

# ACCESS TO INFORMATION POLICY 2008



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## 1. INTRODUCTION

- 1.1. The Isle of Wight Council (“the council”) is committed to promoting open and transparent governance. This policy facilitates the efficient, effective and strategic use of council’s information to deliver its corporate objectives. This policy will be reviewed periodically, to ensure it reflects any changes to existing legislation and incorporates any new legislation.
- 1.2. The council’s Data Protection Officer will take the lead role and be responsible for the provision of advice, guidance and training regarding Freedom of Information, Data Protection and the Environmental Information Regulations. This will be achieved with the support of the council’s Legal Services and the Corporate Information Unit.
- 1.3. All Officers will have responsibility for ensuring that requests for information are dealt with in accordance with this policy.
- 1.4. Heads of Service will be responsible for ensuring operational compliance with this policy within their own departments and for decision making with regard to refusing requests for information, with guidance from Legal Services where applicable.
- 1.5. Departmental Information Guardians (DIGs) will be responsible for the dissemination of guidance relating to ‘access to information’ throughout their directorates. These individuals will be responsible for the co-ordination of information requests in accordance with the council’s policies and procedures. -going training will be provided to DIGs to support them in their role and ensure compliance.
- 1.6. The council’s compliance with these access rights will be audited internally and subject to scrutiny by the Information Commissioner on complaint.
- 1.7. The council will not seek to differentiate between the different access regimes when dealing with access requests, unless necessary where exemptions are to be considered.
- 1.8. The purpose of this policy is to ensure that the provisions of the Freedom of Information Act 2000 (“the FOI Act”) and the Environmental Information Regulations 2004 (“EIRs”) are adhered to as well as any guidance issued under Section 45 of the Freedom of Information Act 2000. Both regimes have been in force since 1<sup>st</sup> January 2005. The council further seeks to ensure compliance with both the Human Rights Act 1998 (“HRA”) and the Data Protection Act 1998 (“DPA”) which protect the privacy of personal information held by the council.
- 1.9. Detailed advice and guidance for staff is available on the Council’s intranet site at <http://wightnet2000.iow.gov.uk/foi/> Detailed advice and guidance for members of the public is available on the Council’s website at [www.iwight.com/foi](http://www.iwight.com/foi)



## 2. ACCESS REGIMES

2.1. Access to information is principally governed by four main legislative provisions:

- i) The **Data Protection Act 1998** (“DPA”) relates to personal information held by the council and the right you have to access your **own** personal information. Requests must be in writing and be accompanied by suitable identification and an administration fee, which is routinely a £10 fixed fee. The council has 40 calendar days to deal with the request and provide any relevant information (except in the case of health records and educational records) See section 10 for further details.
- ii) **Environmental Information Regulations 2004** (“EIRs”) enable access to environmental information held by the council. Requests can be made verbally or in writing. The council has 20 working days to deal with the request and provide any relevant information subject to limited exceptions. A definition of what constitutes environmental information is contained in Appendix B.
- iii) The **Freedom of Information Act 2000** allows the right of access to any information held that does not fall under the access regimes above. Requests must be made in writing. The council has 20 working days to deal with the request and provide any relevant information subject to limited exemptions
- iv) **Part VA of the Local Government Act 1972**, was amended in part by the Local Government (Access to Information) Act 1985. This legislation gave the public a right of access, subject to certain exemptions, to meetings and documents of the council, committees or subcommittees. The Isle of Wight Council holds meetings in the evening to make them more accessible to members of the public and proactively publishes agendas and minutes of meetings, and associated information, on the council’s website. Due to the limited nature of this Act, no further reference will be made to it.

2.2. All of the above provide rights of access to information held with limited exception. Whilst the spirit of both the FOI Act and EIRs are the same, there are some minor differences in their application. See [Appendix B – Environmental Information Regulations 2004](#) for further details. Due to the similarity between them, this policy will mainly refer to the FOI Act.

## 3. AN OFFICIAL REQUEST FOR INFORMATION

3.1. All the above access regimes provide a right to access recorded information, not specifically documents. The information may be contained in reports, policies, letters, emails etc, together with other information that has not been requested. The information may be extracted from relevant documents and provided in a different format, in accordance with the appropriate legislation.



- 3.2. The generic term of Request for Information (“RFI”) is used for formal requests for all information held by the council, irrespective of which access regime is appropriate. The council will not categorise requests, unless an exemption is considered relevant, as the exemptions differ. Requests for personal information are dealt with specifically under Section 10 of this policy.
- 3.3. The council has produced a Publication Scheme in accordance with the FOI Act and this dictates some of the information that is currently available to the public, its location and whether there is a charge.
- 3.4. If information requested is contained within the council’s Publication Scheme, the request will not be treated as a formal request (see Appendix C – The Publication (Public Information) Scheme/Catalogue). The customer can obtain the information as specified in the Scheme, which will also dictate whether and how much the council will charge for providing the information.
- 3.5. Anyone is entitled to request information from public bodies, regardless of his or her age, nationality, location, motive or history. Any information held by the Council is eligible for release. However, a limited number of exemptions may be applied to protect some information that truly warrants such protection.
- 3.6. Requests should be made in writing (including e-mails); state clearly what information is required; and state the name of the applicant and an address for correspondence. The applicant may apply online using the council’s online application form. Whilst requests for ‘environmental information’ may be made verbally, under the EIRs, applicants will be encouraged to submit written requests to avoid any misunderstanding of the request.
- 3.7. Requests should be forwarded to the relevant DIG, who will record the details on CRM. Contact details for all DIGs are available on the Council’s intranet site. The council must respond promptly to all requests, and not later than 20 working days after receiving the request. It is essential that such requests are logged and monitored to ensure compliance with this timescale. The DIG will co-ordinate the request
- 3.8. The reply to the request should confirm or deny whether or not the council holds the information, unless such confirmation or denial would, in itself, disclose exempted information. If an exemption does not apply, the council will provide the information that has been requested. If an exemption does apply, the council will explain why the information cannot be provided, quoting a statutory exemption and the reasoning behind it.
- 3.9. A request for information may only be refused if an exemption under the relevant legislation applies. In some cases only some of the information will benefit from an exemption, in such cases the exempt information will be redacted (removed/blacked out) from that provided. The reply will state which exemption the council relies on and the reasoning behind it, and will provide details to the requester of the Internal Complaints and Review Process. Any application for a review of a council’s decision, or any complaint relating to the



way a request has been handled, should be directed to the Corporate Information Unit, County Hall, High Street, Newport, Isle of Wight, PO30 1UD. If, after an internal review/complaint, the applicant is still dissatisfied, they have the right to seek a review by the Information Commissioner, [www.ico.gov.uk](http://www.ico.gov.uk).

- 3.10. These access regimes provide rights to access information held by the council but they do not automatically allow for the re-use of the information. The Re-Use of Public Information Regulations 2005 came into force on the 1st July 2005 (implementing a European Directive). These regulations allow the council to permit the re-use of information, if required. The council, in making its decision as to whether to permit the re-use of information, will do so in accordance with guidance adopted at [Appendix K](#) of this policy. Whilst the council will seek to ensure that information may be re-used, wherever possible, whether under licence or not, nothing within these Regulations compels the council to allow re-use.
- 3.11. The council provides a wide range of information routinely, and will continue to do so, with only certain requests being treated formally under the relevant legislation. Please refer to [Appendix A \(What is a request for information?\)](#), for clarification as to which requests will trigger an official request for information (RFI) or [Appendix G \(Is it a Data Protection Act, Environmental Information Regulations or Freedom of Information Request?\)](#) as to which legislation affords the right of access.
- 3.12. The council will not provide assistance to applicants whose requests are vexatious within the meaning of Section 14 of the FOI Act (see [Appendix E – Refusing a Request for Information](#)).
- 3.13. If the council considers that the cost of compliance would exceed the appropriate limit, as set out under regulations made under Section 12(4) of the FOI Act, the council will provide appropriate advice and assistance to the applicant. See [Section 6 – Charging Fees](#), for further details. The council may consider what information could be provided within the cost ceiling, with the agreement of the applicant.

#### **4. ADVICE AND ASSISTANCE**

- 4.1. The Council uses a network of Information Guardians, situated in each service area, to process formal requests. This network is supported by the Corporate Information Unit who provide advice and assistance on dealing with requests in accordance with the appropriate access regime. Contact details can be found on the Council's intranet site.
- 4.2. The council will provide reasonable assistance to the applicant, to help clarify the nature of the information sought. If the request is at all ambiguous, contact will be made to clarify the request at the earliest opportunity. This will normally be by telephone, fax or e-mail, if these contact details are known. Whilst clarification is sought the 20 working day time period will be stayed.



- 4.3. The council will not seek to determine the motivation or aims of the applicant for requesting the information, as it recognises this is entirely irrelevant to the decision.
- 4.4. Public authorities have a duty to give effect to an applicant's preferred format for receiving information, so far as this is reasonably practicable. This may include:
  - summarising the information,
  - providing the applicant with a copy (for example by photocopying or printing),
  - allowing the applicant reasonable opportunity to inspect a record containing the information,
  - producing material in an applicant's preferred format (for example by putting it onto CD-Rom, video or audio cassette),
  - translating information into a different language at the request of the applicant. However, public authorities are not obliged to translate documents if this would not be "reasonably practicable".

## **5. TIME PERIOD FOR COMPLIANCE**

- 5.1. The council must inform the applicant, in writing, whether it holds the information requested and, if so, communicate that information to the applicant promptly, but not later than 20 working days after receipt of the request. Non-working days are identified as being all Saturdays and Sundays and all recognised public bank holidays.
- 5.2. The 20 working day time period starts either the day after the council receives the request, or the day the authority receives the further information it reasonably requires to identify and locate the information requested.
- 5.3. The date of receipt is the date the council actually receives the request. If the request is by way of email then it is the date the email arrives in the recipient's mailbox.
- 5.4. If an automated 'out of office' message provides instructions on how to redirect the message, then the council will not be considered to have received the request until it is re-sent to the alternative contact given. Similarly, if a request for environmental information is made, and an answer phone message provides an alternative contact point, then the date the clock starts will be when contact is made with the alternative contact point.
- 5.5. If the request relates to information contained within an education record then different time scales may apply.
- 5.6. If the council are considering applying an exemption which requires the consideration of the public interest test, the council may need further time beyond the normal 20 working day limit. In this instance, the council will notify the applicant that the request for information engages the public interest test



(see [Appendix F – The Public Interest Test](#)) and will provide an estimate of a date by which it expects to reach a decision. These estimates shall be realistic and reasonable in the circumstances of the particular case, taking account of such things as the need to consult third parties. If the estimate given proves to be unrealistic, the council will notify the applicant at the earliest opportunity and apologise for any further delay, giving a new realistic estimate of when the decision will be issued.

## 6. CHARGING FEES

### 6.1. Compliance costs

6.1.1 The council may charge a fee, in accordance with the fees regulations made under Section 9, 12 and 13 of the FOI Act. The fee that may be charged for production of the information requested is shown in [Appendix D \(Charging fees\)](#). If the total cost of the request is less than £450, which equates to 18 hours of officer time, no fee will be charged except for possible communication costs (see below).

6.1.2 In determining whether the cost of compliance exceeds the limit, the council will be guided by the charging regulations that set out what may be taken into account. The costs are limited to those that the council reasonably expects to incur in:

- determining whether it holds the information requested,
- locating the information or documents containing the information,
- retrieving such information or documents, and
- extracting the information from the document containing it (including editing or redacting information).

6.1.3 In determining the total cost, the council can only charge £25 per hour per person for staff time, regardless of their seniority.

6.1.4 If the cost of the request exceeds the £450 limit (“the appropriate limit”), the council will either waive the fee, issue a fee notice for the total cost, or refuse the request. The council will, as part of its duty to advise and assist, liaise with the applicant to determine if the original request might be amended to concentrate the application to reduce the cost of compliance. It is important that time estimates for meeting the request are made as soon as possible.

### 6.2. Communication Costs

6.2.1 Regardless of whether the fee limit is exceeded, the council may charge a fee for the cost of communicating the information. This could also include the cost of putting the information in the applicant’s preferred format, reproducing any document containing the information, e.g.



photocopying or printing; and postage and other forms of communicating the information.

6.2.2 The council may charge for photocopying in line with the pricing structure shown below

For black and white copies of documents:  
Per page (A4 & A3) £0.10

For colour prints from digital scans or of original document:  
Per page (A4 & A3) £0.30

6.2.3 If other formats are requested, the council will determine a reasonable fee to cover the cost of such format. The council is mindful of its duty under the Disability Discrimination Act 1995 in responding to requests. For example, if an applicant is disabled and requires information in another form, for instance in Braille or on audio tape, then consideration shall be given to providing information in the form requested.

6.2.4 For the certification of a copy of a record, or of an extract from a record, in addition to the charge for the copy, there may be a charge for its certification dependent on the number of sheets to be certified.

6.2.5 Please refer to the step-by-step guide in [Appendix D](#) as to the process for determining if a fee is to be charged.

6.2.6 These fees however, do not apply to material made available under the council's publication scheme; to information which is reasonably accessible to the applicants by other means (Section 21 of the FOI Act); where provision is made by or under any enactment as to the fee that may be charged by the public authority for disclosing the information.

6.2.7 The fees regulations only provide legislative provision to charge for the request and it will be entirely at the council's discretion to waive the fee, especially if the cost of issuing an invoice would be disproportionate to the fee to be collected.

6.3. Aggregated costs

6.3.1 In certain situations, the costs of answering more than one request can be added together, or aggregated, for the purposes of estimating whether the appropriate limit would be exceeded in relation to any one of those requests.

6.3.2 The Regulations state that requests can only be aggregated in the following circumstances:

- two or more requests for information have been made to the same public authority;
- they must be either from the same person, or from 'different



persons who appear to the public authority to be acting in concert or in pursuance of a campaign' (section 12(4)(b) of the FOI Act);

- the requests must relate to the same or similar information; and
- they must have been received by the public authority within a space of 60 consecutive working days.

6.3.3 This provision is intended primarily to prevent individuals or organisations circumventing the appropriate limit by splitting a request into smaller parts.

## **7. TRANSFERRING REQUESTS FOR INFORMATION TO ANOTHER PUBLIC AUTHORITY**

- 7.1. If the council receives a request for information that it does not hold, but it is aware that the information is held by another public authority, the council will provide as much assistance as possible to the applicant in assisting the transfer of their request to the authority which holds the information. This may be by simply contacting the applicant and directing him to the appropriate public authority who holds the information, or, if details are known, providing the applicant with contact details.
- 7.2. If the council holds any of the information that has been requested, it shall treat that part of the request as an official request for information and process it accordingly. The council shall inform the applicant of the information it does not hold at the earliest opportunity and provide as much assistance as is reasonable to enable the applicant to locate it elsewhere.
- 7.3. The time period for compliance does not start until that part of the request is received by the public authority that holds the relevant information.
- 7.4. The council may enter into information sharing protocols with its partner public sector bodies. Any protocol entered into will reflect this policy and seek to provide certainty as to its provisions.

## **8. CONSULTATION WITH THIRD PARTIES**

- 8.1. The council recognises that the disclosure of information may affect the legal rights of a third party. The council recognises the importance of the Data Protection Act and the Human Rights Act and this policy is written in accordance with their terms. The council further recognises that unless an exemption is provided for in the relevant legislation it will be obliged to disclose that information in response to a request.
- 8.2. If the information relates or refers to a third party, the council will seek to consult with that third party, with a view to seeking their consent to the disclosure, at the earliest opportunity, unless such a consultation is not practical.



- 8.3. The consultation may assist the authority to determine whether an exemption applies to the information requested, or the views of the third party may assist the council to determine where the public interest lies (under Section 2 of the FOI Act).
- 8.4. A refusal to consent to disclosure by a third party will not, on its own, mean that information cannot be disclosed.
- 8.5. If the cost of consultation with the third party is disproportionate, the council may consider it not appropriate to undertake that consultation. The council will further not undertake consultation if it does not intend to disclose the information for some other legitimate ground under the terms of the FOI Act/EIRs, or if the views of the third party could have no effect on the decision of the authority.
- 8.6. The council will only accept information from third parties in confidence, if that information would not otherwise be provided to the council to assist the delivery of the council's functions. Again the council will not agree to hold information received from third parties in confidence if it is not confidential in nature.

## 9. CONTRACTS

- 9.1. The council will refuse to include contractual terms which purport to restrict the disclosure of information held by the council in relation to the contract, beyond the restrictions permitted by the FOI Act. Unless an exemption applies in relation to any particular part of the contract, the council will be obliged to disclose that information in a response for a request regardless of the terms of any contract.
- 9.2. The council will further reject confidentiality clauses as to the terms, the value, and performance of the contract, unless this is justified and in accordance with the FOI Act. Where, exceptionally, it is necessary to include non-disclosure provisions in the contract, the council will seek, at the earliest opportunity, to agree with the contractor a schedule of the contract that clearly identifies the information which should not be disclosed. However, even if such schedule is drafted, the restrictions on disclosure may be overridden by the obligations under the FOI Act. Further, whilst an exemption may apply whilst the contract is relatively new, a lapse of time may negate the applicability of the exemption, should a request be received at a later date.

Upon receipt of a request the council will contact the relevant third parties to seek their views as to the release of the information. If the council is satisfied that some of the content of the contract is commercially sensitive, then the appropriate information will be removed (redacted) and the relevant exemption applied. However, whilst the council will take any comments into account, it is the council's final decision whether to withhold information.

- 9.3. The council will not hold information in confidence, which is not, in fact, confidential in nature. Information is confidential in nature if the disclosure of



such information would be an actionable breach of confidence.

- 9.4. If a non-public body is contracted with the council to provide a service that is a function of the council, then they may be deemed to be part of the council for the purposes of the FOI Act/EIRs and will be bound by the terms like any other public authority.

## 10. PERSONAL INFORMATION

10.1. The Council is data controller for the personal information that it processes as part of its day to day business. This information is managed in accordance with the Data Protection Act 1998.

10.2. The Act states that anyone who processes personal information must comply with eight principles, which make sure that personal information is:

- Fairly and lawfully processed
- Processed for limited purposes
- Adequate, relevant and not excessive
- Accurate and up to date
- Not kept for longer than is necessary
- Processed in line with your rights
- Secure
- Not transferred to other countries without adequate protection

10.3. The DPA gives individuals the right to know what information is held about them, and it provides a framework to ensure that personal information is handled properly.

10.4. Section 7 of the DPA provides that an individual ('data subject') is entitled to be properly informed by a data controller whether their personal data is being processed by, or on behalf of, the council. If such data is being processed, the data subject is further entitled to certain other information including a description of:

- the personal data of which the individual is the data subject,
- the purposes for which the data is being processed or are to be processed,
- the recipients or classes of recipients to whom they are or may be disclosed.

10.5. Requests to access personal information about yourself are called 'subject access requests'. All requests must be made in writing and submitted with the standard fee of £10.00 (unless the request relates to health or education records, whereby different fees apply – please contact the Corporate Information Unit for advice).

10.6. The council will also require sufficient information to satisfy itself as to the identity of the person making the request and also to locate the information



which the person is seeking.

- 10.7. All requests should be addressed to either the specific department the applicant wishes to exercise its right within, or to the Corporate Information Unit, at the address below.
- 10.8. The council's standard subject access application form is annexed to this policy at [Appendix J](#) and can be forwarded by email to [information@iow.gov.uk](mailto:information@iow.gov.uk) or by post to:

Corporate Information Unit  
Legal Services  
Isle of Wight Council  
County Hall  
High Street  
Newport  
Isle of Wight  
PO30 1UD

Tel: (01983) 821000  
Fax: (01983) 823284

- 10.9. The DPA requires the council to comply with a request promptly and in any event within 40 calendar days of receiving the request, or sufficient information to respond to the request, or receipt of a fee.
- 10.10. A subject access request can be made by
- the data subject,
  - a person authorised by the data subject to make such a request in writing. In order for the council to be satisfied that the applicant is authorised by the data subject to make the request on their behalf, the council will require a written letter of authority,
  - a person who holds a Court Order for disclosure of personal information of a specific individual,
  - a person who is appointed by the Court of Protection to manage the financial affairs of the subject; or an (enduring/lasting power of) attorney for the data subject, and the data subject is unable to make a request themselves, and the information requested relates to, or is necessary for, the management of the financial affairs and/or property of the data subject.
  - a person who is an attorney under a Lasting power of attorney.

Please note, a copy of any of the documents referred to above will need to be supplied with the original request, before the application is processed.

- 10.11. The obligation to provide a copy of information, need not be complied with, where to do so would involve a disproportionate effort. In the event that information is not supplied, efforts will still be made to allow the data subject access to it. In deciding whether the supply of the information in a permanent



form would amount to a disproportionate effort, the council will consider

- the cost and provision of the information,
- the length of time it may take to provide the information,
- how difficult or otherwise it may be for the council to provide the information,
- the number of departments of the council that the request is directed at.

10.12. The above factors will always be balanced against the effect on the applicant of not receiving the data in a permanent form. The council recognises the importance of proportionality and if an onerous request is received, the council will always seek to balance the benefit to be derived from it by the applicant, and whether this is disproportionate to the burden placed upon the council in responding to it.

10.13. Personal information is defined as:

“Data which relates to a living individual who can be identified – (a) from that data, or (b) from that data and other information which is in the possession of or is likely to come into the possession, of the data controller.

And includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.”

10.14. In determining whether the information **relates to** a living individual, the council will take into account if the information affects a persons privacy, whether it relates to personal or family life, his/her business or professional capacity. The council will not consider information to be personal information unless the information has the data subject as its focus, rather than some other person with whom he may have been involved. Additionally, the information must be biographical in a significant sense, that goes beyond the recording of the individual’s involvement in a matter, or an event which has no personal connotations.

For example, the mere reference of a person’s name, where the name is not associated with any other personal information, will not be considered personal data. Similarly, incidental mention in the minutes of a council meeting of an individual’s attendance at that meeting, in an official capacity, will not be personal data.

10.15. Exemptions

Under the Act, there are a number of exemptions to the rights of individuals to access information about themselves, including:

- Crime or taxation
- Health



- Education
- Social work
- Regulatory activity, journalism, literature and art
- Research, history and statistics
- Public inspection
- Corporate finance
- Examination marks
- Confidential references
- Negotiations
- Legal professional privilege
- Adoption records and reports
- Special educational needs

The above exemptions shall be applied by the council in a proportionate and fair manner on a case-by-case basis. In the event that an exemption is applied, the applicant will be notified promptly, at least within 40 days, of such a decision, together with the reasons the council believe such an exemption applies. The applicant does have a right of appeal, in the event information is not disclosed.

10.16. The council will not be obliged to comply with a subsequent identical or similar request, unless a reasonable interval has elapsed between compliance from the previous request and the making of the current request.

10.17. All information that is sent out as a result of a subject access request, will be sent by way of recorded delivery and in a suitable manner so as to protect its confidentiality.

## **11. CENTRAL REGISTER**

11.1. All access requests will be recorded and monitored by the Corporate Information Unit for quality assurance and statistical reasons.

11.2. The details provided in a request may be disclosed to Departmental Information Guardians, or any other officer, who will be involved in facilitating the request.

## **12. REFUSAL OF REQUEST**

12.1. If the council refuses a request for information on reliance of an exemption, it will notify the applicant which exemption has been claimed, and why that exemption applies. If the reasoning behind the exemption, or the exemption itself, results in the disclosure of information which would itself be exempt, then the council may not provide that reason.

Where only part of the information requested benefits from an exemption, this information will be removed (redacted/backed out) from that provided.

12.2. If the council claims that the public interest in maintaining the exemption



outweighs the public interest in disclosure, then the council must state this in its decision letter, together with the public interest factors it has considered and formed a material part of the decision.

- 12.3. The council will maintain a central record for monitoring purposes of all 'requests for information' (RFI's) and will proactively audit decisions made to ensure that refusals are justified and reasonable. This collated central record will be held by the Corporate Information Unit.

### 13. APPEALS

- 13.1. The council have adopted an internal appeals procedure. The internal appeals process must first be utilized before a referral is made to the Information Commissioner.
- 13.2. An appeal may be made
- with regards to the council not following its publication scheme,
  - on requests that have not been properly handled,
  - on requests where the applicant is dissatisfied with the outcome of the consideration of the request, or
  - where the issue is such that it cannot be resolved informally in discussion with the departmental information guardian dealing with the request.
- 13.3. The council's appeals procedure is shown at [Appendix H \(Appeals Procedure\)](#) and the appeal form can be viewed at [www.iwight.com/information](http://www.iwight.com/information) or obtained from the Corporate Information Unit at the address shown on page 13, where completed forms should be also be sent.
- 13.4. The council will consider any expression of dissatisfaction, in response to their reply to a request, to be an appeal unless the applicant does not wish to proceed.
- 13.5. Any review of a decision made relating to a request for information, will be reviewed by a person who was not party to the original decision.
- 13.6. If, following the review, the original decision is reversed and information is now disclosed, the reasons for the reversal will be notified to the applicant together with the information requested. This will be done at the earliest opportunity.
- 13.7. If the decision to refuse disclosure is upheld, the reasons for the refusal will be notified to the applicant. If, having exhausted the internal appeals procedure, the applicant is still dissatisfied, they shall be made aware of their right to apply to:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire



SK9 5AF

Tel No: 01625 545700

Fax No: 01625 545510

Any queries regarding this policy, or access to information within the Isle of Wight Council, should be directed to:

The Corporate Information Unit  
Isle of Wight Council  
Legal Services  
County Hall  
High Street  
Newport  
Isle of Wight PO30 1UD  
E-mail: [Information@iow.gov.uk](mailto:Information@iow.gov.uk)  
Tel no: 01983 821000



## APPENDIX A - WHAT IS A REQUEST FOR INFORMATION?

1. The Isle of Wight Council routinely provides information as part of its normal council functions on a day-to-day basis. The access regimes under Environmental Information Regulations, Freedom of Information Act and Data Protection Act are so broad that they have the potential to encapsulate most of what the Isle of Wight Council does routinely.
2. This guidance note therefore sets out what the triggers will be for engaging the official process for dealing with requests for information under the above legislation.
3. The following will not, as a general rule, engage the official process:
  - If the information is reasonably accessible to the public by such means as it is published on the Internet, noted in the publication scheme, or available for inspection. This may include information leaflets, published reports or general information on the internet.
  - Information that is released as part of the council's normal business process. The council routinely provides information as part of their day to day processes, for example job application forms or information relating to case work. The new processes are not intended to replace existing business systems that are functioning adequately.
  - General correspondence, including the questioning of certain actions.
  - Requests that do not include a name and address for correspondence (or an email address).
4. It is important for all staff to recognise official requests at an early stage. These requests must be directed to the relevant Departmental Information Guardian who will enter the details into the official council's system for managing requests. This is to ensure that the council can comply with the request within the legislative time periods and to enable sufficient monitoring and auditing of the council's compliance.
5. Examples of when official requests for information should be logged, by notifying the relevant DIG are:
  - Requests that consciously engage any, or all, of the information access regimes. Those requests being, for example, requests which specifically mention their right of access under FOI, DPA or EIRs.
  - Where the public authority requires further information from the applicant in order to identify and locate the information requested.
  - Requests that will not receive a reply within ten working days from the date of request.
  - Requests which result in information being withheld for any reason under an exemption or exception from the right of access.



- Requests that are not processed because the public authority estimates the cost of compliance would exceed the appropriate limit.
- Requests that are not processed because the public authority considers the request to be vexatious or repeated.
- Requests that relate to information that is contained in a transferred public record. This may include information that is held by another public authority either as author or as recipient.
- Requests that may prejudice third parties and/or the Isle of Wight Council, its Members, or its staff.



## APPENDIX B - ENVIRONMENTAL INFORMATION REGULATIONS 2004

1. Where an access request is for environmental information it should be dealt with under the Environmental Information Regulations 2004 (“EIR”).
2. These regulations share many common elements with the Freedom of Information Act, however, there are a few notable differences:
  - requests can be verbal or in writing,
  - there is no pause in the 20 day response time whilst charges for the supply of information are being negotiated,
  - there is no upper limit for charges above which a request can be refused,
  - there is no fee structure, but charges must not exceed the costs reasonably attributed to the supply of the information,
  - the response time can be extended in line with the regulations, in the case of complex or voluminous requests,
  - the public interest test ([Appendix F](#)) is applied in each potential case of refusal based on an exemption.
3. What is ‘Environmental Information’?
  - 3.1 Environmental information is taken to mean information that relates to the state of the elements of the environment such as:
    - Air and atmosphere
    - Water
    - Soil
    - Land
    - Landscape and natural sites, wetlands and coastal and marine areas
    - Biological diversity and its components including genetically modified organisms.
  - 3.2 The Regulations cover all recorded information concerning:
    - the interaction between the elements in (a) above,
    - factors such as substances, energy, noise, radiation or waste,
    - emissions, discharges and other releases into the environment,
    - environmental measures such as policies, legislation, plans, programmes and agreements,
    - cost benefit and other economic analyses and assumptions used in environmental decision making,
    - the state of human health and safety, conditions of human life, cultural sites and built structures, in as much as they are affected by anything above.
  - 3.3 Routinely produced environmental information and specialist reports should, wherever possible, be included within the Publication Scheme.



## **APPENDIX C - THE PUBLICATION (PUBLIC INFORMATION) SCHEME/CATALOGUE**

The council will endeavour to be as transparent and open as possible. There will be a presumption in favour of public access to all information held, unless there is a statutory or compelling business reason against publication.

The more information that is pro-actively made available via the council's Publication Scheme, or its website, the better. It will demonstrate the council's willingness to adopt an open approach to its business, and will also help to reduce the number of 'one off' access requests, that would otherwise involve staff in the potentially resource-hungry activities of locating, retrieving, collating, editing, reproducing and dispatching information.

For the catalogue to work as effectively as possible, all staff will need to accept some responsibility for identifying existing, or new, information that may be suitable for inclusion. Such information should be brought to the attention of the departmental information guardians, who will determine, in conjunction with senior management as necessary, whether the information should be included in the catalogue.

When considering the medium of publication of new information, the council are committed to using electronic means in the first instance.

### **1. General criteria for inclusion:**

The focus should be on information that

- is known to be of public interest, and/or
- contributes to the principle that the council's activities and decision-making processes should be seen to be open and transparent, eg internal policies and procedures, codes of practice, strategies, plans, minutes of key meetings, etc.

### **2. What type of information may be suitable?**

- Committee agendas, reports and minutes that are already routinely made publicly available.
- Records that contain background information in respect of decision-making processes and which would be in the public interest.
- Strategies, service plans, business plans, policy documents, codes of practice, procedural documents, consultation documents and other information that would fall into this category.
- Any documentation that explains how the council assesses whether or not an individual is eligible for service provision, eg assessment criteria, eligibility criteria information.
- Information that the council already knows is regularly requested.

### 3. What type of information may not be suitable?

Whilst it is clearly desirable to make as much information pro-actively available as possible it is also essential that the catalogue is properly managed and maintained. There is little value in information that has been superseded, is out of date, obsolete or simply no longer relevant. Departments need to be mindful of the potential resource requirements of managing large quantities of published information and ensure that they have made arrangements to maintain it in good order. In view of this it is worth thinking initially about excluding information that

- has a very short shelf life and/or will require frequent updating.
- may be of interest to the public, but which is **not** in the public interest. These two things are not the same.
- is largely exempt, and will require major editing/redacting (editing or revising a piece of writing) to make it suitable for inclusion.

### 4. Some tips about publishing information

It may be possible to anticipate requests, particularly where there are major local issues that are likely to attract public attention. In these cases, it would be sensible to include background papers, and information in the catalogue, from the outset.

Consider whether or not information that is sensitive, or exempt, can be included within appendices, so that the main body of the report can be included in the catalogue. Considering the structure of reports in this way, will make access requests easier to respond to in the long run. Remember, a whole report is not exempt if just a few paragraphs contain sensitive material.

When information is produced, or generated, consider whether it is appropriate for inclusion within the scheme, and, if it is, follow the procedures to make sure this happens.

Remember that the catalogue is a 'living' index of current information, that the council believes to be in the public interest, and which promotes openness and transparency of decision-making. The publication scheme is intended to be organic and to grow and must be kept up to date. It shall be a departmental responsibility to up-date their respective parts of the scheme, and to notify the Corporate Information Unit of any changes made.



## APPENDIX D - CHARGING FEES

Guidance on the application of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

The following two pages summarise the main steps public authorities need to go through when considering whether to charge for a Freedom of Information (FOI) request.

**1. Step 1.**  
***Do you know if the information is exempt for the purposes of the FOI Act?***

If information is exempt from FOI, then FOI fees will not apply. For example, if the information has to be made available under the terms of another Act, or is available through the authority's publication scheme, it is automatically exempt from FOI. If information has to be provided under the terms of another Act, fees should be charged in line with the provisions in that Act.

Information that is made available through the publication scheme should be clearly marked as to whether charges will apply as part of the scheme.

FOI fees will not apply in either case. The authority would need to contact the applicant to inform him or her that the information is exempt in the usual way.

**2. Step 2A.**  
***Do you wish to calculate whether the cost of the request would exceed the appropriate limit?***

In many cases, it will be immediately obvious that the request would cost less than the appropriate limit, so there will be no point in calculating whether the appropriate limit is exceeded.

**3. Step 2B.**  
***Are you likely to wish to aggregate two or more requests for the purpose of calculating whether the appropriate limit has been met?***

Aggregation, where the cost of answering requests is added together, is not likely to happen often. It can only take place when an authority receives two or more requests from the same person, or different people acting together or as part of a campaign. The requests must be on the same or a similar subject, and be made within 60 working days of each other. If these conditions are met, the cost of the requests can be added together when calculating whether the appropriate limit has been met.

- If the answer to either of these questions is yes, proceed to step 3.
- If the answer to both questions is no, proceed to step 4.

**4. Step 3.**  
***Calculate the appropriate limit.***

The appropriate limit is £450 for public authorities, with staff costs calculated at a rate of £25 per hour. When calculating whether the appropriate limit is exceeded, authorities can take account of the costs of determining whether the information is held, locating and retrieving the information, and extracting the information from other documents. They cannot take account of the costs involved with considering whether information is exempt under the Act.

- If the request would cost less than the appropriate limit, go to step 4.
- If the request would cost more than the appropriate limit, go to step 5.

**5. Step 4.**  
***Requests costing less than the appropriate limit.***

If a request would cost less than the appropriate limit, the authority can only charge for the cost of informing the applicant whether the information is held, and communicating the information to the applicant (e.g. photocopying, printing and postage costs).

- Now go to step 6.

**6. Step 5.**  
***Requests exceeding the appropriate limit.***

If a request would cost more than the appropriate limit, the authority can turn the request down; answer and charge a fee; or answer and waive the fee. If it decides to charge a fee, and does not have other powers to do so, it can charge on the basis of the costs outlined in step 3 (ie. those costs used to determine whether the appropriate limit was met), as well as the cost of informing the applicant whether the information is held and communicating the information to the applicant.

- Now go to step 6.

**7. Step 6.**  
***For all requests, authorities should have regard to the following two points:***

- The duty to provide advice and assistance to applicants. If the authority is planning to turn down a request for cost reasons, or charge a high fee, it should contact the applicant, in advance, to discuss whether they would prefer the scope of the request to be modified, so that, for example, it would cost less than the appropriate limit.
- Whilst the Act and Fees Regulations set out fees that can be charged, there is nothing to stop authorities charging a lesser, or no, fee.



## APPENDIX E – REFUSING A REQUEST FOR INFORMATION

Whilst the Freedom of Information Act provides for the right of access to information held, it also affords a number of exemptions from this right, in order to permit public authorities to withhold some, or all, of the information requested, where a justifiable reason exists. Requests for information that are deemed to be vexatious or repeated can also be refused.

The exemptions fall into two categories:

- Absolute Exemptions. Where a public authority may withhold the information without considering any public interest arguments.
- Qualified Exemptions. Although an exemption may apply to the information, it will, nevertheless, have to be disclosed, unless it can be demonstrated that the public interest in withholding the information, is greater than the public interest in releasing it.

### 1. Absolute Exemptions

The absolute exemptions that are most likely to apply to the council are:

- **Information accessible by another means, (*Section 21*)**

This applies to information that is reasonably accessible to an applicant through another source, even if it is available only on payment. This type of information could be:

- included in the council's Publication Scheme ([Appendix C](#))
- information accessible through the council's web-site
- books, leaflets etc. published by the council
- information available under existing legislation, eg. planning applications.

The applicant should be directed to where the information can be found, and given the necessary assistance to enable them to access the information.

- **Information in court records (*Section 32*)**

This includes information in documents served for the purposes of legal proceedings, filed with a court, or held by a person conducting an inquiry, or arbitration.

- **Personal information relating to the subject (*Section 40*)**

This exemption is only absolute in respect of requests by applicants to access their personal information. Such requests will continue to be dealt with under the Data Protection Act 1998.

- **Information provided in confidence (*Section 41*)**

This exemption only applies to information provided in confidence to the



authority by external persons or agencies, including other public authorities, and where disclosure would result in an actionable breach of confidence. This means that the council would need to apply the common law test for breach of confidence, which includes an inherent public interest test. Legal advice must be sought before applying this exemption.

The Code of Practice under Section 45 of the Act states that a public authority should only accept information in confidence from third parties, if it is necessary to obtain that information in connection with any of the authority's functions.

- **Information that is prohibited from disclosure by law (*Section 44*)**

This applies to information, the disclosure of which, is prohibited by any legislation, or European Community obligation, or if disclosure would be a contempt of court.

## 2. **Qualified Exemptions**

The qualified exemptions most likely to apply to the council are:

- **Information intended for future publication (*Section 22*)**

This applies where the council plans to publish information in the future, normally in its Publication Scheme, and it is reasonable, at the time the request is made, not to disclose it until then. It may also apply to information relating to research projects, or surveys, where it would be inappropriate to release the information until the project has been completed. In other cases, for example information which is currently in a draft form, there must be an intention to publish and the applicant must be informed when such publication is planned.

- **Prejudicial to the economic or financial interests of any administration in the UK (*Section 29*)**

This exemption applies to information that, if disclosed, would be likely to prejudice the economic interests of the council. This may be in connection with, for example, a planned development under negotiation with third parties where there are particularly sensitive issues involved, but which promises to bring economic growth and/or significant benefits to the local community.

- **Investigations/proceedings conducted by public authorities (*Section 30*)**

This exemption covers information relevant to criminal investigations and proceedings, and information obtained from confidential sources for criminal or civil proceedings.



- **Law enforcement (*Section 31*)**

This exemption applies to information, the disclosure of which would be likely to prejudice:

- the prevention and detection of crime;
- the apprehension and prosecution of offenders;
- the administration of justice;
- the collection of any tax or duty (eg Council Tax).

- **Prejudice to the effective conduct of public affairs (*Section 36*)**

This exemption can only be agreed by a 'qualified person'. In the case of local authorities, this is the Monitoring Officer, which in the Isle of Wight Council is the Director of Legal and Democratic Services, with the Chief Executive as deputy if the MO is unavailable.

- **Health & Safety (*Section 38*)**

This exemption applies to information which would, or would be likely to, endanger the physical or mental, health or safety of any individual.

- **Environmental Information (*Section 39*)**

This exemption allows for the disclosure of environmental information under the Environmental Information Regulations (EIR), see [Appendix B](#)

- **Personal information relating to a third party (*Section 40*)**

Broadly speaking, requests for information about someone else will be dealt with under FOI, but disclosure should not be made if it would breach any of the Data Protection Act principles, or if the third party has not been made aware of the disclosure.

- **Legal professional privilege (*Section 42*)**

This applies where a claim to legal professional privilege could be maintained in legal proceedings. This exemption qualifies the rights of access under the Act by reference to a particular rule of litigation. According to that rule, legal professional privilege ("LPP") protects confidential communications between lawyer and client and certain other material created for the purpose of the litigation, by way of an exception to the general rules of disclosure applicable to civil and criminal litigation. If material is subject to LPP a party does not have to disclose it during the course of legal proceedings. The identification of LPP material is a question of law. Legal advice must be sought before applying this exemption.

- **Commercial interest (*Section 43*)**

This exemption applies to trade secrets, and to information, the disclosure of which, would, or would be likely to, prejudice the commercial interests of any



person, including the authority. This is the exemption which would be relevant to most commercially sensitive information held by local authorities. However, it would need to be demonstrated how disclosure would affect the commercial interest, and is further subject to a public interest test.

A full list of the exemptions under the FOI Act are available from the Information Commissioner's website at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

### **3. Vexatious and Repeated Requests**

#### **Vexatious Requests**

In determining whether a request should be refused, because it is considered vexatious, account must be taken of

- whether it would impose a significant burden on the authority, in terms of expense or distraction;
- the history of requests submitted by the applicant;
- whether there is any serious purpose or value to the request;
- if there is a strong likelihood that such requests are being made to intentionally cause harassment, divert resources and to disrupt the proper workings of the council;
- it can otherwise fairly be characterised as obsessive or manifestly unreasonable.

The term vexatious must be applied to the activities of the applicant based on substantiated evidence and not to the applicant themselves.

#### **Repeated Requests**

In determining whether a request should be refused because it is considered to be repeated, account should be taken of

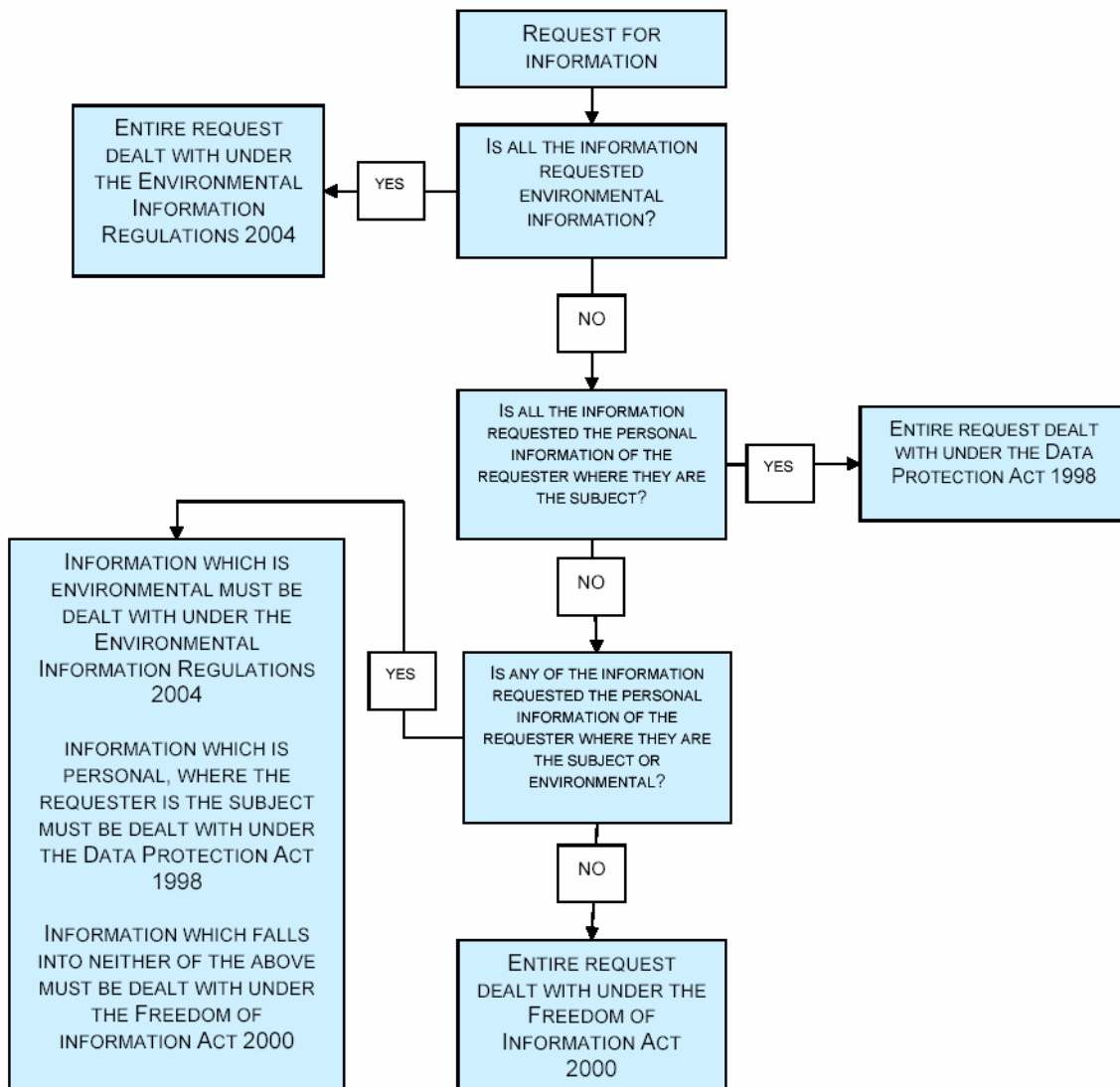
- the time that has elapsed since the previous request;
- whether the request is identical or substantially similar to the previous request, and
- whether the information has changed, or new information has been generated. In this case it would be reasonable just to provide the new information.



## APPENDIX F - THE PUBLIC INTEREST TEST

1. Where the council wishes to apply one of the qualified exemptions to prevent disclosure of the information requested, it will have to consider the public interest in maintaining the exemption.
2. The public interest test requires that information should be withheld under exemption if, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Generally, the public interest is not necessarily what the public are interested in, ie matters that the public may be curious about, interested in, or amused by, but more about information that could benefit the wider community if it were to be made available.
4. Disclosure should be considered to be in the public interest where it would
  - further the understanding of, and participation in, public debate,
  - promote accountability and transparency by public authorities for decisions taken by them,
  - promote accountability and transparency in the spending of public money,
  - allow individuals to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions,
  - inform the public of any danger to public health and safety,
  - contribute to the administration of justice, enforcement of the law.
5. Factors such as embarrassment are not to be taken into account when determining the public interest.

## APPENDIX G - FLOW DIAGRAM - IS IT A DATA PROTECTION ACT, ENVIRONMENTAL INFORMATION REGULATIONS OR FREEDOM OF INFORMATION REQUEST?

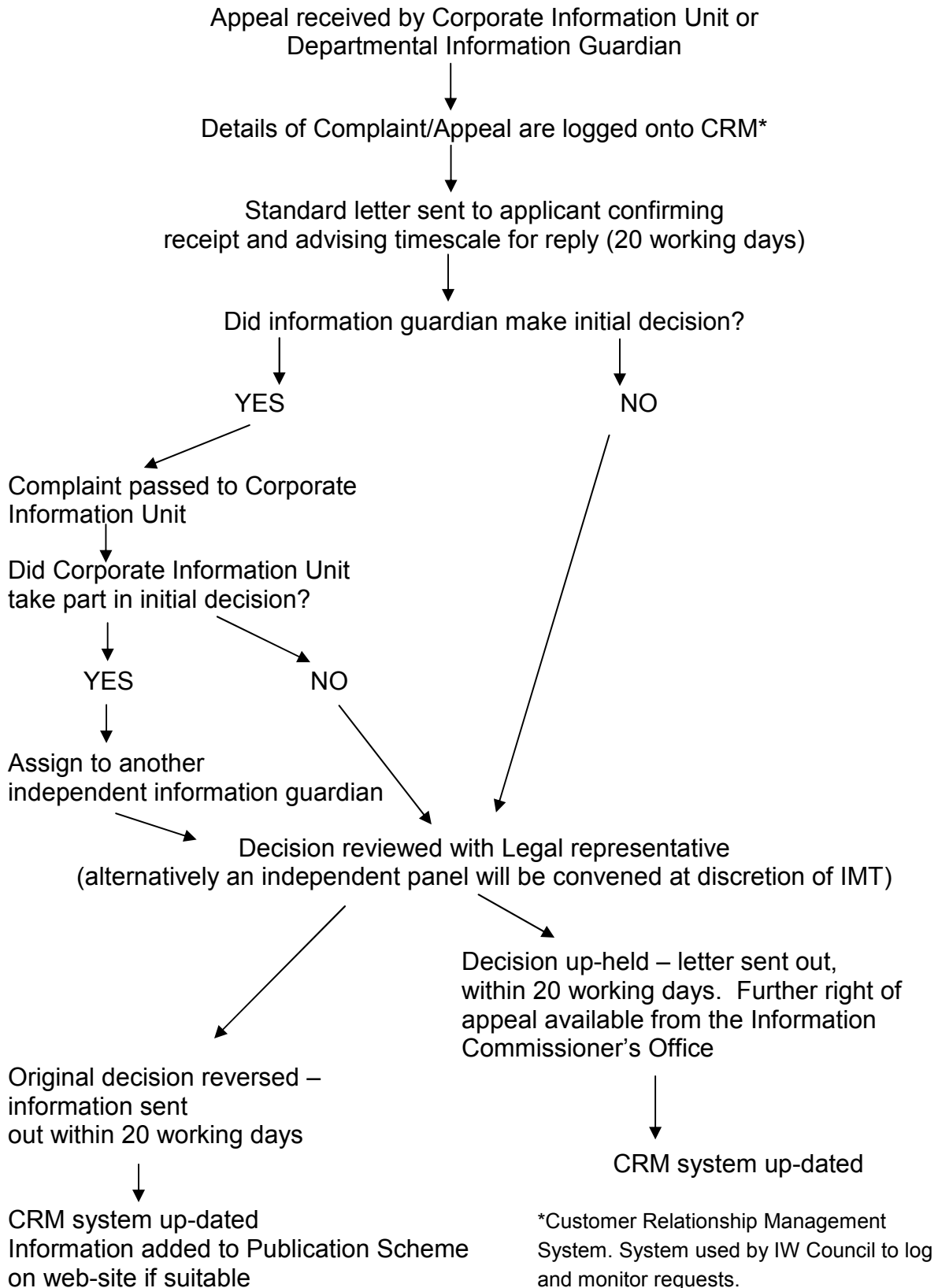


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## APPENDIX H – APPEALS PROCEDURE

### FOR REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION REGULATIONS





## APPENDIX J - SUBJECT ACCESS REQUEST FORM

I understand that the Isle of Wight Council holds personal information about me, and I would like to request access to my personal records, under the Data Protection Act 1998.

In particular, I would like access to records held by the following department/s:

- 
- 

I understand that there is a charge for this service and have enclosed a cheque for £10\* payable to the Isle of Wight Council with this form.

\*NB. If your request relates to educational records, a different fee may apply. Please contact the Council's Information Manager on 01983 823803 for advice.

<b>Family Name</b>		<b>First Name &amp; Middle Name(s)</b>	
<b>Maiden or other Family Name(s)</b>		<b>Date of Birth**</b>	
<b>Current or Last known Address</b>		<b>Post Code</b>	

\*\* The date of birth will be used for verification purposes only, to ensure that the correct information is identified.

- I would like to arrange to view all relevant personal information **OR**
- I would prefer a hard copy of my file sent directly to me via special delivery *(Please tick one box).*

I declare that the information given in this form is correct to the best of my knowledge. I understand that it is necessary for the council to confirm my identity and it may also be necessary to obtain more information in order to locate the correct information.

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_



IF REQUEST ON BEHALF OF CHILD/RELATIVE, PLEASE COMPLETE SECTION BELOW			
Family name of child/relative		First Name & Middle Name(s)	
Relationship to child/relative		Date of Birth**	
Address (if different from above)			
Reason for Request			
<b>Do you have parental responsibility? Yes or No*</b>			
If you are acting on behalf of the data subject, you will need to enclose their signed, written authority or other legal documentation (eg. parental rights, receivership order, enduring power of attorney) You will also need to enclose evidence of your identity and that of the Data Subject.			

I am making the request on behalf of the child (under 18 years of age) who:

- is not capable of understanding the request **OR**
- has consented and signed his/her approval below to my making the request on his/her behalf. *(Please tick one box).*

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

I declare that the information given in this form is correct to the best of my knowledge and that I am the \*parent/guardian/agent of the child/relative. (\*Delete as appropriate)  
I understand that it is necessary for the council to confirm my/the data subjects identity and it may also be necessary to obtain more information in order to locate the correct information.

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Notes:

- Please supply an original proof of your identity when you return this completed form to us. This should be something with your current name and address, for example



your driving licence, latest utility bill or some other documentation that can provide the council with evidence of who you are and your current address. You may wish to send your document special delivery. The proof of identity will be returned to you after verification. Alternatively you may wish to take the relevant identification and fee into any Council Help Centre or Customer Services at County Hall, Newport.

- If there is any additional information you feel may be useful in helping to locate the data you require, please enter these details below. This may include any other addresses in correspondence to the council or on what matter(s) you have contacted the council giving names of officers and dates or specific details where possible.
- If you require e-mails, please provide further details. For example names of the authors and recipients of the messages, the subject of the e-mails, the dates or range of dates upon which the messages have been sent.

Please return the completed form and relevant fee to:

Corporate Information Unit  
 Legal Services  
 Isle of Wight Council  
 County Hall  
 High Street  
 Newport  
 IW PO30 1UD

Tel. 01983 821000  
 email: [information@iow.gov.uk](mailto:information@iow.gov.uk)

For office use only:

Date Application Received	
Fee Paid	
Proof of Identity Checked of Applicant	
Proof of Identity returned to Applicant	
Proof of Identity Checked of Data Subject	
Proof of Identity returned to Data Subject	
Information Sent to Data Subject / Applicant	
If information not provided please specify the reason for non-provision (Exemption)	

Departmental Information Guardians or Help Centre Staff Name

.....

Signature

Date



## APPENDIX K - GUIDANCE ON RE-USE OF PUBLIC SECTOR INFORMATION

### 1. Summary of the Regulations

- 1.1 The Regulations implement an EU directive that encourages the re-use of public information for purposes other than its original purpose. The aim is to stimulate the European information industry and enable companies to use our information for commercial purposes.
- 1.2 The Regulations do not oblige public bodies to make their information available for re-use unless there is a statutory obligation to do so.
- 1.3 However, they do oblige public bodies to:
  - publish a list of the main documents which can be re-used
  - publish any standard conditions associated with re-use
  - publish any standard charges associated with re-use
  - operate a request procedure
  - operate a complaints/appeals procedure
- 1.4 The Regulations apply to any recorded information (as defined for FOI), including whole documents or parts of documents.
- 1.5 There are some exemptions to the regulations, e.g. educational or cultural establishments; intellectual property that rests with a third party; information that is exempt under FOI, DPA and other legislation.
- 1.6 Requests should be in writing, but, unlike FOI, they must state the reason for the re-use. The council must respond to requests and complaints promptly and within 20 working days, unless the request is very complex, or volumes are large.
- 1.7 Complaints procedures must include escalation to the Office of Public Sector Information (OPSI) and, ultimately, to the Advisory Panel on Public Sector Information.
- 1.8 The Regulations encourage public bodies to make the maximum use of electronic means in implementing them.



- 1.9 The regulations apply to the council however, they do not apply to educational and cultural bodies such as schools, libraries and museums.
- 1.10 The regulations do not apply when the council itself, or another public body, uses a document for a different purpose than that for which it was originally intended, provided the purpose is within its “public services task”<sup>1</sup>.

## **2. Principles**

- 2.1 To make those documents that the council publishes available for re-use unless:
- they are subject to the exemptions defined in the Regulations or
  - there are other valid reasons for doing so.
- 2.2 The minimum condition for agreeing to re-use, is that the information must be used accurately, lawfully, and not in a misleading context
- 2.3 To publish a list of the main documents that council makes available for re-use.
- 2.4 To publish any standard terms for re-use.
- 2.5 To publish any standard charges for re-use.
- 2.6 To operate standard processes for handling requests for re-use and any resulting complaints/appeals.

## **3. Conditions for Re-Use**

### **3.1 Standard Conditions**

The council will generally make its published documents freely available for re-use, provided they are used accurately, lawfully, legally and not in a misleading context. In such cases, the following standard conditions should be stated in the document.

These standard conditions should also be used globally on all web sites. Individual documents on the web site do not need to state any conditions, unless they are more onerous than the standard conditions.

© Isle of Wight Council copyright [year of publication OR current year for web sites]

You may re-use [this document/publication OR information on this web site] (not including logos) free of charge in any format or medium. You must use it accurately. You must not use it (a) in a misleading context and/or (b) unlawfully and /or (c) illegally.

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<sup>1</sup> i.e. activities that lie within The Council’s statutory powers



The material must be acknowledged as Isle of Wight Council's copyright and you must give the title of the source document/publication.

*Where there is any third party copyright material, you will need to obtain permission directly from the copyright holder(s) concerned.*

All enquiries regarding the reuse of this document should be addressed to the Corporate Information Unit, Isle of Wight Council, County Hall, High Street, Newport, Isle of Wight, PO30 1UD or by email to [information@iow.gov.uk](mailto:information@iow.gov.uk).

Where these conditions are too large to be included sensibly in a published document, e.g. a leaflet, the following wording can be used:

*© Isle of Wight Council copyright [year of publication] – for re-use conditions, contact the Council on 823212*

3.2 Cases where more restrictive conditions are to be applied.

Directorates are responsible for identifying such cases and seeking advice from the Information Manager and Legal Services where necessary.

The following statement can be used on a published document, or web site. However, more detailed consideration will be required if a request for re-use is received.

*© Isle of Wight Council copyright [year of publication OR current year for web sites]*

#### **4. List of Re-Usable Documents**

The council is required to maintain a list of the main documents that can be re-used.

To avoid duplication and confusion, the council will do this as part of its FOI Publication Scheme<sup>2</sup> which is available on [www.iwight.com/foi](http://www.iwight.com/foi).

To achieve this, directorates must

- place a copy, on [www.iwight.com](http://www.iwight.com), of each re-usable document that they publish,
- include in the document any non-standard conditions for re-use,
- add a Publication Scheme "Type" category.

#### **5. Request Procedure**

A request for re-use must:

---

<sup>2</sup> The Publication Scheme lists those classes of information that can be accessed without the need for a FOI request



- be in writing,
- state the requester's name and address for correspondence,
- specify the information requested.
- state the purpose for which the information is to be re-used (NB differs from FOI, where no reason is required).

A request for re-use may be associated with a request for disclosure of information under FOI or other legislation.

If the request concerns a document on the council published list (i.e. the Publication Scheme), the requester should be referred to that list.

In all other cases, the request should be referred to the Corporate Information Unit, who will progress it using a formal process that mirrors FOI requests, and consider if a charge is applicable.

The council will respond to the request promptly and within 20 working days (the clock starts on the day after the request was received). Note that where the request is for both disclosure under FOI or EIR and for re-use, we must respond to both within 20 days. Where the information is extensive, or raises complex issues, the timescale may be extended. If this is this case, IMT will notify the requester in writing within the 20-day limit and give an estimated date for the response.

The council will provide information in the form in which it exists when the council's response is made. (There is no requirement to create a document, to provide an extract from a document, where that would require disproportionate effort, or to continue the production of a document, just so that it can be re-used.)

If the request is refused, the requester will be notified in writing, stating the reasons and explaining the complaints/appeal process.

The above process and the provision of documents will be done electronically where practical and acceptable to the requester.

## **6. Deciding whether to permit re-use**

The council need not consider a request for re-use if it relates to information held by schools, libraries, museums or archives (see section 3).

In other cases, the council's standard is to permit re-use, within the terms of its standard conditions (section 3), although this is always discretionary. However, the council cannot permit re-use if any of the following exclusions apply:

- if a third party owns the intellectual property rights of some, or all, of a document. The council should tell the requester who owns those rights or from whom the council obtained the document.
- if some, or all, of a document is exempt from disclosure under FOI, EIRs, DPA, or other information access legislation.



- if a person is under a legal obligation to prove an interest in order to gain **access** to some, or all, of a document.

Other considerations in determining a request, or imposing conditions on re-use, are:

- a. The council must not unnecessarily restrict competition, or the way in which the document can be re-used.
- b. The council must not discriminate between requesters. Also, the same conditions must apply to the council's own re-use (i.e. to the council's use of the information for purposes outside of the council's public use) as to all other requesters.
- c. The council must not enter into any exclusive arrangements for re-use, unless it is necessary for the provision of a public service, in the public interest. Directorates must notify IMT of any such arrangements and IMT will publish them on the council's web site (unless dated earlier than 2004). Directorates must review these agreements at least once every 3 years.
- d. Directorates must terminate any exclusive arrangements that existed prior to July 2005 and which do not meet the above requirements. Termination must be when the agreement ends or 31 December 2008, whichever is the earlier.

## **7. Re-use by the council or other Public Bodies**

The Regulations permit the council, and other public bodies, to use any of the council's information for any purpose, provided it is one of their "public tasks".

Note, however, that some legislation, such as the Data Protection Act, does prevent information from being used for purposes other than those for which it was originally obtained.

## **8. Charges**

The re-use of documents on council's web sites will generally be free, provided it is within the terms of the council's standard re-use conditions.

In all other cases, the council will charge for the collection, production, reproduction and dissemination of documents, plus a reasonable return on investment, as permitted by the Regulations.

Where documents already have a defined price for provision, and/or re-use, they will remain in place.

The council will decide on a reasonable charge for each request, based on the following:

- Staff time will be charged at real cost.
- copying at cost – e.g. the council currently charges 10p per A4 page,
- postage, any other disbursements at cost,
- if the total cost is less than £10, the charge will be waived. If not, the full



amount will be charged.

In addition to the above, the council will consider a licence fee charge.

When dealing with a request for re-use, the council will provide the requester with an estimated total cost.

The council will also make it clear to the requester that its conditions for re-use include payment in advance and that the 20-day clock will stop until the charges are paid<sup>3</sup>.

The council will publish its standard charging rates and rules on the council's web site.

## **9. Complaints & Appeals**

The council's complaints and appeals procedures will be those used for FOI.

If requesters are not satisfied with the results of the council's process, they may refer the matter to the Office of Public Sector Information (OPSI).

If either the requester, or the council, is not satisfied with the outcome of the referral to OPSI, either party can refer it to the Advisory Panel on Public Sector Information.

The council's correspondence will inform requesters how to access these processes.

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<sup>3</sup> This is not stated in the Regulations but is consistent with FOI