



Llantilio Pertholey Church in Wales Primary School

Freedom of Information Policy

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MONMOUTHSHIRE COUNTY COUNCIL

FREEDOM OF INFORMATION POLICY

(INCLUDING ENVIRONMENTAL INFORMATION REGULATIONS 2004)



This document is also available in Welsh / Mae'r ddogfen hon hefyd ar gael yn Gymraeg

Good records management can save



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Update record:

Rev 1 October 2010	Minor amendments
Rev 2 November 2011	Update and amendment
Rev 3 February 2012	Minor amendment and Twitter process
Rev 4 March 2017	Update and amendment following review - Draft never finalised
Rev 5 May 2022	Update to reflect current practice and changes since 2017
Rev 18 July 2023	Update to reflect change of processing / disuse of MCS

1. Policy information	
Organisation	Monmouthshire County Council
Scope of policy	This policy relates to Monmouthshire County Council and all recorded information held by the Council
Policy operational date	April 2012 (reviewed July 2023)
Policy prepared by	Initially prepared by Performance Management Officer Revised 2023 by the Information Governance team
Policy review date	The Policy is to be reviewed by the Information Governance Group every three years, commencing April 2015. Note: Amendments to this Statement of Policy are to be undertaken in consultation with: <ul style="list-style-type: none"> • Head of Legal Services • Monitoring Officer • Designated officers (Data Protection & Freedom of Information practitioners) • Information Governance team

2. Introduction

Purpose of policy

The primary purpose of this Policy is to set out the methods which Monmouthshire County Council will adopt to ensure it complies at all times with its duties under the Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR).

The contents of this document are not to be construed as detailed guidance notes or training material. These will be available elsewhere.

Brief introduction to the Freedom of information Act 2000 & the Environmental Information Regulations 2004

The Freedom of Information Act came into force at the beginning of 2005. It deals with access to information, while parallel regulations deal with access to environmental information.

The Act provides individuals or organisations with the right to request information held by a public authority. They can do this via any written communication method (email, letter, social media messaging such as a tweet, etc.).

We will tell the applicant if we hold the information, and will normally supply it within 20 working days, in the format requested. Note that “format” refers in this case to paper or electronic provision, rather than as a particular type of electronic file. Requestors may ask for information to be provided in a machine-readable format such as Excel or CSV so that the information may be processed.

The Act contains some exemptions which mean that there are circumstances in which we are not obliged to disclose all or part of the information requested. Some of the exemptions are subject to a Public Interest Test, which means that the exemption can only be used if the public interest in withholding the information is stronger than the public interest in releasing it.

The Act also limits to 18 hours the time the Council needs to spend on

- determining whether the information is held;
- locating the information, or a document containing it;
- retrieving the information, or a document containing it; and
- extracting the information from a document containing it.

Any necessary *redaction* of the information is not included within this 18 hour limit.

The Environmental Information Regulations apply to information which is deemed to be environmental. A definition is provided by the Information Commissioner’s Office in the guidance documentation publicly available on its website.

Requests under the EIR will also normally receive a response within 20 working days. Where a request is deemed ‘complex and voluminous’ a further 20 working day extension can be requested (to a max of 40 working days) if it would not be practical to provide the information or make a decision about whether to refuse the request within 20 working days.

The circumstances in which we are not obliged to disclose the requested information are laid out in the Regulations as Exceptions. Exceptions may also be subject to a Public Interest Test.

Under either regime, information should always be released unless the Act or Regulation contains a valid reason not to.

An applicant who is unhappy with our refusal to disclose information under either regime may contact the Freedom of Information team to request an Internal Review. If they remain dissatisfied, they may complain to the Information Commissioner’s Office. The Information Commissioner’s Office may investigate the case and either uphold the Council’s use of an exemption or decide that the information must be disclosed.

Monmouthshire County Council is fully committed to compliance with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and will make every effort to meet its obligations.

	<p>Further information concerning the Act may be found at: https://ico.org.uk/for-organisations/guide-to-freedom-of-information/</p> <p>Further information concerning the Regulations may be found at: https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/</p> <p>The Information Commissioner’s Office may be contacted via: https://ico.org.uk/global/contact-us/</p> <p>Postal and telephone enquiries may be made to:</p> <p>Information Commissioner's Office 2nd floor Churchill House Churchill way Cardiff CF10 2HH</p> <p>Tel: 0330 414 6421 Email: wales@ico.org.uk</p>
Scope	<p>This policy applies to all recorded information held by the Council.</p> <p>The policy covers all requests for information except normal ‘business-as-usual’ requests. A ‘business-as-usual’ request is a request for information or services that a service area would expect to receive in its normal day to day operation and which will be fully complied with within the timescales for normal correspondence. Requests from data subjects for their own personal data will be processed as a DSAR (Data Subject Access Request, which sits outside of the FOI Act) in accordance with the UK General Data Protection Regulation (GDPR) and Data Protection Act (DPA) 2018.</p> <p>We will make information available proactively through our website and publication scheme. We have adopted the model publication scheme produced by the Information Commissioner’s Office and have used it as the foundation of our own scheme. The publication scheme shows the types of information that we make available.</p> <p>We will provide access to environmental information through the Environmental Information Regulations 2004 (EIR). These regulations set out an access regime that is broadly similar to the FOI Act. There are some small, but significant, differences with the EIR, especially in terms of exceptions from the right of access and charging for information provided.</p> <p>It is the Council’s responsibility to recognise that a request for information is covered by the Freedom of Information Act or the Environmental Information Regulations, and to respond accordingly. It is not necessary for a request to specifically mention either the Act or the Regulations.</p>
Personal data	<p>Requests for an individual’s own personal data cannot be processed under the provisions of the FOI or EIR. Such requests will be processed as a DSAR (Data Subject Access Request) using the UK General Data Protection Regulation (GDPR) and Data Protection Act (DPA) 2018. When a request for such information is received, the requestor should be advised how to make a request under that Act in accordance with the Council’s Data Protection Policy.</p>
Relationship with other policies	<p>The Freedom of Information Act is part of the same family of legislation as the UK General Data Protection Regulation (GDPR) and Data Protection Act (DPA) 2018. Data Protection</p>

	<p>Policy explains how we will comply with our obligations under that Act in relation to the processing of personal data. Guidelines issued by the Information Commissioner’s Office and found at https://ico.org.uk/ will reflect the interaction between the FOI Act/EIRs and the Data Protection Act in relation to disclosure of personal data.</p>
<p>Policy statement</p>	<p>This policy outlines the Council’s approach to responding to requests for information made under the FOI Act and the Environmental Information Regulations 2004.</p> <p>It provides a framework to ensure that we operate and adhere to the requirements of the Freedom of Information Act 2000 and meet the standards set out in the Cabinet Office’s Freedom of Information Code of Practice, along with the Environmental Information Regulations 2004 and EIR Code of Practice on satisfying public authorities’ obligations under this Act.</p> <p>This policy aims to ensure access to information to promote greater openness and to build public trust. Access to information about decisions we take can help local people to influence local service provision. This will be balanced against the need to ensure the confidentiality of certain information, in areas such as personal information and commercially sensitive information.</p> <p>The Council is committed to:</p> <ul style="list-style-type: none"> • complying with both the law and good practice • respecting individuals’ rights • being open and honest with individuals • providing training and support for staff who handle requests for information under the FOI Act and the Environmental Information Regulations 2004 so that they can act confidently and consistently
<p>Key risks</p>	<p>Risks related to the Act and Regulations are mainly concerned with:</p> <ul style="list-style-type: none"> • Damage caused by incorrect release of personal or otherwise exempt information • Regulatory action by the Information Commissioner’s Office <p>Care should always be taken in responding to requests to ensure that personal data or otherwise exempt information is not inappropriately released.</p>

3. Responsibilities	
Overall responsibilities	Overall responsibility for the conduct of Information Governance (which includes FOI, EIR and Data Protection matters) rests with the Chief Executive via our SIRO (Senior Information Risk Officer).
Chief Officers	<p>Within their areas of responsibility Chief Officers are responsible for:</p> <ul style="list-style-type: none"> • Accepting ownership for the information held within their team. This includes storage, retention, sharing and accuracy of the information held. • Ensuring that officers with responsibilities for handling FOI requests are adequately trained and supported in their work in terms of capacity and resources. • Ensuring that all staff comply with the agreed policy and procedures for FOI, including compliance with timescales. • Managing the storage and disposal of information in accordance with Retention and Disposal guidelines.
Section Managers & Heads of Service	<p>Section Managers and Heads of Services are responsible for:</p> <ul style="list-style-type: none"> • Accepting ownership for the information held within their team. This includes storage, retention, sharing and accuracy of the information held. • Promptly identifying all requests made to their service area which are covered by this policy and making arrangements to respond accordingly • Ensuring that staff under their control are able to identify such requests and notify the FOI team • Notifying the FOI team when they receive requests • Seeking and following guidance from the FOI team • Passing all information for responses to the FOI team in a timely manner <p>Each team or department where information is handled is responsible for making local arrangements which are consistent with this policy and corporate practice (including induction and training) to ensure that good practice is established and followed in relation to the needs of FOI and EIR. This is to include, but is not limited to, the proactive publication of information on the Monmouthshire website.</p>
FOI Team (Information Governance Officers)	<p>Within their areas of responsibility these officers are specifically responsible for:</p> <ul style="list-style-type: none"> • Managing and endeavouring to ensure that all FOI/EIR requests are processed promptly and receive a full response within the statutory period of 20 working days from receipt • Ensuring that exemptions (FOI) and exceptions (EIR) are properly applied, including Public Interest Tests where required • Liaising with requestors as necessary to give advice and assistance, and to achieve clarification when requests are unclear • Ensuring that effective arrangements, processes and audit trails are in place to enable requests to be recorded/logged and handled consistently • Retaining copies of original requests and council responses which will be available to appropriate officers, subject to Retention and Disposal guidelines • Ensuring that electronic and manual systems used to record requests for information are kept fully up-to-date for requests within their area of responsibility

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	<p>Their responsibilities also include:</p> <ul style="list-style-type: none"> • Provision of advice and guidance to officers on the handling of requests • Enabling and promoting training in FOI/EIR issues for section managers and any other identified staff • Identifying and communicating any FOI/EIR issues to senior officers • Monitoring compliance with policy and procedures within their areas of responsibility • Maintenance of FOI policy and procedures to ensure they remain effective and consistent • Use of a common FOI performance framework to monitor and report quality and deadline compliance • Contributing to the preparation of a corporate report to the Senior Leadership Team on an annual basis or as required • Liaison with staff of the Information Commissioner’s Office as required
<p>Other Staff & volunteers</p>	<p>All staff are required to read, understand and accept policies and procedures that relate to the FOI and EIR information they may handle in the course of their work. In this document, the term ‘staff’ includes both paid staff and volunteers.</p> <p>Any employee may at any time receive a request pertaining to either FOI or EIR. It is the responsibility of any employee receiving such a request to:</p> <ul style="list-style-type: none"> • Promptly identify it as such a request • Pass it to the FOI team for recording and acknowledgment • Seek and follow advice from the FOI team and their own section manager • Refer any queries from the requestor to the FOI team • Carry out any redactions necessary prior to forwarding to the FOI team <p>Staff and volunteers should receive a level of training appropriate to the nature of information handled and the context of their work before they handle FOI and EIR requests</p>
<p>Communications Team (Handling of Press and Media enquiries)</p>	<p>The FOI Act treats written enquiries received from press and media sources in the same manner as those received from any other person or body and draws no distinctions between them.</p> <p>It is recognised that the Council’s Communications team may sometimes need to respond far more quickly than the 20 working day requirement set out in the Act. Nothing in this policy will constrain this requirement. However, their responses are still subject to the provisions of the Act (such as the exemptions and public interest tests).</p>
<p>Authorisation for disclosure</p>	<p><u>For Freedom of Information</u></p> <p>The Council is obliged to provide the information requested if it is held unless there are good reasons not to do so. The Council is not obliged to provide information if it would cost too much to collect, as defined by Section 12 of the Act and related guidance provided by the Information Commissioner’s Office and the Secretary of State for Constitutional Affairs. Where using a Section 12 exemption, the Council is responsible for providing advice and assistance to the enquirer to refine their request into a query that can be answered within the Section 12 limit, as directed within Section 16 of the FOIA.</p>

The following Sections of the Act list further exemptions that may be invoked:

- s21. Information accessible to applicant by other means.
- s22. Information intended for future publication.
- s23. Information supplied by, or relating to, bodies dealing with security matters.
- s24. National security.
- s25. Certificates under ss. 23 and 24: supplementary provisions.
- s26. Defence.
- s27. International relations.
- s28. Relations within the United Kingdom.
- s29. The economy.
- s30. Investigations and proceedings conducted by public authorities.
- s31. Law enforcement.
- s32. Court records, etc.
- s33. Audit functions.
- s34. Parliamentary privilege.
- s35. Formulation of government policy, etc.
- s36. Prejudice to effective conduct of public affairs.
- s37. Communications with Her Majesty, etc. and honours.
- s38. Health and safety.
- s39. Environmental information.
- s40. Personal information.
- s41. Information provided in confidence.
- s42. Legal professional privilege.
- s43. Commercial interests.
- s44. Prohibitions on disclosure.

Full details can be viewed from the link:

<http://www.legislation.gov.uk/ukpga/2000/36/contents>

For Environmental Information Request

Exceptions include:

- The request is manifestly unreasonable
- Releasing the information would cause harm to, for instance, the environment, commercial interests or national security
- The information requested is personal data
- The information relates to an incomplete process

Full details of exceptions can be viewed from the link:

<http://www.legislation.gov.uk/uksi/2004/3391/regulation/12/made>

For both

When responding to some requests the council may choose to make use of the exemptions specified under the Act or the exceptions listed in the Regulations to refuse to provide all or part of a document.

For some exemptions and all exceptions, it will be necessary to apply a public interest test to decide whether the exemption/exception is engaged. Refusal to release will only be allowed when the public interest in not releasing the information is stronger than the public interest in releasing it.

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	<p>To ensure compliance with the legislation and policy, all responses to requests must be sent by the FOI team. Decisions on the use of exemption/exceptions rest with the FOI team, who will consult with other senior officers when there is doubt as to whether an exemption/exception should be used, and when assistance is required in assessing the balance of the public interest.</p>
<p><i>Enforcement</i></p>	<p>Conduct which breaches either FOI or EIR legislation or associated guidelines may be subject to investigation under other Council policies such as, for example, the Disciplinary Policy or the relevant Code of Conduct, and the sanctions therein.</p> <p>Breaches of either FOI or EIR legislation may render the Council and individual officers liable to prosecution and legal consequences.</p>
<p><i>Monitoring and Review</i></p>	<p>Compliance with this policy and related procedures will be monitored through:</p> <ul style="list-style-type: none"> • Production of reports at least annually, to include regular reporting at each Information Governance Group meeting • a review of this policy and associated procedures undertaken by the Information Governance Group and every three years commencing May 2025

4. Confidentiality	
Scope	<p>Confidentiality applies to a wide range of information held by the Council. Appropriate handling of information forms a part of the standards expected of officers and Members and is reflected in both Codes of Conduct.</p> <p>Confidentiality is also a common law concept. Wrongly revealing confidential information relating to a citizen, client, colleague or any other living individual would be a breach of the UK General Data Protection Regulation (GDPR) and Data Protection Act (DPA) 2018.</p> <p>However, information which could be considered confidential remains subject to the Freedom of Information Act 2000 and may sometimes need to be released under that Act. It is important that all such requests are considered by FOI team to ensure that exemptions/exceptions are applied correctly.</p>
Understanding of confidentiality	<p>Access to confidential information will normally be on a “need to know” basis related to the roles of officers and members.</p> <p>Confidentiality underpins the work of some parts of the Council, such as Social Services, and is a part of the professional training for relevant officers. Social Services practices include advising the client how information will be used and shared.</p> <p>Similarly, schools advise new students and their parents, via privacy notices, of information use and sharing arrangements.</p> <p>It may be necessary in some circumstances to release information which would otherwise be considered confidential. This will normally be to satisfy a legal requirement, such as a Freedom of Information Act request where the information is not covered by an exemption.</p> <p>There may be occasions where requests are received regarding contractual information or that involves other organisations (such as contractors). Specific agreements must be in place with the suppliers and/or contractors to protect their information.</p> <p>Such information should only be released with consideration given to Data Protection, in consultation with the Information Governance team, another suitably empowered senior officer.</p> <p>Each service area acts as their own Data Controller and any information sent to the FOI team (or any other service area) should be appropriately redacted prior to sharing. Advice on confidentiality can be provided in advance of sending the specific data, to avoid any potential breaches.</p>
General	<p>The Council holds policies and guidance around information storage as part of its Information Governance processes. This includes material concerning accuracy, updating, storage, retention and archiving.</p>
Retention periods	<p>Retention periods for all types of documents are defined by the corporate Retention Schedule, based on legislation and good practice.</p>
5. Requests	

<p>Responsibility</p>	<p>All officers are responsible for ensuring that any FOI/EIR request passed to them concerning information they hold is processed within 10 working days (Internal Compliance timescale). This ensures the FOI team is able to collate and return the response to the enquirer within 20 working days as specified in the Act and the Regulations.</p> <p>Any officer who receives a request must immediately advise the FOI team who will provide any necessary guidance and advice.</p> <p>Any employee may at any time receive a request pertaining to either FOI or the Environmental Information Regulations. It is the responsibility of any employee receiving such a request to:</p> <ul style="list-style-type: none"> • Promptly identify it as such a request • Pass it to the FOI team for logging • Seek and follow the advice of the FOI team and their own section manager • Refer any queries from the requestor to the FOI team
<p>Procedure for making request</p>	<p>The FOI Act states that requests must be made in a permanent form (meaning letter, E mail or tweet).</p> <p>Requests are valid whichever officer or Member receives them, but wherever possible, written requests should be addressed to</p> <p>Freedom of Information Monmouthshire County Council County Hall Usk NP15 1GA</p> <p>e-mail: FOI@monmouthshire.gov.uk</p> <p>E-mail is the preferred option.</p> <p>This information is available on the Freedom of Information webpage.</p> <p>Social Media is also recognised as a valid medium for making a request. When, for example, a tweeted request is identified by the Communications Team, it will be passed to the FOI team for processing as any other request would be. The reply will follow normal FOI rules but the response will be sent back via a link on the same social media platform, unless an alternative address has been provided by the requestor. There is no difference in the process or the final response except for the medium used.</p> <p>Personal or telephone requests are not covered by the Act but requests under the EIR may be made verbally.</p> <p>Ultimately, no matter the method of submission, all requests are managed using Office365, specifically Outlook for correspondence (excepting requests by physical post) with <u>all</u> records (incl. Excel reporting) kept on SharePoint Online.</p>
<p>FOI Fees</p>	<p>Most requests are likely to be free of charge. However, for FOI only, if the request is likely to take more than 18 hours to process, the Council may use its discretion under</p>

	<p>Section 12 of the FOI Act to decline to provide the information or make a charge for provision of the information.</p> <p>If charges are likely to be made the person requesting the information must be advised before work commences so that options may be discussed.</p> <p>The Council may also charge a reasonable amount for the cost of copying and printing, postage or translating the information.</p>
<p>EIR Fees</p>	<p>EIR 2004 allows requests to be charged, however any charge must be reasonable and take into account the aim of the Regulations. Any charges applied should not be a deterrent to the requester in accessing the information. For this reason, most requests are likely to be free of charge.</p> <p>Some examples of when EIR requests may be charged are:</p> <ul style="list-style-type: none"> • The information is publicly available (such as viewable in County Hall by appointment) but the enquirer wants the information reproduced and provided to them directly. In this instance, charges will be made for the staff time required to reproduce the information + disbursements (printing, postage, etc.). • The information is already available via other paid means (for example, where land charges are available by filling in an LLC1 at £4/ea) In this instance, the enquirer will be directed to the appropriate process in the first. Charges to include staff time + disbursements may apply if they refuse to follow agreed process and further pursue the request under EIR. • Where possible, a charge will be offered/applied to fulfil a request that would otherwise be deemed manifestly unreasonable and refused in full or part. We recognise ‘manifestly unreasonable’ to be any request that will take in excess of 18 hours to compile and where we may request a further 20 working day extension. • Any charges made for staff time in these instances will be for staff time (minus 18 hours) + disbursements. <p>Any charge that is applied will not exceed the cost of supplying the information.</p>
<p>Provision of information</p>	<p>Information requested under the Act or Regulations will normally be provided in permanent form, i.e. by paper or electronic copy, according to how the information is held and the wishes of the requestor. A requestor may also be granted supervised access to certain documents if this can be done without revealing any information which would be subject to an exemption, such as another person’s personal data.</p> <p>In the instance of voluminous responses, a folder share will be established by the FOI team. This will contain the electronic documents which form the request response. The enquirer will be advised of the share and access will be granted for a period of two calendar months before being archived.</p> <p>Information requested under the Regulations need only be made available for viewing.</p> <p>Care must always be taken to ensure that the personal data of any third party is not disclosed in contravention of the first data protection principle. When redaction of</p>

	<p>exempt information destroys the sense of a document, a summary may be provided in its place.</p>
<p>Refusal Notices</p>	<p>If the information is not held, we are obliged to say so.</p> <p>If the information is held but is not being released, the Council must issue a Refusal Notice to comply with the Act.</p> <p>The Refusal Notice must state:</p> <ul style="list-style-type: none"> • That the information is held • The exemption which is engaged • Details of the public interest test if relevant • The mechanism for requesting an internal review • The mechanism for appealing to the ICO
<p>Internal Review and Appeal</p>	<p>An Internal Review may be requested by contacting the FOI team using the details in the Refusal Notice.</p> <p>The team will arrange for a review to be conducted by a competent officer, who was not involved in the initial decision. The reviewing officer will ensure the review is conducted fairly and properly, and will issue a formal response to the requestor, which will include details of the mechanism for making a further appeal to the ICO.</p> <p>An Internal Review should be completed within 40 working days of being requested.</p> <p>FOI Internal Review</p>