

Access to Information Policy

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Revision History

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1. Purpose of this document

This document sets out the policy for how the council will handle access to information request and forms part of the Information Governance Policy Framework. The policy sets out how the council will promote a culture of good practice around the management of Access to Information requests and details the agreed policy for ensuring compliance with our Legislative requirements.

This policy is applicable to council employees, councillors, temporary and agency staff and contractors working for and on behalf of the council and any organisations processing data on the council's behalf.

2. Background

Individuals have a right to request access information that's held about them under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018. These requests are referred to as 'Individuals' Rights'. The council must, in most cases, respond to such requests within one calendar month. This can be extended by two further months in certain situations.

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) set out a general right of access to recorded information held by the council. The council must consider any request it receives and respond within 20 working days either by providing the information requested or applying a relevant exemption.

The council refers to these requests as 'access to information' and this document sets out how the council handles requests made under the 'Access to Information' legislations.

Whenever the council receives an access to information request, it will consider the nature of the information requested and, wherever possible, identify the statutory access regime under which it will respond to that request.

3. Individuals' Rights Requests

UKGDPR seeks to put data subjects back in control of their own data and increases both the right of access and sets out additional rights to ensure they can, to some extent, manage the information being processed by Data Controllers. A summary of these rights is set out below.

3.1 The right to be informed

The right to be informed obliges the council to be transparent in the way that it uses personal information and provide 'fair processing information', the council does this via its privacy notices. The information provided in the privacy notice is determined by whether or not the data was obtained directly from individuals. The table below outlines the information that the council must provide. The council have ensured that all privacy notices are:

- Concise, transparent, intelligible, and easily accessible.

- Written in clear and plain language, particularly if addressed to a child.
- Free of charge.

What information must be supplied?	Data obtained directly from data subject	Data not obtained directly from data subject
Identity and contact details of the controller (and where applicable, the controller's representative) and the data protection officer	✓	✓
Purpose of the processing and the lawful basis for the processing	✓	✓
The legitimate interests of the controller or third party, where applicable	✓	✓
Categories of personal data		✓
Any recipient or categories of recipients of the personal data	✓	✓
Details of transfers to third country and safeguards	✓	✓
Retention period or criteria used to determine the retention period	✓	✓
The existence of each of data subject's rights	✓	✓
The right to withdraw consent at any time, where relevant	✓	✓
The right to lodge a complaint with a supervisory authority	✓	✓
The source the personal data originates from and whether it came from publicly accessible		✓

3.2 The right of access (data subject access request)

UKGDPR affords individuals with the right to obtain copies of information from a data controller, these are known as data subject access requests (DSAR). These requests do not need to be in a specific format however the council requests that these are in writing, the request does not have to state that it is a formal request for a DSAR for it to be a valid request. The council has an online form available for requests.

In order to be valid, a DSAR must:

- a) Be clear that the person is making a request for their own personal data, this may be verbally, in writing or via social media.
- b) Be supported by proof of identity (e.g. driving licence, passport, birth certificate), in order to prevent unauthorised disclosure.
- c) Be clear about what information is requested, in order to allow us to locate the information required; the council will invite an applicant to explain where any by whom information is believed to be held, as well specific details of the information required.

The council will, upon receiving a DSAR, log and acknowledge it. The information, once collated, can be sent electronically, by post or collected in person. Under the DPA/UKGDPR, the council must respond promptly by supplying the relevant information in an intelligible form (by way of a copy) within one month. In some cases, the council will, mark the request as “complex” if this fits the ICO criteria and extend the deadline by a further 2 months.

3.3 The right to rectification

UKGDPR enshrines the right for data subjects to have the right to instruct data controllers to rectify inaccurate personal data about themselves. This right takes into account the purpose of processing, but, in most cases, the data subject will be able to have incomplete data completed, which includes an option to provide supplementary information.

3.4 The right to erasure (‘right to be forgotten’)

This right gives the data subject the right to request that their personal data is deleted, this is not an absolute right. The council is only obliged to comply if one of the following grounds applies:

- a) The personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed.
- b) The data subject withdraws consent on which the processing is based and where no other legal basis applies.
- c) The data subject objects to the processing, where it is carried out for the function of public task or the legitimate interests of the data controller, pending the verification whether the legitimate grounds of the council override that of the data subject. The data subject has the right to object to direct marketing at any time.
- d) Personal data has been processed unlawfully.
- e) Personal data must be erased for compliance with a legal obligation.
- f) Personal data has been collected in relation to information society services where a child’s consent has been obtained.

Whilst the council may not have to comply with a request for erasure, the council must respond to the request. Where the council is not obliged to comply, we must, set out why we are unable

to delete the information requested. If the council is able to comply, we will set out what information was held and confirm that it has been deleted.

3.5 The right to restrict processing

This right gives the data subject the right to restrict the processing of their personal data, this is not an absolute right. The council is only obliged to comply if one of the following grounds applies:

- a) The accuracy of the personal data is contested by the data subject for a period enabling the controller to verify the accuracy of the personal data.
- b) The processing is unlawful, and the data subject opposes the erasure of the personal data and requests the restriction of their use instead.
- c) The controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise, or defence of legal claims.
- d) The data subject has objected to processing where it is carried out for the function of public task or the legitimate interests of the data controller, pending the verification whether the legitimate grounds of the controller override those of the data subject.

Whilst the council may not have to comply with a request to restrict processing, the council must respond to the request.

The council must explain why it does not have to comply with the request if that's the case. Where the council has restricted processing, it must tell the data subject the findings of its investigations and what it intends to do with the data and whether the processing will continue or cease.

3.6 The right to data portability

This right is unlikely to apply to information that is processed by the council. However, this right gives data subjects the right to receive the personal data which they have provided to the council in a structured, commonly used, and machine-readable format. The data subject will have the right to compel the data controller to transfer this information directly to another data controller where this is technically feasible. This right only applies where the data has been provided under consent and processing has been carried out by automated means.

3.7 The right to object

As with other rights, this is not an absolute right. Data subjects can only object to processing where the council is processing information as part of a public task, or where it has legitimate grounds, including profiling, to do so. The council will have to comply with requests where we do not have legitimate grounds that override the interests, rights and freedoms of the data subject and it is not required for the establishment, exercise, or defence of legal claims.

Data subjects can object to processing where it relates to direct marketing at any time. Where this applies, the council must cease the processing for direct marketing purposes.

The council must communicate its decision to the data subject, regardless of the decision. The council must clearly explain why it does not have to comply, where that is the case.

3.8 Rights in relation to automated decision making and profiling

This right entitles data subjects to request that decisions made about them are not based solely on automated processing, including profiling, which produces a legal effect concerning them, for example, someone's benefit entitlement. Should the council receive a complaint regarding such a decision, it will need to be revisited by 'human intervention'.

3.9 Entitlement to the information

When considering a request under the individuals' rights, the council must satisfy itself that the person making the request is entitled to the information.

3.9.1 Validating the identity of the requester

The council is entitled to request enough information to judge whether an individual is entitled to the information they are requesting or are entitled to make the request they are making. The council requests two pieces of identification and, in most cases the council will request copies of the following information from an individual before releasing information:

A copy of one of the following:

- Passport
- Driving licence
- Birth certificate

AND a copy of one of the following:

- A recent bank statement (with full address) dated within the last 3 months
- A recent utility statement (with full address) dated within the last 3 months
- An Islington council tax number

The council will accept copies or scans which can be emailed to the council, sent via post, or brought in by the data subject on collection of the information.

Where the identity of the requester is known to you, for example there is an ongoing relationship to you, it may not be necessary to request identification.

3.9.2 Acceptable forms of identification

The following list sets out the forms of identity that the council will accept.

Proof of name	Proof of address
Current signed passport	Utility bill (gas, electric, satellite television, landline phone bill) issued within the last three months
Original birth certificate (UK birth certificate issued within 12 months of the date of birth in full form including those issued by UK authorities overseas such as Embassies High Commissions and HM Forces)	Local authority council tax bill for the current council tax year
EEA member state identity card (which can also be used as evidence of address if it carries this)	Current UK driving licence (but only if not used for the name evidence)
Current UK or EEA photocard driving licence	Bank, Building Society or Credit Union statement or passbook dated within the last three months
Full old-style driving licence	Original mortgage statement from a recognised lender issued for the last full year
Photographic registration cards for self-employed individuals in the construction industry -CIS4	Solicitors letter within the last three months confirming recent house purchase or land registry confirmation of address
Benefit book or original notification letter from Benefits Agency	Council or housing association rent card or tenancy agreement for the current year
Firearms or shotgun certificate	Benefit book or original notification letter from Benefits Agency (but not if used as proof of name)
Residence permit issued by the Home Office to EEA nationals on sight of own country passport	HMRC self-assessment letters or tax demand dated within the current financial year
National identity card bearing a photograph of the applicant	Electoral Register entry
Veterans' identification card	NHS Medical card or letter of confirmation from GP's practice of registration with the surgery (not prescription)

3.9.3 Requests made on behalf of others

The DPA/UKGDPR does not prevent an individual making a request on behalf of another, for example, a solicitor acting on behalf of their client. In these situations, the council must be satisfied that the third party making the request is acting on the authorisation of the data subject. In these situations, it is essential that the third party provides written authority from the data subject that they are acting on their behalf.

This could be ensuring that the appropriate section of our form has been signed or, that a letter has been provided or proof of a more general power of attorney.

3.9.4 Requests for information about children

Parents and guardians do not have an automatic right to access their children's files. Whilst the DPA 2018 sets the age of consent for children at 13, this is in relation to information society services and does not necessarily mean that the council must seek the views of the child before releasing information to their parents or guardians. If a child is old enough to give informed consent, we would be guided by their wishes. The council will only disclose information to parents/guardians where this is in the best interests of the child.

3.9.5 Verbal requests

The UKGDPR does not specify how to make a valid request, therefore it is possible to make a request verbally. If the council has received a verbal request the council will transcribe the request and ask the requester to confirm, in writing, that the council has correctly understood their request.

3.9.6 Requests submitted via social media

A request submitted via social media, for example, X (Twitter) or Facebook, is a legitimate request and the council must make a response. The council believes that it is not always appropriate to respond to requests that relate to personal data over X (Twitter) or Facebook and will request that the request is resubmitted via email or post. The council should direct the requester to the council's website for more information on how a request can be submitted, which will include the requirement to provide identification.

4. FOI and EIR Requests

4.1 All FOI requests must be made in writing

An FOIA request must be made in writing and a contact name and address for the requester must be supplied. If a request is made over the phone, the member of staff taking the phone call should ask the requester to provide the request in writing and advise on the access channels provided above. Requests can be received by:

- Council online webform
- email (FOIA@islington.gov.uk)
- letter; to any council department
- as a Tweet to one of the council's official X (Twitter) account

Where an FOIA request is made via X (Twitter), the council will log the request in the usual manner. The council will ask the requester to email the council with separate contact details as most responses exceed the character limit allowed on X (Twitter).

The council will log and acknowledge all requests and respond within 20 working days.

4.2 EIR requests

EIR requests will be handled in the same way as FOI requests, however EIR requests can be made over the phone. These requests will be transcribed by the receiving officer and forwarded to the IDG Team where necessary. These requests will be responded to within 20 working days, for complex requests, the council may extend the timescale to 40 working days as permitted under the EIR.

4.3 Transferring requests to other authorities

If the council does not hold the information requested (or part of it), but is aware that another public body does, the request for information may be transferred to the second body. The council will confirm with the second body that it holds the information and then notify the requester providing contact details of the second body. The council will transfer the request to the second body should the requester ask them to do so. Where the council does hold some of the information it will be provided in accordance with this policy.

4.4 Combined requests

If a request for information comprises a combination of personal information relating to the individual requesting the information, environmental information, and other information then the council will separate out the requests and deal with each element separately under the DPA/UKGDPR, EIR and FOIA as appropriate.

5. Schedule 2 and 4, DPA 18 requests

The council is allowed to release personal information for crime and taxation purposes and legal proceedings under Schedule 2 – 4 of the DPA 18. The exemptions are not blanket exemptions, and the release of information is not automatic, the decision to apply the exemption and release information is applied on a case-by-case basis. Before releasing information, the council must be satisfied that:

- There is a valid reason to provide the information.
- The requester has the appropriate authority to request the data.
- The data requested is both necessary and minimal.

The council may request further information to satisfy itself that the release of data is appropriate.

All requests made under schedule 2 or 4 of the DPA must be logged corporately and the proposed disclosure reviewed by the Information Governance (IG) Panel who will ensure that any disclosure is appropriate and proportionate.

6. Application of exemptions

6.1 All exemptions must be agreed corporately

Some information will be exempt from disclosure, and this will differ, depending on whether it is an FOI request, an EIR request or a DPA/UKGDPR request. It is important; therefore, that there

is due consideration and agreement about which legal regime the request falls under before applying an exemption to ensure the correct exemptions are considered. Some exemptions are absolute, and some are qualified.

6.2 The IG Panel will advise on exemptions

Weekly information governance panel meetings will be held as a forum to consider and discuss exemptions that service areas believe may need to be applied in relation to a specific request for information. The IG Panel is made up of members of the Information and Digital Governance (IDG) Team and Legal Services to ensure legal advice can be immediately provided.

6.3 The IG Panel will advise on EIR exceptions

There is a presumption under EIR that environmental information must be released. The only available grounds for withholding information are set out in a number of exceptions, all of which are subject to a public interest test and must be interpreted restrictively. In order for information to be withheld under an exception, the IG panel must approve it.

6.4 Public interest test

In the case of qualified exemptions, the council must apply the public interest test in considering whether or not to disclose the information. The test is whether, in all circumstances of the case, the council considers the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In addition, there is a prejudice test to be satisfied in the case of many (but not all) qualified exemptions.

6.5 Time limit for dealing with requests

There is an exemption in relation to FOI requests, where the cost of compliance by the council exceeds the 'appropriate limit'. The appropriate limit is set at £450. The council can only include the time spent by council staff on identifying, locating, retrieving, and extracting the information at a rate of £25 per hour. Therefore, the £450 limit equates to 18 hours or just over 2.5 days' work.

In the case of FOI requests, where it is considered that the 'appropriate limit' for dealing with the request may be exceeded then this will be considered by the information governance review panel. In any instance where the council engages this exemption (section 12 FOIA), the council will record, as evidence, why this consideration has been made. When the council calculates that a request for information will exceed the appropriate limit, the council will go back to the requester to advise them of this and ask if they would like to narrow down their request in order to bring the scope of the request within the appropriate limit.

6.6 Vexatious requests

The council is not obliged to comply with vexatious or repeated requests for information. Where the council considers that a request may be vexatious or repeated, it will work closely with the service area to review the case and will make a decision, corporately, that the request should be considered vexatious.

The council will follow the ICO advice and guidance on vexatious and repeated requests. Where a request is considered vexatious or repeated, the requester must be provided with a written notice of this.

6.7 All redactions will be explained in the response

In some cases – for example the need to protect the identity of individuals – information will be ‘redacted’ or obscured before being disclosed. This redaction will be explained in the response.

7. Transparency obligations

7.1 Publication scheme

The council has a Publication Scheme, which sets out the types of information that the council makes routinely and proactively available and provides a guide about how that information can be obtained. It is a legal requirement and the Information Commissioner’s Office (ICO) set out a model scheme that authorities could adopt. Where a council does not adopt the model publication scheme, they would have their publication scheme individually approved by the ICO. The council has, therefore, adopted the model scheme.

7.2 The council will proactively publish information

In commitment to being more transparent and open, the council will increasingly publish information on the public website with a focus on information regularly requested under the FOIA and in accordance with our Transparency obligations.

The council will publish all datasets requested in accordance with the FOIA. All datasets will be published in a reusable format and under the [Open Government Licence \(OGL\)](#). Where information is not published under the OGL, the council will state the reasons for this.

8. Re-use of information

The Re-use of Public Sector Information Regulations 2015 focus on re-use rather than access – and the regulations do not provide access to the information itself. The Regulations require the council to ensure that a list of significant documents available for re-use is made available to the public, preferably by electronic means and, as far as reasonably practicably, with an electronic search capability.

8.1 The council will clarify that re-use differs from initial use

‘Re-use’ means the use by a person (including a company) of a document held by the council for a purpose other than the initial purpose for which the document was produced. The council will make it clear to anyone requesting the re-use that this needs to be processed corporately in line with this policy.

8.2 Re-use information requests will be process corporately

The corporate team will review all requests for the re-use of information. The corporate team will respond within 20 working days and will communicate with the requester should there be a requirement to extend this timeline.

All requests will be treated as new information requests by the corporate team, which will include providing the request with a unique number, acknowledging the requester, considering whether or not exemptions apply, and then formally responding to the requester.

8.3 Where necessary information will contain an appropriate disclaimer

Where the nature of the information is such that the council considers that re-use is likely, the council will provide a disclaimer with the information that clearly explains separate permission needs to be obtained from the copyright owner before its used in a way that would infringe copyright, for example, by making multiple copies, or publishing and issuing copies to the public.

9. Information complaints

9.1 Difference to the standard council complaints procedure

Islington Council is committed to providing excellent services to residents and responds to complaints as an important part of service delivery. The council has an internal complaints process through which complaints are considered. If anyone is dissatisfied with the council's complaints process they can raise the matter to the Local Government Ombudsman, an independent, impartial and free service. The Ombudsman can investigate complaints about how the council has done something and generally this pertains to the way in which services are delivered.

The Access to Information complaints process differs from this because the Information

Commissioner's Office (ICO) has been established to oversee information legislations. Anyone dissatisfied with an information response can raise the matter directly and immediately with the ICO. For this reason, the council has set up a specific complaints process relating to information requests. Requesters are entitled to complain about their response, however they must do so within 2 calendar months of the date of their response. The council will consider complaints received outside this period and process the complaint if it deems it reasonable to do so.

9.2 Information complaints will be processed corporately

All information complaints will be logged, receive a unique information complaints reference number and the complainant will receive an acknowledgement from the council and responded to within 20 working days. Complaints will be categorised into the following:

- Internal Reviews
- Data Protection Complaints
- Information Commissioner complaints
- Data Breach Investigation

Unless the complaint clearly relates to a specific matter, all reviews of information complaints will examine the process as well as the response that was made. The purpose of a complaints investigation is to establish what happened and why the complainant may be dissatisfied with the response they received. An outcome which takes time and then simply provides the complainant with a review and what the council needs to do to resolve it, can waste valuable time. Therefore, for all information complaints, the corporate team will place initial emphasis on addressing the issue. This means that the council will attempt to rectify any errors made as quickly as possible so the information can be provided to the requester.

An Internal Review is a formal process that leads to an outcome that explains to the complainant what actions the council needs to undertake to resolve the matter. Where the council can at the same time redress any issues that were raised and provide the requester with the original information they were seeking, the council will.

All Internal Reviews will:

- Review the appropriateness of the information process that was undertaken.
- Review the adequacy of the information provided.
- Comprise a thorough appraisal of the decision and handling of the request.
- Be impartial, thorough and swift.
- Inform the complainant about the outcome.

Where the original decision is reversed the applicant must be told, and either be provided with the information or be made aware of when they can expect to receive the information originally requested. Where the original decision is upheld, the applicant must be made aware of their right of appeal to the ICO and be provided with the full contact details for the ICO.

An Internal Review will be the council's final escalation point relating to information complaints. This means that anyone dissatisfied with the outcome of an Internal Review needs to raise their complaint with the ICO.

The ICO is the UK's independent body set up to promote access to information rights and protect personal information by promoting good practice, ruling on eligible complaints, providing information to individuals and organisations, and taking appropriate action when the law is broken.

All ICO complaints will be dealt with by the corporate team to ensure that the matter is appropriately escalated and addressed.

For further information about Islington Council's compliance with its access to information obligations, please contact: foia@islington.gov.uk