

Freedom of Information policy

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1 Introduction

- 1.1 Luton Borough Council is committed to complying with the provisions of the Freedom of Information Act 2000 (FOIA), which came into force on 1st January 2005.
- 1.2 The FOIA 2000 gives the public the right of access to all recorded information held by all public authorities, subject to exemptions.
- 1.3 Access to information can only and will only be denied if there is an absolute exemption which applies to its disclosure or if a conditional exemption applies and the public interest assessment dictates that the information should not be disclosed.
- 1.4 The FOIA is regulated by the Information Commissioner.
- 1.5 The FOIA complements or supports the following legislation:
 - Data Protection Act 2018, which gives individuals access to personal information held about them by the council;
 - Environmental Information Regulations 2004 that gives access to information about the environment held by the government and public authorities.
 - Protection of Freedoms Act 2012 which requires public authorities to provide information and if available datasets in a re-usable format so far as reasonably practicable; and
 - Local Government Act 1972 that contains the main access to information rules in relation to all meetings of the council and the formally established committees and sub-committees of the council.
- 1.6 In complying with its duty any local authority must take account of the Code of Practice in relation to Freedom of Information issued by the Ministry of Justice under Section 45 of the Act. The council will abide by the terms of Code of Practice whenever this is possible or appropriate.

2 Policy statement

- 2.1 Luton Borough Council will comply with all the relevant provisions of the Freedom of Information Act 2000 (FOIA) and, where relevant, the requirements of the Environmental Information Regulations 2004 (EIR).
- 2.2 The council will provide advice and assistance to help people make requests under the FOI. The council aims to respond to all requests promptly and within the statutory response period of 20 working days following receipt of a valid request.
- 2.3 In cases where information is covered by an exemption or other legislation, consideration is given as to whether it is in the public interest to disclose the information, regardless of the exemption.
- 2.4 The council has adopted and will maintain a 'publication scheme' that has been approved by the Information Commissioner. The publication scheme contains details of all the information that the council makes available to the public. The publication scheme will be subject to regular review.
- 2.5 The council is committed to conducting its affairs in a transparent manner and enabling public access to its information whenever this is appropriate. Generally, the council will act

in as open and transparent a manner as possible, whilst ensuring the integrity of its information and protecting the privacy of its customers.

3 Scope

- 3.1 This policy informs recipients of council services, members of the public and external parties of the processes the council has established for complying with the FOIA.
- 3.2 This policy operationally applies to all employees of the council, elected members, contractors, agents, partners and temporary staff working for or on behalf of the council.
- 3.3 This policy does not cover Subject Access Requests (requests for access to information about a living individual which could identify them). These requests are exempt from the FOI under section 40 and should be processed in accordance with the Data Protection Act 2018 (DPA).
- 3.4 This policy does not relate to data held by schools, as they are data controllers in their own right and responsible for their own FOI compliance.

4 Relationship with the Data Protection Act 2018

- 4.1 The council is under a legal duty to protect personal data as required by the Data Protection Act 2018. The council will carefully consider its responsibilities under the DPA before disclosing personal data about living individuals, including current and former officers, members and users of its services.

5 The council's publication scheme

- 5.1 The council's publication scheme is available on the council's website.

The publication scheme specifies:

- what information the council will make routinely available to the public as a matter of course;
- how it will do so; and
- whether or not this information will be made available free of charge or on payment of a fee.

6 Roles and responsibilities

- 6.1 All employees are responsible for ensuring that any request for information they receive is dealt with in line with the requirements of the FOI and in compliance with this policy and the prevailing procedures.

All staff must recognise that all recorded information may be provided to the public, and that the law requires that there will be full and unconditional disclosure in every case unless one of the statutory exemptions / exceptions applies.

Any breach of any provision of the FOI will be deemed as being a breach of any contract between the council and that individual, company, partner or firm;

6.2 Managers are required to ensure that the service areas for which they are responsible have in place adequate guidance on freedom of information and effective measures to comply with this policy.

6.3 Third parties who are users of information supplied by the council will be required to confirm that they will abide by the requirements of the FOI and allow audits by the council of data held on its behalf (if requested); and

Indemnify the council against any prosecutions, claims, proceedings, actions or payments of compensation or damages, without limitation.

6.4 The council will ensure that:

- everyone managing and handling information understands that they are responsible for following good information management practice
- staff who handle information are appropriately supervised and trained
- methods of handling information are regularly assessed and evaluated
- any disclosure of data will be in compliance with approved procedures
- all necessary steps will be taken to ensure that data is kept secure at all times against unauthorised or unlawful loss or disclosure; and
- all contractors who are users of information supplied by the council will be required to confirm that they will comply with the requirements of the Act with regard to information supplied by the council.
- it will abide by any Code of Practice on the discharge of the functions of public authorities which is issued by the Ministry of Justice. In addition, the council will take account of any guidance which is issued by the Information Commissioner to promote good practice.

7 Right to refuse a request

7.1 The council reserves the right to refuse requests under Section 12(1) where the total administrative cost exceeds the appropriate limit of 18 hours based on an average flat rate of £25 per hour (£450), as stated in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004.

7.2 The council reserves the right to refuse any vexatious or repetitious request.

7.3 Where the council already publishes the information requested, enquirers will be directed to the public resource in which they may find the information they require;

7.4 The council reserves the right to withhold information if it is subject to an exemption under the FOIA 2000, the EIR 2004 or the Local Government Act 1972.

7.5 The council reserves the right to not provide copies of items subject to copyright restrictions, although these will still be open for inspection under the Act.

7.6 A refusal of a request for information will only be made when it is necessary to do so. For example, if the estimated costs of extracting, preparing or analysing the requested information are excessive. The refusal of the request will be made in writing and will state

the reason for refusal, specify the exemption which applies and state clearly why the exemption applies.

When applicable the council will identify why the public interest in maintaining an exemption outweighs the public interest in any disclosure. Whenever appropriate the factors taken into account will be identified and communicated.

8 Review and complaints

- 8.1 If you are not satisfied with the response to your request, you have the right to ask for a review. You should make this request within 40 working days of receipt of our response as per ICO guidance and set out what you are not satisfied with, sending it to FOI@luton.gov.uk

Luton Council is not obliged to consider any requests for a review beyond the 40 working days.

- 8.2 If you are not content with the outcome of the review you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:-

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Website: www.ico.org.uk

Tel: 0303 123 1113 (local rate) or 01625 545 745 if you prefer to use a national rate number

- 8.3 The council will maintain a record of all reviews and their outcomes.

9 References and related documents

9.1 References:

Freedom of Information Act 2000

Local Government Act 1972

Environmental Information Regulations 2004

Protection of Freedoms Act 2012

Data Protection Act 2018

Human Rights Act 1998

Related documents:

Data Protection policy

SAR policy

Publication scheme

FOI process map

Complaints procedure