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FOI and EIR policy

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1 Policy statement

Blackpool Council is committed to transparency with the public and the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) supports this objective.

The Council regards the lawful and correct management of all information as an essential element of its successful service delivery and recognises that this helps to maintain the confidence of its service users, residents, employees and elected members, and those who work with it.

Blackpool Council recognises its obligations as set out in the FOIA and EIR, as described briefly within the '[Introduction](#)' section of this policy. The Council endorses the requirement for greater openness and accessibility to information and recognises the opportunity to promote initiatives that lead to effective procedures and efficiency savings.

2 Introduction

The FOIA requires the Council to adopt and maintain a Publication Scheme and to process requests for information. The Act covers all recorded information held by the Council. It is not limited to official documents and it covers, for example, drafts, emails, notes, recordings of telephone conversations and CCTV recordings.

The EIR provides public access to environmental information held by public authorities.

The FOIA and EIR do not give people access to their own personal data (information about themselves). Individuals have a right of access to information held about them under the UK General Data Protection Regulations (the UK GDPR) and the Data Protection Act 2018.

To enable it to fully comply with the FOIA and EIR, the Council will:

- Put policies and procedures in place to enable the Council to deal with requests in line with the legislation and within the legislated timescale
- Maintain a Publication Scheme

3 Scope

This policy applies to all information in any format including paper, electronic, images and sound, and emails that may be sent or received by the Council.

It is applicable to anyone working on behalf of the Council including (but not limited to) permanent and temporary employees, elected members, contractors, casual and agency workers, secondees, volunteers and students (including work experience or work-placement) who may, in the course of activities performed on behalf of the Council come into contact with records or information. This group will be referred to as workers in the '[Roles and Responsibilities](#)' section of this policy.

Please note that this policy does not apply to individual elected members in relation to their constituency or ward work, as they are a separate legal entity for processing any personal data for this purpose. Coroner's Offices are also not formally subject to the FOIA.

4 Roles and Responsibilities

All workers are responsible for complying with the FOIA and EIR and should:

- Forward any requests on to the Information Rights Team (who sit within the Information Governance Service) as soon as they receive it. Requests should be sent to FOI@blackpool.gov.uk
- Provide the Information Rights Team with any information that has been requested in a timely manner (deadlines are provided by the Information Rights Team at the time of the request for information).
- Inform the Information Rights Team as soon as possible if the request for information does not fall within their role/delivery service area
- Ensure that the information provided for disclosure does not contain any personal data

The Information Rights Team will be responsible for:

- Acknowledging the request.
- Asking for [clarification](#) (where applicable).
- Applying the public interest test (where applicable).
- Providing the requester with a [fee notice](#) (if applicable).
- Forwarding the request on to the relevant delivery service area.
- Ensuring that the information disclosed does not contain any personal data.
- Responding to the request [within the timescales](#) provided by the FOIA and the EIR.

The Data Protection Officer (DPO), who is the Council's Head of Information Governance, will be responsible for ensuring [internal reviews](#) (complaints) are responded to in an appropriate manner.

5 Publication Scheme

One of the requirements of the FOIA is that the Council has a maintained Publication Scheme. A Publication Scheme is the means by which the Council lists the information that is published, in the format it exists, how it can be accessed and if there is an associated charge. The Council has adopted the Information Commissioner Office's (ICO's) model Publication Scheme for local government. The Publication Scheme is reviewed by the Information Governance Service on an annual basis to ensure that it remains accurate and up to date.

6 Valid Requests

Freedom of Information

Anyone can make a Freedom of Information request. They do not have to be a UK citizen or a resident in the UK. Freedom of Information requests can also be made by organisations, for example a newspaper, a campaign group, or a company. However, to be valid under the FOIA, the request must:

- Be in writing. This could be a letter or an email. Requests can also be made via the web, or even on social networking sites, such as Facebook or Twitter.
- Include the requester's real name. The FOIA treats all requesters alike, so the Council should not normally seek to verify the requester's identity. However, the Council may decide to check their identity if it is clear that they are using a pseudonym or if there are legitimate grounds for refusing their request and it suspects they are trying to avoid this happening, for example because their request is vexatious or repeated. A request can be made in the name of an organisation, or by one person on behalf of another, such as a solicitor on behalf of a client.
- Include an address for correspondence. This need not be the person's residential or work address - it can be any address at which the Council can write to them, including a postal address or email address.
- Describe the information requested. Any genuine attempt to describe the information will be enough to trigger the FOIA, even if the description is unclear, or the Council thinks that it is too broad or unreasonable in some way. The FOIA covers information, not documents, so a requester does not have to ask for a specific document (although they may do so). They can, for example, ask about a specific topic and expect the Council to gather the relevant information to answer their enquiry. Or they might describe other features of the information (e.g. author, date or type of document)

EIR

Anyone has a right to request environmental information from the Council. An individual does not have to mention the EIR when making a request and the request does not have to be directed to a specific member of staff. However, to be valid under the EIR, the request must:

- Be a request for environmental information. If the requested information is not environmental then the request should be processed under the FOIA. If the request is for the requester's personal data then it should be processed in accordance with Article 15 of the UK GDPR (subject access).
- Requests can be made verbally or in writing, so a request can be made by telephone, letter or email, or using social media sites

such as Facebook or Twitter.

- EIR say that the Council must respond to all requests in writing so the request will need to contain the requestor's name and contact details for correspondence.
- The request does not have to specify or describe the information. Any clear sign that someone wants some environmental information is likely to count as a request under the EIR, even if the Council can't tell exactly what information they want.

7 Clarification

Requests are often ambiguous, with many potential interpretations, or no clear meaning at all. If the Council cannot answer the request because it is not sure what is being requested, it must contact the requester as soon as possible for clarification.

The Council does not have to deal with the request until it has received whatever clarification it reasonably needs. However, the Council must consider whether it can give the requester advice and assistance to enable them to clarify or rephrase their request. For example, the Council could explain what options may be available to them and ask whether any of these would adequately answer their request.

8 Timescales

The Council's main obligation under FOIA and EIR is to respond to requests promptly, with a time limit acting as the longest time it can take. Under FOIA and EIR, the Council may take up to 20 working days to respond, counting the first working day after the request is received as the first day.

Working day means any day other than a Saturday, Sunday, or public holidays and bank holidays.

The time allowed for complying with a request starts when the Council receives it, not when it reaches the Information Rights Team. As such, workers must forward any requests on as soon as they receive it.

Under the EIR, the Council can extend the 20 day period to 40 working days to give it more time to locate and provide the information:

- When a request is for a large amount of information that is complex; and
- It would be impracticable to comply with the request or decide to refuse to comply within 20 working days

If the Council decides to extend the deadline for a request under EIR, it must inform the requester to manage expectations

9 Fees

Freedom of Information

The FOIA does not allow the Council to charge a flat fee but it can recover its communication costs, such as for photocopying, printing and postage. The Council cannot normally charge for any other costs, such as for staff time spent searching for information, unless other relevant legislation authorises this.

However, if the cost of complying with the request would exceed the cost limit referred to in the legislation (currently £450 - see 'refusing a request'), the Council can offer to supply the information and recover the full costs (including staff time), rather than refusing the request.

If the Council wishes to charge a fee, it should send the requester a fees notice. It does not have to send the information until it has received the fee. The time limit for complying with the request excludes the time spent waiting for the fee to be paid. In other words, the Council should issue the fees notice within the standard time for compliance. Once it has received the fee, it should send out the information within the time remaining.

EIR

In some circumstances, the Council can charge a fee for making the information available. Any charge should be 'reasonable' - it should not exceed the costs the Council incurs in making the information available or act as a deterrent to the right to request information. It may cover the cost of the paper for photocopying or printing the information and a covering letter and the cost of postage. It may also include the cost of staff time in identifying, locating or retrieving the information from storage.

The Council cannot charge for allowing a requester access to public registers or to inspect the requested information. It would not be reasonable to charge for information that would not cost it anything to send (for example, an email attachment).

The Council can charge for environmental information only if it publishes a schedule of charges and details of when it may or may not charge. This gives the requester an opportunity to consider the cost of their request before making it.

If the Council charges a fee, it should refer the requester to its schedule of charges within 20 working days. If it needs them to pay in advance, it should tell them this, and the amount. The Council does not have to provide the information until it has received the fee.

10 Refusing a Request

When an individual [requests their own personal information](#), this is dealt with under the UK GDPR and Data Protection Act 2018 and different procedures will apply.

Freedom of Information

A requester may ask for any information that is held by the Council. However, this does not mean that it is always obliged to provide the information. In some cases, there will be a good reason why it should not make public some or all of the information requested.

The Council can refuse an entire request under the following circumstances:

- It would cost too much or take too much staff time to deal with the request. The cost limit is £450 but the Council must provide evidence to the requester demonstrating how their request would exceed this cost limit, if relying on this exemption.
- The request is vexatious (not the person). When assessing whether a request is vexatious, the FOIA permits the Council to take into account the context and history of a request, including the identity of the requester and its previous contact with them. The decision to refuse a request often follows a long series of requests and correspondence. The key question to consider is whether the request is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation.
- The request repeats a previous request from the same person.

In addition, the FOIA contains a number of exemptions that allows the Council to withhold information from a requester. Common examples include:

- Information already reasonably accessible
- Information intended for future publication
- Research information
- Investigation and prejudice to law enforcement
- Court records
- Prejudice to audit functions
- Government policy and prejudice to the effective conduct of public affairs
- Endangering health and safety
- Environmental information
- Personal information
- Confidentiality
- Legal professional privilege
- Trade secrets and prejudice to commercial interests
- Prohibitions on disclosure.

Whilst all workers should have an awareness of these exemptions, it is ultimately the responsibility of the Information Rights Team to apply them and inform the requester of the exemption(s) and the reason(s) why they apply in their response. Some exemptions are subject to the public interest test. This is an extra stage in the process of deciding what information to provide, which requires the Council to balance the public interest arguments for disclosing the information against those for upholding the exception.

EIR

Under the EIR, most exceptions are subject to the public interest test. Common examples include:

- Information intended for future publication
- Involves the disclosure of internal communications
- Adversely affect the course of justice
- Confidentiality of proceedings
- Commercial or industrial confidentiality
- Adversely affect environmental protection
- Personal data of the applicant.
- Personal data (not of the applicant)
- The request is 'manifestly unreasonable' i.e. dealing with the request would create unreasonable costs or an unreasonable diversion of resources or an equivalent request would be found as 'vexatious' if it was subject to the FOIA
- Whilst all workers should have an awareness of these exemptions, it is ultimately the responsibility of the Information Rights Team to apply them, undertake the public interest test and issue the refusal notice (if applicable)

- With both the FOIA and EIR, if the Council is refusing all or part of a request, it must send the requester a written refusal notice. This includes when the Council needs to inform a requester that it does not hold the information they have requested

11 Complaints

- If the requester is not satisfied with the Council's response, they can apply for an Internal Review of the decision and this should be directed in writing to: Data Protection Officer, Blackpool Council, PO Box 4, Blackpool, FY1 1NA, or by email to dataprotectionofficer@blackpool.gov.uk
- If the appeal is not resolved, then then individual has a right of appeal to the ICO and can raise a complaint and ask for an independent review
- The ICO will determine if it is appropriate to investigate the complaint and if so, make a decision on their findings. At this stage, the Council also has a right to appeal to the Information Commissioner with regard to any complaint or appeal

12 Further Information

- Any queries relating to FOIA and/or EIR should be sent to the Information Rights Team - FOI@blackpool.gov.uk or 01253 478980 (available Monday to Friday between the hours of 9.00am and 4.00pm)
- The ICO has produced [a guide to freedom of information](#) which is published on their website and the Council aims to comply with this guidance in the compilation of this policy
- All Council Directorates have trained nominated officers to deal with requests for information and provide initial guidance for employees within their own Directorate
- Ensure that contracts containing suitable clauses are in place for any data processing undertaken externally for the Council, which involves data that falls within scope of the FOIA and EIR

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Blackpool Council

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