information management & security

Gloucestershire COUNTY COUNCIL

Freedom of Information and Environmental Information Policy

1.0 Policy Statement

The council recognises the corporate responsibility to provide the public with a general right of access to all information held by the council.

The purpose of this policy is to demonstrate how the council will comply with the provisions of the Freedom of Information Act (FoIA) and the Environmental Information Regulations (EIR).

As a public authority, FOI and EIR provide a right to request recorded information held by the council and establish two related rights:

- the right to be told whether that information exists (subject to exemptions / exceptions)
- the right to receive the information (subject to exemptions / exceptions)

Requests for access to information not listed in the publication scheme will be processed through the council's Access to information procedures.

2.0 Scope

This policy applies to all employees, elected members, contractors, agents and representatives and temporary staff working for or on behalf of the council.

This policy does **not** apply to:

1. Subject Access Requests (requests for access to personal information). These requests are exempt from the FoIA under section 40 and will be processed in accordance with the General Data Protection Regulation and under the council's Information Rights Policy.
2. Adoption Records. These requests fall under a specific process managed by Adoption West.
3. Information held by schools and other public sector organisations, as they are responsible for their own information compliance.
4. Information held by elected members in relation to their constituency or political activities.
5. Suppliers engaged by the council, where information is not held on behalf of the council.

3.0 Responsibilities

- The Directors are responsible for ensuring compliance with this policy and for nominating an appropriate FOI Champion for their service area(s).
- Directors are also responsible for ensuring openness and accountability in compliance with the legislation.
- The Director Policy, Performance & Governance is the senior officer with delegated overall responsibility for the legislation.
- Senior managers (Directors, Assistant Directors, Lead Commissioners, Operational Leads, and Heads of Service) are responsible for:
  - ensuring that the business areas they have responsibility for have processes and procedures in place that support this policy;
  - ensuring effective service area participation in cases at all stages; initial request, internal review, the ICO, the information tribunal or courts.
- The Information Management Service (IMS) is responsible for:
  - providing guidance on information legislation;
  - promoting compliance with this policy;
  - monitoring and reporting to the Information Board, Corporate Leadership Team (CLT) and Corporate Overview and Scrutiny Committee;
  - providing an advisory service for the council;
  - ensuring appropriate training and awareness are in place;
  - ensuring there is an appropriate process to provide requestors with an internal review;
  - maintaining processes and records for managing requests;
  - liaising with the Information Commissioner.
- Line managers must ensure that all staff who report to them are aware of the requirements of the legislation, and that all new staff receive an introductory briefing on the access to information procedures. This can be achieved by ensuring staff engage with the corporate induction handbook and training.
- All staff must recognise that all recorded information may be provided to the public, and that the law requires that there will be full and unconditional disclosure in every case unless one or more of the statutory exemptions / exceptions applies.
- Requests for information must be passed directly to IMS as soon as possible, wherever in the council it may have been received.

4.0 Exemptions and Exceptions

The starting point when considering requests will be that information held will be released, unless one or more of the statutory exemptions / exceptions, as set out in legislation, applies.

Only the specific piece of information to which the exemption / exception applies will be withheld.

Where the council has determined that exemption(s) / exception(s) apply, the council will consider the prejudice test and / or the public interest test (where appropriate) and may withhold in part or in full the requested information.

Decisions and relevant approvals will be recorded and maintained by the Information Management Service

5.0 Decision Making

Each request will be risk assessed (Low / Medium / High) on receipt, taking into account the subject matter and any related sensitivities, and allocated to an officer in IMS to manage (the IMS case officer). The IMS case officer will review this assessment to take into account any new information that arises during the management of the request.

Service areas will ensure that any concerns about the release of specific information are communicated to the IMS case officer in a timely and clear manner, to enable consideration of any exemptions / exceptions.

Decisions on the release of information in relation to low and medium risk cases will be taken by the IMS case officer. The IMS case officer will work with the service area(s) in reaching this decision and will take into account any representations available at the time from the service area and / or 3rd party organisations.

Decisions on the release of information in relation to high risk cases will be taken by a relevant Director.

The Director of Policy, Performance & Governance will arbitrate in circumstances where agreement between the Information Management Service and the business on the release or withholding of information cannot be achieved.

6.0 Information held by Superintendent registrars and registrars.

Registration officers and anyone who acts on their behalf in carrying out statutory registration duties are outside the provisions of the Freedom of Information Act 2000. This includes information held by Superintendent registrars and registrars.

This is because:

- The FOI Act only applies to information held by "public authorities”.
- "Public authorities" under the FOI includes local authorities, the Registrar General but not registration officers.
- Registration officers carry out duties such as the registration of marriages under obligations placed upon them in registration law (the Marriage Act

1949). The duty is not placed on the local authority, or on the Registrar General, but on them as individuals.
- Information collected by registration officers in pursuance of these statutory duties is not held by the local authority, but by registration officers. It is not therefore subject to disclosure under the provisions of the FOI Act (as registration officers are not covered by the provisions of the FOI act – as detailed above), and
- The fact that registration officers are local authority employees does not affect the position under which they still carry out those particular functions.

Data held by them, including information held in birth / death / marriage registers, is thus not subject to disclosure.

This information is therefore not captured by freedom of information legislation.

7.0 Training & Awareness

Officers managing requests within the Information Management service will be expected to achieve FOI Practitioner status within 18 months of starting in post.

IMS will provide regular training for FOI Champions.

The corporate induction will include information that all members of staff need to be aware of in relation to their responsibilities.

As a refresher for all staff FOI and EIR will form part of the IMS annual communication plan.

8.0 The Council's Publication Scheme

The Council's Publication Scheme.

The Publication Scheme specifies:
- what information the council will make routinely available to the public
- how it will do so
- whether information will be made available free of charge, or on payment of a fee

9.0 Charges

Information made available through the council's Publication Scheme will be free of charge, unless otherwise specified.

The council reserves the right to charge an appropriate fee for dealing with a specific request for information not listed in the publication scheme, in accordance with

legislation. In these cases, the council will issue a fees notice, and the requester has 3 months to pay before their request will be considered to have been withdrawn.

10.0 Reviews and Complaints

A requester can ask for a review on either the procedural aspects of their request or the decision to withhold some or part of the information they requested within 40 days of receiving a response. The procedure is available on the council's website at Information Management and Security Policies.

Cases that are escalated to the Information Tribunal will be referred to Legal Services.

The council's Corporate Complaints Policy does not generally apply to requests made under the Freedom of Information Act, General Data Protection Regulation or Environmental Information Regulations.

11.0 Performance and Reporting

In recognition that there are, on occasion, factors that mean a delay beyond the statutory timescale is unavoidable, the council aims to meet the national target of 90% of responses provided on time, as set by the Information Commissioner.

Performance will be monitored on a monthly and quarterly basis by the Information Management Service.

Both corporate and service specific performance will be overseen by the Information Board on a regular basis. Should areas of concern be identified these will be reported to specific Directorates' Senior Leadership Teams and escalated to CLT, as appropriate.

Monitoring of performance on FOI / EIR requests will be achieved through the council's quarterly Corporate Performance Management Framework.

Directorates' Senior Leadership Teams are expected to monitor and review their performance (subject to available data) at least quarterly.

Annual reports will be brought before CLT and the Corporate Overview and Scrutiny Committee.

12.0 Related Policies

This policy has been formulated within the context of the following council documents:

- Information Rights Policy
- Access to Deceased Person's Records Policy

- Information Compliance Complaints Procedure
- Information and Data Management Strategy
- Data Protection Policy
- Information Security Policy
- Information and Records Management Policy

These can all be found on the council's website at Information Management and Security Policies.

13.0 Available Guidance

Guidance on the procedures necessary to comply with this policy is available from the Information Management Service or on the Information Management Service Staffnet page.

14.0 Breach of Policy

Breaches of this policy may be dealt with under the council's Disciplinary and Dismissals Procedure which can be found on the disciplinary and dismissals page, and, in serious cases, may be treated as gross misconduct leading to summary dismissal.

Breaches of this policy and related legislation may be investigated by the Information Commissioner or other 3rd party organisations.

It is an offence to alter, withhold, deface, block, erase, destroy, (unless legitimately destroyed in accordance with the council's retention schedule, available on the How long do we keep records for? page) or conceal all or part of any information once it is known to have been requested, with the intention of preventing its disclosure.

A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

15.0 Document Control

15.1 Document information

Owner:	Jenny Grodzicka, Head of Information Management Services
Author:	Jenny Grodzicka, Head of Information Management Services
Reviewer:	Request Management
Board(s) consulted:	
Date created:	July 2009
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Date of approval:	
Scheme of Delegation ref:	
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15.2 Version History

Version	Version date	Summary of Changes
1-0	January 2005	
2-0	January 2006	
3-0	July 2009	Removed procedural information. Introduced role of Information Compliance Champions
4-0	March 2012	Clarified record keeping requirements and reformatted.
4-1	November 2012	Added link to complaints policy and procedure should arbitration be required. Reformatted.
5-0	February 2015	Minor wording changes. Updated name of Committee that oversees request management performance.
5-1	June 2016	Updated weblinks and contact details
5-2	January 2018	Updated weblinks
6	May 2018	Changes relating to GDPR
6.2	September 2020	Updated links. Updated scope. Expanded on responsibilities. Amended Director with delegated responsibilities. Updated terminology, e.g. CLT. Added sections on exemptions/exception, decision making, training and awareness, performance & monitoring and breach of policy.
6.3	March 2021	Minor updates in relation to timescales.

Version	Version date	Summary of Changes
6.4	May 2021	Minor updates from Information Board to role titles. Approved by Information Board, 12 May 2021.
6.4	July 2021	Section 10 update to Corporate Performance Management Framework from regime to be aligned with other Council policies.
6.5	January 2023	Addition of wording relating to information held by Superintendent registrars and registrars. Accessibility review and updates to formatting. Broken links fixed.
6.6	March 2024	Broken links fixed
6.7	June 2024	Broken links fixed following migration of StaffNet onto SP.
6.8	November 2024	Minor wording amendment to section 5.0.

15.3 Review

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 3 years.

15.4 Contact Us

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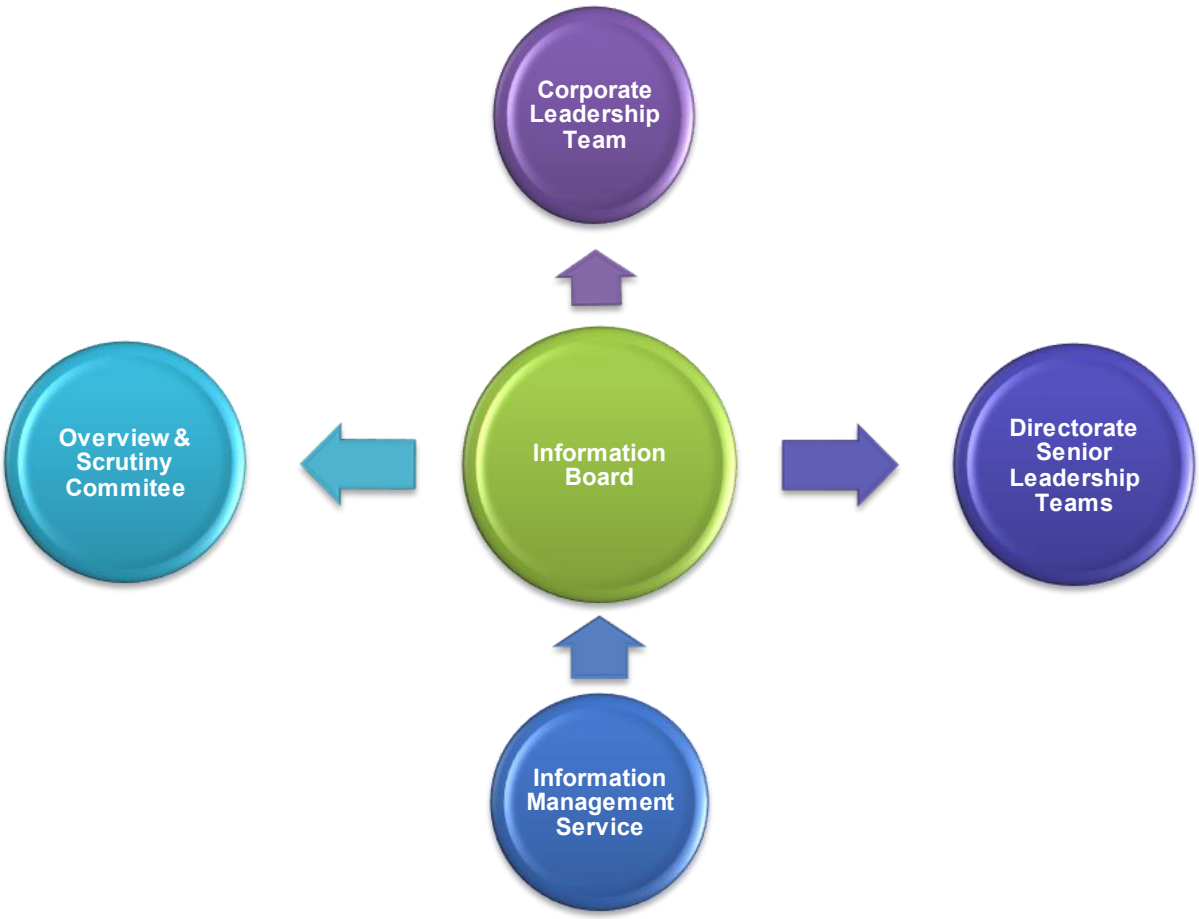
16.0 Appendices

Appendix 1 – Reporting Structure