



Access to Information Policy

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Document Control

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01/03/2012	Version 1.0	Initial Policy
10/09/2018	Version 1.1	Data Protection section removed; new separate policy for DPA 2018 and GDPR compliance. Section 2 Contracts and outsourced services, and section 5 Re-use of Public Sector Information Regulations 2015 added. Other minor updates

Section I: Introduction

The Council has developed policies to embed its approach to openness and transparency, aligning with Government guidance. It is the Council's intention to be proactive in maintaining a culture of openness, transparency and accountability in the way we work, the information we record, and the services we provide.

We recognise our corporate responsibility to be transparent and to provide a general right of access to information that we hold. This document relates to the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Re-use of Public Sector Information Regulations 2015 and the Local Government Transparency Code. Rights of Access to Information under the Data Protection Act 2018 and the General Data Protection Regulation (GDPR) which together form the new Data Protection Legislation (from 25th May 2018), and replace the Data Protection Act 1998 are dealt with in a separate policy: <https://www.westoxon.gov.uk/about-the-council/information-data/data-protection/>

We will practice good customer care by providing as much advice and assistance as reasonably possible when receiving, handling, transferring or refusing requests and also endeavour to provide extra help to applicants with special needs, difficulties or language requirements.

We will review and monitor how well we are dealing with requests for information, and publish the details of our compliance in accordance with the new Freedom of Information Code of Practice issued by the Secretary of State in July 2018. The Head of Paid Service has overall responsibility for Access to Information, and ensuring compliance with the Act/Regulations.

This Policy applies to all employees and elected Members of the Council, as well as its contractors, agency and any other temporary staff, volunteers, and employees of partner organisations working for the Council. This Policy and Standards will be communicated to individuals and organisations handling information, acting as an agent, or providing a service on behalf of the Council to ensure they are aware of their legal obligations and responsibilities.

Intentional breaches of this Policy may lead to disciplinary action in accordance with the Council's disciplinary procedures or the disciplinary procedures of the contractor in respect of staff working on the Council's behalf.

This Policy will be reviewed on a regular basis and will be subject to compliance audits at appropriate intervals to assess its efficacy.

Complaints will be handled in accordance with our complaints procedures and should be directed to the Monitoring Officer.

Section 2: Contracts and outsourced services

Information held by a third party contractor for Council purposes is subject to the Freedom of Information Act and the Environmental Information Regulations. Local Authority Companies which have been set up to deliver services on behalf of a council are also subject to the Act/Regulations in their own right, and must respond accordingly to requests made to them about themselves (unless an exemption applies).

In partnership with other councils, West Oxfordshire District Council owns two Local Authority Companies, Ubico Ltd and Publica Group Ltd which provides services on its behalf including the procurement and management of third party contracts.

Ubico and Publica Group are responsible for responding to requests for information on behalf of the Council, whether this information is held by itself or by a third party contractor.

Ubico and Publica Group will ensure that third party contractors are aware of their obligations under the Act/Regulations, and where possible the contract should state:

- the types of information it considers will be held by the contractor on behalf of the Council;
- the reasons for any non-disclosure clauses. In general, confidentiality clauses should be discouraged unless there are good reasons for exempting information;
- the arrangements in place to permit Ubico and Publica Group to gain access to the information held by the third party contractor.

It is the responsibility of the Council, Ubico and Publica Group to ensure that their staff receive training, advice and guidance as required.

Section 3: Access to Information under the Freedom of Information Act 2000

Policy Scope

This section of the policy and related standards applies to the information held by the Council or held by other parties on behalf of the Council that is governed by the **Freedom of Information Act 2000**. To promote a culture of openness and accountability, and to comply with the Freedom of Information Act 2000 (FoIA) we have a responsibility to ensure that this information is either routinely made available or provided on request unless there is a legitimate reason for withholding it.

Aims and Objectives

The Council fully supports the objectives of the Freedom of Information Act 2000 and will take all necessary steps to ensure that its duty under the Act is observed and that all information collected and used by it is managed in line with the Act. We will ensure:

- A general right of access to recorded information we hold, subject to certain conditions and exemptions;
- That we adopt and maintain a Publication Scheme, in accordance with the Information Commissioner's guidance, which relates to the publication of certain types of information;
- That we provide access to all information described in our Publication Scheme which we will endeavour to keep as up to date as possible;
- That we will respond to written requests for information that are not covered by our Publication Scheme. We will inform applicants whether or not we hold the requested information, and if held we will supply it unless there is a justifiable reason or any of the Act's exemptions apply;
- That we provide adequate and relevant advice and assistance to applicants to aid them in their application;
- In circumstances where information is covered by an exemption we will give consideration as to whether the information should be released;
- In cases where information is exempted from disclosure, except where an absolute exemption applies, we will:
 - Inform the applicant whether we hold the information requested, unless a neither confirm nor deny response¹ is required, and
 - Communicate that information to him or her, unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure.

Standards

The Council will make every effort to ensure that it meets the following standards of good practice as set out in the Code of Practice issued under s45 of the Act.

- We will maintain our Publication Scheme ensuring it is as up to date and comprehensive as possible and give access to the information promptly and efficiently;

¹ In certain circumstances, even confirming or denying that requested information is held can reveal information that falls under an exemption.

- Where a request for access to information is received, we will inform the applicant (or person acting on their behalf) whether or not we hold it, unless we have a justifiable reason not to do so or any of the Freedom of Information Act exemptions apply;
- Requests must be in permanent form (e.g. in writing or email). If information is held and can be provided, we will supply it subject to exemptions, and/or where appropriate supply an estimate of how much it will cost in accordance with the regulations issued by the Secretary of State;
- We reserve the right to charge for information supplied that is not available under the Publication Scheme or reasonably accessible to the applicant. We may charge the statutory fees as issued by the Secretary of State. We will publish our schedule of charges;
- We will act promptly in response to requests and endeavour to provide information within 20 working days, unless exceptional circumstances require more time. We will keep the applicant informed of any delays in providing information;
- Where applicable, we will consult with third parties regarding the disclosure of information owned by them, however, the decision as to whether to release the information rests with the Council;
- When we enter into contracts with third parties, we will make clear the Council's obligations under the Act, and the legal limits placed on the enforceability of confidentiality clauses;
- We will make every effort to effectively manage the information we hold and have sufficiently secure systems in place to protect it and enable us to retrieve it quickly and efficiently;
- We will ensure that our employees are appropriately trained.

Breach of Policy and Standards

Disciplinary action may be taken in accordance with the Council's disciplinary procedures against any employee who knowingly or recklessly:

- Alters, defaces, blocks, erases, destroys or conceals any record held by the Council, with the intention of preventing the disclosure of all, or any part, of the information that has been requested as part of a Freedom of Information request;
- Contravenes any instruction contained in, or following from, this Policy and Standards.

We expect that similar disciplinary procedures will be applied by any of our contractors which deal with the Council's information and data on the Council's behalf.

Complaints Procedure

Where a request for information is refused for any reason we will notify the applicant and give the reasons. For exemptions we will state which exemption has been claimed, and unless apparent, why that exemption applies, specifying the public interest factors (for and against disclosure) if applicable². We will not simply repeat the wording of the exemption unless the explanation would involve the disclosure of information which would itself be exempted information.

When communicating any decision made in relation to a request under the Freedom of Information Act's general right of access, we will notify the applicant of their rights of complaint. A person dissatisfied with the way in which his/her request has been handled may ask for an internal review of the way in which their request was dealt with, and, if still dissatisfied, may apply directly to the Information Commissioner for a decision.

² Absolute exemptions do not require a Public Interest Test

Section 4: Access to Information under the Environmental Information Regulations 2004

Policy Scope

This section of the policy and related standards applies to the information held by the Council that is governed by the **Environmental Information Regulations 2004 (EIR)**. The Council fully supports the objectives of the EIR to ensure freedom of access to, and dissemination of, information on the environment held by public authorities and to set out the basic terms and conditions on which such information should be made available.

Aims and Objectives

The Council will take all necessary steps to ensure that this duty is observed and that all environmental information collected and used by it is managed in line with the requirements of the EIR; and will develop its procedures in line with the Code of Practice issued by the Secretary of State in accordance with Regulation 16 of the EIR 2004.

Environmental Information is any information in written, visual, aural, electronic or any other material form, including historical data, on:

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);

The interpretation of the above categories of environmental information is generally broad and examples include:

- **Air** includes the air within buildings and other natural and manmade structures above or below ground, i.e. not only ambient air but indoor and workplace air as well;
- **Water** includes underground and surface waters (both natural and in man-made structures) sewage and foul water; the latter to include inland waters (i.e. rivers, canals, lakes), estuaries and seas, water table and aquifers;
- **Soil** includes the *in situ* upper layer of the mantle rock in which plants grow;

- **Land and Landscape** includes all land surfaces, caves and underground strata. Land covered by water is also included;
- A **natural site** includes areas identified by reason of their flora, fauna, geological or physiographical features (e.g. Sites of Special Scientific Interest) or general environmental quality (e.g. Areas of Outstanding Natural Beauty). This could also include for example a tree or park of local significance;
- **Radiation** may also be considered as an element of the environment;
- **Biological diversity** should be taken to include species of flora and fauna The AIG refers to “Article 2 of the Convention on Biological Diversity [which] gives the following definition of biological diversity: “the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems”. Biodiversity includes, but is not limited to, ecosystem diversity, species diversity and genetic diversity.”
- **Human health and safety and conditions of human life covered by EIR** include human response to physical, chemical and biological agents delivered through environmental media of water, air, land, and biodiversity etc. Thus the incidence of disease such as skin cancer which is linked to exposure to the sun might be environmental information, whereas incidence of a cancer that does not have an environmental link is unlikely to be environmental information;
- **Built structures** include structures, roads and other infrastructure created by mankind and ancient and historic monuments;
- The **state** should be taken to include physical, chemical, electromagnetic, radiological and biological conditions at any moment in time;
- **Emissions** are not defined in either the Regulations or in the Directive on Public access to environmental information but are defined in the Aarhus Implementation Guide as a “direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land”;
- **Measures could** include administrative measures and environmental management programmes such as permit schemes, management contracts, land-use planning regimes and permits, regeneration and transport development plans and proposals. The measures or activities may not be labelled as environmental;
- **Environmental agreements** could cover voluntary agreements such as those negotiated between government and industry, and may also apply to bilateral or multilateral environmental agreements among States;
- **Economic analyses** could include financial analyses.

Standards

The Council will make every effort to ensure that it meets the following standards of good practice:

- All environmental information that is automatically available will be listed in the Council’s Publication Scheme;
- Ensure that our employees and those working on our behalf adopt a professional and organised approach when recording environmental information and managing records accordingly;
- Organise our environmental information and disseminate it proactively where possible so that requests can be met promptly and economically;
- Provide advice and assistance to persons making requests for environmental information;
- Make environmental information available to any person who requests it within 20 working days or where a request is both voluminous and complex the deadline may be extended to within 40 working days;
- Refuse access only in accordance with the limited exceptions available, giving reasons and details of the mechanisms available for reconsideration and appeal;
- Where applicable, we will consult with third parties regarding the disclosure of information owned by them, however, the decision as to whether to release the information rests with the

Council;

- When we enter into contracts with third parties, we will make clear the Council's obligations under the Act, and the legal limits placed on the enforceability of confidentiality clauses;
- Have in place an internal procedure to consider any complaints;
- We will make every effort to effectively manage the information we hold and have sufficiently secure systems in place to protect it and enable us to retrieve it quickly and efficiently;
- We reserve the right to charge for information supplied in accordance with the guidance from the Secretary of State. We may charge the statutory fees as issued by the Secretary of State. We will publish our schedule of charges;
- We will ensure that our employees are appropriately trained.

Breach of Policy and Standards

Disciplinary action may be taken in accordance with the Council's disciplinary procedures against any employee who knowingly or recklessly:

- Alters, defaces, blocks, erases, destroys or conceals any record held by the Council, with the intention of preventing the disclosure of all, or any part, of the information that has been requested as part of a Freedom of Information request.
- Contravenes any instruction contained in, or following from, this Policy and Standards.

We expect that similar disciplinary procedures will be applied by any of our contractors which deal with the Council's information and data on the Council's behalf.

Complaints Procedure

Where a request for information is refused for any reason we will notify the applicant of this and give the reasons. For exceptions we will state which exception has been claimed, and unless apparent, why that exception applies, specifying the public interest factors (for and against disclosure) which we have taken into account (unless by doing this we would disclose the excepted information). We will not simply repeat the wording of the exception unless the explanation would involve the disclosure of information which would itself be excepted information.

When communicating any decision made in relation to a request under the Freedom of Information Act's general right of access, we will notify the applicant of their rights of complaint. A person dissatisfied with the way in which their request has been handled may ask for an internal review of the way in which his/her request was dealt with, and, if still dissatisfied, may apply directly to the Information Commissioner for a decision.

Section 5: Access to information Under the Re-use of Public Sector Information Regulations 2015 (RoPSI)

Policy Scope

This section of the policy and related standards applies to the information held by the Council that is governed by **the Re-use of Public Sector Information Regulations 2015 (RoPSI)**. The regulations originally came into force in July 2005, and were updated in 2015, and sets out guidance for how public sector information can be re-used.

The Re-use of Public Sector Information Regulations 2015 (RoPSI) provides a right of access to information that public authorities produce as part of its public task. 'Public task' means the Council's core role and functions, as defined in legislation or established through custom and practice.

This policy outlines the requirements for the Council to comply with the requirements of RoPSI and to provide or permit re-use of information held (in any particular media format), and to ensure that all requests for the re-use of information are processed in accordance with RoPSI.

What is meant by re-use?

Essentially re-use means using the information for a purpose other than the purpose for which the document was originally produced. When the Council releases information which has been requested by a member of the public under access to information legislation such as the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, that person may ask if they can re-use that information, perhaps for commercial purposes, in a way which, without permission, might breach the Council's copyright.

Standards

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

- Identify public sector information documents that are available for re-use;
- Provide a licence, listing the conditions for re-use, and imposing conditions on the re-use of the information which will be in the form of the Open Government Licence unless otherwise stated; any conditions imposed will not discriminate between applicants, or be duly restrictive;
- Exclusive licensing arrangements will generally not be allowed except for the provision of a service in the public interest;
- If there is to be a charge for supplying the information or for its use then we will explain why;
- Provide an information asset list to identify published material available for re-use; this is the Council's publication scheme. Other lists of published materials are available on the Transparency page of the Council's website;
- Respond to written requests for information as quickly as possible, and within the statutory timescale of 20 working days, unless exceptional circumstances require more time. We will keep the applicant informed of any delays in providing information;
- Provide the applicant with details of the Council's internal review/appeals procedures;
- Provide appropriate training to employees.

The regulations do not apply:

- Where the information falls outside of the Council's public task;
- A third party owns relevant intellectual property rights in the document/dataset;
- Where the information is exempt from release under FOIA, EIR or any other access legislation. However, for documents which are reasonably accessible, section 21 of FOIA applies. If the

documents are published on the Council's website, they would normally be already available for re-use.

Section 6: Transparency

The Council has specific responsibilities set out in the Local Government Transparency Code 2015. The aim of the Code is to open up government and public services through the publication of non-personal information and data which will make the public sector more accountable to communities and businesses. It is also expected to help to drive improvements in services by informing choice, and to stimulate innovation and growth.

This Code requires the Council to publish the following information on a quarterly or annual basis:

- Expenditure exceeding £500 (quarterly) – the Council publishes *all* expenditure on a monthly basis
- Government Procurement Card transactions (quarterly)
- Procurement information (quarterly)
- Local Authority Land and Building Assets (annually)
- Social Housing Asset Value (annually) - the Council does not publish this information as it does not hold any social housing
- Grants to Voluntary, Community and Social Enterprise Organisations (annually)
- Organisation chart (annually)
- Trade Union facility time (annually) - from 2018/19, the Council ceased publishing this information as it no longer employs more than 49 full time equivalent (FTE) staff during any seven months of a 12 month relevant period.
- Parking account and parking spaces (annually)
- Senior Salaries (annually)
- Constitution (annually)
- Pay Multiple (annually)
- Fraud information (annually)
- Waste contracts (one-off publication)

The Council publishes this information, subject to the notes above, on its website in accordance with the Transparency Code, and is also documented in the Council's publication scheme along with other information and data that we make available.

In addition, the Council is required to prepare, maintain and publish a register of previously developed land within their area that they consider appropriate for residential development (brownfield land registers) from 31 December 2017, and to review the register at least once a year (Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017).