



Internal Ref:	NELC IG 04
Last Reviewed	February 2023
Version No.	V02

# Access to Information Policy

## 1 Introduction

- 1.1 This policy sets out how we meet our obligations under the [Freedom of Information \(FOI\) Act 2000](#) and the [Environmental Information Regulations \(EIR\) 2004](#) which gives a general right of access to the recorded information held by public authorities including North East Lincolnshire Council.
- 1.2 This is done in two ways:
- By requiring us to publish certain information about our activities in a Publication Scheme; and
  - By allowing individuals, groups or organisations to request information from us.
- 1.3 FOI and EIR do not however give you a right of access to your own personal data (i.e. information about you), to see what information we hold about you, you will need to make a subject access request under the UK General Data Protection Regulation / Data Protection Act 2018. Further details about this can be found in our Data Protection Policy and on the [Data Protection section of our website](#).
- 1.4 The Information Commissioner's Office (ICO) is the independent body that enforces Data Protection, the Freedom of Information Act and the Environmental Information Regulations, and you might find the [information on their website](#) helpful.

## 2 Our Publication Scheme

- 2.1 [Our publication scheme](#) which is published on our website tells you about the broad classes of information we routinely make available to the public, how it can be obtained and any associated costs.
- 2.2 We follow the ICO's template for our Publication Scheme and publish information under the following classes, Who we are and what we do; How we make decisions; What we spend and how we spend it; What our priorities are and how we are doing; Our policies and procedures; Lists and registers; and the Services we offer.

### **3 How to make a request**

- 3.1 Before making a FOI or EIR request please check our website, as we routinely publish information which may answer your request, we also identify other sources where the information you require may be obtained.
- 3.2 FOI requests must be made in writing, while EIR requests can be made either in writing or verbally. When an EIR request is made verbally we will always acknowledge the request in writing confirming the information which has been requested.
- 3.3 If you want to request information from us, you can do this by:
  - a) completing our [on line form](#); or
  - b) sending us a letter or an e-mail to the addresses in the '[contact us](#)' section below.
- 3.4 Your request must detail the information you require, and your contact details for us to reply to. Please note for FOI requests you must also provide your real name.
- 3.5 Your request does not need to state that it is a FOI or an EIR request, but it will help us to identify and process your request quicker.
- 3.6 We will be happy to provide you with advice or assistance to help you make and pursue your FOI or EIR request.
- 3.7 Our Information Governance Team can also assist you to make a subject access request for your own personal data and have developed an application form to assist with your request. To support your request you will need to provide two forms of evidence confirming your identity (i.e. photo driving licence or passport) and your address (i.e. utility bill or bank / building society letter).

### **4 What type of information can I ask for?**

- 4.1 You can ask for any information that we hold in a recorded form. This is not limited to official documents and includes, for example, emails, instant messaging (e.g. WhatsApp, Facebook Messenger, Yammer), notes, recordings of telephone conversations and CCTV recordings.
- 4.2 If you want to request a copy of your own personal data, you will need to make a Subject Access Request, how to do this can be found on the [Data Protection section of our website](#).
- 4.3 FOI and EIR do not require us to create new information in order to respond to a request or provide opinions or comments in relation to questions or comments you make.
- 4.4 The Local Government Acts 1972 and 2000 govern access to minutes, agendas and background documents of meetings of the Council, Cabinet and various Committees.

- 4.5 The Accounts and Audit Regulations 2015 provides rights in relation to the inspection of the Council's accounts.

## **5 Can I request the information in a particular format?**

- 5.1 You can express a preference as to how the information you have asked for is provided to you, and we will try to comply with this so far as is reasonably practicable.
- 5.2 Please be aware that there may be a charge for providing information in your preferred format, if that is not how we currently hold the information.

## **6 The response you will receive**

- 6.1 We aim to respond to all requests promptly, and in no longer than 20 working days following the date of receipt of a valid request. The timescales for responding to a request will be put on hold until any fees notice, if applicable, are paid or extended by a reasonable time if required to determine whether or not the balance of public interest lies in maintaining an exemption.
- 6.2 Our response will, subject to any exemptions or exceptions, tell you if we hold the information you have requested and provide you either with that information or an explanation of why we cannot provide you with that information (please see section 7 for further details).
- 6.3 We will tell you if any charges apply to responding to your request and provide you with an explanation of how they have been calculated and advice and assistance, if possible, on how to reduce them (please see [section 8](#) for further details).

## **7 Can my request be refused?**

- 7.1 We will provide you with the information you request unless there is a good reason for not doing so, examples of when your request may be declined are:
- a) When the information requested is covered by an exemption or an exception. If we apply an exemption (see sections 21 to 44 of the FOI Act) or exception (see sections 12 & 13 of the EIR) to the disclosure of information, we will explain why we have done this, including if appropriate the public interest factors considered. We will only withhold the specific information to which the exemption or exception applies. Where disclosure of information would affect a third party, we may consult with them, if appropriate, to determine if and how it should be disclosed.
  - b) A FOI request can be refused under section 12 of the Act if it would cost more than the Appropriate Limit of £450 to find and extract the information you have requested. If responding to your request would exceed the Appropriate Limit, we will offer you advice and assistance to help you refine your request so that the Appropriate Limit is not exceeded. Please note that when determining if the Appropriate Limit would be exceeded the costs of answering more than one request from either the same requester, or from different requesters who appear to be acting in concert or in

pursuance of a campaign, can be added together or aggregated in certain circumstances.

- c) If we consider your request vexatious (see section 14(1) FOI Act) or manifestly unreasonable (see section 12(4) (b) EIR). For more information please see the ICO's guidance on ['dealing with vexatious requests'](#) and ['manifestly unreasonable requests'](#).
  - d) The request is a repeat of a previous request made by you (see section 14(2) FOI Act). For more information please see the ICO's guidance on ['dealing with repeat requests'](#).
- 7.3 If you don't agree with our decision to refuse your request, you can ask us to reconsider our decision through an internal review. If the request is still refused, you have the right to apply directly to the [information commissioner](#) for a decision (please see **section 9** for further details).
- 7.3 If it is not clear what information you are asking for, in such cases we will contact you for further details and offer you advice and assistance with your request.

## **8 Do I have to pay to make my request or receive information?**

- 8.1 Whilst there is no cost or fee charged to make a request, charges can be made in the following circumstances for making information available:
- a) If the Appropriate Limit (Prescribed costs) is exceeded for FOI requests,
  - b) For Disbursements costs for FOI requests, or
  - c) To recover reasonable costs incurred in responding to EIR requests.
- 8.2 When applying charges we will always issue a notice explaining why a charge is being applied and how we have calculated it.
- 8.3 If the information requested is only available from a Public Authority, then any fees charged will not attract VAT. However, if the requested information is available from another source that is not a public authority, VAT can then be added to the fees to be charged.
- 8.4 No work will be started on answering your request, until your payment has been received and cleared. If your payment is not received within 1 month of the fees notice being issued, the request will be treated as lapsed and closed.
- 8.5 Where charges apply the date between the issue of the fees notice and the date when the payment is received and cleared are disregarded in calculating the 20 working day response period.

### **Prescribed costs for FOI requests:**

- 8.6 Section 13 of the FOI Act, allows a charge to be made if complying with a request is estimated to exceed the Appropriate Limit of £450 or 18 hours.

- 8.7 In estimating if the Appropriate Limit has been exceeded, we can only take account of the costs we reasonably expect to incur in relation to:
- a) determining whether we hold the requested information,
  - b) locating the requested information, or a document which may contain the requested information,
  - c) retrieving the requested information, or a document which may contain the requested information, and
  - d) extracting the requested information from a document containing it.
- 8.8 When estimated costs relate to the time which an officer will spend undertaking any of the allowed activities, the estimate will be based on rate of £25 per hour.
- 8.9 Regulation 5 of [The Freedom of Information and Data Protection \(Appropriate Limit and Fees\) Regulations 2004 SI No. 3244](#) allows for the cost of answering more than one request to be added together or aggregated for the purposes of estimating whether the appropriate limit would be exceeded in relation to any one of the requests.
- 8.10 For further information about 'Fees that may be charged when the cost of compliance exceeds the appropriate limit' please see [the ICO's guidance](#).
- 8.11 If the actual cost of answering your request is less than the estimated cost charged, we will refund the amount overpaid.
- 8.12 If the actual cost of answering the request is greater than the estimated cost charged, the additional cost will be borne by us, and no additional fee will be charged to you.

**Disbursements costs for FOI requests:**

- 8.13 We are permitted to charge for the cost of physically producing and delivering the information to you, these costs are known as disbursements.
- 8.14 Disbursements include:
- a) Reproducing any document containing the information, such as printing or photocopying.
  - b) Postage and other forms of transmitting the information, and
  - c) Complying with section 11 of FOI Act where you have expressed a preference for the means of communication and where this is reasonably practicable.
- 8.15 We are committed to the use of electronic means to provide the information you have requested and will encourage the use of these means in all appropriate cases, subject to your preferred format. Normally information supplied electronically will not involve a cost unless information has been specifically converted for this purpose.
- 8.16 The disbursement costs will be based on no documents that you have requested being withheld unless an exemption applies. Therefore, a copy of an email message plus a

copy of the reply that contains the original message will both be supplied and charged for. This is because we do not need to know why you want the information, and therefore cannot assume what information will not be relevant to you.

- 8.17 Disbursement costs can be applied even if the Appropriate Limit is not exceeded, but normally we will not charge for disbursements under £10 but reserve the right to charge on a case-by-case basis.
- 8.18 The disbursement charges we apply are shown in [Appendix A](#).
- 8.19 For further information about 'Fees that may be charged when the cost of compliance does not exceed the appropriate limit' please see [the ICO's guidance](#)

### **Environmental Information Regulations requests:**

- 8.20 Regulation 8 of the EIR allows a reasonable charge to be applied to cover the cost of making information available in response to a request. These charges can either cover the disbursement costs incurred in transferring the information to you (photocopying, printing, postage, etc.) or the officer time taken to locate, retrieve and extract the requested information.
- 8.21 Under EIR charges cannot be made for:
  - a) access to public registers; or
  - b) lists of environmental information; or
  - c) access to examine information at the place we make it available (although we can make a reasonable charge for Officer time needed to prepare information for inspection).
- 8.22 Unlike with FOI requests, EIR does not specify an appropriate limit below which fees are not charged or above which the request can be refused.
- 8.23 In the interests of consistency, we have decided that any charges applied for EIR requests, shall be no less favourable than if the request had been made under the FOI.
- 8.24 The ICO's guidance on Charging for environmental information (Regulation 8) can be found [here](#)

## **9 What if I am not happy with the response I receive?**

- 9.1 If you are dissatisfied with the response you receive or the handling of your request you can request an internal review. To do this you should send an email or a letter to us, using the contact details in [section 11](#), setting out why you are unhappy with the response you have received.
- 9.2 In accordance with ICO guidance internal review requests should be made within 40 working days of you receiving your initial response.

- 9.3 We will aim to provide you with a response within 20 working days.
- 9.4 For reviews involving complex issues, requiring consultation with third parties or which need to consider substantial amounts of information, the timescale for a response may increase to 40 working days, matching the timescales for internal reviews in the Environmental Information Regulations 2004. In these circumstances we will inform you of the need for more time and provide you with a reasonable target date for the response.
- 9.5 If after an internal review, you are still dissatisfied with the response you have received or the handling of your request, you can make a complaint to the Information Commissioner's Office, whose contact details are available on their [website](#).

## **10 Intellectual Property Rights**

- 10.1 The information supplied to you may be protected by Intellectual property rights owned by us or a third party.
- 10.2 Whilst disclosing information under the FOI or EIR will not infringe these rights, these rights will still apply once it has been disclosed to you.
- 10.3 The ICO's guidance on 'Intellectual property rights and disclosures under the Freedom of Information Act' including what you can do with information subject to Intellectual property rights can be found [here](#)

## **11 Contacting us**

- 11.1 Our email address for FOI and EIR requests is: [FOI@nelincs.gov.uk](mailto:FOI@nelincs.gov.uk)
- 11.2 Our postal address for FOI and EIR requests is:  
Freedom of Information,  
North East Lincolnshire Council,  
Municipal Offices, Town Hall Square,  
Grimsby, North East Lincolnshire, DN31 1HU

## **12 Policy Monitoring and Review**

- 12.1 This Policy and the handling of accessing to information request is monitored and kept under review by the Information Security and Assurance Board.

## Appendix A Disbursement Charges

These costs are designed to recoup the expenditure incurred by the Council in responding to your request, and do not include any profit element.

<b>Photocopies:</b>	<b>Cost</b>
A4 Black & White	£0.15 per sheet
A4 Colour	£0.30 per sheet
Other sheet sizes and specialist documents i.e. plans or maps	Price on application.
<b>Computer generated printouts:</b>	<b>Cost</b>
A4 Black & White	£0.15 per printed page
A4 Colour	£0.30 per printed page
Other sheet sizes and specialist documents i.e. Photo quality prints	Price on application.
<b>Scanning of images:</b>	<b>Cost</b>
A4 Paper Records	£0.30 per image
Other sheet sizes and specialist documents	Price on application.
<b>Print outs from microfiche:</b>	<b>Cost</b>
All sizes	Price on application.
<b>Electronic data storage devices:</b>	<b>Cost</b>
Options on application	Price on application.
<b>Postage:</b>	<b>Cost</b>
Postage cost	Standard Royal Mail rates will apply.  Unless otherwise specified documents will be sent by second class post.
Packaging	£1 per parcel irrespective of size or weight



## Appendix B FOI exemptions

**Absolute exemptions** are exemptions for which there is no duty to consider disclosure in the public interest.

- Section 21 Information accessible to the applicant by other means.
- Section 23 Information supplied by, or relating to, bodies dealing with security matters.
- Section 32 Court records, etc.
- Section 34 Parliamentary privilege.
- Section 36 Prejudice to effective conduct of public affairs (information held by the Houses of Lords and Commons only).
- Section 40 Personal Information (if the applicant making the request is the subject of the information requested as they have a right of access under the Subject Access right of the Data Protection Act)
- Section 41 Information provided in confidence.
- Section 44 Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court.

**Qualified exemptions**, even though an exemption exists, we have a duty to consider whether disclosure is required in the public interest. The 'public interest test' will require us to determine whether the public interest in withholding the exempt information outweighs the public interest in releasing it, by considering the circumstances of each particular case and the exemption that covers the information.

- Section 22 Information intended for future publication.
- Section 24 National security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not arise).
- Section 26 Defence.
- Section 27 International relations.
- Section 28 Relations within the United Kingdom.
- Section 29 The economy.
- Section 30 Investigations and proceedings conducted by public authorities.
- Section 31 Law enforcement.
- Section 33 Audit functions (this is not a blanket exemption for all audit functions and activities).
- Section 35 Formulation of government policy etc.
- Section 36 Prejudice to effective conduct of public affairs (except information held by the Houses of Lords and Commons).
- Section 37 Communications with Her Majesty, etc. and honours.
- Section 38 Health and safety.
- Section 39 Environmental information.
- Section 40 Personal information (see absolute exemptions)
- Section 42 Legal professional privilege.
- Section 43 Commercial interests.

## **Appendix C            EIR exceptions**

Reg 12 Disclosure would adversely affect:

- (a) international relations, defence, national security or public safety.
- (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.
- (c) intellectual property rights.
- (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law
- (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
- (f) the interests of the person who provided the information where that person
  - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority,
  - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it,
  - (iii) has not consented to its disclosure.
- (g) the protection of the environment to which the information relates.

Reg 13: personal data of which the requestor is not the subject, and disclosure of the personal information would be unfair and / or unlawful under the Data Protection Principles within the Data Protection Act 2018.