



## Freedom of Information Act Policy Summary

This policy forms part of the council's data and information handling policies and should be read in conjunction with the Data Protection Act and Environmental Information Policies.

This policy has been written to ensure that the council complies with its obligations and requirements under the Freedom of Information act.

This policy seeks to establish a standard set of conditions, and a framework for transparency of information within the Council. The Policy is designed to ensure that there are clear internal arrangements for the effective management of information transparency.

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<b>Policy Owner:</b>	Geoff Jones
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## **Great Yarmouth Borough Council Freedom of Information Policy**

Author	Geoff Jones
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## **1.0 INTRODUCTION**

This policy forms part of the council's data and information handling policies and should be read in conjunction with the Data Protection Act and Environmental Information Policies.

### **1.1 POLICY RATIONALE**

This policy has been written to ensure that the council complies with its obligations and requirements under the Freedom of Information act.

The Council is of the view that there is a need to ensure that an agreed standardised approach is being taken to information transparency, in order to ensure compliance with legal and audit requirements.

This policy seeks to establish a standard set of conditions, and a framework for transparent information within the Council.

### **1.2 SCOPE**

This Policy will apply to all Council employees.

### **1.3 PRINCIPLES**

The Policy is designed to ensure that there are clear internal arrangements for the effective management and release of information.

## **2.0 FREEDOM OF INFORMATION ACT POLICY.**

### **2.1 Introduction**

The Freedom of Information Act 2000 (FOIA) “provides an over-arching right of access to all information held by a local authority, over and above existing statutes relating to specific service areas where authorities hold a large range of information”.

Individuals already have the right of access to information under the Data Protection Act 1998. Great Yarmouth Borough Council’s Data Protection Policy maintains the confidentiality of personal data held or processed either electronically or manually to increase access given to individuals to information relating to them. The FOIA extends this right to allow public access to all types of recorded information held by public authorities. The FOIA allows access to information regardless of when that information was created or how long it has been held, and also sets out exemptions from that right and places a number of obligations on public authorities. The FOIA comes into force on 1 January 2005.

In summary, the FOIA requires Great Yarmouth Borough Council to produce and maintain a Publication Scheme and to comply with requests for information (unless exempt from disclosure) as from 1 January 2005.

This policy should be read in conjunction with the Council’s ICT Strategy, Data Protection Policy and Records Retention Policy.

### **2.2 Aim**

The aim of this policy is to:

- provide a framework that ensures that the Council complies with the FOIA;
- promote transparency of decision making by the Council;
- improve and enhance the democratic process; and
- build public trust and confidence.

This policy will be available to all internal and external stakeholders and will be on the Council’s website [www.great-yarmouth.gov.uk](http://www.great-yarmouth.gov.uk).

### **2.3 Scope**

Records can be defined as “information that is written on paper or stored on computer so that it can be used in the future”. Records covered by this policy

include all records (irrespective of the medium on or in which the information is carried) which belong to or are in the custody of the Council or any of its officers and members. This policy will apply to all Great Yarmouth Borough Council officers, members, contractors, partners, consultants and service providers who have access to the Council's records. Failure of a contractor/partner/consultant/service provider to comply could lead to legal action and the cancellation of a contract.

## **2.4 Objectives**

Great Yarmouth Borough Council will ensure that:

- there is someone with specific responsibility for Freedom of Information (FOI) in the organisation;
- everyone managing and handling FOI requests are appropriately trained and supervised;
- anyone wanting to make enquiries about FOI requests, whether a member of staff or a member of the public, knows what to do;
- queries about handling FOI requests are promptly and courteously dealt with, and
- methods of handling FOI requests are regularly assessed and evaluated.

## **2.5 Policy Statement**

Great Yarmouth Borough Council will increase the access given to individuals to information to promote openness and transparency of decision making by the Council.

## **2.6 Publication Scheme**

As required by the FOIA, Great Yarmouth Borough Council has adopted and maintains a Publication Scheme as a guide to the information that it holds which is publicly available. Any individual or organisation who requests it will be informed whether the Council holds the information and, subject to exceptions, be supplied with it. The Publication Scheme, which is available on the Council's website at [www.great-yarmouth.gov.uk](http://www.great-yarmouth.gov.uk), will be reviewed on a regular basis.

## **2.7 Codes of Practice**

The Act has created two codes of practice:

- *Access Code (Section 45)* – This deals with how to handle requests for information including the level of advice and assistance expected; transferring requests from one public authority to another; and consulting with third parties who may be affected by the release of information.

- *Records Management (Section 46)* – Public authorities must have good records management procedures in place to comply with its obligations under the FOIA.

## **2.8 Information Held**

Great Yarmouth Borough Council holds information as long as necessary to enable it to perform its functions. Every effort is made to ensure that the information is accurate and up-to-date and that inaccuracies are corrected quickly.

## **2.9 Provision of Advice and Assistance**

All Great Yarmouth Borough Council officers and members will provide advice and assistance in response to FOI requests in so far as they reasonably can. Advice and assistance includes publishing procedures for applicants to understand how the Council deals with requests for information and advice about their rights of access under the FOIA.

## **2.10 Requests for Information**

Any request for recorded information held by Great Yarmouth Borough Council in any format will be treated as a request under the FOIA, unless another statutory access right applies (eg Data Protection Act 1998). Requests will be accepted from any individual or organisation. Applicants will not be required to cite the Act when requesting information.

All requests must be submitted in writing and must state the name and address of the person applying for the information. Correspondence, including e-mails and/or facsimiles, that provide all the necessary details to process an application will be accepted as valid requests, although the Council will provide a paper and electronic (on-line) application form. Applicants do not have to explain the purpose of their request, although it may be necessary to obtain further information from them during the course of responding to their request.

All officers will follow the agreed procedures published and monitored by the FOI Officer.

## **2.11 Provision of Information**

Where information is not subject to exemptions, Great Yarmouth Borough Council will:

- provide information to any individual who requests it in the format specified by the applicant\*, eg paper copy, electronic copy, viewing in situ and/or summary information.

- comply with requests for access to information as quickly as possible, **within 20 working days of receipt of the request (or payment of fee, if applicable).**

*\*Should the Council deem it unreasonable to supply information in the format requested by the applicant as a result of practical or cost implications, then the applicant will be informed of the reasons for this decision. The Council will, however, still supply the information by any other reasonable means.*

Due to the Public Interest Test (section 2.14 refers), it may not be possible to deal with requests within 20 working days. In these circumstances, the Council will give a realistic estimate of when a decision will be made as to whether the information will be provided. If it becomes apparent that the decision will not be made within the estimated time given, the Council will inform the applicant of any delay as soon as possible. The reasons for the delay will also be given. The FOI Officer will monitor all instances where estimates are exceeded.

## **2.12 Transfer of Requests**

Where a request for information is received and Great Yarmouth Borough Council does not hold all or any of the information requested, the Council will deal with the areas it is responsible for and advise the applicant that the other information is held by another authority and will provide the relevant contact details.

## **2.13 Fees and Charges**

Wherever possible, Great Yarmouth Borough Council will provide information free of charge. Charges may be levied for certain information or publications listed in its Publication Scheme. Where this is the case, the applicable charge will be listed against the relevant item and will be payable prior to the information being supplied.

Fees may be incurred for requests for information that fall outside the Publication Scheme to cover the costs of locating, retrieving and communicating the information to the applicant (e.g. photocopy and postage).

A fees notice will be sent to the applicant, which must be paid within three months. If the fee is not paid within this time limit, it will be assumed that the applicant no longer wants the information.

The Council will advise the applicant as soon as possible if their request for information exceeds the maximum defined in the FOIA Fee Regulations. In these circumstances, the applicant will be offered the opportunity to either amend their request so that as much of the information that they had originally requested can be provided within the fee limit, or pay the full cost over the maximum

stipulated where this is practical and manageable.

## 2.14 Exemptions

There are certain circumstances under which Great Yarmouth Borough Council is not obliged to release information. The Council will endeavour to apply exemptions to requests for information fairly, objectively and consistently and will not use exemptions as a means of obstructing access.

Exemptions may apply to only some of the information requested by an applicant. In such cases, Great Yarmouth Borough Council will release as much information as it can by blocking the information deemed to be exempt. The Council is not obliged to confirm or deny the existence of information, or to advise in respect of exemptions applied, where to do so would in itself disclose exempt information.

A list of the 23 exemptions to the FOIA can be found on the Information Commissioner's website at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk).

There will be occasions when the Council will need to balance access rights to information against a person's (or persons') right to privacy, third parties' rights to confidentiality and what may or may not be in the public interest.

- *Personal information* – Where information requested under the FOIA contains personal material about anyone other than the applicant, the principles of the Data Protection Act 1998 must be applied.
- *Information provided in confidence* – This exemption applies to information provided in confidence to the Council by external persons/organisations, including other public authorities. Great Yarmouth Borough Council will not automatically presume a duty of confidence and may seek the views of third parties with regard to the disclosure of requested information.
- *Public Interest Test* – Information will only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## 2.15 Refusals

Requests for information will not be processed where the information:

- does not exist in a recorded format;
- is intended for future publication;
- is already contained within Great Yarmouth Borough Council's Publication Scheme;
- is already available via an existing charged service, eg public register;

- is subject to existing legislation where statutory access rights apply either to the Council or any other public authority.

Great Yarmouth Borough Council will provide written notice to applicants of refusals and/or part refusals of requests for information. The notice will include details of any exemptions that have been applied. In cases where the public interest test has been applied resulting in non-disclosure, the reasons for refusal will be given.

The notice will also include details of the procedure if the applicant wishes to appeal against the decision.

## **2.16 Vexatious and Repeat Requests**

Great Yarmouth Borough Council will not comply with vexatious requests where there is a strong likelihood that such requests are being made to intentionally cause harassment, divert resources and/or disrupt the proper workings of the Council.

The Council will not comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request. A written notice stating when a request is deemed vexatious or a repeat will be sent to the applicant.

## **2.17 Training**

Staff and Members will receive appropriate training to ensure they are fully informed of their obligations under the FOIA and are aware of their personal liabilities. Further specific training will be given to staff with extra responsibilities for administering and/or monitoring the FOIA.

## **2.18 Responsibilities**

**Overall responsibility** for the efficient administration of the Act lies with the 'Data Protection Officer', who will:

- assess the understanding of the obligations of Great Yarmouth Borough Council under the FOIA;
- be aware of the authority's current compliance status;
- identify and monitor problem areas and risks and recommend solutions;
- promote clear and effective procedures and offer guidance to staff on FOI issues;

- be responsible for the provision of cascade FOI training for staff and members;
- develop best practice guidelines;
- carry out compliance checks to ensure adherence with the FOIA throughout the authority.

**Day to day responsibility** for administration and compliance with this policy is delegated to Data Protection Officer, who will:

- monitor compliance with this policy, the FOIA and associated procedures;
- implement security requirements and access rights to documents and records;
- coordinate and monitor FOI requests, in liaison with the FOI Officer;
- coordinate the proactive development of the Publication Scheme, in liaison with the FOI Officer, the Communications Officer and the web authors.

The Data Protection Officer will provide advice and guidance in respect of compliance with the FOIA. This will include:

- overseeing and coordinating responses to FOIA requests;
- monitoring and tracking requests to ensure that deadlines for responses are met;
- providing advice and guidance about third party duty of confidentiality, exemptions and public interest test issues (in consultation with the Data Protection Officer);
- coordinate training for officers and members in respect of compliance with this policy and the FOIA; and
- develop and implement policy, procedures and guidance.
- assume responsibility for managing the content/entries in the Publication Scheme.

'Access to Information Representatives' will be identified in all departments and will, together with the *'Data Protection Officer'*, be responsible for ensuring that this policy is implemented.

All staff and members must comply with this policy and are responsible for ensuring that:

- all information they hold, whether electronically or manually, is kept secure; and
- personal information is not disclosed deliberately or accidentally either orally or in writing to any unauthorised third party.

## **2.19 Complaints**

Great Yarmouth Borough Council's 'Comments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about requests for access to information under the FOIA. If the complainant is still unhappy, they will be informed of their right to complain to the Information Commissioner, who will decide whether the request has been handled properly.

## **2.20 Policy Review**

This policy will be managed and reviewed annually. Reviews will be subject to scrutiny and, from time to time, updates and re-issues will be circulated. However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.

### **3.0 IMPLEMENTATION AND COMPLIANCE**

#### **3.1 IMPLEMENTATION**

This policy will initially be implemented through the Chief Executive and Corporate Directors of the Council.

A memo will be sent to all employees to make them aware of the policy.

It is the responsibility of managers to ensure that new staff receive information about this Policy, and should be part of any local induction where appropriate. Human Resources will add the Policy to its list of policy issues provided to any new starters. Managers must also ensure that any changes to this policy are effectively communicated within their areas of responsibility.

All staff will undertake a yearly refresher course covering the basic principles of the Freedom of Information Act and must pass a test to show their understanding.

#### **3.2 COMPLIANCE**

Managers are responsible for ensuring that staff are aware of the location of this policy. In addition, Managers are responsible for keeping staff up to date about any changes within the policy.

All staff are obliged to adhere to this Policy.

### **4.0 EQUALITY IMPACT ASSESSMENT**

There are no Equality Impact issues with this policy; however specific procedures used to enact the policy must be evaluated separately.

### **5.0 HEALTH AND SAFETY**

There are no Health and Safety implications with this policy.

### **6.0 REFERENCE DOCUMENTS**

This Policy should be read in conjunction with the following legislation, regulations and Council policies:

- Data Protection Act Policy
- Environmental Information Regulations Policy

## **7.0 DISTRIBUTION**

This Policy will be available for all the Council's designated locations. Copies will also be available from the 'I' drive and on the Council's Internet and Intranet web sites.

## **8.0 REVIEW**

This Policy will be reviewed on an annual basis with the next review date being 2011.

# Appendix A



## The Code of Recommended Practice for Local Authorities on Data Transparency



# The Code of Recommended Practice for Local Authorities on Data Transparency

September 2011  
Department for Communities and Local Government

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# The Code of Recommended Practice for Local Authorities on Data Transparency

## Introduction and application

1. This Code is issued by the Secretary of State for Communities and Local Government in exercise of his powers under section 2 of the Local Government, Planning and Land Act 1980 to issue a Code of Recommended Practice (The Code) as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related.
2. The Code sets out key principles for local authorities in creating greater transparency through the publication of public data. The Code does not replace or supersede the existing legal framework for access to public sector information provided by the Freedom of Information Act 2000, Environmental Information Regulations 2004, the Re-use of Public Sector Information Regulations 2005 and INSPIRE Regulations 2009. Following this Code should help local authorities to meet these obligations to achieve the routine publication of more data to enhance accountability to the public.
3. The Code applies in England only.

## Definitions

4. In this Code:
  - 'the Act' means the Local Government, Planning and Land Act 1980;
  - 'local authority' means:
    - a county council
    - a district council
    - a parish council which has gross annual income or expenditure (whichever is the higher) of at least £200,000
    - a London borough council
    - the Common Council of the City of London in its capacity as a local authority or police authority
    - the Council of the Isles of Scilly
    - a National Park authority for a National Park in England
    - the Broads Authority

- the Greater London Authority so far as it exercises its functions through the Mayor
- the London Fire and Emergency Planning Authority
- Transport for London
- the London Development Agency
- a fire and rescue authority (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, and a metropolitan county fire and rescue authority)
- a police authority, meaning:
  - (a) a police authority established under section 3 of the Police Act 1996
  - (b) the Metropolitan Police Authority
- a joint authority established by Part IV of the Local Government Act 1985 (fire and rescue services and transport)
- joint waste authorities, i.e. an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007
- an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009
- a combined authority established under section 103 of that Act
- waste disposal authorities, i.e. an authority established under section 10 of the Local Government Act 1985
- an Integrated Transport Authority for an integrated transport area in England

## **Scope**

5. Greater transparency of public bodies is at the heart of enabling the public to hold politicians and public bodies to account. Where public money is involved there is a fundamental public interest in being able to see how it is being spent, to demonstrate how value for money has been achieved or to highlight inefficiency. Publication of data should also be used to open new markets for local business, the voluntary and community sectors and social enterprises to run services or manage public assets.
6. 'Public data' therefore means the objective, factual data, on which policy decisions are based and on which public services are assessed, or which is collected or generated in the course of public service delivery. This should be the basis for publication of information on the discharge of local authority functions. Public data

will generally not include personal information. Public data can only include personal information if disclosure would not contravene the Data Protection Act, and disclosure of personal information should be necessary to meet a legitimate public interest.

## **Principles**

7. The following principles should underpin local authority decisions on the release of public data. Local authorities should respond to best practice as it develops. This requires a proactive approach to review and pursue higher standards.

### **DEMAND-LED**

8. There are growing expectations that new technologies and publication of data should support transparency and accountability. Local authorities should not pre-determine the value of their public data and the level of public demand; rather they should understand what they hold, what their communities want and then release it in a way that allows the public, developers or the media to use it. This may involve users combining it with data from other sources to create new information.
9. The Freedom of Information Act 2000 requires local authorities to operate a publication scheme approved by the Information Commissioner's Office that sets out information that must be routinely published. Local authorities must comply with these requirements.
10. Local authorities should build and maintain an inventory of the public data that they hold so that people are able to know what is available to them. If public data would be released under Freedom of Information it should be included in the inventory. As this inventory is highlighted to the widest possible audience demand should grow and local authorities should expect to publish more.
11. These inventories should be registered on [data.gov.uk](http://data.gov.uk) to support a single point of access for all public data from national and local government.
12. As a minimum, the public data that should be released are:
  - Expenditure over £500, (including costs, supplier and transaction information). Any sole trader or body acting in a business capacity in receipt of payments of at least £500 of public money should expect such payments to be transparent.
  - Senior employee salaries, names (with the option for individuals to refuse to consent for their name to be published), job descriptions, responsibilities, budgets and numbers of staff. 'Senior employee salaries' is defined as all salaries which are above £58,200 and above (irrespective of post), which is the Senior Civil Service minimum pay band. Budgets should include the overall salary cost of staff reporting to each senior employee.
  - An organisational chart of the staff structure of the local authority including salary bands and details of currently vacant posts.

- The 'pay multiple' – the ratio between the highest paid salary and the median average salary of the whole of the authority's workforce.
- Councillor allowances and expenses.
- Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector.
- Grants to the voluntary community and social enterprise sector should be clearly itemised and listed.
- Policies, performance, external audits and key inspections and key indicators on the authorities' fiscal and financial position.
- The location of public land and building assets and key attribute information that is normally recorded on asset registers and
- Data of democratic running of the local authority including the constitution, election results, committee minutes, decision - making processes and records of decisions.

#### **OPEN**

13. Provision of public data should become integral to local authority engagement with residents so that it drives accountability to them. Its availability should be promoted and publicised so that residents know how to access it and how it can be used. Presentation should be helpful and accessible to residents and other interested persons.
14. Public data should be published in a format and under a licence that allows open re-use, including for commercial and research activities, in order to maximise value to the public. The Open Government Licence published by The National Archive should be used as the recommended standard. Where any copyright concerns exist with public data these should be made clear.
15. Publication should be in open and machine-readable formats. The recommended 5 step journey to a fully open format is:
  - \* Available on the web (whatever format) but with an open license
  - \*\* As for one star plus available as machine-readable structured data (e.g. Excel instead of image scan of a table)
  - \*\*\* As for two star plus use a non-proprietary format (e.g. CSV and XML)
  - \*\*\*\* All the above plus use open standards from the World Wide Web Consortium (such as RDF and SPARQL21) and
  - \*\*\*\*\* All the above plus link your data to other people's data to provide context
16. Local authorities should use a risk management approach with strong internal control arrangements to reduce the risk of any payment fraud as a result of publishing public data. Local authorities should refer to the Chartered Institute of

**TIMELY**

17. The timeliness of making public data available is often of vital importance. It should be made published as soon as possible following production even if it is not accompanied with detailed analysis. Where practical, local authorities should seek to publish in real time.
18. Public data should be as accurate as possible at first publication. While errors may occur, the publication of information should not be unduly delayed to rectify mistakes. Instead, publication should be used to help address any imperfections and deficiencies. This concerns errors in data accuracy not errors in redacting personal data, which is covered below. The best way to achieve this is by having robust information management processes in place.
19. Where errors in public data are discovered, or files are changed for other reasons (such as omissions), local authorities should publish revised information making it clear where and how there has been an amendment. Meta data on data.gov.uk should be amended accordingly.

**Exclusions and exemptions**

20. Local authorities must comply with the law on data protection, and so must not release data if that would contravene the Data Protection Act 1998 or sections 100A, 100B or 100F LGA 1972. Where information would fall within one of the exemptions from disclosure under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, INSPIRE Regulations 2009 or falls within Schedule 12A LGA 1972 then it is in the discretion of the local authority whether or not to rely on that exemption or publish the data. However, the Government believes that local transparency can be implemented in a way that complies with the Data Protection Act.

**SIGNED: Shehla Husain, a Senior Civil Servant in the Department for Communities and Local Government**

**Department for Communities and Local Government  
28 September 2011**