Public Information and Information Requests Policy

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Distribution List

Version	Date	Name/Service area	Action
1.0			

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Summary

This policy is part of the framework underpinning the Council's Information Strategy, and is aligned with all applicable statutory guidance in relation to data transparency and statutory information requests.

It sets out how the Council will proactively publish information, and will respond to statutory requests for recorded information, either held directly by the Council or by another organisation on behalf the Council, in line the vision of the strategy that **the right information will be available to the right users, at any time, accessible from anywhere, underpinning the achievement of the Council's strategic objectives**.

The following sections outline:

- the purpose of this policy;
- definitions;
- scope;
- the legislative and regulatory framework;
- roles and responsibilities;
- supporting policies, procedures and standards; and
- monitoring and review arrangements.

Purpose

The purpose of this policy is to ensure that the Council meets the requirements of the Local Government Transparency Code 2015 and associated guidance, proactively identifies and publishes datasets over and above those required by the Code to minimise the need for individuals or organisations to submit statutory information requests.

It also aims to ensure that the Council responds effectively and as required by legislation to those information requests that are exercised by individuals using their rights under Freedom of Information Act (FOIA) 2000, Environmental Information Regulations (EIR) 2004, the EU General Data Protection Regulation (GDPR) 2016, and the Data Protection Act (DPA) 2018.

Definitions

Data transparency is the mandatory publication of certain local authority datasets to increase democratic accountability and public involvement in services. **Open data** is often used interchangeably but in fact relates to the format and terms under which data is published and made available for use and re-use.

An **information request** is defined as a request to access recorded information that is held directly by the Council, or held on its behalf by another organisation. All information requests must be made in writing, except requests under GDPR and EIR, which can be made verbally.

Scope

This policy applies to all information requests submitted to the Council by individuals and organisations that could fall within the rights established by the FOIA, EIR, GDPR and

DPA. It does not apply to requests from elected members of the Council, which are dealt with through the separate members' enquiries process.

Please note that in this context, 'the Council' refers to a number of separate data controllers in law, as set out in the Council's Data Protection Policy.

The policy applies to all records owned by the Council, whether they are created or received and managed directly, or by third parties on its behalf. It also applies to records created, received or managed by the Council in partnership with, or on behalf of, other organisations.

It does not apply to information which the Council holds on behalf of another person or organisation, including where the Council processes personal data (as a data processor) on behalf of another data controller, unless it is authorised to respond on the behalf of such parties.

It applies to existing information only. The Council is not required to meet information requests that require it to *create* information in order to provide a response.

Legislative and regulatory framework

Key elements of the legislative and regulatory framework for information requests are set out below. Failure to comply with this framework can lead to significant financial penalties, criminal prosecution and non-criminal enforcement action.

EU General Data Protection Regulation (GDPR) 2016 and Data Protection Act (DPA) 2018	The DPA places a duty on the Council to manage personal data in a way that is lawful and fair, not excessive, secure and proportionate (e.g. not to retain it longer than required). It also obliges the Council to respond to requests from personal data from the data subject (Subject Access Requests or SARs).
Digital Economy Act 2017	Provides government powers to share personal information across organisational boundaries to improve public services.
Environmental Information Regulations 2004 (EIR)	Deriving from European law, this provides for public access to 'environmental information' held by public authorities, unless specific exception(s) apply. It is also obliged to proactively and routinely publish information that has been frequently requested in the past in its Publication Scheme.
Freedom of Information Act (FOIA) 2000	Under the FOIA, the Council has a duty to make information available to the public upon request, unless specific exemption(s) apply. It is also obliged to proactively and routinely publish information that has been frequently requested in the past in its Publication Scheme.

Local Government Acts 1972, 1985, 1988 and 1992	Establishes requirements to manage records and information, and gives implied authority to share certain kinds of information with partners.
Local Government Transparency Code 2015	Requires local authorities to publish certain information, specifying content and frequency of publication, and recommends the publication of certain other information.
Lord Chancellor's Code of Practice on handling information requests	Issued under s.45 of the FOIA, the code sets out the practices which public authorities should follow when dealing with requests for information under the Act.
Other Regulations and Codes of Practice	The Council's approach is also informed by range of other regulations and codes of practice, including: • Lord Chancellor's Code of Practice on the management of records; • National Data Guardian's Data Security Standards; • Privacy and Electronic Communications Regulations 2003 (PECR); • Re-use of Public Sector Information Regulations 2005; • 'Caldicott principles' on NHS patient information (revised 2013) and the NHS Data and Protection Toolkit; and • Open Standards Principles.

In brief, the Local Government Transparency Code 2015 requires the Council to publish the following data. It also recommends additional data that could be published at the Council's discretion.

Data	Frequency
Waste collection contract	Once only
Items of expenditure exceeding £500	Quarterly
Government procurement card transactions	Quarterly
Invitations to Tender and procurements exceeding £5,000	Quarterly
Local authority land and building assets	Annually
Social housing assets (where relevant)	Annually
Grants to voluntary, community and social enterprise organisations	Annually
Organisation chart	Annually
Trade union facility time	Annually
Parking account	Annually
Parking spaces	Annually
Senior salaries	Annually
Constitution	Annually
Pay multiple (also published as part of the annual Pay Policy Statement)	Annually
Counter-fraud activity	Annually

In addition, other requirements to publish data have been introduced since the Code was last updated, including the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 and Trade Union (Facility Time Publication Requirements) Regulations 2017.

Under the DPA, the Council can also choose to proactively make available personal data to individuals, accessible for example through their MyMiddlesbrough account.

All law and regulations require the Council to respond to information requests as written or stated (i.e. with additional or explanatory information only where considered necessary), and as promptly as possible. There are maximum time limits for responding to each major type of request:

Request	Council must respond within:	Calculated from:
FOIA	20 working days	First working day after receipt
EIR	20 working days, 40 if complex	First working day after receipt
SAR	One month	The day of receipt

In general terms, legislation presumes that the Council will aim to fulfil all information requests where it can, but there is provision to apply exemption(s) / exception(s), for example on the basis of confidentiality, though these must always be balanced against the public interest where there is a qualified exemption. The requester must be advised of the outcome in writing.

In respect of these activities, the Council is regulated by the Information Commissioner's Office (ICO). Requesters who are unhappy with the Council's response to their request can request an internal review. Alternatively they can raise the matter with the ICO, which may investigate their complaint.

Roles and responsibilities

Effective response to information requests is the collective responsibility of all those individuals named within the scope of this policy.

Senior Information Risk Owner (SIRO)	Responsible for the overall management of information risk within the Council, advising the Chief Executive, management team and Information Asset Owners, and ensuring that staff training is available and fit-for-purpose. The role is undertaken by the Head of Strategy, Information and Governance, who is also responsible for the Information Strategy.
Information Requests Team	Responsible for establishing procedures for managing information requests, provision of advice and guidance, and monitoring compliance. Proactively and routinely publish information that has been frequently requested in the past in its Publication Scheme.

Data Manager	Responsible for the development and implementation of the Council's data management policy and supporting procedures, to ensure that the Council meets its obligations in respect of data integrity, statutory returns to the Government and data transparency.
Data Protection Officer	Responsible for provision of advice and guidance to the Council on its obligations in relation to data protection, acting as the Council's contact point for data subjects and for the ICO.
Records Manager	Responsible for the development and implementation of the Council's records management policy and supporting procedures, providing advice and checking compliance to ensure the Council's records and well-kept and that the systems used to hold them are fit-for-purpose.
Information Asset Owners (Heads of Service)	Responsible for maintaining comprehensive and accurate information asset registers (IARs) for their service areas, and ensuring that: • staff in their service area are aware of their responsibilities and appropriately trained; • data and records are managed in line with the Council's policy and procedures; • information is released in line with legal requirements and this policy; and • identifying and escalating information risks to the SIRO.
All managers	Responsible for overseeing day-to-day compliance with this policy by their staff and other personnel they manage, ensuring that information and datasets are made available for publication or release where required, and ensuing that appropriate checks are made prior to release to ensure that nothing is released in error.
All staff, contractors, consultants, interns and any other interim or third parties	Responsible for ensuring that information requests are responded to with in line with the relevant legislation.
Information Strategy Group	Operational group of key officers led by the SIRO responsible for implementing the Information Strategy, in conjunction with Information Asset Owners.
Risk Management Group	Cross departmental group of senior officers responsible for ensuring the Council has in place a suitable risk management framework. The group has reporting lines to enable risks in relation to this policy and other issues to be escalated by the SIRO and considered as necessary.

Supporting policies, procedures and standards

The following policies, procedures and standards will be implemented across the Council to ensure that the Council optimises the publication of datasets and responds to statutory information requests effectively.

Data Management Policy	This provides a framework for effectively standardising, managing, linking and exploiting data throughout its lifecycle, and to ensure that the Council meets its obligations in respect of data integrity, statutory returns to the Government and data transparency.
Data Protection Policy	This ensures that the Council continues to treat personal data safely, securely and ethically; deals with incidents swiftly and learns lessons from them; and is fully compliant with the DPA.
Data Subject Rights Requests Procedure	This sets out the step-by-procedure for addressing information requests made under the DPA.
EIR / FOIA Requests Procedure	This sets out the step-by-procedure for addressing information requests made under the FOIA.
Transparency Policy and Procedure	This sets out the Council's commitment to data transparency, the data it will publish and under what terms.
Records Management Policy and supporting procedures	This provides a framework for ensuring that the Council's records are well-kept and that the systems used to hold them are fit-for-purpose.

Monitoring and review arrangements

The implementation and effectiveness of this policy and its supporting procedures will be reviewed on a quarterly basis by Information Strategy Group, using the following metrics:

- proportion of applicable Council datasets published using Open Standards;
- reduced number of information requests;
- increased number of requests responded to in time; and
- increased proportion of information requests fulfilled.

The SIRO will provide a quarterly update to the Council's Risk Management Group on overall information risk, and an annual report to management team and Corporate Audit and Affairs Committee.

This policy will be reviewed every three years, unless there is significant development that would require a more urgent review e.g. new legislation.