

# Nottingham City Council

## Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) Policy



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**Nottingham**  
City Council

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Version 2.0	April 2014	Complete Revision and separation from Access Policy
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## **Nottingham City Council**

### **FOIA and EIR Policy Contents Page**

- 1. Introduction 4**
- 2. Scope 4**
- 3. Status 5**
- 4. Responsibilities 5**
- 5. Relationship with existing policies and legislation 6**
- 6. Guidance available 6**
- 7. The Publication Scheme 6**
- 8. Requests for information 6**
- 9. Charges 7**
- 10. Appeal procedures 7**
- 11. Exemptions 8**
- 12. Contractors, suppliers etc 8**
- 13. Records management 8**
- 14. Further information 8**

# **NOTTINGHAM CITY COUNCIL**

## **FOIA AND EIR POLICY**

### **1. Introduction**

The Council supports and is committed to the principles of openness, transparency and accountability embodied in the Freedom of Information Act 2000 (FoIA) and the Environmental Information Regulations 2004 (EIR). This policy establishes a framework which underlines this commitment. It provides policy statements to underpin the Council's detailed guidance and procedures in the areas of Freedom of Information and Environmental Information, providing a benchmark against which implementation can be audited.

### **2. Scope**

This policy has been established to ensure that the Council meets its legal obligations under the Freedom of Information Act and the Environmental Information Regulations, and related statutory codes of practice. The legislation, and therefore this policy, applies to all recorded information held by the Council and its staff, departments, subsidiaries and agents, regardless of format, storage medium or age. It also applies to any companies which are or may be wholly owned by the Council, and to information held by other organisations or individuals on behalf of the Council. Information "held" by the Council includes not only information created by the Council and its agents, but also information in the Council's possession which originated from outside organisations or individuals, such as external contractors, regulatory bodies or private companies.

This policy and the procedures which implement it will ensure that the Council conforms to FoIA and EIR and associated codes of practice, the key requirements of which are that:

- Information which is routinely published by the Council is made available in accordance with the Council's Freedom of Information Publication Scheme (see [www.opendatanottingham.org.uk](http://www.opendatanottingham.org.uk))
- Information which is not covered by the Publication Scheme is made available to enquirers on request, within 20 working days, unless a valid exemption or limit applies
- Exemptions under the Act and Regulations are applied appropriately, and in accordance with the legislation
- A fair and efficient internal appeal system is administered

### 3. Status

This policy was approved by the Council's Information Management and Strategy Group on 13<sup>th</sup> May 2014. It will be reviewed Information Management and Strategy Group from time to time.

### 4. Responsibilities

The Council has a corporate responsibility to ensure that it conforms to and implements the Freedom of Information Act (FoIA) and the Environmental Information Regulations (EIR). The Council is accountable to the Information Commissioner for its compliance with the Act and Regulations. The senior officer with overall responsibility for this policy is the **GIS, Business and Information Manager**, who has strategic responsibility within the Council for Freedom of Information and Environmental Information, and related areas including Data Protection and records management.

The **Information Co-ordinator**, supported by an Information Specialist and Information Governance (IG) team, reporting to the GIS, Business and Information Manager, is responsible for the effective day-to-day management of compliance with the Freedom of Information Act and the Environmental Information Regulations. This includes the development of procedures, guidance and standards of good practice, their promulgation to staff through training and outreach; the maintenance and periodic review of the Freedom of Information Publication Scheme; the coordination of responses to more difficult or complex information requests; and the provision of advice and assistance on Freedom of Information and Environmental Information issues. The IG team is also the Council's Data Protection Officer, and has responsibility for ensuring that the Council's records and institutional archives are managed in a way which supports business efficiency, and compliance with information rights legislation and the Records Management Code.

**Heads of Service** are responsible for ensuring that procedures and systems within their departments conform to this policy and to the Council's procedures, guidance and standards of good practice in the areas of Freedom of Information, Environmental Information and records management. They should also ensure that staff are provided with adequate opportunities for training in these areas. Department heads may be asked to nominate a member of staff to act as a point of contact with the IG team on records management and information rights issues.

**All staff** must handle information and requests for information in a way which complies with this policy and the Council's related procedures, guidance and standards of good practice. Staff must also ensure that they provide the IG team with all necessary advice and assistance when requested to do so for the purpose of responding to Freedom of Information or Environmental Information requests. Staff should note that the deliberate concealment, amendment or destruction of information which has been the subject of a Freedom of Information or Environmental Information request, in order to prevent its disclosure, is a criminal offence under the Act and Regulations for which individual staff as well as the Council can be held liable.

## **5. Relationship with existing policies and legislation**

This policy has been developed and will be implemented within the context of other Council policies and guidelines, national legislation and codes of practice, and sectoral/professional standards.

## **6. Guidance available**

Guidance on the procedures necessary to comply with this policy will be developed by the IG team and approved by the Information Management Strategy Group.

## **7. The Publication Scheme**

The Council is required by the Freedom of Information Act to produce, maintain and make available a Publication Scheme covering the information which the Council routinely publishes or intends to publish. The Publication Scheme is available on the Council's website and in hard copy from the IG team. It describes the classes of information which the Council publishes, providing appropriate examples of individual documents, and details the formats in which publications are available and whether any charges apply.

The Council has adopted the model publication scheme approved for Local Authorities by the Information Commissioner, but reserves the right to move to a bespoke Scheme (subject to the approval of the Information Commissioner) should that prove better suited to the Council's needs. The Council is required by law to keep the Scheme up to date, which will be secured by the periodic review and updating of the Scheme by the IG team.

Publication of information via the Scheme incurs a number of benefits, such as a reduction in the amount of information which can be subject to Freedom of Information requests. To secure these benefits, and in the interests of openness, accountability and business efficiency, the Council affirms its commitment to the routine publication of as much non-sensitive information about the Council's policies, procedures and activities as possible.

## **8. Requests for information**

Information which is not covered by the Council's Publication Scheme can be requested by individuals within or outside the Council under the Freedom of Information Act and the Environmental Information Regulations. The Act and Regulations provide the public with the right to be informed whether the information is held by the Council, and if so, to have the information communicated to them unless an exemption or limit applies. Requests must be answered within 20 working days, although this period can be extended in certain circumstances.

The Council is committed to processing requests for information in accordance with the requirements of the Act and Regulations. To this end, the Council will ensure that requests under the Freedom of Information Act are processed in accordance with the code of practice (known as the Access Code) issued by the Secretary of State for Constitutional Affairs under section 45 of the Freedom of Information Act. Similarly, requests under the Environmental Information Regulations will be handled according

to the code of practice issued by the Department for Environment, Food and Rural Affairs. Procedures and systems for dealing with information requests will be developed to promote conformity to these codes and the legislation, and will be coupled with appropriate training for staff handling requests.

## **9. Charges**

The Freedom of Information Act and its secondary legislation impose a statutory limit (known as the "appropriate limit") on the amount that can be spent on locating and extracting the information required to answer a Freedom of Information request. This limit is currently set at £450, which the legislation deems to be equivalent to 18 hours of staff time or 2.5 days. Where a public authority receives a request which is estimated to be over the "appropriate limit", it can refuse to comply with the request, comply without imposing a charge, or comply on condition that the applicant pays the full cost of processing the request. The Council's policy, in all cases, is to refuse to comply with requests that are likely to exceed the appropriate limit. Before doing so, the Council must provide the applicant, where possible, with reasonable advice and assistance to help narrow down the scope of the request to one that would be within the limit. Applicants whose requests are refused on the grounds of the "appropriate limit" will be provided with an explanation as to why the Council believes that the limit would be exceeded.

No "appropriate limit" is set by the Environmental Information Regulations. However, the Council reserves the right to refuse to comply with EIR requests which are "manifestly unreasonable" or "too general", in accordance with the Regulations. As with Freedom of Information requests, the Council has a duty to advise the applicant on how to re-focus the request to one that would be acceptable.

Where the cost of processing a Freedom of Information request is below the "appropriate limit", the Council may only charge for postage and photocopying, printing and other forms of reprographics. Any charges imposed by the Council for these services will take into account the guidance on charges for Freedom of Information requests issued by the Ministry of Justice. Postage and reprographics charges for Environmental Information requests will match those for Freedom of Information requests.

The Council has greater latitude to charge for information covered by the Publication Scheme. Details of charges are included in the Scheme. The Council will ensure that where charges are imposed for information covered by the Publication Scheme, all charges are consistent with the Scheme.

## **10. Appeal procedures**

Public authorities are required by the Environmental Information Regulations to have internal appeal procedures, and are strongly recommended to have internal appeal procedures for Freedom of Information requests. The Council has established and will maintain a unified system of internal review which will be accessible to all applicants who are dissatisfied with the handling of their information request. The

Council's appeal procedures are detailed in our response letters and on our website. The same procedures will be used for complaints relating to the Council's Publication Scheme.

## **11. Exemptions**

Although the Council upholds the principle that information should be accessible wherever possible, there are times when we have to withhold information to protect our legitimate interests and those of other organisations and individuals. The Council will only refuse to disclose information in response to a request if a valid exemption applies under the Freedom of Information Act or the Environmental Information Regulations, or if the "appropriate limit" would be exceeded. The Council will apply exemptions in a way which takes into account the guidance on exemptions issued by the Information Commissioner and the Ministry of Justice. Where information is withheld under an exemption, applicants will be informed of the relevant exemption and why the Council believes it applies, and will be provided with details of the Council's appeal procedures.

## **12. Contractors, suppliers etc**

The Freedom of Information Act and the Environmental Information Regulations cover all information held by the Council, including information provided to the Council by outside organisations such as contractors, tenderers, suppliers and regulatory bodies. The Council will consult with outside organisations whenever information which they have to supplied to the Council is the subject of a request. However, the ultimate legal responsibility for deciding whether or not information should be released under the Act or Regulations rests with the Council.

## **13. Records management**

Effective management of the Council's records is essential for business efficiency and to ensure compliance with information rights legislation. The Council will develop its record keeping policies, procedures and systems with the goal of conforming to the code of practice (known as the Records Management Code) issued by the Lord Chancellor under section 46 of the Freedom of Information Act. In so doing, the Council will take account of standards and good practice issued by bodies such as the National Archives. Staff will be provided with appropriate training in records management responsibilities and procedures.

## **14. Further information**

Questions relating to this policy and the Council's compliance with the Freedom of Information Act and the Environmental Information Regulations should be directed to Information Governance at the following address:

Information Governance  
Nottingham City Council  
Loxley House

Nottingham

NG2 3NG

Tel: 0115 87 63855

E-mail: [information.governance@nottinghamcity.gov.uk](mailto:information.governance@nottinghamcity.gov.uk)

Web: [www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk)

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