

Wyre Forest District Council

Data Protection Policy 2009-2011

Appendix C

1. Procedure for Dealing with Requests

- 1.1 Individuals have a right under the Data Protection Act 1998 to make a request in writing for a copy of the information held about them on computer and in some manual filing systems. This is called a subject access request. They are also entitled to be given a description of the information, what you use it for, who you might pass it on to, and any information you have about the source of the information.
- 1.2 To handle a subject access request under the Data Protection (DP) Act (the Act) the nominated officer will need to ask a series of questions. These are set out below and shown on pages 4 and 5 as process maps.

2. Is it a Subject Access Request?

- 2.1 A request for information may be covered by one, or all, of three information rights:
- A Data Protection enquiry (or Subject Access Request) is where the enquirer asks to see his or her personal information held by the Council. If the enquiry is a Data Protection request, the Council must follow its Data Protection Act guidance.
 - An Environmental Information Regulations enquiry relates to air, water, land, natural sites, built environment, flora and fauna, and health, and any related decisions and activities. These could therefore include enquiries about recycling, phone masts, pollution, car parking etc. If the enquiry is about environmental information, the Council must follow its guidance on dealing with a request for information under the Environmental Information Regulations.
 - A Freedom of Information enquiry is concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the Freedom of Information (Fol) Act. All requests for information that are not data protection or environmental information requests are covered by the Fol Act.

3. Has the requester's identity been checked?

- 3.1 It is critical that information requested about an individual is given to the correct person. Wyre Forest District Council will request proof of identity before the search for relevant data is progressed.

4. Is more information required to enable an efficient search?

- 4.1 By engaging promptly with the requester, the Council can ensure that the appropriate information is provided.
- 4.2 A requester may sometimes ask to be supplied with all his/her personal data held by the Council where in fact the focus of the request is a specific service, for example a benefits case or correspondence focusing on a particular issue.

5. How much can we charge?

- 5.1 The Council follows the guidance of the Information Commissioner and charges a fee of £10.

6. Is the Council obliged to supply the information?

6.1 There may be circumstances where the Council is not obliged to supply certain information. If there are any concerns with the releasing of information, this must be discussed with the Council's legal officers who will determine whether any of the information held about the requester is exempt.

7. Could a third party's interests be affected by disclosure?

7.1 Consultation with third parties may be required if their interests could be affected by release of the information requested. Any such consultation may influence the decision. Consultation is not required where the information is not going to be disclosed due to the application of an exemption.

7.2 Consultation will be necessary where:

- disclosure of information may affect the legal rights of a third party, such as the right to have certain information treated in confidence or rights under Article 8 of the European Convention on Human Rights:
- the views of the third party may assist in the determination as to whether information is exempt from disclosure, or

7.3 Even where the third party's information should not be disclosed, as much information as possible can still be supplied by editing the references to the third party.

7.4 Even where the third party has not consented to the release of the information requested, it may be reasonable, given full consideration of all the circumstances, to provide the information to the requester. The reasoning behind any decision in such a case must be fully documented and not taken without the agreement of the Council's nominated legal officer.

8. Is there a time limit for replying to the enquirer?

8.1 Compliance with a request must be prompt and within the legally prescribed limit of 40 calendar days. Failure to comply with the statutory timescale could result in a complaint to the Information Commissioner.

8.2 The 40 day response time starts when the fee has been paid, the identity of the requester has been proven and all the information necessary to deal with the request has been received.

9. For how long are records retained that contain personal data?

9.1 Normally, records containing personal data are only kept for as long as is required by law after the service provided has ceased. Where there is no legal requirement to keep the information it is not normally kept for more than six years, however, in some cases it can be destroyed as soon as is practicable.

10. What if the information provided is incorrect?

10.1 If a requester believes that his/her personal data held by the Council is incorrect, the requester can contact the Council's nominated Data Protection Officer and ask for the information to be corrected. The Council must contact the requester with 21 days to advise as to whether the amendments have, or have not been made.

10.2 If the Council does not agree that the information held about the requester is incorrect, the requester can ask for his/her disagreement to be noted on the record itself.

11. What happens if someone complains?

11.1 Any written (including email) expression of dissatisfaction - even if it does not specifically seek a review – should be handled through the Council's existing complaints procedure which should be fair, impartial, clear and non bureaucratic. Wherever practicable the review should be handled by someone not involved in the original decision.

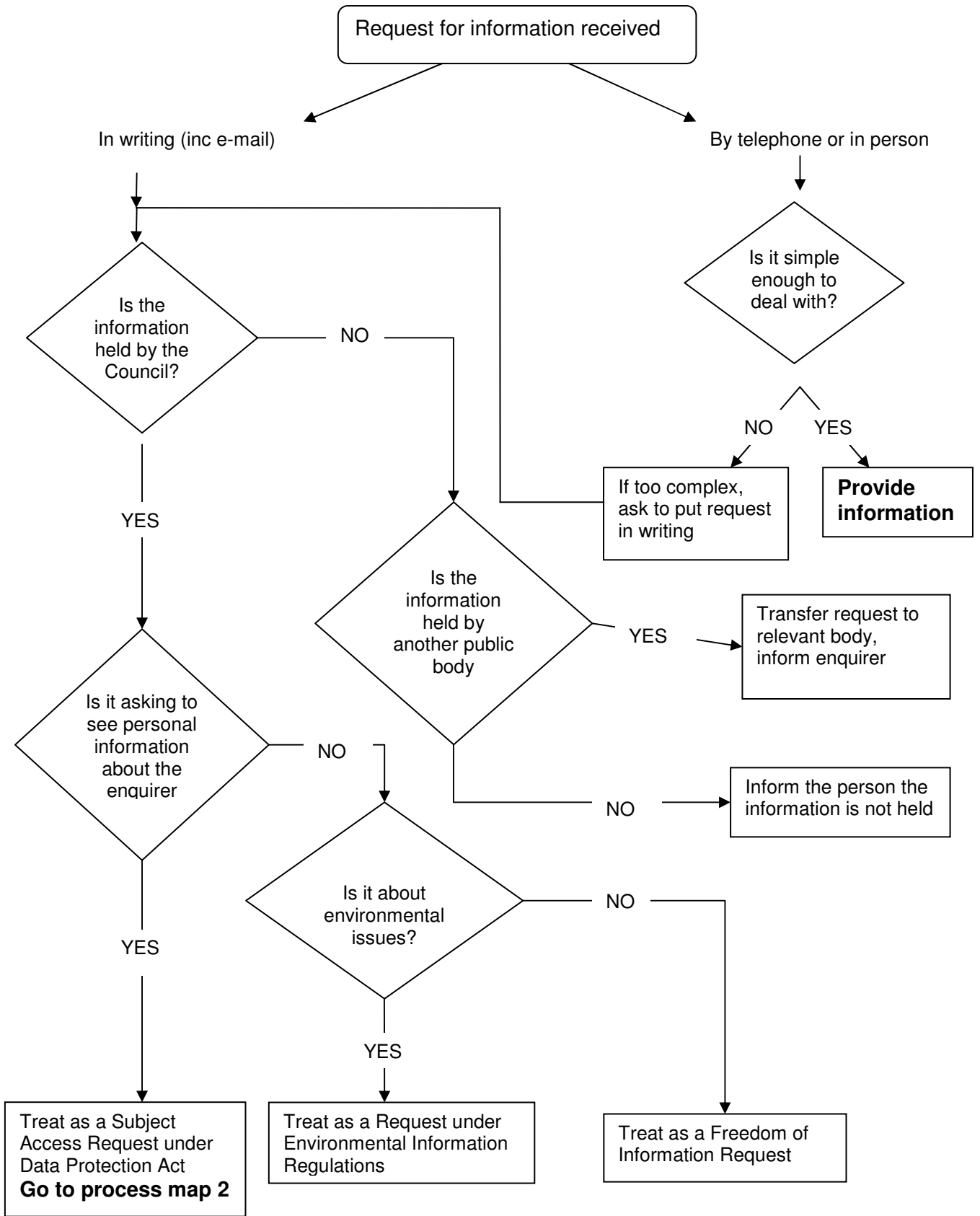
11.2 When an original request has been reviewed and the outcome is that information should be disclosed when the original decision was to withhold, this should be done as soon as practicable. When the outcome upholds the Council's original decision or action, the applicant should be informed of their right to appeal 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

Process Map 1 for Dealing with Requests



PROCESS MAP FOR HANDLING A SUBJECT ACCESS REQUEST

