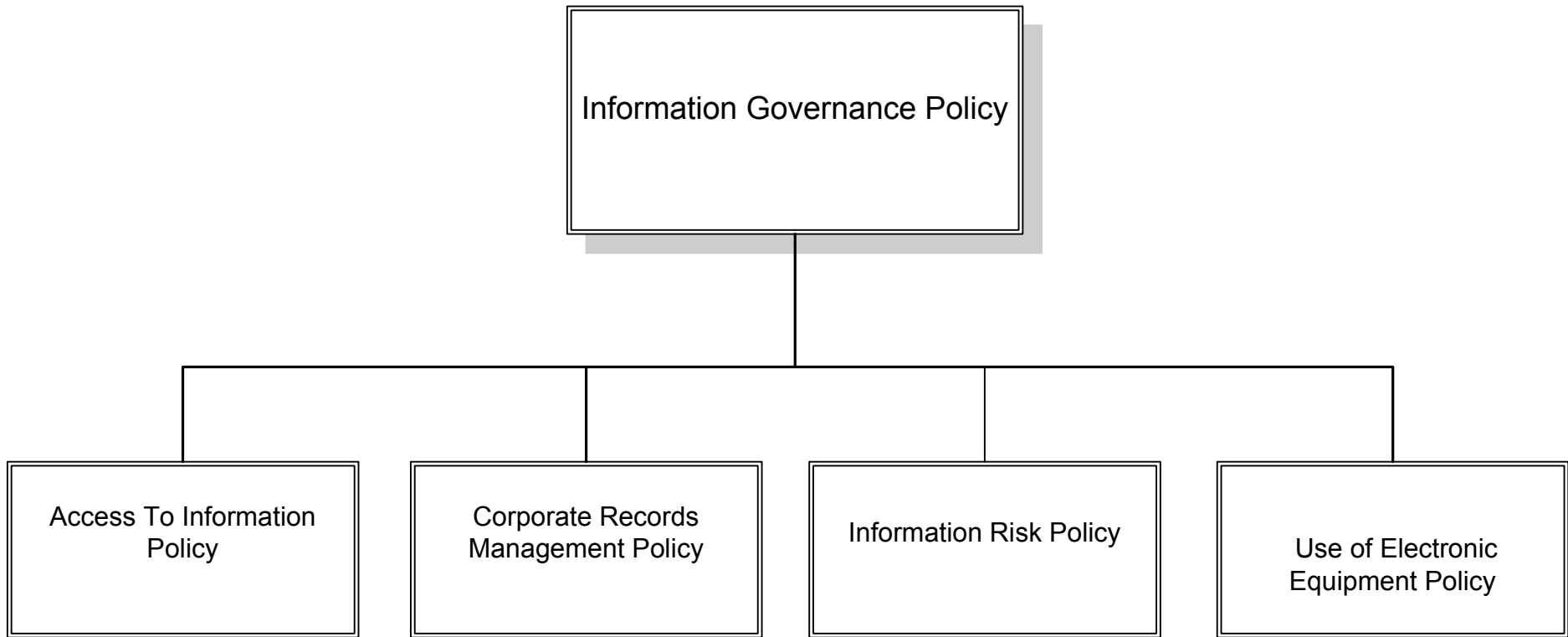




Wakefield Council

Access to Information Policy

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The Information Governance Policy is the Overarching Policy. The other Information Policies shown in this diagram should be read in conjunction with the Information Governance Policy.

Diagram A

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1. Policy Statement

Wakefield Council is committed to promoting and actively developing, a culture of openness, transparency and accountability embodied in the Access to Information legislation. This refers to the general right of access that the public have to the information held by Wakefield Council and other public authorities. This right of access comes from:

- The Data Protection Act 1998 (DPA)
- The Environmental Information Regulations 2004 (EIR)
- The Freedom of Information Act 2000 (FOIA)

This policy establishes a framework, which underlines this commitment and underpins the Council's detailed guidance and procedures in the areas of Access to Information.

2. Purpose

This policy and the procedures which implement it will ensure that Wakefield Council conforms to the Access to Information legislation and associated codes of practice, the key requirements of which are that:

- The lawful and correct treatment of personal information recognising the need to maintain confidence between the Council and those with whom it deals.
- Information which is routinely published by Wakefield Council is made available in accordance with Wakefield Council's Publication Scheme.
- Information which is not covered by the publication scheme is made available to enquirers on request, within the statutory time limit, unless a valid exemption/exception applies.
- Exemptions/exceptions under the FOIA, DPA and EIR are applied consistently and appropriately, and in accordance with the legislation.
- A fair and efficient internal appeal system is administered.

2.1 The Access to Information Policy should be read in conjunction with the Information Governance Policy.

3. Responsibilities

3.1 Wakefield Council has a corporate responsibility to ensure that it conforms to and implements the Access to Information legislation. Wakefield Council is accountable to the Information Commissioner for its compliance with the FOIA, DPA and EIR legislation.

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3.2 The Service Director – Legal and Governance has responsibility for this policy in and strategic responsibility within Wakefield Council for FOIA, EIR, DPA and Records Management.

The Service Director – Legal and Governance is responsible for ensuring that the Information Compliance Team has adequate resources.

3.3 Information Officers within the Information Compliance Services team are responsible for the effective day-to-day management of compliance with the legislation, this includes:

- the development of policy, procedures, guidance and standards of good practice;
- their dissemination to staff;
- the maintenance and periodic review of the publication scheme;
- the management of the information request processes within statutory timescales;
- the disclosure of requested information and the application of exemptions/exceptions that prevent disclosure;
- the provision of advice and assistance on FOIA, EIR and DPA issues;
- the promotion of good records management practices

3.4 Service Directors are required to nominate a member of staff within their service to act a point of contact for Information Officers regarding access to information requests; the point of contact will be responsible for the coordination, gathering and the forwarding of information to Information Officers for appraisal.

Service Directors are responsible for conforming to Wakefield Council's procedures, guidance and standards of good practice in the areas of FOIA, EIR, DPA and Records Management.

3.5 All staff must handle information and requests for information in a way that complies with this policy and Wakefield Council's related procedures, guidance and standards of good practice. Staff should note that the deliberate concealment, amendment or destruction of information which has been the subject of a request, in order to prevent its disclosure, is a criminal offence under the legislation for which individual staff as well as Wakefield Council can be held liable.

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4. Overview

4.1 Transparency

Wakefield Council believes that transparency is a key condition and driver for the delivery of our services. As a publicly funded organisation, we have a duty to be transparent in our business operations and outcomes in order to deliver value for money.

In line with the coalition government's transparency agenda we will publish on the Council website data on which policy decisions are based and on which Council services are assessed. We will also include data which is collected or generated in the course of public service delivery. It is believed that where public money is involved there is a public interest in being able to see how it is being spent as set out in the draft Code of Recommended Practice for Local Government data transparency published February 2011.

4.2 The Publication Scheme

The Freedom of Information Act 2000 requires public bodies to be proactive in the release of official information. As a result, Wakefield Council has produced an internet based publication scheme, giving details of what information it already makes available or intends to publish as a matter of course.

The Publication Scheme is divided into the following classes of information

1. Who we are and what we do
2. What we spend and how we spend it
3. What are our priorities and how are we doing?
4. How we make decisions
5. Our policies and procedures
6. Lists and Registers
7. The services we offer
8. Planning

Publication of information via the scheme incurs a number of benefits, such as a reduction in the amount of information that can be subject to requests. To secure these benefits, and in the interests of openness, accountability and business efficiency, Wakefield Council affirms its commitment to the routine publication of as much non-sensitive information about our policies, procedures and activities as possible.

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4.3 Requests for information

Information which is not covered by Wakefield Council's publication scheme or is made routinely available can be requested by any individual, including corporate or public bodies under the FOIA and EIR. The legislation provides the public with the right to be informed whether the information is held by Wakefield Council, and if so, to have the information communicated to them unless an exemption/exception or limit applies. There is a maximum of 20 working days under the legislation to provide the response or notify of a refusal, the deadline can be extended, but only in certain circumstances. A subject's personal information can be requested under the DPA and the Council has a maximum of 40 calendar days in which to process a request unless an exemption applies.

Wakefield Council is committed to processing requests for information in accordance with the requirements of the legislation. Wakefield Council will ensure that requests are processed in accordance with the Code of Practice issued by the Secretary of State at the Ministry of Justice under section 45 of the Freedom of Information Act. Similarly, requests under the Environmental Information Regulations will be handled according to the Code of Practice issued by the Department for Environment, Food and Rural Affairs. Procedures and systems for dealing with information requests have been developed to promote conformity to these codes and the legislation, and will be coupled with appropriate training for staff handling requests. Personal information requests will be processed under the DPA according to the 8 Data Protection Principles.

4.4 Charges

Apart from Data Subject Access requests where the Council charges a £10 fee, Wakefield Council will not normally charge for requests for information, unless the charge is set out in our publication scheme. However, the Council may charge for the cost of media/transit, photocopying etc where these are exceptionally high (in excess of £15).

Whilst the Council does not normally charge for information requests, it still need to be able to calculate how much a request would 'cost' even though the Council may not be making a charge. The FOIA imposes a statutory limit on the amount that can be spent on locating and extracting the information required to answer a request. This limit is currently set at £450, which the legislation equates to 18 hours of staff time. When estimating the cost of complying with a request for information, the Council can take into account the staff time reasonably incurred, when involved in the following activities:

- determining whether the Council holds the information,

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- locating the information or a document which may contain the information,
- retrieving the information, or a document that may contain the information, and
- extracting the information from a document containing it

The following actions will be taken once the estimated cost has been determined:

If the request is estimated to take less than £450 (less than 18hrs), the Council will respond to request.

If the request is estimated to take in excess of £450 (more than 18hrs); The Council will refuse to answer the request.

In the case of refusal due to the above The Council will provide the applicant with reasonable advice and assistance in an attempt to refine or narrow down the request.

EIR – All requests below £450 (based on 18 hours at £25 per hour) are provided free of charge (although the Council will charge any disbursement costs for communicating the information which are over and above £15).

For requests above the appropriate limits (£450), the Council may charge for them, but only after the Applicant has been offered advice and assistance to make the request smaller so that it may be processed free of charge.

4.5 Exemptions/exceptions

Although Wakefield Council upholds the principle that information should be accessible wherever possible; there are times when it has to withhold information to protect The Council's legitimate interests and those of other organisations and individuals. Wakefield Council will only refuse to disclose information in response to a request if a valid exemption/exception applies under the FOIA, DPA or the EIR. Wakefield Council will apply exemptions/exceptions in a way which takes into account the guidance issued by the Information Commissioner, the Ministry of Justice, Defra and advice issued by Information Compliance Services.

Where information is withheld, applicants will be informed of the relevant exemption/exception and why the Council believe it applies, including if necessary our consideration of the public interest test. Applicants will be provided with details of our appeal procedures.

Information Officers must be consulted in all cases where a Service

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believes that the release of the requested information is felt to be inappropriate. Information Officers will appraise the information against the available exemption/exceptions in order to decide whether or not an exemption/exception to disclosure applies.

4.6 Appeal procedures

The Council has a statutory duty to provide an appeal process called an internal review against our initial responses to requests for information. The review will normally be conducted by someone senior to the person who took the original decision in accordance with the Code of Practice issued by the Secretary of State at the Ministry of Justice under section 45 of the Freedom of Information Act.

This procedure will be followed if an applicant expresses dissatisfaction, whether justified or not about the way their request was handled and about the information supplied or not supplied.

Applicants can complain to the Information Commissioner if they remain dissatisfied after going through our internal review procedure. If the Information Commissioner decides to investigate, he can ask to see all the requested information and our case handling file in order to review the case. The Information Commissioner can overturn our refusal of a request.

4.7 Contractors, suppliers etc

The Access to Information legislation covers all information held by Wakefield Council, including information provided to us by outside organisations such as contractors, tenderers, suppliers, other public or regulatory bodies. It is not compulsory that the Council consults with suppliers of information. However, there may be occasions when the Council feels it is necessary, for example due to the type of information requested, the relationship the Council has with a supplier or any previous notification that information may be confidential.

4.8 Re-Use of Information

The Re-Use of Public Sector Information Regulations 2005 (RPSI) provide any person or organisation the right to request the re-use of information held by a Public Authority e.g. copy it and sell it on. This should not be confused with the Freedom of Information Act 2000 or Environmental Information Regulations 2004, which only provide public access to information and not the right for it to be re-used.

Re-use means using a document for a different purpose to that which it was originally produced; as a Local Authority Wakefield Council produces documents for legal and or administration reasons, a typical example of re-use is selling a Council document so that it can be used

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for commercial purposes.

The aim of the Regulations, which implement a directive of the European Parliament, is to remove obstacles that stand in the way of re-using public sector information. In doing so it is intended to stimulate the development of value added products and services and help to boost the information industry. The main themes of the Regulations are improving transparency, fairness and consistency.

Permission for information that has been requested under the RPSI will be granted, within 20 working days, although this time frame may be extended if the request is complex. A request for re-use can be refused if:

- The activity of supplying the document is one which falls outside the Council's public task
- The document contains content in which copy rights are owned by a third party
- The content of the document is exempt from access by virtue of the FOIA

In most cases copyright will be owned by Wakefield Council and the Council may impose conditions on re-use by way of a licence, although it will not unnecessarily restrict re-use or restrict competition.

Wakefield Council may charge for re-use. However, the regulations provide that where charges are made, the total income should not exceed the cost of collection, production, reproduction and dissemination of documents and a reasonable return on investment.

Under the Government's Transparency agenda, the draft Code of Recommended Practice for Local Government data transparency published February 2011 states that "Information must be published in a format and under a licence that allows open re-use, including commercial and research activities, in order to maximise value to the public. The Open Government Licence published by the National Archive is the recommended standard. Where any copyright concerns exist with information, these should be made clear".

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5 Help and Assistance

5.1 Help and assistance can be found on the Managers Portal on the intranet.

Further Help can be obtained by contacting:

Information Compliance Services
Room 45
Town hall
Wakefield
WF1 2HQ
Tel: 305288
Email: freedomofinformation@wakefield.gov.uk

5.2 Further information and guidance (see A-Z intranet pages):

- Access to Information
- Information Governance
- Local Government, Land and Planning Act 1980 – section 2

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