information held by the Council in order to promote greater openness, providing increased transparency of decision making and to build public trust and confidence.
- 1.2 The policy applies to all employees of the Council, elected members, contractors, agents, partners and temporary staff working for or on behalf of the Council.
- 1.3 The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) gives individuals and organisations the right to request information held by, or on behalf, of the Council. As a local authority we must comply with the legislation. The legislation applies to all recorded information held by the Council or by someone else on behalf of the Council.  
This policy covers both the FOIA 2000 and the EIR 2004.  
FOI requests will be dealt with under the EIR, if the information requested is environmental information.

Environmental information covers information about the state of the elements (the elements are air and atmosphere, soil, water, land, landscape, and biological diversity and its components).

- Information about how those elements work together (or don't work together)
  - Information about factors like substances, activities, products, actions and processes which affect or are likely to affect any of the elements, or their interaction
  - Information about emissions, discharges or releases of any substance into the environment
  - Information about measures or activities which will affect or protect any of the elements or their interaction
  - Any analyses or calculations which are used in making decisions about the environment
  - Information about human health and safety, living conditions, cultural sites or structures, in so far as they are affected by those elements
- 1.4 This policy covers all requests for information except requests from individuals for their own personal data and 'business as usual' requests. A 'business as usual' request is a request for information or services that a service area 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 'business as usual'.
- 1.5 A request for information does not need to specify itself as an FOI or EIR request or the explain why/how the information will be used.

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Under the FOIA (2000) a valid requests must;

- Be written (e-mail, letter or fax)
- Be legible
- Contain the name of the applicant
- Contain an address or e-mail address for the reply
- Describe the information that is sought

- 1.6 Requests under the EIR (2004) do not need to be made in writing, however a written record should be made of any verbal requests that are received.
- 1.7 The Council is not required to create new, recorded information that it does not currently hold in order to meet a request for information.
- 1.8 Information must be provided if it is held, unless one or more of the exemptions listed in the legislation applies.
- 1.9 This policy does not cover Subject Access Requests (SAR). These are requests about information relating to the requestor or about an individual the requestor is authorised to act on behalf of and should be processed in accordance with the Data Protection Act 2018. Please see the procedure for dealing with rights requests from individuals for further information.

## 2. Responsibilities and Accountabilities

- 2.1 Managers are responsible for ensuring that this policy is communicated to all employees and that it is adhered to.
- 2.2 All employees must ensure that any request for information they receive is dealt with in line with the requirements of the FOIA and EIR and that they comply with this policy.
- 2.3 Managers are responsible for ensuring all employees complete the mandatory e-learning FOI training.
- 2.4 The FOI Team [foi@derby.gov.uk](mailto:foi@derby.gov.uk) is responsible for administering the FOI process and providing advice about exemptions and exceptions.

## 3. Policy implementation

- 2.1 If you receive a request for information and it cannot be classed as 'business as usual' or it states it is an FOI or EIR request you must forward it to the [FOI](#) team without delay. The Council must respond to requests promptly within **20 working days** following the date of receipt of the request.
- 3.2 If the FOI team send you or your team a request to provide information you must do so by the deadline given by the team. If you will have problems putting the request together within 18 hours [or 2.5 days] you must tell the [FOI](#) team because we may be able to refuse the request.

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- 3.3 If you receive a request that is unclear in what it asks then you must contact the [FOI](#) team promptly who will ask for applicant for additional clarification to enable the request to be processed.
- 3.4 You must not deliberately withhold or dispose of information that is covered by the legislation. If you are not happy with some information that has been asked for contact the [FOI](#) team to get advice about exemptions that may apply to the information requested.
- However, you must provide the FOI Team with the **full response** which is kept on file in the event that the applicant appeals against the Council's decision not to disclose all the information requested.
- 3.5 If a request for information is received there are three reasons why the information would not need to be provided. These are:
- the information requested is exempt from disclosure
  - the request is considered a nuisance, unreasonable or repetitive
  - the required fee is not paid within three months.
- 3.6 The Council reserves the right to refuse requests where the cost of providing the information would exceed the statutory cost limit. Where we estimate that complying with a request will take more than 18 hours of officer time, we have a duty to try to assist applicants to make refined requests which are more manageable.
- 3.7 You or your team must not respond directly to the requester when the FOI team sends you the request. Your response should be sent to the [FOI](#) team who will package and send out the response. The FOI team will ask you to respond within 19 working days; this gives the FOI team time to liaise with the responding service about exemptions and any other queries raised before the 20 working day response deadline.
- 3.8 You must not delay providing the information to the FOI team – remember we only have 20 working days in which to respond. If the FOI team do not receive the senior management approved response within 19 working days an email reminder/breach alert will be sent to the service on day 10 and 15. Overdue requests are included in weekly report sent to directors, so they can monitor progress/chase up the response.
- 3.9 Request responses are published on the Council's website – [FOI disclosure log](#).

## 4. Clarifying a request

- 4.1 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. The response clock stops when a clarification notification is sent to the requestor and the 20 working day deadline only starts the next working day after we receive their response.

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- 4.2 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.
- 4.3 Under the legislation the Council is not required to process a request until it receives all the information it needs to search if it holds the information.

## 5. Exemptions and Exceptions

- 5.1 The Council will not withhold information, unless:
- An [exemption](#) or [exception](#) to disclosure applies or
  - The information is not held or
  - The request is considered to be vexatious or manifestly unreasonable or
  - The request is identical or substantially similar to another request that the Council has received in the previous six months. In this instance the Council should still provide duplicate information in certain circumstances, for example if the original information has been lost or disposed of in error.
- 5.2 Under EIR all exceptions are subject to the public interest test to determine if the information should be withheld or disclosed.
- 5.3 The FOI Team must be provided with **ALL the information requested**, even if an exemption may apply to some of the information. The information provided and exemption non-disclosure reasons given will be taken into account to decide if the information should be withheld or disclosed. Information will be redacted (blacked out) if an exemption or exception applies.
- 5.4 Please contact the FOI Team on 01332 640763 for guidance about exemptions and exceptions.

## 6. Third party consultation

- 6.1 The Council will unless a valid exemption or exception is applicable disclose any information it holds about a company, public authorities or individual in response to a legitimate information request.
- 6.2 It is the **responsibility of the relevant service/lead officer** responsible for providing the information (information asset owners) to consult third parties about disclosing information that may affect them. Their views will be important if it is necessary to apply an exemption/exception and determine whether it is in the public interest in the disclosure of information.
- 6.3 The final decision about disclosure is the responsibility of the FOI Team.

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## 7. Fees and charges

- 7.1 The Council aim is to provide as much information as possible free of charge in the Publication Scheme for customers to download. The Council will not charge for information requests unless there are exceptional circumstances.

Please see the [Access to Information Charging Schedule](#) for more information

## 8. Redaction

- 8.1 The legislation gives an entitlement to information. If the FOI Team decides that information is exempt, the information will be redacted (blacked out) before the response is sent to the requester.

## 9. Appeals and Complaints

- 9.1 If the requester is dissatisfied with their information request response they have the right to ask for an internal review. The review is carried out by a separate investigating officer.

- 9.2 A review can be about any of the following:

- An exemption/exception was applied, meaning the request (or a part of it) was denied;
- the 20 working day deadline was not met;
- a full response was not provided;
- fees/charges were applied
- the request was not handled correctly
- Council has not complied with [Publication Scheme requirements](#).

- 9.3 Internal reviews about FOIA requests will be dealt with within 20 working days of a written complaint being received by the Council. This may be extended if the review is particularly complex. For example, involves contacting multiple departments or a number of different factors need to be considered.

- 9.4 Internal reviews about EIR requests will be dealt with within 40 working days of a written complaint being received by the Council.

- 9.5 If the applicant is dissatisfied with the outcome of the internal review, they can appeal to the Information Commissioner Office - ICO.

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## 10. Information Format

- 10.1 The FOI Team must be sent the information in electronic format. If the information is held in paper files, it is the **responsibility** of the officer responsible for providing the information to scan the information so it can be sent electronically to the FOI Team.
- 10.2 The Council, wherever possible, will aim to provide the information in the format requested by the applicant. Legislation such as the Disability Discrimination Act will be considered in each case to ensure that the applicant receives the information in a suitable format.

## 11. Publication Scheme

- 11.1 The Council will aim to proactively publish as much information as possible in its publication scheme. The publication scheme will be reviewed every year and some information every three months.

## 12. Policy review

- 12.1 This policy will be reviewed every two years to ensure it continues to be relevant and current. In some circumstances it may be necessary to review the policy more frequently in response to specific events.

## 13. Policy Compliance

- 13.1 The Director of Digital and Customer Services is responsible for monitoring compliance with this policy.
- 13.2 If employees knowingly do not comply with Council policies, procedures or guidelines, the Council may take appropriate action in accordance with the [Employee Code of Conduct](#).

## 14. Other Relevant Policies, Standards and Procedures

- **Information Security and IT Acceptable Use Policy**
- **Data Protection Act 2018 Policy**
- **Procedure for dealing with rights requests from individuals**

The Council is under a legal duty to protect personal data as required by the Data Protection Act 2018. The Council will carefully consider its responsibilities under the Act before disclosing personal data about living individuals, including current and former officers, members, and users of its services.



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## 15. Contact Details

Please contact the Council's Principal Information Governance Officer (FOI) at [foi@derby.gov.uk](mailto:foi@derby.gov.uk) with enquiries about this policy, procedure or law.

Email to: [foi@derby.gov.uk](mailto:foi@derby.gov.uk)

Telephone: 01332 640763