

# Access to Council Information Policy

AI00

## Version History

Version	Date	Description	Author, Role
0.1	10/09/2021	Combination of the following policies; <ul style="list-style-type: none"> <li>• Freedom of Information Policy v1.2 2019</li> <li>• Environmental Information Regulations Policy v3.0 2019</li> <li>• Reuse of Public Sector Information Regulations Policy v2.1 2021</li> <li>• Subject Access requirements of the Data Protection Policy v3.2 2019</li> </ul>	Kate Collins and Stuart Taylor
1.0	17/02/2022	Review and Approval by IG Board and SEB members	Information Governance Team
2.0	05/12/2023	Scheduled review	Information Governance Team

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## Introduction

The City of Wolverhampton Council is committed to engaging with local people, businesses and community organisations, being accountable to them and responsive to their needs.

The Council follows the legislation as set out in the Legal and Regulatory Obligations section by having a process in place to enable the public to request data that the Council holds.

As part of this, the Council has a duty to be transparent and share information openly, unless there are clear reasons not to do so.

The Council creates and collects large volumes of data in the course of its work and aim to make the best possible use of these assets for the benefit of the city. Some of the data may be of interest or value to others, within Wolverhampton or elsewhere.

## Legal and Regulatory Obligations for the Council

The Council is obliged to follow the following legislation;

- [The Freedom of Information Act 2000 \(FOIA\)](#)
- [The Environmental Information Regulations 2004 \(EIR\)](#)
- [Reuse of Public Sector Information Regulations 2015 \(RoPSI\)](#)
- Subject Access Requirements (SAR) of:
  - [UK GDPR 2021](#), and the
  - [Data Protection Act 2018](#)

## Scope

This policy must be adhered to by anyone employed by the Council, including for example: employees, temporary or contract staff, volunteers, work placements, council members, contractors, suppliers, services providers or other partner agencies.

## Definitions

Please find a description of common Information Governance terms here: [What is Information Governance? | City Of Wolverhampton Council](#)

## The Freedom of Information Act 2000 (FOIA)

The FOIA provides a general right of access to all recorded non personal information held in any format by public authorities.

The Act covers all recorded business and information of a corporate nature held by a

public authority, for example, structure charts, emails, budgets and annual accounts, Council meeting papers, recordings of meetings.

The Act does not cover personal identifiable information, or information that is in someone's head, this includes opinions. Only information that has been recorded is in scope of FOI.

The Council also maintains a disclosure log of previous requests and information on how to make a new request here; <https://www.wolverhampton.gov.uk/your-council/information-governance/freedom-information/requests>

The Council is also obliged to publish certain information about their activities under a Publication Scheme here: <https://www.wolverhampton.gov.uk/your-council/information-governance/freedom-information/publication-scheme>

The Council will comply with the requirements of the FOIA by:

- Requiring requests to be in writing from a valid named individual or organisation. There is no need for requests to indicate they are made under the FOIA; however, applicants making requests must provide their real name and an address for correspondence (email or postal).
- Requesting clarification if a request is unclear. We will ask for clarification as soon as we can to enable us to proceed with considering the request.
- Responding to all requests promptly, and within the statutory response period of 20 working days following receipt of a valid request. This timescale can be extended under specific circumstances, for example if an exemption applies and we are considering whether or not it is in the public interest to disclose the information regardless of the exemption. The requestor will be kept informed of progress in the event of any possible delay in providing the information.
- Considering any of the 23 exemptions, as set out in the FOIA, when considering information for disclosure. Where the Council considers that an exemption is applicable, it will explain to the requestor in its response which exemption has been applied and why.
- Reserving the right to refuse requests where the cost of providing the information would exceed the statutory cost limit. This limit is currently £450, which equates to 18 hours' work at a statutory rate of £25 per hour. Where we estimate that complying with a request will take more than 18 hours of officer time, we will try to assist applicants to make refined requests which are more manageable.
- Considering if there will be a charge for disbursements e.g. photocopying or postage in order to provide the information, we will inform applicants as soon as possible to see if they wish to proceed; however, such charges will usually be waived if they amount to less than £10. Charges under these

circumstances will be calculated at a rate of 10p per sheet of A4 for photocopying; postage will be calculated using Royal Mail's postage rates at the time the request is dealt with. Any other similar charges which may arise e.g. larger paper sizes will be reasonable and be calculated on the basis of the actual cost to the Council of providing the information to applicants.

- Reserving the right to refuse requests that it considers to be vexatious or repeated. When considering vexatiousness, the Council will consider all of the facts of the case to determine whether there is a greater public interest in complying with the request or in refusing. In doing so, the Council will rely on guidance from the Information Commissioner's Office and will adhere to the requirements of the FOIA.
- Having in place a procedure to handle any disputes or complaints arising from the outcome or handling of a request for information, this procedure is known as an internal review. An individual should make a request for an internal review in writing within 40 working days of the initial response. The Council is not obliged to provide a review if it is requested after more than 40 working days. All internal reviews should be responded to within 20 working days.
- Notifying the requester that if they remain dissatisfied following the outcome of the internal review they may seek an independent review by the UK Supervisory Authority on these matters, the Information Commissioners Office (ICO). More information can be found on their website here:  
<https://ico.org.uk/make-a-complaint/>

To make a Freedom of information request you can do so on the Council's website here; <https://www.wolverhampton.gov.uk/your-council/information-governance/freedom-information/make-a-request>

## **The Environmental Information Regulations 2004 (EIR)**

The EIR runs alongside FOI and is substantially similar in nature. Specifically, it provides a general right of access to all recorded information held in any format by public authorities that relates to the environment.

The Act covers all recorded information held by a public authority of an environmental nature, for example, information about land development, pollution levels, energy production, and waste management.

The Act does not cover information that is in someone's head, or their opinions, it only applies to information in recorded form.

As per the FOI section above:

- The Council is required under EIR to make information readily available. Please see the links above to the Publication scheme and the Disclosure Log.

- The process for making an EIR is again the same as making an FOI request, please refer to the details in the section above. The timescales for response, for any extension of timescales, and fees and charges are the same as FOI.
- EIR includes a number of exceptions to the disclosure of information. Where the Council considers that an exception is applicable, it will explain to the requestor in its response which exception has been applied and why.
- Individuals have the same rights to an internal review, and to complaint to the supervisory authority the ICO as those under FOI, as detailed above.

## **Reuse of Public Sector Information Regulations 2015 (RoPSI)**

The RoPSI provides a general right of access and re-use to information that public authorities produce as part of their core roles and functions.

The Council will comply with the requirements of the RoPSI, and in particular will:

- Identify public sector information documents that are available for re-use.
- Assess whether to charge for re-use of its documents.
- Provide a licence, listing the conditions for re-use.
- Provide information assets lists to identify published and unpublished material available for re-use.
- Where a charge may be required, the total income should not exceed the cost of collection, production, re-production and dissemination of documents and a reasonable return on investment.
- In regard to timescales, internal reviews and complaints the same process as described under FOI will apply.

The information covered within this section can be found here: [Open Data Catalogue | City Of Wolverhampton Council](#)

## **Subject Access Requests (SAR) of the UK GDPR and the Data Protection Act 2018**

Under the UK GDPR and the Data Protection Act 2018 the right to make a SAR provides a general right of access for individuals to have a copy of all data about themselves, that is held by public authorities. This right of access can be made verbally or in writing by the individual.

A request for information about an individual other than the subject of the information will be rejected except in the following circumstances:

- Those with parental rights may request information about a child under 16. However, a child 13 and over with capacity will be asked to consent to the release of their data to their parent/guardian.
- A solicitor may request information on behalf of an individual with that individual's consent.
- Those with Lasting Power of Attorney for an individual who has been proven to lack capacity to make their own decisions.
- Any person acting on behalf of another with signed consent from the data subject, which can be verified.

The Council will comply with the requirements of the SAR and in particular will:

- Acknowledge the request and we may request identification to ensure that your information is only released to the correct person.
- Will clarify with the requestor any information that will enable the Council to identify, locate and extract your information. If your request is unfounded or you fail to provide any further clarification then the Council will close your SAR.
- Provide you a deadline for a response to be provided with.
- Consider what information can be legally provided to you in line with the exemptions as set out in legislation. A reason will be provided within our response explaining why information has been redacted or not provided.
- Disclose information to you in a secure manner e.g. secure file transfer, secure email, recorded delivery or courier (please note a charge may be levied for recorded delivery or courier).
- Charge for disbursements covering repeat requests.
- Inform you of any further rights / actions you may take in regard to your SAR when disclosing your information.

A request for your information can be made here: [Data protection | City Of Wolverhampton Council](#)

## **Other Data Rights – Data Protection Legislation**

In addition to SAR you also have the additional following data rights:

- The right to rectification.
  - Individuals have the right to request that inaccurate personal data is rectified or completed if it is incomplete.

- The right to erasure.
  - Individuals in some circumstances have the right to request their data is erased. Individuals will be informed if there is a legal reason that means personal data cannot be deleted.
- The right to restrict processing.
  - Individuals have the right to request the restriction or suppression of their personal data. This is not an absolute right and only applies in certain circumstances.
- The right to data portability.
  - The right to data portability allows individuals to obtain and reuse their personal data for their own purposes across different services.
- The right to object
  - Individuals in some circumstances have the right to object to the processing of their personal data. Individuals will be informed if there is a legal reason that means the personal data must be processed by the Council. Individuals have an absolute right to stop their data being used for direct marketing. Individuals can usually set their marketing preferences within their online accounts.
- Rights in relation to automated decision making and profiling.
  - If an automatic decision has been made about an individual by a computer, they have the right to request human intervention or challenge a decision.

The Council will deal with any of the above requests on its merits and in accordance with the requirements of the DPA 2018 and UK GDPR. Once a request has been made the same process as set out above for SAR will be followed. Please note some of these data rights are not absolute and the Council must take into account other considerations before they can progress your request. This includes what other legal requirements apply to keeping your data (e.g. Council Tax, Elections, Safeguarding). The Council will, in its response, let you know what actions and considerations have been taken when assessing your request.

If you wish to make a data request please do so here: [Data protection | City Of Wolverhampton Council](#)

## **Disclosures under Data Protection Legislation**

In addition to the above, personal data, including CCTV imagery, about you can be requested by and disclosed to other organisations, where you have either consented or they have a legal basis for access.

The following are examples, however this list is not exhaustive:



- Insurance providers – acting with your consent to manage a claim.
- Regulatory bodies – i.e Social Work England who have a legal duty to investigate cases brought against social workers.
- Police – Investigation of crime.

CCTV will not be disclosed to the general public if other people can be identified and we are unable to edit out people to protect their identity

## **Roles and Monitoring**

A description of roles associated with this policy and Information Governance Key Terms are available on the Information Governance pages of the Council's Public Website: [What is Information Governance? | City Of Wolverhampton Council](#)

This policy will be approved and monitored by the Council's Information Governance Board. It will be reviewed every 2 years or sooner if legislative changes require.

## **Training and dissemination**

The policies will be disseminated via the Council's City People news article, and the Operational Managers Network. The policies will be available on the Council's public website.

## **Links to other Policies**

This Policy forms part of the Information Governance Framework, and should be read in conjunction with the other related policies within the framework which are as follows and available on the following webpage [What is Information Governance? | City Of Wolverhampton Council](#);

- IG Strategy
- Access to Council Data
- Data Protection Policy
- Information Security Policy
- Records Management Policy
- Information Governance Definitions, Roles and Responsibilities