



# Human Resources and Freedom of Information

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## 1. Policy statement

- 1.1. The Freedom of Information Act (the 'Act') gives a legal right for any person to ask an organisation within the public sector for access to information that it holds.
- 1.2. The aim of the Act is to promote a culture of openness and accountability amongst public sector organisations and to improve the understanding of how public sector organisations operate.
- 1.3. The Act is completely retrospective so that all recorded information held by the Council falls within the scope of the Act.



- 1.4. The Council sees the introduction of the Freedom of Information Act and the right of access as a welcome opportunity both to improve the ways in which it informs the public it serves and to improve the ways in which it manages the enormous amount of information it holds.
- 1.5. The Council wishes to conduct its business in an open and honest fashion. When the authority makes a decision, it is important that the public is informed how these decisions have been made. The provisions of the Freedom of Information Act will enable the public to understand the Council and its work through improved access to information.
- 1.6. The aim of this document is to provide employees with information relating to the Council responsibilities and guidance on how to handle or make a request under this Act. The Council has a Corporate Policy on [Freedom of Information](#) which employees should also refer to.
- 1.7. It is a criminal offence both corporate and personal for anyone to alter, deface, block, erase, destroy or conceal any record held by the Council with the intention of preventing its disclosure once it has been requested by an applicant.

## 2. Scope

- 2.1. This document applies to all employees of the Council and members of the public.

## 3. Council responsibilities

- 3.1. The Act places two main responsibilities on public authorities such as the City and County of Swansea:-
  - the Council must produce a Publication Scheme
  - the Council must provide a general right of access to all types of recorded information which it holds (subject to certain exempt categories of information)
- 3.2. As part of the Council's commitment to maintaining public confidence and the successful operation of this policy, the Council will:-
  - make information publicly available unless there are sound operational or public interest reasons for not doing so or there are legal reasons preventing it
  - not classify documents as “**confidential**” without clear justification for doing so.
  - charge any fee allowed by the Freedom of Information or Data Protection Acts and Regulations to help cover the cost of finding and making available the requested information.
  - facilitate the disclosure of information under the Act by setting out good administrative practice to follow when handling requests for information, including, where appropriate, the transfer of a request to a different public Authority

- protect the interests of applicants by setting out standards for the provision of advice which it would be good practice to make available to them and to encourage the development of effective means of complaining about decisions taken under the Act
- ensure that the interests of third parties who may be affected by any decision to disclose information are considered by the Authority by setting standards for consultation
- commit itself to publish and maintain a written policy for the Management of Records under s. 46 of the Act.

3.3. There is no fee for making a request, provided the information does not cost the Council more than £450 to produce.

#### **4. Publication Scheme**

4.1. The [City and County of Swansea Publication Scheme](#) contains details of how the public may obtain information already in the public domain regarding the work of the Council and the services it provides. It sets out the kinds of information that the Council intends to make routinely available.

4.2. The intention is that this information should be easy for the authority and any individual to find and use. It is posted on the Council's external web site and is reviewed regularly.

#### **5. General Right of Access**

5.1. Anyone may make a request for 'recorded information' from the Council.

5.2. Recorded information may be in any format e.g.

- paper,
- floppy disk,
- video and
- includes both electronic and paper versions of records such as email, reports, minutes of meetings and floor plans.

5.3. The right to request is subject to exemptions detailed below.

#### **6. Exempt information**

6.1. Some information may be exempt from disclosure under the Act. There are 23 exemptions listed in the Act known as either 'absolute' or 'qualified' exemptions.

6.2. Examples of absolute exemptions include

- information which is accessible to the applicant by other means (e.g. via the Publication Scheme or on the Council's Internet site),
- certain personal information which would be dealt with under the Data Protection Act,

- information provided in confidence and records where disclosure is prohibited by law.
- 6.3. If an absolute exemption can be applied then the information need not be disclosed.
- 6.4. Most exemptions will be qualified and therefore subject to the public interest test i.e. does the public interest in withholding exempt information outweigh the public interest in releasing it.
- 6.5. Examples of qualified exemptions include information intended for future publication such as draft reports, law enforcement and commercially sensitive material.
- 6.6. The information must be disclosed if it is in the public interest to do so.

## 7. Request for personal information

- 7.1. A request for personal information on yourself is regulated by the [Data Protection Act 1998](#); for this you will need to fill in a [Subject Access Request form](#).

## 8. The request for recorded information

- 8.1. For a request to be a Freedom of Information Act [request](#), it must be
- in writing,
  - include the name and address of the applicant and
  - describe the information requested.
- 8.2. However, applicants do not need to refer to the Act.
- 8.3. Requests can be made to any employee, or Member of the Council, at any location.

## 9. Receipt of the request

- 9.1. On receipt of a request for information, the applicant must be notified whether the Council
- holds the information sought, and
  - if it holds the information, then to supply it to the applicant, if possible in the manner requested, unless an exemption applies.
- 9.2. The Council must respond promptly to a request within **20 working days** of receiving the request.
- 9.3. Any information that is released should always be photocopied. Original copies should never be released.

- 9.4. If the information that is requested is not held by the Council the applicant must be informed in writing.
- 9.5. If information is requested in an alternative format (e.g. Braille or large print) it should be provided within the standard timescale.

## 10. Complaints

- 10.1. If an applicant who considers his/her request has not been complied with they should write to the Corporate Complaints Officer setting out why they think that the information should have been provided to them.
- 10.2. If, following the response from the Corporate Complaints Officer the individual remains dissatisfied with the response, the individual may write to the Information Commissioner who deals with breaches of the Act.
- 10.3. The information commissioner is an independent public official and reports directly to Parliament. The Information Commissioner has powers to issue decision notices, information notices and enforcement notices in order to obtain compliance by the public authority.
- 10.4. All complaints must first be directed to the Corporate Complaints Officer as the Information Commissioner will not deal with complaints regarding a request made under the Act unless the applicant has first exhausted the Council's internal complaints procedure.

## 11. Policy Monitoring

- 11.1. The Council will monitor the application of this policy and has discretion to review it at any time through the appropriate consultation mechanisms.
- 11.2. Responsibility for the implementation, monitoring and development of this policy lies with the Head of Human Resources. Day to day operation of the policy is the responsibility of nominated officers who will ensure that this policy is adhered to.

Version Number	Details of Change	Date
1.0	Introduction of Single Status	1 <sup>st</sup> April 2014

