



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Hinckley & Bosworth Borough Council

Freedom of Information Policy 2015 – DRAFT

Hinckley & Bosworth Borough Council	1
Freedom of Information Policy 2015 – DRAFT	1
A. Overview of the act	2
B. Scope – which legislation applies to your request	3
C. Responsibilities	3
D. Obligations and duties	3
E. Publication scheme	4
F. Local Government Transparency Code	4
G. Exemptions	4
H. Charging	5
I. Training	5
J. Complaints	5
K. Further information and enquiries	6

A. Overview of the act

The Freedom of Information Act 2000 came into force on the 1st January 2005.

Under the Act, any person has a legal right to ask for access to information held by this council. They are entitled to be told whether the council holds the information and to receive a copy, subject to certain exemptions.

The information we routinely make available to the public is included in our publication scheme and requests for information are dealt with according to statutory guidance. We adopted the Information Commissioner's Model Publication Scheme in 2009 and we are committed to reviewing and updating the information so that it can be easily identified and accessed by the general public.

While the Act assumes openness, it recognises that certain information is sensitive. Legal exemptions are provided within the Act to protect this information.

The Act is fully retrospective, so any past records held by this council are covered under the legislation. It is an offence to wilfully conceal damage or destroy information in order to avoid responding to an enquiry. It is important, therefore, that no records that are the subject of an enquiry are amended or destroyed.

Requests must be made in writing (this includes e-mail), should include the enquirer's full name and address and state what information they require. Requestors do not have to mention the Act, nor do they have to say why they want the information.

There is a duty to respond to all requests, telling the enquirer whether or not the information is held and supplying the information that is held, except where exemptions apply. There is no requirement to collect data in specific response to an FOIA enquiry. There is a statutory time limit of 20 working days to respond to a request.

B. Scope – which legislation applies to your request

The Freedom of Information Act 2000 is part of a family of legislation governing access to information including the Data Protection Act 1998, Environmental Information Regulations and Re-use of Public Sector Information Regulations.

- Requests for personal data are covered by the Data Protection Act. Individuals can request to see what information the council holds about them – known as a subject access request – and this must be dealt with according to the requirements of that Act.
- Requests for information about anything relating to the environment – such as air, water, land, the natural world or the built environment and any factor or measure affecting these – are covered by the Environmental Information Regulations (EIRs). Requests are dealt with in the same way as for those made under the FOIA, but unlike the FOIA, requests do not need to be written and can be verbal.
- The Re-use of Public Sector Information Regulations allows individuals or organisations to request information from a public body which, if supplied, they can then, with the permission of that public body, re-use for their own commercial gain. This includes publishing, copying, adapting, developing, adding value, broadcasting and downloading. The council can choose whether to allow the re-use free of charge or to apply a fee to cover reasonable costs in addition to a reasonable return on any investment.

C. Responsibilities

Our Chief Executive is responsible for overseeing access to public information. Each service manager is responsible for the management of information including the promotion of access to information in their service.

The Chief Officer (Corporate Governance & Housing Repairs) is responsible for the strategic direction of requests under the Act and, together with the Information Governance Officer (IGO) will provide all relevant legal advice and advice. The IGO will manage, co-ordinate and where necessary apply the relevant exemptions.

All employees who receive a request for information that cannot be resolved in the normal day-to-day requirements of their role will forward such a request straight away to the IGO.

D. Obligations and duties

The council recognises its duty to:

- Inform individuals making requests under the Act if we hold the information provide access to information we hold in accordance with the requirements of the Act

- Provide advice and assistance to anyone making a request for information. This will include helping enquirers that make complex verbal requests to put such requests into writing so that they can be handled under the Act
- Provide advice and assistance on request to the visually impaired or to individuals that do not use English as their first language

If relevant to assist the applicant by transferring requests to another public body where the information requested is not held by us

E. Publication scheme

We adopted the Information Commissioner's Model Publication Scheme for Principal Local Authorities in 2009. It is available on our website.

F. Local Government Transparency Code

Alongside our publication scheme we also publish information specified under the Local Government Transparency Code.

Central government introduced the code to establish a clear framework of information that local councils should publish. The publishing of information is set at quarterly, annually and once only.

The code does not replace or supersede the existing legal framework for access and re-use of our information such as:

- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- Re-use of Public Sector Information Regulations 2015
- Data Protection Act 1998

G. Exemptions

The FOI Act contains 24 Exemptions which need to be taken into account when deciding whether a piece of information should be disclosed or withheld.

Some exemptions are 'absolute' and if applied there is no obligation to consider the request for information any further and the information will be withheld.

Most of the exemptions are 'qualified' and subject to a test of the balance of public interest to determine if the public interest in applying the exemption outweighs the public interest in disclosing the information.

The council will apply the 'Public Interest Test' before any qualified exemptions are applied.

G. Charging

Most information requested under the Act can be supplied without charge. We will provide up to a maximum of 18 hours of employee time in order to:

- Determine whether it holds the information requested
- Locate the information or documents containing the information
- Retrieve such information or documents

Prepare the information for disclosure including any necessary redaction of 'exempt' information. The council reserves the right to refuse to supply information where the cost of doing so would exceed £450. This is known as 'the appropriate limit'

The council may choose, at its discretion, to charge a fee for complying with a request where the cost of compliance would exceed £450. Any fee must be calculated according to the regulations within the Act and the individual notified of the charge. The information will be made available once the fee has been paid

Where a request for information is likely to exceed the 'appropriate limit' it is good practice to contact the enquirer and see if their request can be reduced, the effect of bringing the time and costs below the 'appropriate limit'. The council will seek to follow this procedure.

Where a request for information can be resolved within the 'appropriate limit' charges may only be applied for direct costs such as printing and postage

The council may choose, at its discretion, to charge a fee for direct costs.

H. Training

We are committed to training our employees so that they understand the law, their responsibilities and are able to respond to requests for information. We will ensure that all new employees receive relevant training and that existing employees receive refresher training.

I. Complaints

Any member of the public that is dissatisfied with the way that the council has handled a request for information must, in the first place complain to us using our internal review procedure.

If, following the exhaustion of the council's own complaints procedure the member of the public is still dissatisfied, he/she may take their complaint to the Information Commissioner at: The Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Telephone: 01625-545745 Website: http://www.ico.org.uk/complaints/freedom_of_information.asp

J. Further information and enquiries

Our strategic officer is Julie Kenny, Chief Officer, Corporate Governance & Housing Repairs (01455 255985). Our Information Governance Officer is Helen Rishworth (01455 255745).

This policy document will be updated as necessary to reflect changes in legislation and best practice.

This policy forms part of our overall Information Governance Framework.