



Freedom of Information Policy and Code of Practice

Allerdale Borough Council

Agreed: SMT April 2010

Table of Contents

1.	Objectives	3
2.	Introduction to the Freedom of Information Act	3
3.	Responsibilities	4
3.1	All Employees and Members should be aware	4
3.2	Service Area Contacts	4
3.3	Information and Records Officer	5
4.	Policies	5
4.1	Fees Policy	5
4.2	Records Management Policy	6
4.2.1	This policy covers	7
4.2.2	Legislation	7
4.2.3	Statement	7
4.2.4	What is Records Management?	9
4.2.5	Policy Framework	9
4.2.6	Systems and Processes	9
4.2.7	Disposal or Retention Policy	10
4.2.8	Policy Review	10
4.3	Complaints Policy	11
5.	Guidance	13
5.1	Recognising and Dealing with Requests	13
5.2	The Data Protection Act and Freedom of Information	13
5.3	Exemptions Guidance	14
5.3.1	What are the exemptions?	16
5.4	Contracts and Third Parties	20
5.5	Transfer of Request Guidance	21
5.6	Redacting Guidance	21
5.7	The Environmental Information Regulations	21
6.	Allerdale Information Catalogue	22
7.	Performance Management and Reporting	22
8	Documentation	23
	Appendix A – Service Area Contracts	24
	Appendix B – Types of Requests*	25
	Appendix C – Other useful information/websites	26

1. Objectives

The purpose of this document is to clarify the policies and guidance in reference to information that Allerdale Borough Council holds. The guidance provided in this document should be used throughout the Council in order to comply with the Freedom of Information Act 2000.

All guidance and policies are subject to change as further information is published about the Act by the government. Copies of all policies are available on the Intranet Document Store under FOI in the Information Management folder or from the Information and Records Officer.

By managing the information that we hold we are able to:

- Work efficiently and effectively
- Be held accountable for the decisions we make
- Comply with laws and regulations that govern our work and protect the public's rights
- Dispose of records that are no longer needed
- Meet Allerdale Borough Council's business needs, those of the public and those of employees of the Council
- Protect private information that should not be made public

In turn this should help the people of Allerdale Borough Council to:

- Understand better how the council works and why certain decisions are made
- Make educated decisions on public issues
- Exercise their right to information

The Freedom of Information policies apply to all Council staff and members.

2. Introduction to the Freedom of Information Act

The Freedom of Information Act (FOI) became law on 30 November 2000. This act aims to promote openness in government and establishes a right of access to information that the government holds. Under the Freedom of Information Act, public authorities such as Allerdale Borough Council have an obligation to disclose as much information to the public as possible, subject to certain exemptions. On 1 January 2005 FOI was brought fully into force. It opens up the Council's internal workings to the public; we will now need to tell people what we do and how we do it. The Act encourages transparency and accountability in all public authorities.

Allerdale Borough Council already publishes and makes available a lot of information through our website, through customer requests and through our Publication Scheme.

The Freedom of Information Act has been brought into place in two parts. The first part is that every public authority must endorse the Publication Scheme devised by the Information Commissioner. The authority is obliged to devise a guide to help the public find the information they are looking for. This lays out the information that the authority has that is currently available to the public. It states how and where the information can be obtained and whether a fee will be charged to obtain the information. The information in the scheme is grouped into classes and includes paper and electronic documents, items on the Internet, leaflets and reports.

At Allerdale Borough Council, the publication scheme and guide is available through our website, the Intranet, it can be inspected at Allerdale House or a copy can be obtained from the Information and Records Officer.

The second part of the Freedom of Information Act came into effect as of 1 January 2005. This allows the public to make a request for any information that the authority might hold that is not available through the publication scheme. Our duty as a public authority is to confirm or deny whether we have this information, and provide the requested information within 20 working days, unless the content of the requested information falls under one of 23 exemptions. While some information Allerdale Borough Council holds may be exempt, we must strive to disclose as much information as possible.

Currently there are two other acts in place that allow the public to make requests for information. These are the Data Protection Act (DPA) and the Environmental Information Regulations 2004 (EIR). If a request falls under either of these two acts, then it should be dealt with in accordance with these regulations. If it doesn't then the request should be dealt with under the Freedom of Information Act.

3. Responsibilities

3.1 All Employees and Members should be aware

- Of FOI legislation and the Council's legal responsibility to adhere to it
- That requests for information are processed in accordance with Allerdale Borough Council's policies and procedures
- That they are responsible for dealing with any request for information until it has been answered, or transferred and acknowledged by another member of staff
- Information is stored in accordance to policies and procedures in order to ensure timely information retrieval in the future

3.2 Service Area Contacts

- Act as a reference point for questions on FOI requests within their area
- Coordinate requests within their area

- Ensure that ALL completed requests for information are returned to the Information and Records Officer for monitoring

3.3 Information and Records Officer

- Overall responsibility for compliance and monitoring of requests for Allerdale Borough Council
- Reference point for questions about Freedom of Information Act exemptions and legislation
- Responsibility for ensuring all staff are aware of the Act and are trained to know how to handle any request for information that they might receive
- Creation of a Records Management System to ensure compliance to the Act
- Monitoring of performance against agreed targets
- Compilation of statistics and analysis of information and requests to assist with decision making

Allerdale Borough Council is responsible for providing information to the public through its staff members, with our legal obligations enforced through the Information Commissioner and the legal system.

4. Policies

This section outlines each of the policies that apply to responding to requests for information.

4.1 Fees Policy

The following fees policy sets out how Allerdale Borough Council will be charging for information under FOIA. Different charges apply under both EIR and DPA. This document gives details of how fees are calculated and how to apply them.

Under regulations set out, information for requests that would cost less than £450 to complete should be given to the applicant for free. Requests that would cost more than £450 can be refused under Section 12 of the FOIA. In calculating whether answering a request would exceed the appropriate limit of £450, it is possible to take into consideration the following activities:

- Determining whether the information is held
- Locating the information, or the document that contains it
- Retrieving the information, or the document that contains it
- Extracting the information (including editing)

When figuring the cost of a request, staff time should be calculated at £25 per hour. It is not allowable to take into account the costs of considering whether information is exempt under the Act, or in

redacting information. Before answering any request an assessment should be made of whether or not the request would be over the appropriate limit. If, on looking at a request, it is estimated that it would cost more than £450 to fulfil, then the request can be refused. Alternatively, the Council can charge for the full cost of answering the request. We do have an obligation to advise and assist the enquirer to try to fulfil their request within the cost limit. This could mean advising them on how they can narrow what they are after.

The legislation does allow charging for disbursements such as postage, printing and photocopying for larger requests. However, if the cost of communicating the information is low, these charges should be waived.

Allerdale Borough Council endeavours to make as much information as possible available to the public free of charge. Any document that is easily obtainable should be given to the Applicant for free. In the Publication Scheme, all documents that do levy a charge are labelled with the cost of the information. If a fee does apply, then the 20 day period to fulfil the request does not start until payment is received. If no payment is received within 3 months then the Council is no longer under an obligation to comply with the request.

When a charge does need to be made, it should be coded to the designated FOI code.

The Council will try to find alternative ways of releasing the information if it is too costly in paper format. Releasing information should be done electronically in the first instance if at all possible and the requestor is able to receive electronic communications. Documents should be sent in PDF format where possible as this is a worldwide standard. However, we realize that this may not be the best format for some applicants and will therefore try to release any information in the format that is best for the person who requested the information. Where possible information and reports should be made available on our website.

All staff are responsible for ensuring that fees are charged in accordance with this policy

4.2 Records Management Policy

The Freedom of Information Act deals specifically with records management in public authorities. Under the act Allerdale Borough Council must comply with the Lord Chancellor's Code of Practice on the Management of Records.

The Records Management policy follows but it will also be available separately on the Document Store. A Records Management System will be developed to put this into practice.

4.2.1 This policy covers

- The requirements that have to be met for Allerdale Borough Council records to be considered to be proper documentable records
- Descriptions of systems and processes that deal with records
- The quality and reliability that must be maintained in order for our records to provide a valuable resource for the organisation and the public
- The place of records management within the overall strategy of Allerdale Borough Council
- The policy for reviewing and checking on the implementation of the records management policy

4.2.2 Legislation

Legislation that effects and precipitated the implementation of this policy

- Public Records Act 1958, 1967
- Local Government (Records) Act 1962
- Local Government Act 1972
- Local Government Access to Information Act 1985
- Local Government Act 2000
- Freedom of Information Act 2000
- Data Protection Act
- Environmental Information Regulations 1992

4.2.3 Statement

Allerdale Borough Council will strive to make as much information available to the public as possible through both the Publication Scheme and through any individual requests we may receive. We are thoroughly committed to the principles behind FOI and are working towards becoming a more accessible and transparent authority. In this spirit we have produced this Records Management Policy Statement detailing our responsibilities, and the public's rights to information that we hold.

This statement describes how we manage the information we hold, including personal and non personal information. Our aim is to create reliable and well managed records in order to ensure that we operate as effectively and efficiently as possible and that we can be accountable for decisions that are made within the Council.

Information is a corporate asset and the records of Allerdale Borough Council are important sources of administrative, evidential and historical information. They are fundamental to the Council in its current and future operations for the purpose of accountability, and for an awareness and understanding of its procedures and its history.

Allerdale Borough Council is committed to creating, keeping and managing the records which evidence its activities in accordance with legal requirements. Records management is essential to Allerdale Borough Council to ensure that information is:

- Captured, stored, retrieved and destroyed or saved according to our needs
- Fully utilised to meet future and current needs and to support changes in the organisation
- Accessible to those who need to use it

In order to ensure that the information constitutes a record, all departments are required and should endeavour at all times to guarantee that:

- the record is present
- the record can be accessed
- the record can be interpreted
- the record can be trusted
- the record can be maintained

By managing the information that we hold we will be able to:

- Work efficiently and effectively
- Be accountable for the decisions we make
- Comply with laws and regulations that govern our work and protect citizens' rights
- Dispose of records that are no longer needed
- Meet Allerdale Borough Council's business needs, those of the public and those employees of the Council
- Protect private information that should not be made public

In turn this should help the people of Allerdale Borough Council to:

- Understand better how the council works and why certain decisions are made
- Make educated decisions on public issues
- Exercise their right to information

4.2.4 What is Records Management?

Records management is the management of recorded information; from its creation to its destruction. It starts when a record is created or is received by the Council and continues until the record is no longer needed and is destroyed or is preserved if it is seen to have permanent value. Essential aspects of Records Management are as follows:

- Design- the design of the system must meet the needs of the organisation
- Control- Policies and procedures must ensure that everyone follows the same methods
- Coordination- All Records Management practices must work within the organisation's structure
- Management of Records- Records must not be lost and should only be removed or destroyed at a prescribed time

4.2.5 Policy Framework

There are several acts that necessitate good record keeping in public authorities. Under the Freedom of Information Act 2000, one aspect of complying with the Act is to follow the Lord Chancellor's Code of Practice on the Management of Records.

In addition, the Data Protection Act 1998 requires that authorities adhere to a standard of record keeping.

Some departments also must keep their records according to a certain standard for auditing purposes.

Within each area, specific practices will be developed to ensure specific record keeping needs are met.

4.2.6 Systems and Processes

Allerdale Borough Council will be implementing a Records Management system. This will allow users of records to identify and track particular records. Any system or process that is adopted will be required to:

- Identify the type of record, e.g. paper or electronic
- Provide information on the record as necessary in order to include it as part of series
- Provide a record of the processes of the management of records e.g. registration, transfer or disposal according to appropriate guidance
- Keep the records secure and monitor access in accordance with records management guidance

- Have regard for legal requirements such as copyright legislation, Data Protection and Freedom of Information

4.2.7 Disposal or Retention Policy

This policy aims to ensure that records are kept intact for as long as they are deemed necessary to hold by Allerdale Borough Council. This is the case for electronic records as well as paper records. Allerdale Borough Council plans to:

- Prevent disposal of records that should be retained for legal, financial or other reasons
- To identify records that should be made part of a permanent archive
- To evaluate records that have reached the end of their retention period and destroy those that do not need to be kept for the above reasons

In order to meet these goals, a comprehensive Retention Schedule will be developed in accordance with any requirements the area has. Allerdale Borough Council will adopt the standards set out in the by the Records Management Society of Great Britain. This will give disposal times for all documents held in the Borough including paper records, email, electronic and images.

The Retention Schedule for Allerdale Borough Council will be found on the Document Store in the Information Management folder under Freedom of Information Act.

4.2.8 Policy Review

Allerdale Borough Council will aim to maintain this policy through all of its departments. Levels of compliance will be monitored to assess whether Allerdale Borough Council is putting the Records Management policy into practice. This will be done through:

- Identifying areas not covered by this policy and to adjust procedures to cover any of these
- Highlighting where non-conformity to the policy is happening and suggest ways to stop it.
- Obtaining feedback at all levels to ensure that the policy meets the needs to all staff
- Regular monitoring by Internal Audit

All staff should ensure that they are familiar with this policy and are following all records management guidelines set down in their area.

4.3 Complaints Policy

If a person who requests information is unhappy with the service they received from the Council or believes that we have falsely applied an exemption, then the applicant will be asked to follow our complaints procedure for FOI requests. The complaints procedure for Freedom of Information complaints will be very similar to the system for complaints currently in place. All communications with applicants will have information on how to make a complaint. Complaints on matters not relating to FOI should be dealt with under normal complaints procedures.

At any time in the request process an individual may want to make a complaint. We will then try to resolve any complaint that is made. All complaints should be directed to the Information and Records Officer for Allerdale Borough Council. If the complaint centres on information that was NOT disclosed, then the appeal shall go in the first instance to Legal Services and/or Customer Services Manager who will look at the case and make a second judgement on whether or not to release the information. The reviewers will discuss whether or not the decision to withhold the information was the correct one, and come to a decision on whether or not to release some or all of the information requested.

If a complaint is received, please direct them to the Information and Records Officer; email:foi@allerdale.gov.uk. Verbal complainants should be asked to put their complaint in writing so that we may respond and investigate the complaint further.

Complainants can expect to receive a response within 10 working days in compliance with our complaints procedures. If this is not possible, the complainant should be given written notification of when a response can be expected. The response should not, where possible, take longer than 20 working days to be sent.

For any complaints that are written on other aspects of our service in regards to the Freedom of Information Act, everything possible will be done to satisfy the complainant.

If the person complaining is still not satisfied with any aspect of the request process, the service received, or that a piece of information was not disclosed after being reviewed, the complaint should be referred on to Strategic Manager level, unless we feel we have exhausted our response. Finally, he or she may complain to the Information Commissioner (IC). The Commissioner's office prefers that any complaint from a member of the public first exhausts the authority's complaints procedure before registering unhappiness with the Commissioner. Therefore, if the outcome of the review decides not to disclose a requested piece of information, then the Applicant's next step would be to go through the IC. The IC has ultimate control of the

request in this case and can force an authority to disclose information. There shall usually be an attempt by the IC to resolve the issue informally. Late responses are usually resolved in this way, though a note is made of the complaint and can lead to a demand for remedial action if lateness becomes a recurring problem, However, if there is no informal resolution then the IC shall issue a decision notice.

Both parties have the right to appeal the decision of the Information Commissioner via the Tribunal Service. These have in the past rejected decisions made by the Information Commissioner.

Complaints to the Information Commissioner should go to:
FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Tribunal Service contact:
First-tier Tribunal (Information Rights)
General Regulatory Chamber
Arnhem House Support Centre
PO BOX 6987
Leicester
Leicestershire
LE1 6ZX

All staff are responsible for ensuring requests are handled in accordance with Council procedure and therefore the requestor is made aware of our FOI complaints procedure.

4.4 Publication Scheme and Guide Policy

Allerdale Borough Council has endorsed the Publication Scheme devised by the Information Commissioner and this is currently available on our website and through the Information and Records Officer. Our guide lists information that we publish and that is readily available to the public. No changes are allowed to the model Publication Scheme devised by the ICO, but departments can add documents under the headings contained in the guide. At the same time, the guide must be updated regularly. At Allerdale Borough Council the guide will be updated quarterly to ensure that any new or frequently requested information can be included in the Publication Scheme.

Service Managers will be responsible for making sure that up-to-date information pertaining to their department is given to the Information and Records Officer. The Information and Records Officer will send out reminders on a quarterly basis to service managers and FOI contact persons to ensure that updated information is added to the guide.

5. Guidance

This section is divided into five sections. A separate guidance document is available for two of the categories.

5.1 Recognising and Dealing with Requests

There are three types of requests that could come into any service area. These are requests under FOI, Environmental Information Regulations and Data Protection. Appendix B contains a chart showing the differences between the three acts and further information on how to deal with them. If a request is received that falls under neither the Environmental Information Regulations nor Data Protection, then it should be dealt with under the Freedom of Information Act.

If staff receive a request and are unsure of the type of request, they should refer the enquiry to the Information and Records Officer or the FOI Contact in their area. See Appendix A for a list of contacts.

A separate FOI request procedures document will be available on the Document Store on the Intranet, or from the Information and Records Officer. This will provide detailed information on how to process FOI requests.

Each member of staff is responsible for knowing the steps that must be taken if they receive a request.

5.2 The Data Protection Act and Freedom of Information

Access to personal information under the Data Protection Act (DPA) is one of the exemptions according to the Freedom of Information Act. Any request for personal information should be dealt with under Data Protection Act procedures.

It is important to note that the Freedom of Information Act also expands the definition of Data as it is defined in the DPA. Personal data under DPA can take the following forms:

- Computer input documents
- Information processed by computer or other equipment
- Information in medical, social work, local authority housing or school pupil records
- Information in some sorts of manual records
- Unstructured personal information held in manual form by a public authority

It was the last of these categories that was added to DPA by Freedom of Information. It means that any information held about a living individual can now be accessed by that person under the Data Protection Act.

If the request involves personal information about the person making the request then disclosure of this information should be considered under the Data Protection Act as a Subject Access Request.

If by complying with an FOI request means disclosure would reveal the personal information of individuals to a third party, then we can refuse to disclose this information under Section 40 of the FOIA. There are provisions for disclosure in certain circumstances, such as in order to prevent crime.

There is a separate CCTV policy for dealing with requests to see CCTV. Any such request must be forwarded to the Information and Records Officer and the CCTV Manager.

5.3 Exemptions Guidance

Although the Act requires that public authorities release as much requested information as possible, there is some material that is exempt from being released to the public. While there are 23 exemptions to what information must be released, only 13 will really apply to Allerdale Borough Council.

Types of Exemption

There are two types of exemptions; absolute and qualified. In the list of exemptions that follows, the type of exemption (absolute or qualified) that applies to each category is listed.

Absolute exemptions: You do not have a duty to carry out the public interest test. If this type of exemption applies, you do not have to disclose the requested information. In many cases, you do not have to confirm or deny whether or not we hold the information where to do so would may be tantamount to the disclosure of information. Each exemption is explained in detail further into this document:

- Information available to the applicant by other means
- Personal information
- Information provided in confidence
- Information prohibited from disclosure
- Information relating to court records

- Information supplied by or relating to bodies dealing with security services
- Parliamentary Privilege

- Prejudice to the effective conduct of public affairs, relating to the House of Commons or House of Lords

Qualified exemptions: When looking at the case of a qualified exemption, first consider whether the exemption applies to this specific request. If it does, first the prejudice, then the public interest test should be applied when deciding if confirming or denying whether we hold the information would cause prejudice, or harm. If the public interest in releasing the information outweighs the public interest in maintaining the exclusion, then the information should be made available. If it does not, then the information should not be disclosed. We have to be clear and precise when weighing up our arguments, and give reasons for and against disclosure. The public interest test is described in the Government's guidance document as, 'an amorphous concept which is not typically defined.' However, when deciding whether or not to release certain information, it is important to use common sense. Contact the Information and Records Officer (2701) with any questions. Following is a list of qualified exemptions, all of which have further descriptions later in this document.

- Information intended for future publication
- Environmental Information
- Health and Safety
- Commercial Interests
- Investigations and proceedings conducted by public authorities
- Information relating to law enforcement
- Legal Professional Privilege
- Prejudice to the effective conduct of public affairs
- Audit functions
- National Security
- International Relations
- Defence
- The Economy
- Relations within the UK
- Formulation of government policy
- Communications with Her Majesty and honours

Following are descriptions of the two tests, both mentioned earlier, that each piece of potentially exempted information should be put to before being released.

What is the **Prejudice Test**? The Council should confirm that a specific piece of information exists if it passes the Prejudice Test. In this test, confirming whether a piece of information is held by the council is weighed against not confirming it. The information should only be withheld if prejudice, or harm, would be a result of releasing it.

What is the **Public Interest Test**? If a piece of information might be covered by a qualified exemption, then it must be decided whether the public interest in releasing it outweighs the public interest in not disclosing the information.

It is also important to note...

- It is **illegal** to destroy information that has been requested to avoid disclosing it. If the information is due to be destroyed before the 20 working day limit has expired, then it is good practice to halt destruction. The ICO recommends information due for destruction should be kept for six months after a reply is made to the requester.
- Information cannot be withheld because it has the potential to cause embarrassment, it could lead to loss of confidence in the authority, or because it could be misinterpreted.

5.3.1 What are the exemptions?

MORE LIKELY TO BE USED AT ALLERDALE BOROUGH COUNCIL

1) Information available to the applicant by other means

Absolute Exemption

Information that is accessible to the applicant by other means is exempt from being released. However, if it is easy for us to access, and the information within it is not otherwise exempt, then it would be good practice to give it to them anyway.

2) Information intended for future publication

Qualified Exemption

This is exempt information if the council or some other person intends to publish it, even if the publication date has not yet been decided. This is to necessitate that any preparations for enquiries from the press or public can be completed before requests about this piece of information come in. However, it needs to be decided if it is in the public interest to withhold the information before we can decide to refuse the request.

3) Environmental Information

Qualified Exemption

Information that falls under the Environmental Information Regulations 2004 is exempt only because it should be dealt with and released under those guidelines.

4) Personal Information

Part absolute and part qualified exemption

Personal information is divided into two categories

- 1) Personal data which relate to the individual who is applying for information and
- 2) Personal data which relates to a living individual other than the applicant.

Personal data as defined by the Data Protection Act is protected by it (DPA) withstanding our obligations under the Freedom of Information Act. FOI even expands on what 'personal data' is protected under Data Protection. A person can still see what information is held about them, but is not allowed to see personal information held on other people. This exemption is similar to the previous one in that if the request falls under the DPA, then it should be dealt with according to these regulations. Personal information about an individual will still be protected under the Data Protection Act in the same way as it was before FOI came into place.

5) Health and Safety

Qualified Exemption

Information is exempt if its disclosure would endanger the health or safety of any individual. The public interest in releasing the information must be considered before access is refused.

6) Information provided in confidence

Absolute exemption

Material is exempt if it was obtained from another authority or person and the disclosure of that material would be an actionable breach of confidence. There is no need to confirm or deny whether the information is held if that would also constitute an actionable breach of confidence.

7) Commercial Interests

Qualified Exemption

Information is exempt if it would prejudice the commercial interests of any person or business, including the public authority that holds it, or if it is a trade secret. The duty to confirm or deny does not apply if that would also prejudice the commercial interests of a person or business. This does not apply to historical records.

The public interest must be considered before information is withheld.

8) Investigations and proceedings conducted by public authorities

Qualified Exemption

Information is exempt if it is held in order to carry out an investigation that could lead to someone being charged for an offence. Any information that if disclosed would prejudice the detection of crime or collection of taxes is exempt but in

all cases the public interest must be taken into consideration before claiming this exemption.

9) Information relating to law enforcement

Qualified Exemption

Any information relating to prevention and detection of crime, apprehension of offenders, immigration controls and the administration of justice is also exempt. The public interest also must be taken into account in this case.

10) Relating to court records

Absolute Exemption

Information is exempt if it is held in a document filed in a court or by a court for the purposes of legal proceedings or an enquiry or arbitration.

11) Legal Professional Privilege

Qualified Exemption

Information to which a claim to legal professional privilege could be made is exempt under the act. The duty to confirm or deny whether the information is held does not apply if this would also be a breach of this privilege that could be brought to court. This exemption cannot be used in regards to a historical record. This exemption is subject to a public interest test.

12) Prohibitions on disclosure

Absolute Exemption

Information is exempt if its disclosure is

- 1) Prohibited by any other enactment
- 2) Incompatible with any community obligation
- 3) Would constitute a contempt of court.

You do not have to confirm or deny whether you hold the information in this case if you would then be guilty of any of the above.

13) Prejudice to the effective conduct of public affairs

Qualified Exemption

Information is exempt if, in the opinion of a 'qualified person,' disclosure would be likely to inhibit free and frank provision of advice, or free and frank exchanging of views for the purposes of deliberation. Or if that qualified person believes that its disclosure would otherwise prejudice the effective conduct of public affairs. Emails and other correspondence can fall into this category.

LESS LIKELY TO BE USED AT ALLERDALE BOROUGH COUNCIL

The following exemptions do not apply to the information held in most local authorities but have been included for information purposes.

14) Information supplied by, or relating to, bodies dealing with the Security Services

Absolute exemption

Nothing must be released if directly or indirectly supplied by various security agencies.

The duty to confirm or deny does not arise if doing this would involve the disclosure of any information that was supplied to the authority by one of the named services.

15) Audit functions

Qualified Exemption

Information is exempt if it is in relation to the audit of accounts of other public authorities or the examination of how other public authorities use their resources in carrying out their functions if releasing the information would harm the audit being carried out. Cannot be claimed in respect to historical records.

The duty to confirm or deny does not arise if disclosing the information would affect the audit being carried out or the public authority involved.

16) National Security

Qualified Exemption

This is for material that does not fall into Exemption #14 listed above if the information listed is required for the purpose of safeguarding national security.

The duty to confirm or deny does not arise if doing so would also endanger national security.

17) International Relations

Qualified Exemption

Information is exempt from disclosure if it would harm relations between the UK and any other country or the UK's interests abroad.

The duty to confirm or deny does not apply if doing so would prejudice the above exemption

18) Defence

Qualified Exemption

Information is exempt if it would prejudice the defence of the British Isles or its colonies.

The duty to confirm or deny does not apply if doing so would prejudice the above exemption.

19) The Economy

Qualified Exemption

Information is exempt if it would harm the economic interests of the UK, or the financial interests of any administration in the UK.

The duty to confirm or deny does not apply if doing so would prejudice the above exemption.

20) Relations within the UK

Qualified Exemption

Information is exempt if its release would prejudice any relations between any administration in the UK and any other such administration.

The duty to confirm or deny does not apply if doing so would prejudice the above exemption.

21) Parliamentary Privilege

Absolute Exemption

Information is exempt if disclosing it would be an infringement of the privileges of the House of Parliament.

22) Formulation of government policy

Qualified Exemption

Information is exempt if held by a government body and relates to the formulation of government policy, ministerial communications or the operation of a Ministerial private office. Once a decision has been made regarding the decision to go ahead with the legislation, any statistical information used to make the decision can no longer be held under this exemption.

The duty to confirm or deny does not apply if doing so would prejudice the above exemption.

23) Communications with Her Majesty and honours

Qualified Exemption

We may withhold details of communications with any member of the Royal Household, subject to the public interest test.

5.4 Contracts and Third Parties

Public sector tendering, contracts and agreements are also governed by the Act, but the general duty of disclosure is governed by several significant exemptions. These may only be applied if they can be properly validated as being against the public interest.

With this in mind, the Council should try to avoid imposing conditions in contracts (or have them imposed on them by prospective contractors) in the interests of secrecy. Partners should be aware of our obligations under the FOIA.

The Council will only accept information from third parties in confidence if it is necessary to obtain that information in connection with the

exercise of any of the Council's functions and it would not otherwise be provided. The Council will not agree to hold information received from third parties if the information is not actually of a confidential nature. Again, acceptance of any confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

5.5 Transfer of Request Guidance

The Council may not hold information that an Applicant requests. However, we may know who does hold the information. Part of our responsibility relating to the FOI is to provide advice and assistance to the public. By transferring requests, or letting a requestor know where to find what they have requested even if we don't hold it, we are fulfilling this duty and providing good customer service as well. Template letters that can be sent to both the request Applicant and the organisation holding the information will be available on the Document Store under FOI in Information Management.

5.6 Redacting Guidance

Redacting is the process of removing parts of a document that are not being disclosed, when the rest of the document is being released. When marking paper documents, this should be done by marking over the information that isn't to be released with a pen. It has been found however that it is still possible to read blacked out documents that have been photocopied. Therefore it is necessary to make several copies of copies in order that information that is not being released is kept private. Another method would be to cut a separate piece of paper to the size of the text to be removed and making a photocopy of this. While this is a time-consuming method, it is effective. And it is of utmost importance that when a decision to withhold information has been made, the exempt information is not released.

Electronic redacting is equally difficult. In this case it is necessary to be able to see where the redacting has taken place, so simply deleting parts of a document will not work. Therefore it is recommended that exempt information be changed to white print face before a copy is printed out or redacted using the PDF or Paint functions.

If possible, reports and other documents should be saved as PDF format. Removed or edited information, or details of earlier drafts, remain embodied in Word documents. With the right knowledge these can be found.

5.7 The Environmental Information Regulations

The Environmental Information Regulations govern the release of information which relates to the environment. Section 39 of the Freedom of Information Act contains an exemption on the release of environmental information under the Act, so that the Regulations come into play.

The definition of “Environmental Information” is complex and can include information which include a multitude of factors. Advice can be sought from the Information and Records Officer.

The EIRs contain a number of exceptions on disclosure which work in a similar way to the exemptions in the FOIA. However, there are differences and advice should be sought from the Information and Records Officer.

Requests made under the EIRs can be made verbally. Where it is unclear what the enquirer is requesting, or the nature of the request it may be desirable to ask for a written request. However, where the information is covered by the EIRs this cannot be demanded.

All EIR requests must be replied to within 20 working days. The appeals procedure is the same as with the FOIA.

6. Allerdale Information Catalogue

The Allerdale Information Asset catalogue will hold a summary of data held throughout Allerdale, in both structured and unstructured form. It is based on information gathered from the Document Retention Survey that was filled out about most areas and through speaking to service managers. This will assist in locating where information that is requested might be held when requests are received by the Information Officer. The document will be continually updated until that time when an Electronic Document And Records Management System is put into place. A reminder will be sent out at the same time that the Publication Scheme update reminder is sent out in order that every service area has every chance to keep their information up to date.

7. Performance Management and Reporting

Part of complying with the act is to respond to requests within the given timeframe. Data will be collected on the types of information requested, fees collected, exemptions applied, and the time taken to answer the requests. This will help to identify vexatious requests and repeated requests where frequently requested information can be added to the Publication Scheme.

Area contacts must ensure that when any FOI request that comes in regardless of its complexity, this is sent to the Information and Records Officer, along with all documentation for monitoring purposes and in case a complaint is made at any time. A prompt response is required for any request for information as the 20-day clock begins once the enquiry has been received.

Another part of our duty in complying with the Act is to keep and report this same type of information to the Information Commissioner. This is

the responsibility of the Information Officer and by keeping good records of requests, better monitoring will be ensured.

8. Documentation

All policies and guidance documents covering FOI will be available to staff in the Document Store in the FOI folder under Information Management, or from the Information and Records Officer.

Further Policies and Guidance mentioned in this document are as follows:

- Records Management Policy
- Recognising and Dealing with Requests And FAQ
- Exemption Guidelines
- Allerdale Information asset catalogue (under review)
- Templates for reply letters based on the ICO and DCA guidance

Appendices

Appendix A- Service Area Contacts

Area	Name	Note
CCTV	Ian Payne	
Building Control	Paul Shankland Ann Fletcher	
Corporate Improvement	Marie McCourt	
Customer Service and Complaints	Alison Miller	
Democratic Services	Gayle Roach	
Regeneration	Lynn Parvin	
Environment Environmental Protection Food/Health & Safety	Peter Daley Les Shepherd Pam Shepherd	
Environmental Services	Ernie Davidson	
Financial Services Internal Audit Finance	Steve McMahon Ann Hill Catherine Nicholson	
Housing Services		
ictCONNECT	Michael Scott Tracey Nicholson	
Legal Services Borough Solicitor Land Charges and Licensing Legal	Janice Rea Gillian Collinson Sharon Owen Trevor Gear	
Leisure Services Heritage Arts Sport/ Recreation Entertainment/ Event	Harriet Smithson Peter Haley Paul Sherwin	
Parking Services	Mike Rollo	
Personnel	Becky Irving	
Planning Services	Lynn Gibson	
Property Services	David Brydon	
Revenue Services CTax/Business Rates Housing/ Benefits	Mike Toner Liz Kelly	
AONB	Brian Irving	

Appendix B- Types of Requests*

Regulations	Subject Matter	Time Limit	Cost	Exemptions	Coverage
Freedom of Information	All information not accessible under the DPA and Environmental Information Regulations	20 working days from receipt of request	No fee for information requests which cost less than £450 – but can charge for disbursements.	23 exemptions, two different types: i) Qualified – subject to a public interest test ii) Absolute	UK Government departments plus public authorities in England, Wales and Northern Ireland.
Data Protection	Applicant's own personal data	40 calendar days	Subject Access Requests cost £10	Limited range of exemptions, not subject to the public interest test. Some vary considerably from those in the FOI Act.	UK Application
Environmental Information Regulations	Environmental Information	20 working days	Fees may be charged and no upper limit for the cost of meeting a request beyond which the request may be refused	Limited range of exemptions, all of which involve Public Interest Test	One set of regulations for England & Wales and Northern Ireland, similar regulations for Scotland

Used with permission of Hyndburn Borough Council

Appendix C- Other useful information/ websites

- Information Commissioner (covers FOI, Data Protection and Environment Information Regulations issues):
www.ico.gov.uk
- Ministry of Justice
www.justice.gov.uk
- Department of Constitutional Affairs (covers FOI Data Protection, Human Rights) – this is no longer functioning, but the website remains with useful information
www.dca.gov.uk
- Dept. of Constitutional Affairs FOI Guidance:
www.foi.gov.uk
- Office of Communities and Local Government:
www.communities.gov.uk/corporate/
- Environment Information Regulations, Department of Environment, Food and Rural Affairs
www.defra.gov.uk
- National Archives (covers records management policy and legislation in relation to FOI and general):
www.nationalarchives.gov.uk/recrdsmanagement/