



Freedom of Information Act (2000) Policy Statement

Version: 3

Final

Review Date: April 2012

Owner: Executive Office

Contents

1.	Introduction	3
2.	Responsibility and compliance	3
3.	Publication Scheme	3
4.	Requests for information	3
5.	Charges	4
6.	Exemptions	4
7.	If a request is turned down or refused	5
8.	Transferring a request to third parties	5
9.	Records Management	5
10.	Contact Details	6

1. Introduction

The Freedom of Information Act 2000 came fully into effect on 1 January 2005. The Act is intended to promote a culture of openness and accountability amongst public authorities by providing people with rights of access to all types of recorded information held by them. As a public authority, Erewash Borough Council has a responsibility to comply with the Act.

This document is a policy statement outlining our commitment and approach to Freedom of Information, FOI. The policy applies to all Councillors and employees, including temporary staff, who handle information on behalf of the Council.

2. Responsibility and compliance

The Director of Customer Services has overall responsibility for FOI within the Council. The Council's Information Officer has day-to-day responsibility for management and co-ordination of FOI.

The Freedom of Information Act Policy applies to all Employees, Councillors, Agents, Contractors and Subcontractors. If employees knowingly fail to comply with this Policy, or the Freedom of Information Act, the Council may take appropriate action under the Disciplinary Procedure.

3. Publication Scheme

The Council is required to produce and maintain a Publication Scheme, which is a directory of information and publications that are routinely available. This scheme is not definitive and items of information may exist which may be published can be provided on request. The Publication Scheme outlines:

- the way we intend to present the information
- how we intend to publish it
- whether we intend to make a charge and if so, what the charge is.

Information covered by the Publication Scheme should be obtained in the manner described in the Scheme.

We will review our Publication Scheme as frequently as is reasonably practicable with the intention of increasing the scope and range of information covered by it. As a guide the following should be noted:

- The version provided on the council's website at <http://www.erewash.gov.uk> will be updated as and when new publications are added
- Where a printed copy of the scheme is requested by mail this will be the version available from the website.

4. Requests for information

FOI is intended to cover all information that is not already subject to information access rights. In a number of areas information is already available under alternative access rights. Two significant examples are:

- personal information, which is covered by the Data Protection Act 1998

- information about the environment, which is covered by the Environmental Information Regulations 2004.

FOI requests must be made in writing. This can include fax and email. There is no requirement for people to mention FOI in their requests or to say why they need the information. If a request is unclear, we will try and clarify what is required.

The Council acknowledges that it has a duty to confirm or deny to the applicant whether the information is held.

If the information can be provided and it is not subject to an exemption, we will provide the information within 20 working days of a request being received. However, if a charge is to be made for information, the time that it takes between the Council sending out a fees notice and the payment being received, is not counted as part of the 20 working days.

Information will be provided in the most appropriate format. However, alternative formats can be requested. We will, however, consider the cost implications of such requests.

We have no obligation to comply with vexatious requests. Vexatious means repeated, unreasonable and nuisance requests.

We will use all reasonable efforts to assist an applicant to obtain the information required.

5. Charges

We provide much information free of charge, particularly that which is available on the Council's web site. Some documents in the Publication Scheme are subject to a charge, usually intended to meet some or all of the cost of publication.

Regulations will allow us to charge for information to be provided following an information request under FOI. Typically, information that has to be prepared or extracted or which incurs copying costs will be charged in accordance with the regulations. We will tell the applicant if a charge is to be made.

The regulations currently state that if the estimated cost to provide information is more than £450, we are not obliged to fulfil the request. Further details on charges are available in the Erewash Borough Council Freedom of Information Act 2004 Charging Policy.

We have the right to withhold information if the required fee is not paid.

6. Exemptions

Certain information held by the Council is exempt from FOI. There are 24 exemptions. These fall into two categories.

- **Absolute exemptions.** These exemptions are unconditional. Examples of absolute exemptions include information accessible by other means, information provided to the Council in confidence and personal information covered by the Data Protection Act 1998.

- **Qualified exemptions.** This category of exemption is subject to a public interest test. In these cases we will look at whether the balance of public interest is weighted in favour of giving the information requested. Where this is found to be the case, the information will be given. Examples of qualified exemptions include commercially sensitive information and information that would prejudice the health and safety of an individual.

It is our intention to apply exemptions in appropriate circumstances.

For example, we recognise that some information supplied to us is confidential in nature or commercially sensitive. We will have regard to that in our application of exemptions.

We will make clear statements to parties contracting with the Council to make sure they are aware of our obligations to disclose under FOI and we will resist attempts to impose confidentiality obligations on the Council where the information is not confidential in nature.

7. If a request is turned down or refused

We will always confirm or deny whether or not we hold information requested and we will respond promptly to information requests. We will either provide the information requested or, if it is withheld, explain why it has not been provided, quoting the relevant exemption under the Act. We will only turn down a request or refuse to provide information in the following circumstances. If:

- it falls into one of the exemption categories
- the request is considered vexatious
- the required fee is not paid within three months.

If a request is refused, the applicant has the right to ask for that decision to be reviewed under the Council's internal complaints procedure.

If after the internal appeal, the information is still not disclosed, the applicant has the right to ask the Information Commissioner to review the decision.

8. Transferring a request to third parties

If it is found that another public body holds the information requested, we will either transfer the request to that organisation or advise the applicant where that information can be obtained. Once the request has been appropriately directed the role of the council in this request is deemed to have been satisfied. Any part of the request that relates to the Council will be handled in the normal way.

We will inform the applicant if all or part of an enquiry has been transferred to another public body. In cases where there are reasonable grounds to believe that the applicant would object to a transfer, we will first ask for consent from the applicant.

9. Records Management

We recognise that to successfully meet our obligations under FOI we must have efficient and effective methods of managing and identifying information held by us. In particular

we will have regard to the Code of Practice on Records Management issued under section 46 of the Act and the Council's own Document Retention Policy.

All Councillors and employees must make sure that information for which they are responsible is held in an organised and systematic way that will allow it to be identified and retrieved.

10. Contact Details

- **Freedom of Information**

All queries relating to Freedom of Information should be addressed to:

Information Officer,
Town Hall
Ilkeston
Derbyshire
DE7 5RP
E-mail: foi@erewash.gov.uk

Further Information on FOI can also be found on the following Government web sites:

Department for Constitutional Affairs: www.foi.gov.uk
Information Commissioner's Office: www.informationcommissioner.gov.uk

- **Data Protection Act 1998**

The Council's Data Protection Officer handles requests for information covered by the Data Protection Act 1998. For further information contact:

Data Protection Officer
Town Hall,
Long Eaton,
Derbyshire.
NG10 1HU
E-mail: dataprotection@erewash.gov.uk.

- **Environmental Information Regulations 2004**

Various public bodies including Erewash Borough Council hold information covered by the Environmental Information Regulations. For general enquiries relating to information that may be held by the Council please contact the Information Officer at the above address. For more information on the Environmental Information Regulations you can contact:

The Information Commissioner's Office

Tel: 08456 30 60 60 or 01625 54 57 45
Email: mail@ico.gsi.gov.uk
Website: <http://www.ico.gov.uk/>