



To: Finance & Resources Policy Board

On: 13 May 2015

Report by: Director of Finance & Resources

Heading: Freedom of Information and Environmental Information Policy

1. Summary

- 1.1 The Freedom of Information (Scotland) Act 2002 ("the 2002 Act") provides the public with a right of access to most information held by public authorities. The 2002 Act first came into force on 1 January 2005. In response to this, the General Management Policy Board first introduced a Freedom of Information ("FOI") Policy in August 2004.
- 1.2 The revised Policy, attached as Appendix 1, has been updated to include more detail on the application of the Environmental Information (Scotland) Regulations 2004 ("EIRs") and to clearly reflect the current arrangements for information governance, including FOI compliance, within the Council.
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2. Recommendations

- 2.1 That the Board approve the revised FOI Policy, which forms Appendix 1 to this Report and agree that this is reviewed on a two yearly basis by the Freedom of Information Working Group. (chaired by the Records Manager).

3. Background

- 3.1 The 2002 Act provides anyone, anywhere, with a right of access to information held by the Council unless this is exempt. FOI requests must be responded to within twenty working days.

- 3.2 The Council is committed to FOI compliance and first approved a Policy in 2004. The purpose of the Policy is to outline roles and responsibilities for FOI compliance. In the same way as data protection compliance, the Director of Finance and Resources is the Senior Information Risk Owner (SIRO) for the Council. Finance and Resources, in particular, the Information Governance Team, therefore take the overall lead in FOI and wider Information Governance matters. However, each Service and its senior management are obliged to retain a responsibility for FOI compliance. Given this devolved responsibility, each Service has a nominated FOI officer or officers. Service FOI officers are members of the Council's FOI Working Group, which meets quarterly. The role of the Service FOI officer is to ensure compliance within their Service, albeit advice can be obtained from the Information Governance team, at any time.
- 3.3 The EIRs provide a right of access to environmental information. This means that requests for such information should be handled under the EIRs, rather than the 2002 Act. Should an applicant lodge an appeal with the Scottish Information Commissioner, an assessment of whether the request should have been treated as an FOI or EIR request forms a routine part of the Commissioner's investigation. Whilst there are already procedures in place to ensure that requests under the EIRs can be identified by Council staff on receipt, the Policy has been updated to include more explicit reference to the EIRs. Although the revisions are minor, those will help raise the profile of the EIRs within the Council.

Implications of the Report

1. **Financial** – none.
2. **HR & Organisational Development** – – none.
3. **Community Planning** – none.
4. **Legal** – the revised Policy will ensure the Council continues to comply with the legislative requirements of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.
5. **Property/Assets** – none.
6. **Information Technology** – – none.

7. **Equality & Human Rights** -The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations will be reviewed and monitored, and the results of that assessment will be published on the Council's website.
8. **Health & Safety** – none.
9. **Procurement** – none.
10. **Risk** – none.
11. **Privacy Impact** – none.

List of Background Papers

N/A

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Appendix 1 – Freedom of Information and Environmental Information Policy



Renfrewshire Council

Freedom of Information
and Environmental Information Policy

May 2015

Document Control

Change Record

Version	Date	Author	Reason for Issue/ Change
1	August 2004	Allison Black	
2	2006	Allison Black	Review of Operation of Policy by CMT
3	November 2011	Allison Black	Officer Review to ensure still fit for purpose.
4	May 2015	Allison Black	Review

Document Review and Approval

Name	Action	Date	Communication
Heather Semple, Solicitor (Information Governance)	Consulted	February 2015	
Joseph Bartoletti, Records Manager	Consulted	February 2015	
Freedom of Information Working Group	Consulted	April 2015	
Information Management Governance Group	Consulted	April 2015	

Related Documents

Ref	Document Name/ Version	Document Location
1.	Data Protection Policy	
2.	Records Management Policy	
3.	Guidance on Responsible Use of Personal Data and Confidential Information	
4.	Data Protection Guidelines	
5.	Information Management Policy	

Title	Freedom of Information and Environmental Information Policy
Author	Allison Black
Issue Date	May 2015
Subject	Freedom of Information and Environmental Information
Description	Renfrewshire Council's policy on freedom of information and environmental information to ensure compliance with the Freedom of Information (Scotland) Act 2002 and Environmental Information (Scotland) Regulations 2004.
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Source	Freedom of Information Policy
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Category	Freedom of Information/ Information Governance
Identifier	
Right	Not protectively marked

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Freedom of Information and Environmental Information Policy

1 Introduction

- 1.1 Renfrewshire Council is obliged to respond to requests from the public for the information it holds.
- 1.2 The Freedom of Information (Scotland) Act 2002 (or "FOISA") came into force on 1 January 2005. Under FOISA, a person who requests information from a Scottish public authority, is entitled to be given access to this. This right is subject to certain exemptions, which are set out in FOISA.
- 1.3 The Environmental Information (Scotland) Regulations 2004 (also referred to as 'the EIRs') also came into force on 1 January 2005. Every Scottish public authority has a duty to make environmental information available on request. No types of information are excluded from the potential scope of environmental information. Court cases have confirmed that environmental information should be interpreted broadly. This includes the state of the elements of the environment, such as air and atmosphere, water, soil, land etc., as well as factors, such as substances, energy, noise, radiation or waste.
- 1.4 Anyone, anywhere, can request information. They need not say why they want it, and the Council has 20 working days in which to issue a full response. There are a range of limited exemptions, such as for personal data or material which is held in confidence, but these are narrowly defined, and the presumption will always be in favour of openness.
- 1.5 The Council has developed a Publication Scheme. This is a statutory obligation under FOISA, but it is intended that it will both be of use to the public in locating and accessing information, and to the Council in reducing the number of FOI enquiries. The Scheme was approved by the General Management Policy Board on 11th February 2004 and approved by the Scottish Information Commissioner on 13th April 2004. The Council's Publication Scheme was most recently updated in 2014, following approval from the Scottish Information Commissioner in 2013.
- 1.6 This Policy defines the responsibilities for continued compliance with the Council's obligations under FOISA and the EIRs.

2 Scope

- 2.1 This policy applies to all Services, employees and Elected Members of Renfrewshire Council and its Joint Committees and covers all information held. It may, however, be read alongside other Council policies and guidelines on use of data and wider information governance issues.

- 2.2 Elected Members are not covered by FOI as they are not public authorities under FOISA so this means that they do not need to respond to FOI requests which they receive. However, members of the public may not always appreciate the distinction between the Council and its Councillors, so if an Elected Member receives a request for information which the Council holds, this should be passed to the Records Manager immediately.
- 2.3 Information which is held by the Council purely on behalf of Elected Members, e.g. information stored on the Council IT system, is not covered and so, need not be supplied on request. However, information which is passed to the Council by an Elected Member and so is held by the Council will be covered by the legislation. This means that information held by Elected Members alone, or by the Council on behalf of Elected Members, does not need to be supplied in response to a request, but if the information is also held by the Council, for Council purposes, a request can be made to the Council for that information.

3 Responsibility

3.1 Corporate Responsibility

The Council has a corporate responsibility for FOISA and EIR compliance and is a designated “Public Authority” under FOISA.

3.2 Corporate Management Team and SIRO

The Director of Finance and Resources is the Senior Information Risk Owner (“SIRO”) for the Council. Both the Cabinet Office and the Scottish Government advocate having a SIRO, who is responsible for information risk, at CMT level, as good practice. The SIRO is supported in this role by the Head of Corporate Governance and the Managing Solicitor (Information Governance), who report to the Director of Finance and Resources, as SIRO, on information governance issues, including FOI and EIRs, on at least a monthly basis, and more regularly, as necessary. The SIRO will report to the CMT on a six-monthly basis.

3.3 SMTs

- 3.3.1 Each Service and its senior management will retain a departmental responsibility for ensuring compliance with the provisions of FOISA and the EIRs.
- 3.3.2 All Services are required to nominate a departmental FOI officer or officers and to deal with Service specific FOI and EIR requests.
- 3.3.3 The main role of the Service FOI officer is to ensure compliance within his/her Service, by dealing with Service specific FOI and EIR requests, passing on advice and training and maintaining the accuracy of the Service’s input into

the Council's Publication Scheme. The Records Manager will maintain an up to date list of Service freedom of information officers.

3.4. Employees

- 3.4.1 All employees and Elected Members are individually responsible for ensuring that they familiarise themselves and comply with Council FOI and EIR guidance. Advice can be obtained at any time from Information Governance team.
- 3.4.2 The Head of Corporate Governance, in order to support the SIRO, has overall responsibility for Information Governance. However, the day to day responsibility for driving the Council's Information Governance agenda is delegated to the Managing Solicitor (Information Governance).
- 3.4.3 The Records Manager, based within the Information Governance Team, has a co-ordinating role and processes any cross departmental FOI and EIR requests. Although requests relating to only one Service are the responsibility of that Service, subject to any guidance from the Records Manager and the Information Governance Solicitors, the Records Manager will have corporate oversight of all FOI and EIR requests.
- 3.4.5 The Information Governance team offer ad hoc advice on FOI and EIR issues.

3.5 Governance Groups and Working Groups

- 3.5.1 Each Service FOI officer is a member of the FOI Working Group ("FOIWG"), which meets quarterly and is chaired by the Records Manager. The members of the FOIWG each have responsibility for dealing with FOI and EIR issues within their department and disseminating training and good data protection practice throughout their department. The members of the group will each have the responsibility for:
 - dealing with enquiries which relate to their department
 - disseminating training and good information practice throughout their department
 - updating and maintaining departmental input into the publication scheme.
- 3.5.2 The FOIWG operates as a sub group of the Information Management Governance Group ("IMGG"), which is jointly chaired by the Information and Application Services Manager and Managing Solicitor (Information Governance). The Records Manager is also a member of the IMGG. The IMGG consists of key officers with information management and information governance expertise. Although the remit of IMGG extends to wider information management and information governance issues, the Managing Solicitor (Information Governance), as co-chair, on behalf of the Head of Corporate Governance, has the opportunity to manage and direct the agenda of IMGG to promote and progress the Council's Information Governance agenda, including FOI compliance. The Records Manager provides regular updates to the IMGG on the work of the FOIWG.

3.6 Publication Scheme

The Council's Publication Scheme has been approved by the Information Commissioner. The Freedom of Information Working Group will continue to maintain and review the Publication Scheme, as appropriate.

3.7 Training, guidance & advice

The Records Manager is responsible for developing and updating detailed procedures and guidance on how FOI and EIR enquiries are to be handled.

These cover

- identifying an enquiry
- using the publication scheme
- identifying information
- considering exemptions
- offering help and assistance
- calculating fees.

The Information Governance team are responsible for overseeing the Council's Information Governance/ Data Protection Learning and Development Strategy. The purpose of this strategy is to ensure that the learning and development needs of individual groups in relation to data protection and wider information governance are adequately addressed. The strategy identifies the training needs of Elected Members, Directors and Heads of Service, 3rd and 4th tier managers, employees who have specific requirements and those who require only a general awareness.

3.8 Requirement for Internal Review/ Appeal to the Scottish Information Commissioner

Any applicant dissatisfied with the response to their enquiry can submit a requirement for Review. This must be responded to within 20 working days. Internal Reviews are conducted by the Managing Solicitor (Information Governance), whom failing, the Head of Corporate Governance or the Legal and Democratic Services Manager. If the applicant is still not satisfied, he/she has a right of appeal to the Scottish Information Commissioner.

4 Audit

Freedom of Information procedures are subject to routine internal and external audit and recommendations implemented accordingly.

5 Review

To ensure compliance with FOISA and the EIRs, this policy will be reviewed by the Freedom of Information Working Group (chaired by the Records

Manager) at least two-yearly. However, more regular updates will be made as necessary to maintain the accuracy and currency of this policy in line with any legislative changes, significant cases, guidance from the Scottish Information Commissioner, or other lessons learned, which inform best practice.