



Freedom of Information and Environmental Information Regulations Policy

1. Purpose

The purpose of this policy is to define the standards expected when processing information on behalf of the Council for the purpose of an Information Request under the Freedom of Information Act 2000 (FOI) or Environmental Information Regulations 2004 (EIR).

2. Targeted Audience

This policy is aimed at anyone processing data on behalf of Brighton & Hove City Council for the purpose of an Information Request.

3. Background

The Freedom of Information Act 2000 gives the public a general right of access to information held by public authorities, subject to certain conditions and exemptions. Anyone, anywhere, may request information for any reason. FOI covers both old and new information and applies to information recorded in any form or format. The Act aims to foster a culture of openness across the public sector.

Environmental Information is exempt from FOI; however, the Environmental Information Regulations 2004 gives the public the right to this information with similar but not identical exceptions to FOI exemptions.

The Council is committed to compliance with both acts. BHCC (Brighton & Hove City Council) regards the lawful and appropriate management information as essential to its successful functioning and to maintaining the confidence of stakeholders. The Council fully endorses and adheres to the principle of public access to official information wherever this is possible.

4. General Principles

FOI and EIR imposes the following requirements on the Council:

- To adopt and maintain a Publication Scheme. A Publication Scheme is a commitment to publish an identified range of Council information proactively into the public domain. This includes information that is readily available on the website.
- To make Environmental Information available proactively.
- To provide access to Council information which is not otherwise published on receipt of a written request, stating the name and address of the requestor, and describing the information required.
- To inform the requestor, in writing, whether we hold that information, and if so, to communicate that information to them **within 20 working days**, subject to any exemptions or fees.
- Where information is exempt from disclosure for a statutory reason, to send the requestor a notice which specifies and explains the reason.

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- If a fee is chargeable, to send the requestor a fees notice, stating the amount required
- To provide advice and assistance, as far as is reasonable, to anyone seeking information about the Council.
- The Council will ensure that appropriate systems, procedures, and operational guidance are in place to ensure that these requirements are met. Documentation supporting FOI/EIR compliance includes guidance for staff and requestors, a detailed statement on fees (Appendix 1), procedures for appealing FOI and EIR decisions (Appendix 2), a summary guide to the meaning and application of exemptions and a Records and Data Retention Schedule setting out retention and destruction periods for all types of records.
- To support full compliance with FOI/EIR the Council will undertake the following actions and activities:
 - Communicate information to requestors, or otherwise send a refusal notice, within the statutory time limit allowed for responses (20 working days).
 - Apply any relevant exemptions and exceptions lawfully and appropriately.
 - Charge requestors for information in accordance with our statement of fees, which take proper account of guidance from the Ministry of Justice.
 - Freely provide advice and assistance to requestors as far as is reasonable.

All Council staff must:

- Ensure that requests for information are handled in accordance with this policy and associated guidance.
- Pass on information access requests to the Information Rights Team promptly and in accordance with published guidance.
- Ensure that the Council records and information for which they are responsible are complete and accurate.
- Provide advice to requestors in accordance with this Policy and associated guidance and refer requestors to the Information Rights Team.

Failure to respond appropriately to information access requests is a breach of the Council Regulations and may additionally be a breach of the law. It is a criminal offence to conceal, destroy or alter information intentionally to prevent it from being released, where the information is the subject of a Freedom of Information request.

5. Roles and Responsibilities

All Council staff are informed about the policy for supporting compliance with the FOI/EIR on appointment and during induction. Training is equally available to established staff and teams on demand. Guidance on handling information access requests is readily available on the website, as are contact details of the Information Rights Team.

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6. Training Requirements

As a minimum all staff are required to complete Information Governance E-Learning on an annual basis

This may be supplemented with training in local procedures relevant to FOI/EIR relevant to the service staff work in

IG Coordinators and IAO's may seek enhanced FOI/EIR training in line with their role

All Information Rights team members have relevant training in line with their role.

7. Review of this Policy

This policy will be reviewed annually.

8. Cross References

Records Retention Policy
Records Management Policy
Information Rights Requests for Information Procedure

9. References

Freedom of Information Act 2000
Environmental Information Regulations 2004
Data Protection Act 1998
ICO: A Guide to Freedom of Information

10. Appendices

Appendix A – Fees and Limits
Appendix B - Internal Appeals

Policy Control Details

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Document Owner	Information Rights Team

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Appendix A – Fees and Limits

Under the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, BHCC can refuse to deal with a request that would cost more than £450 to process. The calculation of the cost can include:

- Determining whether the requested information is held.
- Locating and retrieving the information.
- Extracting the information.

These regulations also allow the Council to recover some administrative costs incurred in meeting a request which costs less than £450. Enquirers will be notified if a charge is payable to answer their request and, in those cases, information will only be provided once the fee payment has been received.

The terms of the Regulations do not affect the Council's right to charge for publications and for certain information services otherwise offered on a fee- paying basis.

When estimating the cost of complying with a written request for information, the Council will consider the staff time involved, charged at a fixed rate (currently £25 per hour per person) involved in the following activities:

- Determining whether the information is held.
- Locating the information, or a document which may contain the information.
- Retrieving the information, or a document that may contain the information.
- Extracting information from a document.

In general, where the cost of responding to a request in full exceeds the £450 limit, BHCC will respond to the enquirer stating that we will not be providing the information requested and explain the reason (i.e., the cost would exceed £450). However, we may offer to proceed with the processing of the request in exchange for payment of the relevant costs in full plus VAT (Value Added Tax) at our sole discretion.

The decision on whether to provide a full response in such circumstances will rest with the Data Protection Manager in consultation with the SIRO (Senior Information Risk Owner) and Information Governance Management. However, in the first instance, the Council will discuss with the enquirer whether they would be prepared to modify the request to reduce the associated costs.

For requests estimated to cost £450 or less to fulfil, the Council will charge only for disbursements (i.e., postage, photocopying and/or cost to preferred formats) incurred while preparing and sending a response.

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Council can charge for disbursements regardless of the £450 limit referred to above and will exercise its discretion in this regard on a case-by-case basis dependent on whether the administrative costs of levying such charges would outweigh any income generated. VAT will be charged on any appropriate fees connected with an information access request, calculated at the standard rate applicable at the time. Where a book or booklet is provided in response to an information request, the VAT charged on the publication will be zero rated in accordance with the Government's standard VAT policy.

In certain circumstances, if the Council receives two or more related requests, the costs of answering them may be added together (or 'aggregated') to determine whether the limit has been exceeded.

These circumstances are as follows:

- The requests must be from the same person or from "different persons who appear to the public authority to be acting in concert or in pursuance of a campaign."
- The requests must relate to the same or similar information.
- They must have been received by the Council within a period of 60 consecutive working days.

Once the Council has calculated any relevant fees which may be payable in connection with an information access request, enquirers will be issued with a letter called a 'fees notice' and will be required to pay the costs specified therein before the Council will respond to the request in full.

After a period of three months, any such request for which the fees have not been received will be deemed to have been withdrawn.

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Appendix B – Internal Appeals

BHCC is required to provide a straightforward process for appeals against its decisions on information access requests.

This process will:

- Provide a fair reassessment of the handling of the request and of the decision made;
- Be conducted by someone senior and impartial;
- Be capable of reversing the original decision if required

Those wishing to appeal have **40 days** in which to lodge their appeal. Normally the Information Commissioner (ICO) will not accept an appeal to the Information Commissioner's Office until the internal appeals process has been exhausted.

In the first instance those wishing to appeal should write to the Information Governance Team at freedomofinformation@Brighton-Hove.gov.uk and explain why they are not happy with the Council's decision or handling of their request. The Team will seek to resolve issues raised informally within 20 working days.

A full written response will be made available to the enquirer within 25 working days of receipt of the formal appeal. If this is not possible the Data Protection Manager will provide a realistic date for response.

If the Data Protection Manager was directly involved in the management or handling of the original information access request, or the initial appeal, a suitably senior Council employee will assume responsibility for the consideration of the appeal and issue the final decision on behalf of the Council

If you remain dissatisfied with the outcome, then you can appeal to the Information Commissioner who may investigate on your behalf: Information Commissioner's Office:

Address: Information Commissioners Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Tel: 01625 545745

Web: www.ico.gov.uk