

HAMBLETON

DISTRICT COUNCIL

Information Access and Transparency Policy

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Introduction and scope

In May 2018 the UK's existing data protection framework was replaced by the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. As part of Hambleton District Council's compliance with this new legislative framework it has introduced a new information governance policy framework.

The Information Transparency, Access, and Re-use Policy details how the council will comply with transparency requirements under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, variations of the Local Government Act, and the Local Government Transparency Code. This policy also sets out the council's approach to granting re-use of information and the Reuse of Public Sector Information Regulations 2015 (ROPSI).

Who does this policy apply to?

The Information Governance Strategy and corresponding policies apply to all council officers, any authorised agents working on behalf of the council, including temporary or agency staff, elected members, and third party contractors. Individuals who are found to knowingly or recklessly infringe this policy may face disciplinary action.

What does this policy apply to?

The Information Governance Strategy and corresponding policies apply to information in all forms including, but not limited to:

- hard copy or documents printed or written on paper;
- information or data stored electronically, including scanned images;
- communications sent by post/courier or using electronic means such as email, fax or electronic file transfer;
- information or data stored on or transferred to removable media such as tape, CD, DVD, USB storage device or memory card;
- information stored on portable computing devices including mobile phones, tablets, cameras and laptops;
- speech, voice recordings and verbal communications, including voicemail;
- published web content, for example intranet and internet;
- photographs and other digital images.

In addition, the policy also covers information held by a third party on behalf of the council which is considered to be information held by the council and which may be required to be disclosed unless one of the exemptions/exceptions applies.

This policy does not include how a data subject can access their own personal data or find out about how their personal data is used at the council. This is covered by the 'Data Protection Rights' and 'Personal Privacy' policies.



Local Government transparency responsibilities

The council is required, under variations of the Local Government Act, to publish and make information available to ensure decision making is transparent and accountable. The council will therefore:

- provide information under the Citizen's Charter about public services, what those services cost, targets, performance, complaints, and redress
- issue monthly forward plans
- publish internal departmental guidelines when dealing with the public
- give 3-days prior access to reports, agendas, and background papers for decisions
- ensure that key decision making meetings are open to the public and produce a record of, with the reasons for, such decisions.

The council is also obliged to comply with the **Local Government Transparency Code** (2015) which stipulates the council must publish various data sets, such as payments of over £500 and the salaries of senior officers, in order to be transparent in the way that it operates.

The council will make its transparency information available to the public via a dedicated webpage. It will be the responsibility of the relevant service manager to ensure that this information is published according to the legislative time periods.

Appendix 1 contains a list of transparency information that is required to be published, the timescales for publishing, and the officer responsible for publication.

Publication scheme

As well as having transparency obligations under the Local Government Act and the Local Government Transparency Code, the council is obliged, under the Freedom of Information (FOI) Act to adopt, maintain, and publish a Publication Scheme.

The council has adopted the Information Commissioner's Office's (ICO) Model Publication Scheme which states the following information:

- Who the council is and what it does
- What the council spends and how it spends it
- What the council's priorities are and how it is achieving those priorities
- How the council makes decisions
- The council's policies and procedures
- Lists and registers
- Services provided by the council.



The council’s Publication Scheme will be published on the council’s web site and will be reviewed and updated on an annual basis. The council’s Information Governance Team is responsible for reviewing and updating the Publication Scheme.

FOI and EIR requests

Freedom of Information (FOI) requests generally apply to all information held by the council subject to certain exemptions. FOI does not, usually, apply to private correspondence of officers and elected members nor does it apply to party political documents or party political correspondence held by elected members.

Environmental Information Regulations (EIR) requests apply to all environmental information held by the council subject to certain exemptions. EIR does not, usually, apply to private correspondence of officers and elected members nor does it apply to party political documents or party political correspondence held by elected members.

Receiving a Request

Any officer, elected member, or third party contractor could receive a request for information that is held by, or on behalf of, the council. When such a request is received it should be passed immediately to the Information Governance Team.

Each request received by the council will be acknowledged with the applicant within five working days either by the receiving officer or by the Information Governance Team. The Information Governance Team will log the request, provide a reference number and forward the request onto the responsible officer to respond.

EIR requests do not need to be submitted in writing and can be submitted orally. However, if a request is received orally then the receiving officer should write this request and confirm in writing the details of the request with the applicant.

Officers should also be aware that requests for information received via one of the council’s official Social Media platforms is considered to be a valid FOI/EIR request.

Timescales and Fees

Service Managers are responsible for their department’s compliance with FOI/EIR timescales. The council’s Information Governance Team will monitor compliance with FOI/EIR timescale.

FOI Requests	20 working days (starting on the first working day after the day the request is validated and any appropriate fee has been collected)
EIR Requests	20 working days (starting on the first working day after the day the request is validated and any appropriate fee has been collected)



In respect of FOI requests, charges should be applied in accordance with the FOI charging schedule (Appendix 2).

In respect of EIR requests, charges should be applied in accordance with the EIR charging schedule (Appendix 3).

Charges may be waived by the responsible officer if in his or her opinion the enquirer's circumstances are such that his or her rights would be unfairly curtailed.

Searching for Information

When locating information across council filing systems, databases, and archives (electronic and manual) officers should take care to search variations of file names. Officers should make a record of what search terms they used and what systems were searched.

Exemptions and Exceptions

There are a range of exemptions and exceptions, both in FOIA and EIR, which may be applied to intended disclosure. Some of these exemptions will be 'Qualified' and are subject to the public interest test where officers must decide if the public interest in withholding the information outweighs the public interest in disclosing the information.

If officers are of the opinion that an exemption or exception may apply, he or she should seek advice from the Information Governance Team prior to application. The Information Governance Team will maintain processes for deciding whether to apply an exemption or exception and will be able to advise on the appropriateness of such an application.

Service managers have the final say over the application of an exemption or exception however where such a decision goes against the advice of the Information Governance Team then the reasoning behind such a decision must be recorded in writing.

Clearing Responses

The council operates a two-tier clearing procedure for FOI/EIR responses.

All FOI/EIR responses must be cleared by the Information Governance Team prior to being sent to the applicant.

FOI/EIR responses which are considered to be contentious may also need to be cleared by a Corporate Director or the council's Chief Executive (CEX).

Officers and service managers must make the Information Governance Team aware that a request could be considered contentious and then the Information Governance Team will be responsible in ensuring clearance is received from a Corporate Director/CEX where appropriate.



Responding to Requests

Each service area is responsible for responding to their own FOI/EIR requests. If the request is a cross-directorate request then the Information Governance Team will coordinate and send the response.

Responding to a request under FOIA/EIR means:

- denying the request (Information not held)
- refusing the request (Information considered exempt)
- providing the requested information.

Applicants are able to request hard copies of the information or electronic copies of the information. The council is not obliged to comply with a particular format unless it is reasonable to do so. All responses will be sent electronically where possible. Officers should take note of the council's dissemination costs where information has been requested in hard copy (Appendices 2 and 3).

Where copy documents are requested there is no requirement to send a copy of the document to the applicant. In some cases it may be easier to extract the information from the document or to provide a digest.

Officers should take care to ensure redactions are permanent and cannot be reversed. The Information

Governance Team will maintain guidance to ensure officers have the knowledge to do this.

Re-Use of public sector information

The reuse of Public Sector Information Regulations 2015 (RPSI) allows individuals or organisations to reuse information, originally created to fulfil public task, for other purposes. Importantly RPSI is about re-use of information only = access to information will still be dealt with under the usual access to information legislation.

The council expects to be able to grant re-use to most information, but can impose certain restrictions on re-use. If this is the case it will apply the **Open Government Licensing** terms and conditions unless exceptional circumstances deem that it is not appropriate to do so.

Service managers will decide if granting a re-use licence is appropriate on a case by case basis. Managers should consult with the Information Governance Team for advice prior to making any decision.



Internal reviews

The Freedom of Information Act and the Environmental Information Regulations require a statutory internal review process. An applicant can ask the council to review its handling of an FOI/EIR request.

An internal review can be requested if an applicant believes:

- that exemptions have been applied incorrectly,
- that information they have requested is missing,
- that proper procedures have not been followed in responding to a request.

The council's internal review procedure will also apply to complaints in relation to requests for re-use of information.

The council will maintain and publish an Information Governance Appeals Document so that applicants understand the process. The appeals document can be found at Appendix 4. All FOI and EIR responses where the council has issued a refusal notice (i.e. applied an exemption) must have the appeals document attached.

Internal Reviews will be the responsibility of the Information Governance Manager who will assign an officer to review the original request and the response provided. Where possible the reviewing officer will not have been involved with the original request and will have a level of seniority to the original responding officer.

Internal Reviews for FOI and EIR requests will be conducted and responded to within 20 Working Days.

If an applicant is not satisfied with the outcome of an internal review they may raise a concern with the ICO. The Information Governance Team, on the instruction of the Senior Information Risk Owner, will act as the point of contact for the ICO in respect of concerns raised.

Appendix 2



List of transparency responsibilities

Transparency Information	Publication Frequency	Responsible Officer (Job Title)
Payments of over £500	Monthly	Finance Business Analyst
Government Procurement Card transactions	Monthly	Business Support Team Leader (Corporate Finance)
Relevant procurement information	Monthly	Procurement Officer/Legal Manager
Land and building Assets owned by the Council	Varied	Corporate Finance Manager/Finance Team Leader
Social Housing Asset Value	Annual	N/A
Grants to Voluntary, Community, and Social Enterprise organisations	Annual	Business Centre Assistant
Organisation Chart	Annual	Benefit Technical Officer
Trade union facility time	Annual	HR Manager
Income and Expenditure from Parking Accounts	Annual	Corporate Facilities Manager
The number of marked out parking spaces in the authority's boundaries	Annual	Engineering Technician
Salaries of senior officers	Annual	Benefit Technical Officer
The Council's Constitution	Annual	Benefit Technical Officer
Pay policy statements and pay multiple data	Annual	Benefit Technical Officer
Counter Fraud statistics	Annual	Director of Finance and Commercial/ Veritau Ltd
Waste Contracts	Upon Completion	N/A

Appendix 2

Standard costs to be used in the calculation of fees for requests made under the Freedom of Information Act 2000

Staff time ¹	£25 per hour	
Printing and Photocopying Costs (per Sheet)	A4 (b/w) - 2p A3 (b/w) - 4p A0 (b/w) - £2	A4 (colour) - 10p A3 (colour) - 20p A0 (colour) - £10
Postage Costs	1 st class at cost or original estimate, whichever is lesser	
Other items such as relevant translation	At cost or original estimate, whichever is lesser	

Charging regime:

All charges will be calculated at time of request. The applicant will be advised of any charge and all payment must be settled prior to work commencing.

Fee is less than £5.00	No charge will be made
Cost of fee between £5.00 and £450.00	If the cost to service a request is estimated at between £5.00 and £450.00 (approximately 17 staff hours plus £25 disbursements) then a charge for non-staff costs as above will be made
Cost of fee is over £450.00 ⁽²⁾	If the cost to service a request is estimated to cost in excess of £450.00 (more than 17 staff hours plus £25 disbursements) then the full cost, including staff time at the above rate, will need to be charged
Aggregation of Requests	If two or more requests are received within 60 consecutive working days, for the same or similar information either from the same person or different persons who appear to be acting as part of a campaign, then the charges will be aggregated
Mixed Requests	If a request is received in which the information is covered by more than one access to information regime then, for the purposes of calculating any applicable charge, the constituent parts of the request will be separated out to determine what charge may be made

¹ Activities taken into account when calculating staff time are locating, retrieving and extracting the information.

² Where the staff time charge is calculated at over £450



Section 16(1) requires the Council to provide advice and assistance, “so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information”

Stage 1 - If the request is particularly wide-ranging, and therefore likely to be expensive to answer, the Council must discuss this with the applicant to see if the question could be refined to a more manageable level to bring it below the £450 limit.

Stage 2 - If after providing advice and assistance, as required under Section 16, the request is still over the appropriate limit the Council can either turn the request down or answer the request and impose a charge

Or where the Council decides to provide the information and impose a charge, and does not have other powers to do so, the Council can charge on the basis of the costs outlined above, as well as the cost of informing the applicant whether the information is held and communicating the information to the applicant

Appendix 3

Standard costs to be used in the calculation of fees for requests made under the Environmental Information Regulations 2004

Staff time ³	£25 per hour
Printing and Photocopying Costs (per Sheet)	A4 (b/w) - 2p A4 (colour) - 10p A3 (b/w) - 4p A3 (colour) - 20p A0 (b/w) - £2 A0 (colour) - £10
Postage Costs	1 st class at cost or original estimate, whichever is lesser
Other items such as relevant translation	At cost or original estimate, whichever is lesser

Charging regime:

All charges will be calculated at time of request. The applicant will be advised of any charge and all payment must be settled prior to work commencing.

Staff time required	Charge (£) (+VAT where applicable) ⁴
Less than half an hour	No charge will be made
At least half an hour, but less than one full hour	£12.50 + disbursements
One full hour	£25 + disbursements*
* A further £25 will be charged for each additional full hour required to identify the information requested (with a pro rata'd calculation for part hours)	
Mixed Requests	If a request is received in which the information is covered by more than one access to information regime then, for the purposes of calculating any applicable charge, the constituent parts of the request will be separated out to determine what charge may be made.

³ Activities taken into account when calculating staff time are locating, retrieving and extracting the information.

⁴ VAT will be applied in addition to charges outlined should the information requested be available to the applicant from another source other than the council.

Appendix 4

Information governance appeals notice

This document outlines the appeals process that services users can exercise if unhappy with the way in which a request for information has been handled. This document covers requests made under the Freedom of Information Act 2000, Environmental Information Regulations 2004, and Data Protection legislation.

Appeals regarding Freedom of Information (FOI) and Environmental Information Regulations (EIR) Requests

If you are dissatisfied in the way in which Hambleton District Council has responded to your request for information under the FOI Act or EIR then you may request that the Council conducts a statutory Internal Review. You may wish to request such a review if you:

- are dissatisfied with the way in which your request has been handled,
- do not agree with an exemption that has been applied to the information you have requested,
- believe that not all of the information has been provided to you.

Upon receipt the Information Governance Manager will appoint an officer to handle your complaint. Where possible the appointed officer will not have had any involvement in your original request and will have more seniority than the original responding officer. The reviewing officer will then examine your original request and the response that was sent to you and decide whether the Council responded to your request appropriately according to legislative requirements. The reviewing officer will also decide whether to uphold or overturn decisions to withhold information.

The Council will conduct FOI and EIR Internal Reviews within 20 Working Days. If you are dissatisfied with the response to an Internal Review you may appeal to the Information Commissioner's Office (see overleaf).

Appeals regarding Subject Access Requests (SAR) and other Data Protection requests or concerns

If you are dissatisfied in the way in which Hambleton District Council has responded to your Subject Access Request or other Data Protection request/concern then you may request that the Council conducts an Internal Review. Unlike with the FOI/EIR process this is not a statutory requirement but is instead a stage that the Council has chosen to adopt. You may wish to request such a review if you:

- are dissatisfied with the way in which your request has been handled,
- do not agree with an exemption that has been applied to the information you have requested,
- believe that not all of the information has been provided to you.

Upon receipt the Information Governance Manager will appoint an officer to handle your complaint. Where possible the appointed officer will not have had any involvement in your original request and will have more seniority than the original responding officer. The reviewing officer will then examine your original request and the response that was sent to you and decide whether the Council responded to your request appropriately according to legislative requirements. The reviewing officer will also decide whether to uphold or overturn decisions to withhold information.



The Council will conduct Data Protection Internal Reviews **within 30 Calendar Days**. If you are dissatisfied with the response to an Internal Review you may appeal to the Information Commissioner's Office (see overleaf).

How to Request an Internal Review

To request that the Council requests an Internal Review you should contact the Information Governance Manager on the below contact details:

Information Governance Manager
Hambleton District Council
Stone Cross
Northallerton
North Yorkshire
DL6 2UU

Email: infogov.HambletonDC@veritau.co.uk

Telephone: 01609 532526

When requesting an Internal Review you should supply the following information:

- Your name (so that we can identify you and your request)
- Your contact details (so that we can contact you with our response)
- Request reference number (this should have been provided to you when the Council responded to your original request)
- Reasons why you are dissatisfied with the response to your request

The Information Governance Office will acknowledge your request for an internal review within 5 working days and advise you of timescales for responding.

Please be aware that Internal Reviews will not usually be conducted if 2 Calendar Months have passed since your request was responded to.

After the Council has considered your appeal

If, following the completion of an internal review, you still remain dissatisfied with the way in which the Council has handled your request then you may appeal to the Information Commissioner's Office (ICO). The ICO is the UK's Freedom of Information and Data Protection Regulator.



You can do this by contacting:

First Contact Team
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow Cheshire
SK9 5AF

Email: casework@ico.gov.uk

Phone: 0303 123 1113

If you are dissatisfied with the ICO's response to your complaint then you may be able to take your complaint to the information tribunal. The ICO will give you details about this when they issue their decision notice.



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