

Wyre Forest District Council

Freedom of Information Policy 2009-2011

Wyre Forest District Council is accountable to and holds public information on behalf of the community it serves. In making information more accessible, the Council is helping to promote its values of openness and customer focus.

1. Introduction

1.1 Wyre Forest District Council (The Council) is committed to the Freedom of Information Act 2000 (The Act) and the general right of public access to information, subject to the legal exemptions. This policy outlines how the Council will comply with the Act and provides a framework for managing requests.

2. Background

- 2.1 The Freedom of Information Act 2000 came into force on the 1st January 2005. Under the Act, any person has a legal right to ask for access to information held by the Council. They are entitled to be told whether the Council holds the information and to receive a copy, subject to certain exemptions.
- 2.2 The information that the Council routinely makes available to the public is included in its Publication Scheme and requests for information are dealt with according to statutory guidance. The Council has adopted the Information Commissioner's Model Publication Scheme for Principal Local Authorities and is committed to reviewing and updating the information guide to ensure that the information can be easily identified and accessed by the general public.
- 2.3 While the Act assumes openness, it recognises that certain information is sensitive. Legal exemptions are provided within the Act to protect this information.
- 2.4 The Act is fully retrospective, so that any past records held by the Council are covered under the legislation. It is an offence to wilfully conceal, damage or destroy information in order to avoid responding to an enquiry. It is important, therefore, that no records that are the subject of an enquiry are amended or destroyed.
- 2.5 Requests made under the Freedom of Information Act (FoIA) can be handed directly to or sent to any employee of the Council; so all staff need to be aware of the process for dealing with requests. Requests must be made in writing (this includes e-mail), *should* include the enquirer's name and address and state what information they require. Requestors do not have to mention the Act, nor do they have to say why they want the information.

Agenda Item No. 8.2 Appendix A

- 2.6 There is a duty to respond to all requests, telling the enquirer whether or not the information is held and supplying the information that is held, except where exemptions apply. There is no requirement to collect data in specific response to an FoIA enquiry.
- 2.7 There is a time limit of 20 working days to respond to a request.
3. Scope
- 3.1 The Freedom of Information Act 2000 is part of a family of legislation governing access to information including the Data Protection Act 1998, Environmental Information Regulations and Re-use of Public Sector Information Regulations.
- 3.2 Requests for personal data are covered by the Data Protection Act. Individuals can request to see what information the Council holds about them – known as a Subject Access Request – and this must be dealt with according to the requirements of that Act.
- 3.3 Requests for information about anything relating to the environment – such as air, water, land, the natural world or the built environment and any factor or measure affecting these – are covered by the Environmental Information Regulations (EIRs). Requests are dealt with in the same way as for those made under the FoIA, but unlike the FoIA, **requests do not need to be written and can be verbal.**
- 3.4 The Re-use of Public Sector Information Regulations allows individuals or organisations to request information from a public body which, if supplied, they can then, with the permission of that public body, re-use for their own commercial gain. This includes publishing, copying, adapting, developing, adding value, broadcasting and downloading. The Council can choose whether to allow the re-use free of charge or to apply a fee to cover reasonable costs in addition to a reasonable return on any investment.
- 3.5 Public information applies to any record held in any form. This includes:
- Manual documents
 - Electronic documents
 - Recordings (audio, visual or both)
 - E-mails
4. Responsibilities
- 4.1 The Chief Executive is responsible for overseeing access to public information. Each Head of Service is responsible for the management of information including the promotion of access to information in their division.

Agenda Item No. 8.2 Appendix A

- 4.2 The Council's Cabinet will identify a Cabinet Member to take responsibility for Freedom of Information within the Cabinet and the Council.
- 4.3 The Chief Executive will nominate an officer to take responsibility for the management of requests for information received under the Act and the Head of Legal and Democratic Services will provide all relevant legal advice and support. All employees who receive a request for information that cannot be resolved outside the normal day-to-day requirements of their role and function will forward such a request to the Chief Executive's nominated officer for recording and resolution according to the requirements of the Act.

5. Obligations and Duties

- 5.1 The Council recognises its duty to:
- Inform individuals making requests under the Act if the Council holds the information that has been identified and provide access to information that the Council holds in accordance with the requirements of the Act.
 - Provide advice and assistance to anyone making a request for information. This will include helping enquirers that make complex verbal requests to put such requests into writing so that they can be handled under the Act.
 - Provide advice and assistance on request to the visually impaired or to individuals that do not use English as their first language.
 - Transfer requests to another public body where the information requested is not held by the Council.

6. Publication Scheme

- 6.1 Wyre Forest District Council has adopted the Information Commissioner's Model Publication Scheme for Principal Local Authorities.
- 6.2 The Publication Scheme is published on the Council's website at: www.wyreforestdc.gov.uk/foipublicationscheme . Paper copies of the Publication Scheme will be available on request.

7. Dealing with Requests

- 7.1 The Council will respond to requests according to the the requirements of the Act and the procedures laid down in **Appendix 1**.

8. Exemptions

- 8.1 Exemptions are limitations that are enshrined in the Act and need to be taken into account when deciding whether a piece of information should be disclosed or withheld.

Agenda Item No. 8.2
Appendix A

- 8.2 There are 23 exemptions. These include:
- information that can be accessed by other means, for example through the publication scheme;
 - information that concerns security;
 - personal information;
 - legally protected information, including information used in the prevention and detection of a crime as well as reports for legal proceedings;
 - information provided in confidence;
 - information that would prejudice the economic interests of the Council;
 - information from auditing the accounts of another public body;
 - information that could affect the conduct of Council affairs including anything that would prevent the exchange of free and frank advice or views;
 - information that would endanger a person's health or safety;
 - environmental information; and
 - trade secrets and information that would damage commercial interests.
- 8.3 Some exemptions are 'absolute' and if invoked there is no obligation to consider the request for information any further.
- 8.4 Most of the exemptions are 'qualified' and subject to a test of the balance of public interest to determine if the public interest in applying the exemption outweighs the public interest in disclosing the information.
- 8.5 The Council will apply the 'Public Interest Test' before any qualified exemptions are applied.
9. Charging
- 9.1 Most information requested under the Act can be supplied without charge.
- 9.2 The Council will provide up to a maximum of 18 hours of employee time in order to:
- determine whether it holds the information requested;
 - locate the information or documents containing the information;
 - retrieve such information or documents; and
 - prepare the information for disclosure including any necessary redaction of 'exempt' information.
- 9.3 The Council reserves the right to refuse to supply information where the cost of doing so would exceed £450. This is known as 'the appropriate limit'.

Agenda Item No. 8.2
Appendix A

- 9.4 The Council may choose, at its discretion, to charge a fee for complying with a request where the cost of compliance would exceed £450. Any fee must be calculated according to the regulations within the Act and the individual notified of the charge. The information will be made available once the fee has been paid.
- 9.5 Where a request for information is likely to exceed the 'appropriate limit' it is good practice to contact the enquirer and see if the extent of the request can be reduced, with the effect of bringing the time and costs below the 'appropriate limit'.
- 9.6 Where a request for information can be resolved within the 'appropriate limit' charges may only be applied for direct costs such as printing and postage.
- 9.7 The Council may choose, at its discretion, to charge a fee for direct costs.

10. Training

- 10.1 Wyre Forest District Council is committed to training its employees so that they understand the law, their responsibilities and are able to respond to requests for information. The Council will ensure that all new employees receive relevant training and that existing employees receive refresher training.

11. Complaints

- 11.1 Any member of the public that is dissatisfied with the way that the Council has handled a request for information must, in the first place complain to the Council using its complaints procedure.
- 11.2 If, following the exhaustion of the Council's own complaints procedure the member of the public is still dissatisfied, he/she may take their complaint to the Information Commissioner at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 01625-545745

Website: http://www.ico.gov.uk/complaints/freedom_of_information.aspx

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