

PERTH AND KINROSS COUNCIL

Freedom of Information Policy

Policy Statement

It is the policy of the Council to be open, accountable and transparent at all times. The Council will endeavour to make available through its publication scheme all Council information which it does not consider exempt under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

It is the Council's policy to embrace the spirit of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 and to promote the effective implementation of the legislation throughout the Council.

Scope

The Freedom of Information policy ('the policy') applies to all employees and Elected Members of Perth & Kinross Council ('the Council') and any partner organisation (voluntary or otherwise), contractor, or agent performing work on behalf of or in conjunction with the Council.

This policy uses the same terms of reference as the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 (jointly, 'the Act').

The policy is applicable to all information held by the Council.

Specific Roles and Responsibilities

The Head of Legal Services is responsible for developing, maintaining and administering the policy and any related procedures, strategies, codes of conduct and guidance.

The Head of Legal Services will also provide legal opinion, where necessary, in situations where exemptions or the public interest test may apply.

The Head of Legal Services has authority to decide to disclose or exempt from disclosure any information held by the Council in keeping with the Act and this policy.

The Head of Legal Services will assist Services in evaluating training needs and ensuring adequate resources are provided. Training materials will be developed in accordance with requirements.

Executive Directors are responsible for all aspects of compliance with the Act, and associated legislation, within their Services.

Executive Directors are responsible for ensuring that employees within their Service are aware of the Act and their responsibilities.

Executive Directors will ensure that all procedures within their area of responsibility are carried out correctly.

Role of Employees and Elected Members

All employees and Elected Members must be familiar with the requirements of the Act.

Employees must work within Council guidelines and procedures at all times when recording information; be able to justify what has been recorded; be prepared for that information to be released as part of a Freedom of Information request; and dispose of information according to retention periods adopted by the Council or laid down by statute.

All employees and Elected Members must follow good practice as directed by the Act, any codes of practice issued by the Scottish Information Commissioner, and guidance issued by the Council.

All employees must ensure that any partner organisation, contractor, or agent performing work on behalf of or in conjunction with the Council is familiar with the Act and its implications.

All Council employees have a responsibility to report suspected breaches of the Freedom of Information policy to their own management or to the Head of Legal Services.

Publication Scheme

The Council will maintain a publication scheme for itself and for each of the relevant organisations for which it has responsibility. These publication schemes will be reviewed and updated on a regular basis to ensure they are accurate, adequate and complete.

Application of Exemptions and Public Interest Test

The Council reserves the right to decide that information requested falls under an exemption under the Act and to withhold the information from disclosure, subject to guidance or instruction from the Scottish Information Commissioner and the Court of Session.

Any request for information which is judged to be exempt will be subject to the 'public interest test' and a decision will be made as to whether the information should be released. Information classed as being subject to an 'absolute exemption' will be withheld and will not be subject to the public interest test.

Handling of Requests

The Council recognises that a practical approach has to be adopted in the application of the policy. It does not wish service delivery impaired by insisting that requests of the most routine nature are processed in terms of the policy.

It is recognised that all requests for information held by the Council received in the appropriate format are technically Freedom of Information requests. Where a request relates to information routinely issued on a day to day basis it may not be necessary to treat the matter as a Freedom of Information request. If, however, a request is complex or there is a possibility that exemptions of any kind may apply to the release of the information then it must be processed as a Freedom of Information request. If an employee is in doubt, advice should be sought from the central Freedom of Information team.

The central Freedom of Information Team will be the main point of contact for the Council for receiving, handling and processing Freedom of Information requests.

All employees have a duty to assist a person in making a request for information. Each individual employee is responsible for passing any Freedom of Information requests received to the Freedom of Information Team as soon as possible.

Services are responsible for passing information to the Freedom of Information Team in a timely manner. Employees must pass any information retrieved as part of a request to the Freedom of Information Team intact and unaltered.

The Council is required to fulfil all requests for information within 20 working days of receipt, in compliance with the Act. All requests will be treated equally and fairly at all times.

Where it is not possible to supply the information that has been requested (e.g. it is deemed to be exempt or the Council does not have the information sought),

the Freedom of Information Team will provide the requestor with an explanation of the reason and include details of how to request a review of the decision.

Handling of Requests for Review

Requests for review or complaints concerning the Freedom of Information policy or its associated procedures will be handled by the Head of Finance & Support Services in Housing & Community Care or by officers acting on his behalf.

Officers dealing with complaints must have a thorough knowledge of the Act in order to consider correctly the actions and decisions taken by the Council. Any employee who was involved in processing a Freedom of Information request must not be involved directly in responding to any request for review or complaint associated with that request.

Monitoring of Decisions Taken

The central Freedom of Information Team will maintain a register of all requests processed and the action taken on each application. The register will ensure consistency by identifying whether the same or similar information has previously been requested and provided, or refused and the reasons for refusal.

The register will also be used to identify duplicate or vexatious requests, and allow recurring requests to be published within the Council's publication scheme.

Performance in dealing with Freedom of Information requests will be monitored and reported by the Head of Legal Services.

Charging

The Council will not normally charge for providing information in response to a request unless it is information for which a charge is ordinarily set. The Council's publication scheme will provide details of charges for published information where these apply. In these circumstances, payment must be made in advance before the Council will process the request.

The Council reserves the right to charge for information in response to a request in keeping with the relevant fee regulations. The decision to charge for a request will be made at the discretion of the Head of Legal Services and the reason will be documented and the applicant informed of the reason.

The Council reserves the right not to respond to a Freedom of Information request where it is deemed that the cost of compliance is excessive under the

terms laid down by the fee regulations. A clear breakdown of estimated costs must be provided to the requestor, along with an explanation of the refusal to comply with the request.

Where the cost of compliance would be excessive and the request falls within the terms of the Environmental Information (Scotland) Regulations 2004, the Council will prepare a fee notice detailing the costs and will provide the requested information following receipt of the fee.

Re-Use of Information

Applications for the re-use of information held by the Council under the Re-use of Public Sector Information Regulations 2005 will be processed by the Freedom of Information team. Decisions regarding the licensing of information for re-use will be made by the Head of Legal Services following consultation with Services as appropriate.

Monitor and Review

The policy will be reviewed every three years to ensure its continued relevance and suitability. If at any time there is a need to bring forward changes to reflect statutory requirements or other developments that would be considered beneficial to the Council or the operation of the Policy, this will be done within the review period.

The Head of Legal Services will ensure that the policy is reviewed independently to ensure that practices laid down within the policy are feasible, effective and are being adhered to. There will be a regular review of all areas of the Council to ensure compliance with the policy and procedures.

Document History

Version	Summary of Changes	Approved	
V1.1	General review	SP&R	15 Dec 2004
v2.0	Review after first year of operation	SP&R	21 June 2006
V2.1	General responsibility changed to Head of Legal Services following Corporate Core review		
V2.2 (a)	Responsibility for reviews changed to Head of Support Services in ECS	Head of Legal Services	9 Dec 2010
	Minor changes to order of text.	Head of Legal Services	9 Dec 2010
V2.2 (b)	Discretionary fee charging included	SP&R	9 Dec 2010
V2.3	Responsibility of reviews is Head of Finance and Support Services in HCC		March 2012