

THE FREEDOM OF INFORMATION ACT 2000

GUIDANCE ON HANDLING REQUESTS

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SECTION 1

INTRODUCTION - THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act 2000 is intended to promote a culture of openness and accountability amongst public authorities by providing people with rights of access to the information held by them. It is expected that these rights will facilitate a better understanding of how public authorities carry out their duties, how they make decisions and how they spend money.

Anyone has the right to ask the authority for information that it holds, including people living abroad, non UK-citizens, journalists, political parties, lobby groups and commercial organisations.

The main features of the Act are:

- A general right of access to recorded information held by public authorities, subject to certain conditions and exemptions.
- A duty on every public authority to adopt and maintain a Publication Scheme, approved by the Information Commissioner, which relates to the publication of information by the Authority, to publish information in accordance with the scheme and to review it.
- A duty to provide advice and assistance to all applicants or would be applicants making requests.
- The Office of Information Commissioner has wide powers to enforce the rights created by the Act and to promote good practice, including an Information Tribunal.

NON COMPLIANCE WITH THE ACT

The Information Commissioner is responsible for enforcing legislation covering the Freedom of Information Act, The Data Protection Act and the Environmental Information Regulations. Failure by a public authority to provide the information or to comply with the requirements of the Act will empower the Information Commissioner to:

- Require the public authority to submit all documents relating to a disputed request to him for consideration before overriding or upholding a decision.
- Use the power of entry and inspection if the public authority refuses or fails to submit requested documents.
- Enforce a decision on the public authority through the Courts, although we do have the right to appeal.
- Apply the power of 'Contempt of Court' for failing to comply with the Act.

SECTION 2

REQUEST HANDLING PROCEDURE - FREEDOM OF INFORMATION ACT.

The following guidance needs to be read alongside the flow charts incorporated within this guidance document which are designed to assist the Request Handling Procedure. Officers from Information Compliance Services, Room 45, Town Hall, Wakefield will answer any questions you may have arising from the guidance or the Freedom of Information Act 2000 in general. Please contact John Ryan 01924 305948 or Galina Smithson 01924 306112.

This guidance manual, flow charts, forms and other related guidance is available at:

<http://webintranet2/LocalDemocracy/AccessInformation/FreedomOfInformation/FOI/GuidanceAndProcedures/default.htm>

An individual or company making a request does not have to be the subject of that information, or be affected by its holding or use. The media for example are likely to use the legislation widely to obtain information for use in publication or broadcasting. If an individual is the subject of that information then the principles of the Data Protection Act apply.

Requests for information made under the Freedom of Information Act must be in writing, which includes electronic communications such as email and fax. Requests must be dealt with promptly, and within a 20 working day limit.

REQUEST HANDLING PROCEDURE - ALL STAFF

Staff will continue to receive requests for information from members of the public and external organisations. Most will be taken verbally and are often routine requests for information related to a particular activity or service. Most of the routine information provided by the council is in the form of leaflets, brochures, advice notes or reports.

Details of where the information is held, how it can be obtained, which officer is responsible for dealing with it and whether there is a cost involved can be found in the Council's Publication Scheme. The Publication Scheme is the Council's Internet Site and to facilitate use, information can be found listed on the A-Z index.

All local authorities are required to have a publication scheme and make it public. The scheme lists all the information the authority currently makes available to or intends to make available to the public. It identifies where the information is held, what format it is in and what cost there might be if any in providing the information.

<http://webintranet2/LocalDemocracy/AccessInformation/PublicationScheme/default.htm>

These requests for information can and should be dealt with immediately or contact names and numbers should be provided to the applicant if the information is not at that particular contact point.

Staff dealing with requests made in person or over the telephone where reference is specifically made to the Freedom of Information Act should ask that the applicant makes the request for information in **writing** to the Corporate Team in Information Compliance Services, Democratic Services. Applicants should also be encouraged to use The Freedom of Information Application form which is available on the Council Intranet / Internet Site.

NB: Request under Environmental Information Regulations do not have to be in writing.

REQUEST HANDLING PROCEDURE - ALL MANAGERS

The right of access to information applies to any person. This could be an individual or a legal entity such as a company. The person does not have to be a resident, a local elector or a UK citizen.

The Freedom of Information Act applies to any written request for information made to the authority. The applicant does not have to specify that the request is being made under the Freedom of Information Act or give a reason for the request.

A request can be in electronic form (e mail) but it must contain the name of the applicant, an address for correspondence and a description of the information requested.

The authority is required to respond to a request and provide the information **within 20 working days.**

In limited circumstances where a qualified exemption applies and the authority is unable make a decision on the balance of public interest, this time limit can be extended by a reasonable period. In these limited circumstances, the Corporate Team must let the applicant know within the **20 working day** period that a qualified exemption may apply, that it is considering the public interest test and give an estimate of when it will make a decision.

Request Received by Front Line Staff (Secretaries, Receptionists, Post Room Staff, Telephonists, Call Centre Staff etc.

A1/A2 Receive request for information

Verbal requests for information should be dealt with immediately. These requests will often be routine enquiries for information relating to a particular service or activity. Written requests received by staff should be passed on to their Service Manager.

A3 Is the information already available or held in the Publication Scheme?

The applicant should receive the information immediately if it is routinely available or listed in the Council's Publication Scheme.

Where it is clear that the information requested can be provided because it is listed for public release through the Publication Scheme the Service Area Manager will provide details of how to access the information to the Applicant.

A4 Advise and Assist - Inform the Applicant where the information is held and how it can be obtained.

If necessary the Publication Scheme should be used to locate the information requested. As much assistance as possible should be offered to the applicant in identifying the location of the information and in making it available. If the Officer cannot make the information available the applicant should be informed of where the information is held, who by and how it can be accessed.

A5/A6 Is the request for Personal Information

Where it is clear the Applicant is requesting personal information about themselves the request should be forwarded to the Council's Corporate Data Protection Officer, Room 45, Town Hall, Wakefield.

A7/A8 Is the request a Normal Business Request

A Normal Business Request is an item of information that the Service Manager would routinely deal with in connection with the day to day running of the service. It is likely to be specific to an activity undertaken by the service and will be readily accessible.

In some cases Managers may feel that it is not a Normal Business Request, in such cases Managers should forward the request to the Council's Corporate FOI Team, Democratic and Information Services, Room 45, Town Hall, Wakefield. Telephone 01924 305288/306112).

A9 Deal with request as normal

The Service Area Manager will deal with the request as normal and in accordance with the good practice laid down by the council when dealing with routine enquiries and correspondence. Further guidance is available at:

<http://webintranet2/LocalDemocracy/Policies/CustomerCare/default.htm>

A10 Updating the Publication Scheme

Updating the Publication Scheme

It is important that the Publication Scheme is updated as often as possible. Where information is released that is not contained within the publication Scheme consideration needs to be given to its inclusion in the Scheme.

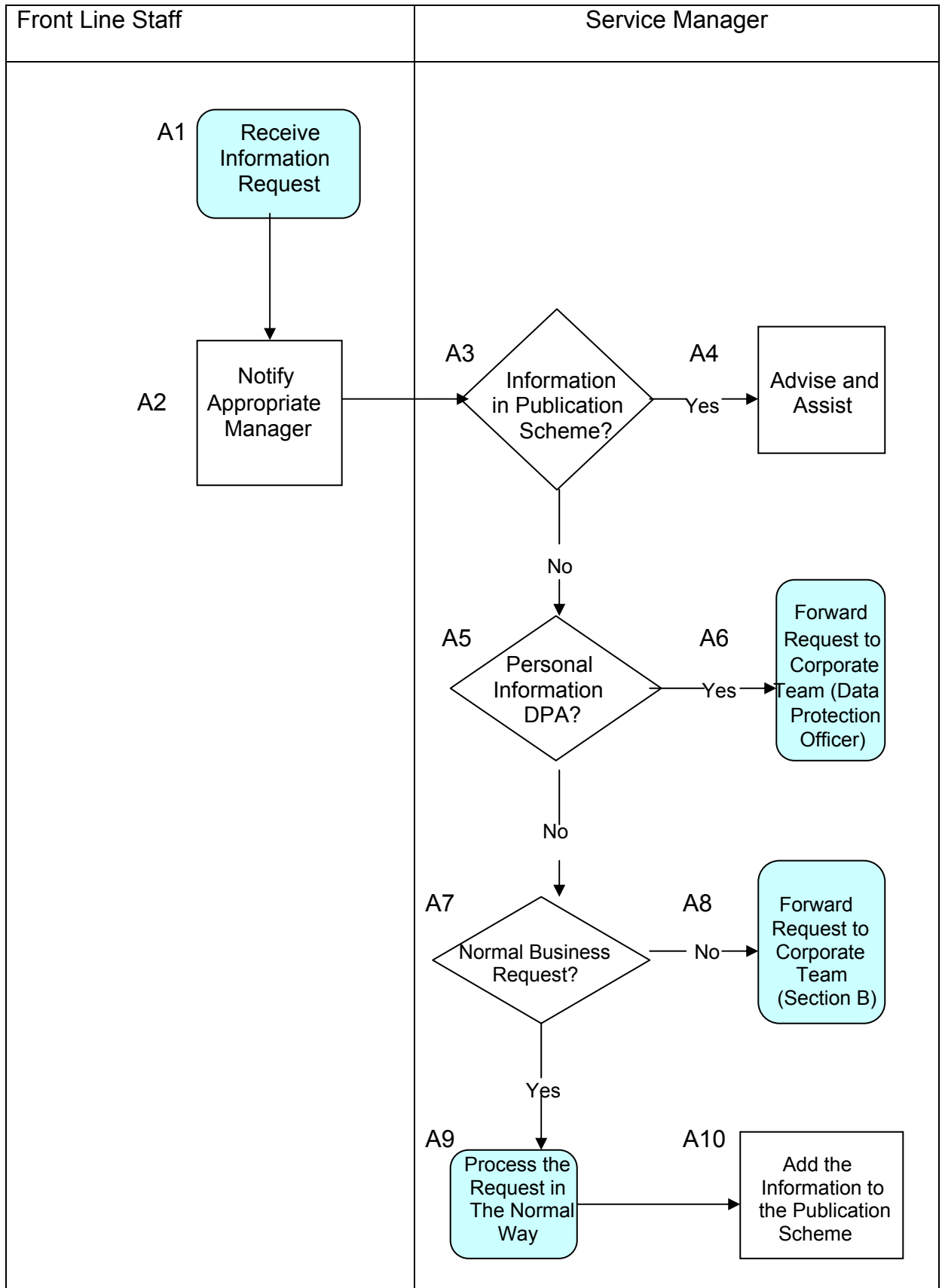
Standards for entering new information on to the Publication Scheme can be found on the link below.

<http://webintranet2/Resources/PartnershipsPerformance/CustomerService/CSTeam/CorporateWebTeam/Guidance/WebGuidelines/default.htm>

Where it is clear that the information requested can be provided because it is listed for public release through the Publication Scheme the Service Area Manager will proceed with the request.

When the information has been located it should be forwarded to the Applicant.

Request Received by Front Line Staff (Secretaries, Receptionists, Post Room Staff, Telephonists, Call Centre Staff etc.)



Requests Received by the Corporate Team

B1 Receive Information Request

Information requests may arrive directly by post, by email, forwarded on by Service Departments or Service Managers or staff members.

B2 Is it a Freedom of Information Request?

On receipt of a request for information it is necessary to establish under which information legislation the request should be processed i.e. Freedom of Information Act 2000, Data Protection Act 1998 or Environmental Information Regulations 2004

B3 B4 Is the request for personal information about the Applicant?

Where it is clear the Applicant is requesting personal information about themselves the request should be dealt with in accordance with the Council's Subject Access Procedures.

B5 B6 Is the request for environmental information?

NB: Requests for Environmental Information Regulations do not have to be in writing.

The Environmental Information Regulations 2004 operate alongside the Freedom of Information Act 2000 (FOIA) and both are intended to promote openness and accountability amongst public authorities. People are provided with rights of access to information held by public authorities and these rights are expected to facilitate a better understanding of how public authorities make decisions, carry out their duties and spend their budgets.

Under the above legislation anyone, whether from home or abroad, can request information the Council holds about the environment. This can include requests from journalists, lobby groups, political parties, commercial organisations and members of the public.

The Environmental Information Regulations (EIR) share many features with the Freedom of Information Act. These include:

- A general right of access to recorded information (including visual, aural etc) held by public authorities, subject to certain exceptions and conditions.
- Public authorities must reply promptly to requests and supply information within 20 working days unless an extension is applicable.
- A duty on public authorities to assist all Applicants in making a request.
- The Applicant does not have to say why they want the information or quote the legislation when making the request.

- The authority must have a complaints, review and appeals procedure.
- The Office of the Information Commissioner to oversee all complaints, with powers to enforce the rights created by the Act and Regulations and to promote good practice.

The main differences are that under EIR:

- Requests do not have to be in writing.
- The only extension to time limits for answering enquiries is from 20 to 40 days where requests are complicated and relate to a large volume of information. All others must be complied with within 20 days.
- Exceptions are not absolute; all are subject to the Public Interest Test (i.e. is it in the public interest to disclose or withhold the information?). The exceptions under EIR are not identical to exemptions under FOIA.
- Unlike FOIA, EIR covers information we hold for third parties (e.g. consultants). EIR also applies to information others hold for us.
- There is no cost limit for dealing with requests. All requests must be dealt with and charges be 'reasonable.'

Definition of Environmental Information

Environmental Information is any information in written, visual, aural, electronic or any other material form on—

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements,
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a),
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements,
- (d) reports on the implementation of environmental legislation,

- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c), and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

Air should be taken to include the air within buildings and other natural and manmade structures above or below ground and in air conditioning systems.

Water should be taken to include underground and surface waters (both natural and in manmade structures) sewage and foul water; the latter to include inland waters (i.e. rivers, canals, lakes), estuaries and seas; water table and aquifers.

Soil should be taken to include the in situ upper layer of the mantle rock in which plants grow.

Land and Landscape should be taken to include all land surfaces, buildings, caves and underground strata. Land covered by water is also included.

A **natural site** should be taken to include areas identified by reason of their flora, fauna, geological or physiographical features (e.g. Sites of Special Scientific Interest) or general environmental quality (e.g. Areas of Outstanding Natural Beauty).

Biological diversity should be taken to include species both living and dead.

Human health and safety and **conditions of human life** include human response to physical, chemical and biological agents delivered through environmental media of water, air, land, and biodiversity etc.

Built structures should be taken to include structures, roads and other infrastructure created by mankind and includes ancient and historic monuments.

The **state** should be taken to include physical, chemical, electromagnetic, radiological and biological conditions at any moment in time.

Emissions, discharges and other releases into the environment wherever they occur should be taken to include the direct or indirect release of substances, liquids, gases, radiation, vibrations, light or noise from individual or diffuse sources into or onto air, water or land.

Measures include administrative measures and environmental management programmes such as permit schemes, management contracts, land-use planning regimes and permits, regeneration and transport development plans and proposals.

Effect includes direct and indirect effect.

Economic analyses include financial analyses.

Further guidance on procedures and policy and available at:

<http://webintranet2/LocalDemocracy/AccessInformation/EIR/default.htm>

B7 Is There a Reason to Refuse the Request?

The Act provides that we do not have to comply with a request for information in the following circumstances:

VEXATIOUS REQUESTS

If a request is vexatious (not the applicant) then we may be able to refuse to deal with the request. It is important that we distinguish between the request and the applicant. We can not refuse to deal with a vexatious applicant.

Vexatious is not defined by the Act. However if we reasonably believe that the applicant has no interest in the information requested but is instead making a request for nuisance value or to inconvenience the Council, this may be a vexatious request. Other examples of a vexatious request may include abusive or offensively worded requests, although a request which is reasonably framed where the applicant also takes the opportunity to vent any frustration or make a complaint etc may not be vexatious.

A request will not be vexatious just because it is difficult to see why the applicant would want the information requested, or because considerable effort is required to retrieve the information.

With the exception of clear nuisance requests described above, the motives of the applicant for making the request are not relevant.

The Act makes clear that the use of this refusal is a last resort though there may be no alternative. Where we believe the request is vexatious we must inform the Applicant in writing. The Authority is not expected to provide advice and assistance to Applicants whose requests it considers to be vexatious.

If you believe a request is vexatious you should seek advice from the Corporate Team, Democratic and Information Services, Room 45, Town Hall. Telephone 01924 305288/306112.

REPEATED REQUESTS

A repeated request is any request which is identical or substantially similar to a request from the same person that has previously been complied with, unless a reasonable interval has elapsed. A substantially similar request would be where the information to be released is the substantially the same. If e.g. the nature of the information has changed since the previous request e.g. because more information has been created then it should not be refused, although any element of the request which has previously been complied with may be.

B8 Refusal of the Request

If a request is vexatious or repeated, then we must issue a refusal notice within the 20 working day time limit, stating that this is why we are refusing the request. The notice also needs to contain an explanation of our complaints procedure and the applicant's right to complain to the Information Commissioner.

B9 Open a Case File & Log Request

An electronic case file is opened and a unique file number is allocated to the file. The request(s) and all correspondence regarding the request(s) must be saved to the case file in order to provide a record of activities and an audit trail. In addition, all case details are logged on a database for statistical analysis (See Section 4).

B10/B11 Validate the request

If the information is not in the publication scheme then the request must always be validated to make sure that it constitutes a valid request under the FOI Act before any information is located. We should also consider whether there are any reasons (except for an exemption) why we should not proceed with the request.

What is a Valid Request?

A valid request for information under the Freedom of Information Act will be one that is:

- . in writing (including e-mail or fax),
- . states the name of the applicant and an address for correspondence
- . describes the information being requested such that it can be identified and located;

If a request is not valid then you have a duty to advise and assist the applicant to make a valid request – See Guidance on Advice and Assistance above at Section A.

B12/B13 Multi Service Requests

A Multi Service request is where the information requested covers a number of service areas. These requests should be forwarded to the relevant Service Area Information Officers who in conjunction with their Service Area Managers will process the request.

The Corporate Team will co-ordinate the collection of information and liaise with the relevant Service Area Information Officers.

Requests from outside agencies, such as other local council's are also dealt with as Multi Service requests.

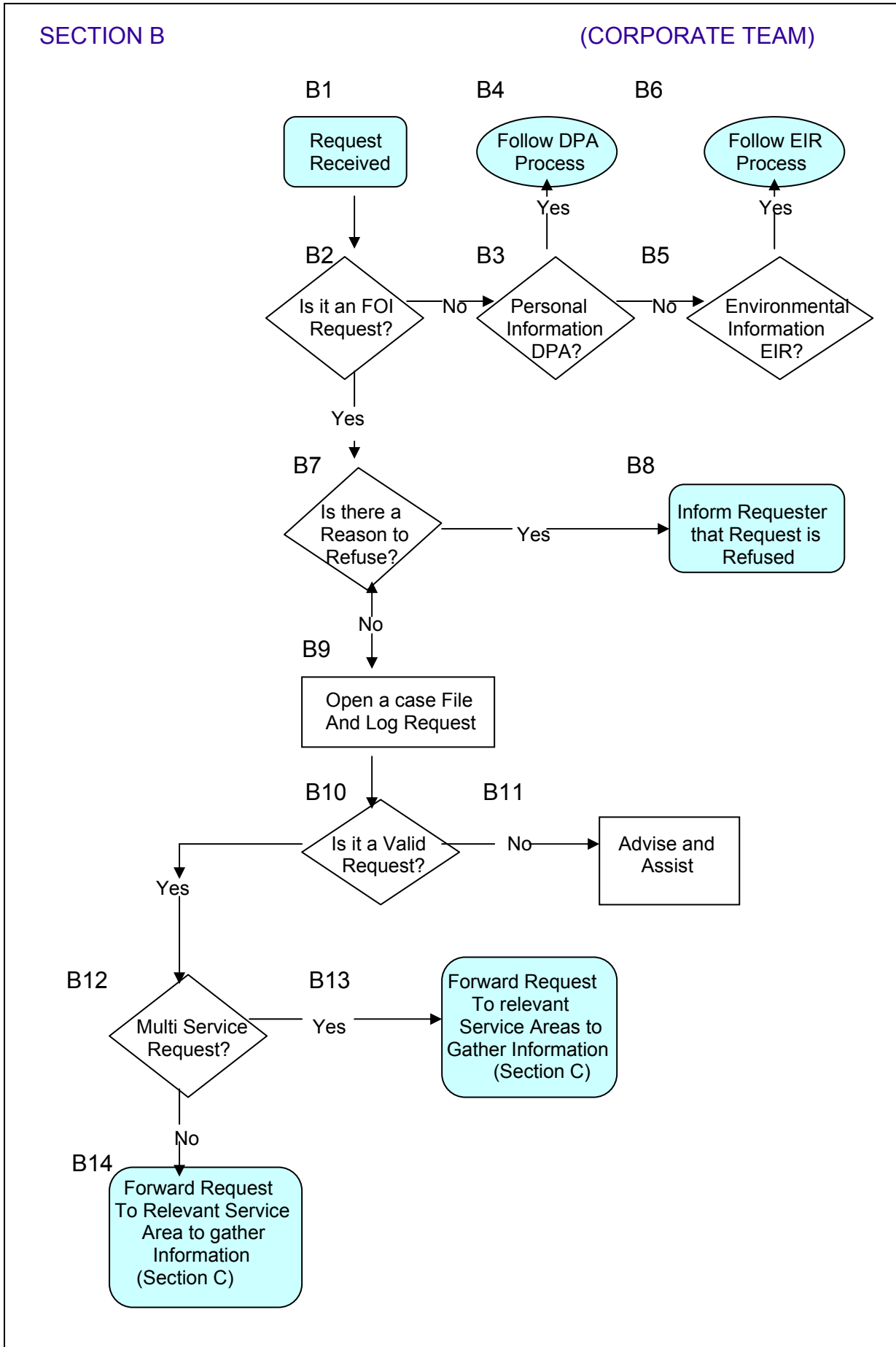
These requests will be acknowledged and processed by the Corporate Team, Democratic and Information Services, Room 45, Town Hall. Telephone 01924 305288/306112.

B14 Single Service request

Where the request for information is not contained in the Publication Scheme, is not a normal business request or a multi Service Request, the request should be forwarded to the Service Area Information Officer who in conjunction with the Service Area Manager will process the request

.
These requests are known as a Single-Service Request.

Requests Received by the Corporate Team



Request Forwarded to Service Managers/Delegated Staff from the Corporate Team

B14 Logged FOI Request Received from Corporate Team

Managers will make the necessary arrangements to process all written requests for information.

The Service Area Manager handling the request will determine who should deal with the request.

C1/C2 Is the information in the Publication Scheme?

The Service Area Manager will contact the Corporate Team and inform them whether or not the information is in the Publication Scheme. Where it is clear that the information requested can be provided because it is listed for public release through the Publication Scheme the Corporate Team should be informed of the details of access.

Corporate Team, Democratic and Information Services, Room 45, Town Hall.
Telephone: 01924 305288/306112.

Updating the Publication Scheme

It is important that the Publication Scheme is updated as often as possible. Where information is released that is not contained within the publication Scheme consideration needs to be given to its inclusion in the Scheme.

A process for entering new information on to the Publication Scheme can be found on the link below.

<http://webintranet2/Resources/PartnershipsPerformance/CustomerService/CSTeam/CorporateWebTeam/Guidance/WebGuidelines/default.htm>

C3 Is the Information Held?

The Council may or may not hold the information requested. The Act does not talk about who created the information or who owns it, but about who holds it. Even if the information held is duplicated (and the original is held in another public authority) this does not obviate the Council's responsibility to provide it in accordance with the requirements of the Act.

The Council only has a duty to comply with a request for information that we hold.

Information that we hold is either:

- recorded information that the Council holds on its own behalf or
- recorded information held by someone else on the Council's behalf.

NB Information that the Council holds on behalf of a third party or information that it holds in a capacity other than in the performance of its public functions, may not be "held" for the purposes of the Act. If in doubt, please refer to the Corporate Team, Democratic and Information Services, Room 45, Town Hall.
Telephone: 01924 305288/306112.

C4/C5 Information held by another Authority/Organisation

Where a request received from an Applicant is clearly in relation to information that we do not hold but which may be held by another public authority, details along with which authority may hold the information should be forwarded to the Corporate team Democratic and Information Services, Room 45, Town Hall.
Telephone: 01924 305288/306112.

C6 Information is not held

Where a request received from an Applicant is clearly in relation to information that we do not hold and we believe it is not held by another public authority, details should be forwarded to the Corporate team Democratic and Information Services, Room 45, Town Hall. Telephone 01924 305228/306112.

C7/C8 Will Gathering the Information exceed 18 Hours?

Section 12 of the FOIA makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for local government is set at £450 (18hrs @ £25 per hr) in determining whether they hold the information, locating, retrieving and extracting the information.

If it is considered that this limit will be exceeded, the process should be stopped and details including an estimate of how long it would take to determine whether they hold the information and locate, retrieve and extract the information should be forwarded to the Corporate team Information Services, Room 45, Town Hall.
Telephone 01924 305288/306112.

The Corporate team will inform the Service Area Manager or Service Area Information Officer if the information search should proceed in the event of the applicant agreeing to pay the appropriate fee.

C9/C10 Perform Information Search

The Service Area Manager will arrange a search for the information and when located, the Service Manager will assess the information for release.

C11/C12 Sensitive information

If the Service Manager considers any of the information to be sensitive, then any concern(s) regarding the release of the information should be forwarded to the Corporate Team to enable any exemptions to be considered. A meeting may be necessary to understand the context regarding sensitivity. Information requiring third party consent

Third party consent may be required in the following circumstances:

- The information is confidential information provided by or about a third party;
- The information is commercially sensitive information provided by or about a third party. Commercially sensitive information is information the release of which may prejudice the commercial interests of a third party;
- The information is or contains within it personal information about a third party, which may include a Council employee. If the Corporate Team agrees that an Exemption applies or that the information is sensitive and an Exemption is identified they will inform the Service Area.

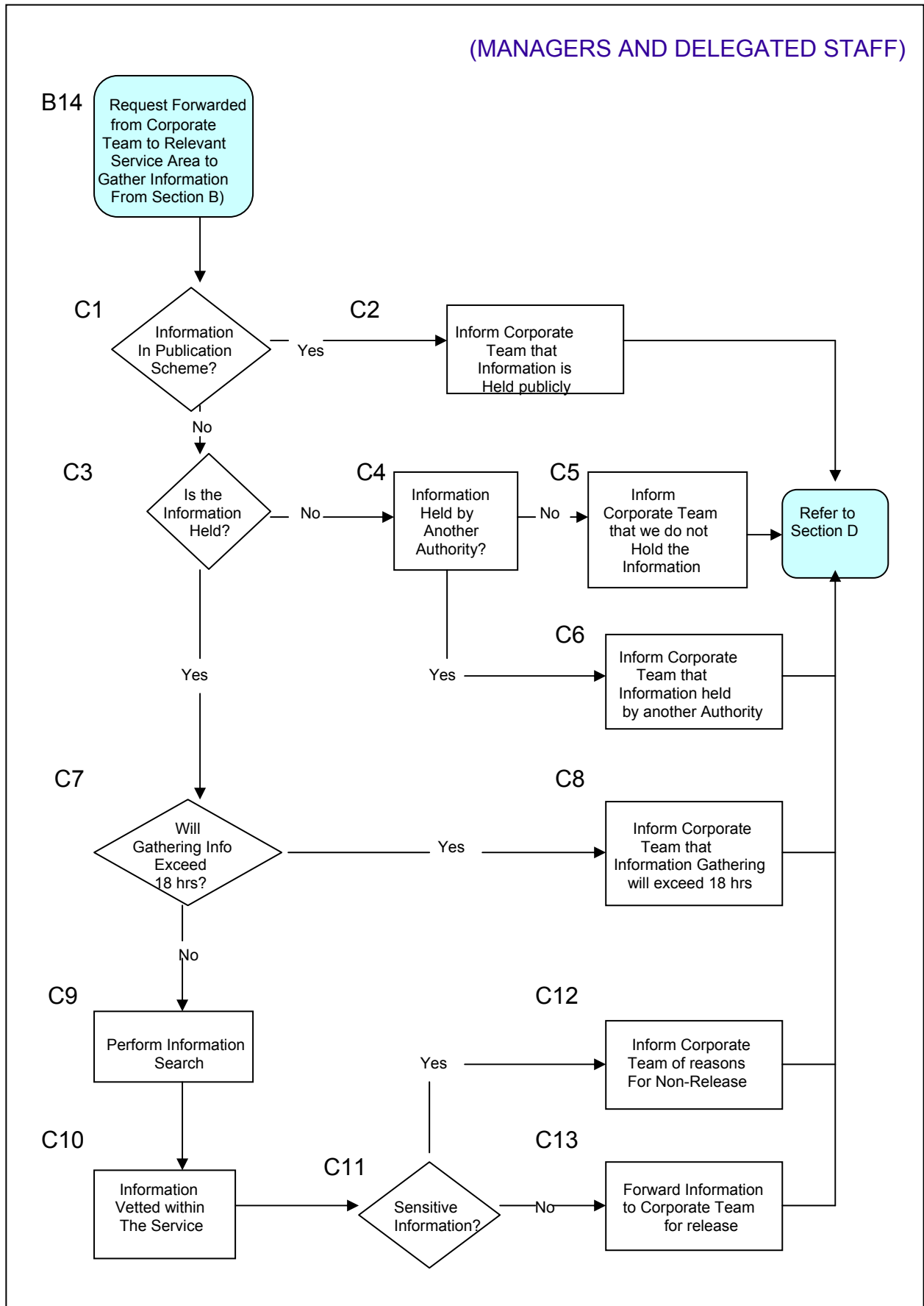
C13 Non Sensitive Information

If the Service Manager considers that the information can be released, the information should be forwarded to the Corporate Team.

Corporate Team, Information Compliance Services, Room 45, Town Hall.
Telephone 01924 305288/306112.

Request Forwarded to Service Managers / Delegated Staff from the Corporate Team

(MANAGERS AND DELEGATED STAFF)



Continuation of Request Process – Corporate Team Acting on Information From Service Managers/Delegated Staff

D1/D2 Is the information in the Publication Scheme?

If the information requested is listed for public release through the Publication Scheme the applicant should be contacted and informed that the information is available to the public along with details on how the information can be accessed and any necessary contact details. The request should be terminated at this stage citing section 21 of the Act (Information available by other means).

D3 Is the Information Held?

The Council may or may not hold the information requested.

D4/D5 Information held by another Authority/Organisation

Where a request received from an Applicant is clearly in relation to information that we do not hold but which may be held by another public authority, details along with which authority may hold the information should be forwarded to the Corporate team by the relevant Service Manager.

Before transferring a request we need to consider:

- Does the other authority hold the information requested? If there is any doubt then it should not be transferred. Consider contacting the other authority to ascertain whether they hold the information and would accept the transfer. However do not provide them with the applicant's details at this stage.

Whether a transfer is appropriate – is a transfer the most efficient and useful way of assisting the applicant? Should we instead:

- Contact the applicant and explain that the information may be held by another authority, suggest that the applicant applies to them and provide their contact details?
- Is the applicant likely to have any grounds for objecting to the transfer? If there is any doubt, the applicant's consent to the transfer should be obtained first.

In cases where we hold some information and further information is held by another public authority we should process our part of the request as normal and pass the request on to the other public authority for them to complete their part of the processing of the request. This should be done as quickly as possible.

Where we know the other authority holds the information and we do not consider there is any reason why the applicant would object to the transfer and this is the most expeditious way of dealing with the request, we should transfer the request. We should send the applicant a Refusal Notice within 20 Working Days advising them:

- that we do not hold the information
- that we believe another authority may hold the information
- the contact details for the other authority
- the date we transferred their request.

Where we write to obtain the Applicant's approval to the transfer but do not receive this promptly or where we have decided not to transfer the request, we must within 20 Working days, send the applicant a Refusal Notice advising them:

- that we do not hold the information
- that we believe another authority may hold the information
- the contact details for the other authority.

In cases where the Council receives a transfer request from another public authority this should be passed immediately to Democratic and Information Services.

In deciding any of these actions the Authority must bear in mind the duty to provide advice and assistance and the 20 working day deadline.

D6 Information is not held

Where following any initial clarification and a search a request received from an Applicant is clearly in relation to information that we do not hold and we believe it is not held by another public authority, contact the applicant and explain that we do not hold the information requested:

- informing them in writing that we do not hold the information,
- ask for further clarification on the information requested to help assist another search, if required,
- advise on the Council's Complaints Procedure as the Applicant may wish to register their disappointment at the Council's inability to locate the information; and
- advise the Applicant of their right to complain to the Information Commissioner and how they can do this.

The Applicant's request for information at this point is terminated and logged for monitoring purposes.

If further clarification is received this should be treated as a new request. Another search will be necessary and the Applicant needs to be informed that this will be treated as a new request and be completed within the 20 working day limit.

D7/D8/D9/D10 Gathering the Information will exceed 18hrs

If informed by the Service Manager that an information request is so complex or its scope so wide that gathering the information will exceed £450 (18hrs @ £25 per hr). The Service Area should be informed that the gathering process should not be started until further notice.

The applicant should be informed that Section 12 of the FOIA makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for local government is set at £450 (18hrs @ £25 per hr) in determining whether they hold the information, locating, retrieving and extracting the information. Advice and assistance should be given to the applicant in order to clarify or reduce the complexity or scope of the request or apply a charge for the information. At this stage the request is suspended until a revised request has been submitted by the applicant. If further clarification is received this should be treated as a new request. Another search will be necessary and the applicant needs to be informed that this will be treated as a new request and be completed within the 20 day time limit.

Is there a charge for providing the information?

We may make two types of charge:

1. Prescribed Costs - this is a charge for costs incurred in complying with the request which exceed £450 where we have decided to comply with the request.

Prescribed costs include the costs of locating, retrieving, sorting, editing and redacting the information.

2. Disbursements - this includes photocopying, printing, postage.

(Further guidance in how we calculate Prescribed Costs and Disbursements will be provided in due course).

Issue of Fees Notice

If the information can be released but we want to charge Prescribed Costs and /or Disbursements, the Corporate Officer will write to the Applicant informing them that the information is held, provide details of how the information will be communicated and issue a Fees Notice.

The Fees Notice must be issued as soon as possible. The 20 Working Day period stops from the date of issue of the Fees Notice until the date of receipt of the Fee. On receipt of the fee, the 20 working day period continues.

(Further guidance on the content of the Fees Notice will be provided in due course when the Fees Regulations and Department of Constitutional Affairs Guidance are published. If the information can now be released the Information Officer will write to the Applicant informing them that the information is held and provide details of how the information will be communicated.

Fee received within 3 months

If the Fee is paid within 60 working days beginning on the date the fees notice is issued, the information, once processed can be released.

NB. Time for payment is when the cash or cheque has cleared in the Councils bank account.

D11 Fee not paid or request not simplified/clarified - Terminate the request and log details

In the event of a Fee not being received within 60 working days the request will be terminated and details logged on the monitoring system.

If the applicant has been asked to simplify/clarify the request and they have not responded within 60 working days, the request should be terminated and details logged on the monitoring system.

D12/D13 Is the Information Sensitive?

The Corporate Team will deal with the processing of all potential Exemptions.

The Corporate Team with assistance from the Service manager will consider whether or not an exemption under the Act may apply.

Exemptions apply in two ways:

- An exemption may apply which means that we neither have to confirm nor deny that we hold the information.
- An exemption may apply to releasing the information.

Please refer to detailed information in Sections 5, 6, 7 and 8.

Can we confirm to the applicant that we hold the information?

Anyone who has made a valid request for information from the Authority will be entitled to be informed whether the Authority holds that information, unless an exemption applies. This is known as "the duty to confirm or deny".

If confirming or denying that we hold the information requested could itself disclose information which would be exempt (and in the case of a qualified exemption, the public interest in maintaining the exemption outweighs confirming that we do or do not hold the information), then we do not need to comply with the duty to confirm or deny.

Eg. If an applicant wrote in to ask for any information that we held identifying the location of the nuclear bunker situated in the Council's area, the Council would be exempt from confirming that it holds such information if confirming that a bunker existed in the area would in itself breach national security.

All of the exemptions, except Section 21 (information accessible by other means) provide for an exemption from the duty to confirm or deny.

If we can't confirm that we hold the information then we should send a Refusal Notice to the Applicant within 20 Working Days of the date we received their Request.

See below for details of what the Refusal Notice should contain.

Can we release the information?

If we are able to confirm to the applicant that we hold the information, then we have a duty to communicate the information to them, unless an exemption applies.

In considering an Exemption the Corporate Team may agree the following:

D15/D16 Agree Exemption (Absolute) applies - provide details

Agree that an Exemption exists (or a different Exemption or more than one). The Corporate Team will then write to the Applicant issuing a Refusal Notice and stating the Exemption(s) that applies, and providing information about the reasons why, the factors that applied etc. stating:

- Some or all of the information requested is held by the authority but we cannot release all (or part of it) OR
- we are not able to confirm that we hold some or all of the information requested; AND;
- the Exemptions which apply
- the reasons why the exemption applies
- the reasons why the public interest test has been applied as it has, including the relevant public interest factors for and against maintaining the exemption;
- details of the Council's internal complaints procedure and how to complain against the decision;
- an explanation of the applicant's right to complain to the Information Commissioner to have the decision reviewed

D18 Don't agree Exemption Applies - Information should be released

Disagree that an Exemption exists and release the information. If the information can now be released the Information Officer will write to the Applicant informing them that the information is held and provide details of how the information will be communicated.

Information should be communicated in the form in which the Applicant has requested it where they have requested:

- a copy of the information;
- the opportunity to inspect the information;
- a digest or summary of the information.

unless it is not reasonably practicable to do so. If it is not practicable to provide the information in the format they have requested e.g. due to the cost of doing so then we should explain why and advise any alternative ways in which we can provide them with access.

The Corporate Team may write to the applicant and agree an inspection date to view the information if this is the desired method of communication of the information. The information must be available for inspection or the information otherwise communicated to the Applicant within 20 Working Days of the request.

It is anticipated that on most occasions the information will be photocopied and sent to the applicant's specified address. However it can copied onto a CD, DVD or e-mailed.

The whole process of confirming that we hold the information or not, and communicating the information to the applicant must be completed within 20 working Days of the date we receive their request.

D15/D17 Agree Exemption (Qualified) applies

(See Sections 6 & 7)

The Corporate Team may agree:

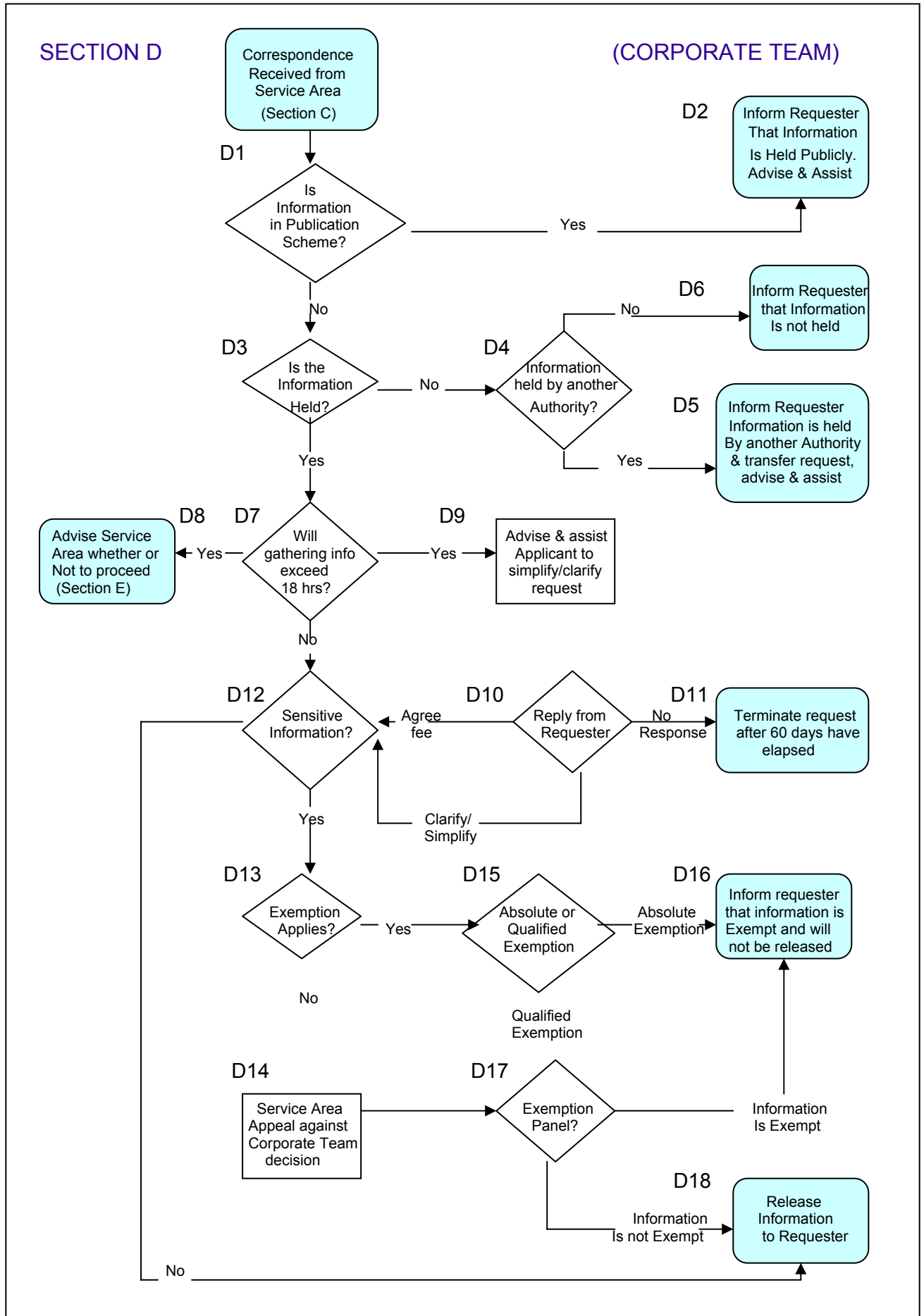
- That an Exemption exists but feel the decision to refuse the request should be made by the Exemptions Committee.
- An Exemption applies but requires a Public Interest Test to be undertaken and consequently refer the request to the Exemptions Committee
- Disagree that an Exemption exists but feel the decision to release the information should be taken by the Exemptions Committee.

D14 Service Area appeal against Corporate Team decision

If the Service Area disagrees with the decision and the request was not already referred to the Exemptions Committee by Democratic and Information Services, then the Service Area can appeal the decision. Information Compliance Services will then refer the request to the Exemptions Committee who will decide if an Exemption applies.

If an Exemption applies, see D14. If it does not, see D16 above.

Continuation of Request Process – Corporate Team Acting on Information From Service Managers/Delegated Staff



SECTION 3

GUIDANCE ON PROVIDING ADVICE AND ASSISTANCE

The Council has a duty under the Freedom of Information Act (Section 45) and the Environmental Information Regulations 2004 to provide advice and assistance to people who wish to make, or have made, a request for information. This may mean simply assisting an enquirer as to how the Council will deal with an application for a request for information by directing them to the Freedom of Information pages on the Council website or directing them to one of the Council's Information Officers (listed on the Intranet).

The Council is under a duty to provide advice and assistance to individuals who for whatever reason are unable to make a Freedom of Information request in writing. In these circumstances, Officers should provide appropriate assistance to enable that person to make a Freedom of Information request. Such assistance may include:

- Advising the Applicant that another person or agency (e.g. Citizens Advice Bureau) may be able to assist them with the application or make the application on their behalf
- Or in exceptional circumstances offer to take a note of the request over the telephone and then send the note to the Corporate Team the same day who will then take up the FOI procedure and contact the applicant. A copy of the transcribed request along with an acknowledgement letter asking for confirmation of the transcribed request and a stamped addressed envelope marked "Freedom of Information Officer", should be despatched to the applicant on the same day by the Corporate Team. The transcribed request once verified by the Applicant and returned, would constitute a written request for information and the statutory time limit for reply would begin when the written confirmation was received).

The Corporate Team should always provide advice and assistance to applicants who submit an ambiguous request. Contact should be made with the applicant as soon as possible by telephone, fax, email etc. to obtain further clarification for the search. [If the information requested is Environmental Information then an authority must clarify the request within 20 Working Days].

If the applicant is still unable to describe the information requested in a way that will enable the identification and location of the information, Officers are not expected to seek further clarification. In circumstances where part of the information has been identified and located but part hasn't Officers should release to the Applicant what information is available. [An explanation as to why we can't take the request any further in respect of the information that we can't identify or locate should also be given along with an explanation of the complaints procedure and the right to complain to the Information Commissioner]. These actions should be recorded in the Authority's monitoring procedures.

SECTION 4

FREEDOM OF INFORMATION ACT - MONITORING

Wakefield Council will maintain a register of all requests under the Freedom of Information Act and the Environmental Information Regulations and record the action taken on each application. The register will identify whether or not the same or similar information has previously been requested and provided, or refused and the reasons for the refusal. This will ensure consistency in dealing with similar requests and identify repeated, duplicate and vexatious requests. The register will help to identify implementation issues and to develop the Publication Scheme.

The system should ensure:

- Consistency in disclosure decisions
- Effective handling of complaints and appeals
- Management information is collected for example to identify frequently asked subjects, statistics and information for reports to the Information Commissioner
- Co -ordination of the release of the information
- Records which provide evidence of what was requested when, and how the request was handled, are essential if there is an appeal to the Information Commissioner.
- Performance in dealing with requests will be regularly monitored and reported to Senior Management.

SECTION 5

EXEMPTIONS

There are 23 exemptions to the freedom of information regime listed in the Freedom of Information Act that apply to all public bodies, 8 of these are absolute exemptions.

Absolute exemptions

- Sec 21 Information accessible to applicant by other means (Publication Scheme)
- Sec 23 Information supplied by, or relating to, bodies dealing with security matters
- Sec 32 Court records
- Sec 34 Parliamentary privilege
- Sec 40 Personal information (Data Protection Act)
- Sec 41 Information provided in confidence
- Sec 44 Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court

Qualified Exemptions

When applying Qualified Exemptions, where the exemption applies, the Authority will also have to apply the 'public interest' test (see Section 7) in making the decision to disclose information. We have to explain to the applicant the decision to withhold information and explain the public interest factors which we considered in reaching our conclusion.

The public authority will have a duty to release information where a qualified exemption applies unless the public interest in maintaining the exemption in question outweighs the public interest in disclosing the information.

Qualified Exemptions:

- Sec 22 Information intended for future publication
- Sec 24 National Security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not arise)
- Sec26 Defence

Sec 27	International relations
Sec 28	Relations within the United Kingdom
Sec 29	The economy
Sec 30	Investigations and proceedings conducted by public authorities
Sec 31	Law enforcement
Sec 33	Audit functions
Sec 35	Formulation of government policy
Sec 36	Prejudice to effective conduct of public affairs (except information held by the House of Commons or the House of Lords)
Sec 37	Communications with Her Majesty etc. and honours
Sec 38	Health and Safety
Sec 39	Environmental Information
Sec 40	Some Personal information (Data Protection Act)
Sec 42	Legal professional privilege
Sec 43	Commercial interests

Exemptions Applicable to Wakefield Council

For public authorities such as The Council there are some exemptions that will not apply as these are aimed at information held by central government or other public authorities e.g. House of Commons.

Information about those exemptions that are available for use by The Council is given below. All exemptions which you think may apply should be noted on the appropriate form and sent to Democratic and Information Services for assessment.

Section 21 – Information accessible by other means

The information requested may be exempt if it is reasonably accessible to the applicant by other means e.g. through the Publication Scheme. It is the circumstances of the applicant and not the public as a whole which need to be considered when determining accessibility.

Information may be accessible on payment of a fee, or where The Council or any other person is obliged to provide the information to the public on request under any other legislation. However if The Council or another person is only obliged to make the information available for inspection under other legislation, then the information will not fall under this exemption, unless it is contained in the publication scheme.

Examples

- Information contained in the Publication Scheme (unless the format in which it is made available will mean that it is still not reasonably accessible in the applicant's particular circumstances as they have been brought to your attention);
- Information available from the local Land Charges Registry;
- Information available from the local Land Registry;
- Information about a limited company which could be obtained from Companies House;
- Agendas, minutes and reports of council meetings and lists of Council members accessible under Part VA of the Local Government Act 1972, provided they are in the Publication Scheme.

Section 22 – Information Intended for Future Publication

Information may be exempt if it is information, which is intended to be published, and it is reasonable that the information should not be disclosed until the intended date of publication.

The date for publication need not be determined, however, if challenged, the Council would need to present evidence to substantiate the claim that there was, at the time the request was made, a settled intention to publish the information.

Examples

- Information relating to research projects which would be inappropriate to publish until the project had been completed.
- Statistical information, which is usually published to a specific timetable (annually, quarterly etc.)
- Where the release of the information may result in unfairness to others. For example information regarding a service offered on a first come first serve basis, which would be undermined by premature disclosure.
- Where there is a duty to present a report in the first instance to a particular individual, e.g. in the case of a complaint, before making it generally available.

Section 30 – Investigations and Proceedings Conducted by Public Authorities

There are two parts to this exemption:

(i) Where the Council has a duty to carry out investigations with a view to establishing whether a criminal prosecution should be brought or an offence has occurred or where it has the power to conduct and brings criminal prosecutions, information held at any time by The Council for the purpose of those investigations and prosecutions may be exempt. This includes information obtained from confidential sources e.g. informants.

(ii) Information obtained from confidential sources for the purpose of the Council functions relating to the carrying out of certain other investigations or civil proceedings taken by the Council arising from such investigations may also be exempt. This exemption would cover information received from informants and is often referred to as the "informant exemption"

Examples:

- Reports, minutes of meetings, telephone notes, correspondence relating to investigations into and specific criminal proceedings undertaken by the authority. These criminal proceedings could include trading standards and environmental health prosecutions, prosecutions for failure to comply with licenses, bye-laws, planning enforcement measures and abatement notices (in relation to nuisances).
- Notes of appointments to meet with informers, correspondence from informers relating to criminal proceedings or civil proceedings arising from certain investigations undertaken by the authority. Example of such civil proceedings would be proceedings to enforce planning, to prevent nuisances etc, which have arisen as a result of criminal proceedings/investigations.

Section 31 – Law Enforcement

Information requested may be exempt if it would be likely to prejudice:

- The exercise by the Council of its functions in relation to various purposes, e.g. ascertaining whether someone has breached the law.
- Civil proceedings brought by or on behalf of the Council.
- The assessment or collection of any tax or duty.
- The prevention or detection of crime.
- The apprehension or detection of offenders.
- The administration of justice.

This is one of the prejudice based exemptions. The disclosure of this information must therefore be likely to prejudice the relevant functions, or proceedings. The prejudice or harm should be real, actual or of substance and the likelihood of the harm must be a significant possibility.

Section 32 – Court Records etc.

Information may be exempt if it is held by the Council only because it is contained within a document that has been:

- filed with a court (or tribunal);
- served on or by a public authority;
- placed in the custody of a person conducting an inquiry or arbitration;
- created by a court, or
- created by a person conducting an inquiry or arbitration

and this was for the purposes of particular court proceedings or a particular inquiry or arbitration. The court proceedings or inquiry or arbitration proceedings must actually have started.

Examples;

- Details of when and how a fine is paid;
- Witness statements and Statements of Case where a public authority is a party to litigation;
- Financial records which are the subject of litigation and are held only for that purpose and not for any other purpose

Section 36 – Prejudice to Effective Conduct of Public Affairs

Information requested may be exempt if it would or would be likely, in the reasonable opinion of the "Qualified Person":

- to inhibit the free and frank provision of advice;
- to inhibit the free and frank exchange of views for the purpose of deliberations; or
- to otherwise prejudice or be likely to prejudice the effective conduct of public affairs.

The Qualified Person is a Minister of the Crown or the Council if it is authorised by a Minister of the Crown (it is currently not).

The Office of the Deputy Prime Minister has authorised the following officers as the qualified persons for the purposes of applying section 36 of the Act in respect of local authorities:

The Monitoring Officer; and
The Chief Executive.

The Monitoring Officer is to be the primary qualified person. Where the Monitoring Officer is absent responsibility for carrying out the functions of the qualified person will fall to the Chief Executive.

When seeking an exemption under section 36, even where the qualified person has concluded that the exemption applies, the public interest test must be applied to the decision as to whether to disclose the information. The qualified person will be asked to attend Exemption Panel meetings when consideration of an exemption is required under section 36.

Statistical Information

If the information requested is statistical information, the opinion of a qualified person **does not** need to be sought for the exemption to apply.

Examples:

- Recorded discussions/E-mails/written advice between members and/or officers about publicly contentious decisions, about which members/officers would be wary of expressing their views publicly.
- Communications resulting from abuse/threats from members of the public as a result of which officers would be concerned about their views being made public.

Section 38 – Health & Safety

Information may be exempt where disclosure of the information would or would be likely to endanger:

- the physical or mental health of any individual;
- or the safety of any individual.
- the disclosure of the information in both cases must be likely to cause harm.
- the risk of harm should be real, actual or of substance.

Examples

- Disclosure of information about the possible closure of a residential mental health facility to either a resident of the facility or someone who is likely to pass this information to them, which would be likely to cause harm to the resident's mental health.
- Information such as a person's identity, views or whereabouts where it would make that person vulnerable to violence by others e.g. the identity of a Council employee involved in a decision which has been challenged by an individual who the Council have good cause to consider would be likely to try and harm the employee.

Section 39 – Environmental Information

Information, which is environmental information, is exempt from disclosure under the Freedom of Information Act, as the request should be dealt with under the Environmental Information Regulations 2004 and in accordance with the Council's procedures on dealing with Environmental Information Requests. Please see Section 2, B5/B6 for the definition of Environmental Information.

Section 40 – Personal Data about the applicant

Information, which is personal data (personal information) about the person requesting it is exempt information under the Freedom of Information Act. This is because the request for personal information is a Subject Access Request and should be dealt with by the Council under the Data Protection Act in accordance with the Subject Access Procedures. These types of requests should be sent to Democratic and Information Services immediately upon receipt.

Examples

- Names, addresses, telephone numbers, e-mail addresses;
- Personnel records;
- Health and social information about service users;
- Reports the Council produce about e.g. vulnerable children or adults.

Section 40 – Third Party Personal Data

Information that constitutes personal information about a third party, will be exempt of either :

- Disclosure of the third party information would breach;
 - the data protection principles ; or
 - a notice received by the third party preventing processing likely to cause damage or distress ; or

- The information would be exempt from disclosure under the subject access provisions of the Data Protection Act if the third party made a request for information

Examples

- Personal information (e.g. name, address, occupation) about anyone other than the applicant e.g. another member of the public, the names of a contractors employees which have been submitted in a Tender document.
- This may include personal information about a Council employee, e.g. salary details and in some circumstances, names. Please refer to the Democratic and Information Services Team for further guidance on this.

Section 41 – Confidential Information obtained from third parties

Information which is held by the Council but which was provided by a third party will be exempt information if disclosure by the Council to the public would constitute an actionable breach of confidence.

There are three issues to consider when determining whether disclosure would lead to an actionable breach of confidence:

The information must have the necessary quality of confidence about it;

- It must have been provided in circumstances, which impose a duty of confidence; and
- Unauthorised use of the information would be to the detriment of the party who provided it.
- It must have been provided in circumstances, which impose a duty of confidence ; and
- Unauthorised use of the information would be the detriment of the party who provided it.

However it is a defence to an action for breach of confidence if the public interest in disclosing the confidential information outweighs the public interest in maintaining the confidence.

Confidential information can however be disclosed where the person who provided the information, consents to its disclosure or where the disclosure is required by law.

Examples:

- Profit margins of a supplier under a contract to a public authority which may have been disclosed in the tendering process;
- The content of unsuccessful tender documentation submitted by tenderers;

- The poor financial situation of a business disclosed to the Council as part of discussions with a company regarding non-payment of business rates.

Legal Professional Privilege

Information may be exempt if it is protected by legal professional privilege. Privilege applies to certain communications between a professional legal advisor (e.g. solicitors, barristers and licensed conveyancers) and their client and in some circumstances third parties, which the Courts regard as confidential and the contents of which cannot be revealed without consent.

Examples:

- An internal memo or e-mail from the Council Legal Services or a letter from an external solicitor providing legal advice to the Council.
- Documents, reports and evidence gathered or produced on instruction of Legal Services or an external solicitor in contemplation of legal proceedings.

Section 43 – Commercially Sensitive Information

Information which is a trade secret or the release of which is likely to prejudice the commercial interests of any person, including the Council, may be exempt from disclosure.

There are therefore two parts to this exemption:

- Information that is a trade secret – this can be secret know how, formulae, designs etc.,
- Information prejudicing commercial interests – commercial interests relate to an organisation's or the Council's commercial activity and may include trading activity, procurement, relationships with third parties e.g. PFI Project Companies or strategic partnerships.

The disclosure of the information must be likely to prejudice the commercial interests of any person, which includes the Council.

Examples

- Trade secrets could include the price of a tender up to the time the tender is awarded, current pricing strategy, otherwise unavailable product information, trade practices or processes which would be harmful if it fell into the hands of competitors, information relating to sales, prices and customers which would be advantageous to other companies;

- Likely to prejudice commercial interests could include product information submitted in unsuccessful tenders such as a description of the manner in which prices are calculated as disclosure would be likely to reduce a company's competitiveness in any future tender processes, correspondence between the Council and developers in the early stages of investigation by a company of a new site for development.

SECTION 6

PUBLIC INTEREST TEST

The Public Interest Test applies only to qualified exemptions and considers whether the public interest in withholding the information requested is greater than the public interest in disclosing it.

It is important to remember that the general rule is that the information requested should be disclosed to the applicant. It is only if the public interest factors against disclosure outweigh the factors in favour of disclosure that a request can be refused. Therefore the Council must carry out a balancing exercise based on the factors applying in each situation where a qualified exemption applies.

Examples of Public Interest factors:

In favour of Disclosure – to:

- Promote understanding and debate on current issues
- Promote transparency and accountability in the spending of public money
- Allow people and companies to understand the decisions made by public authorities
- Bring to light information affecting public health and safety.

Against Disclosure:

- If companies would become reluctant to do business with the public sector for fear of suffering commercially due to the release of commercially sensitive information.
- If it threatened to harm the frankness and candour of future discussion within an organisation.

What to ignore:

It is also important to note that when considering what is in the public interest there are certain issues that should not be taken into account:

- the information may be too complicated for the applicant to understand
- the information may be interesting to the public. This is different from what is in the public interest and it is important that the distinction is remembered.
- the information is incomplete and may therefore mislead the applicant. The solution in this situation would be to give some explanation or put the information into a proper context.
- the information would cause embarrassment or a loss of confidence in the authority.

SECTION 7

REQUEST HANDLING PROCEDURE - EXEMPTIONS

7.1 For Single and Multi Service Exemptions

The Corporate Team will deal with the processing of all potential Exemptions.

7.2 Exemption Consideration

In considering an Exemption the Corporate Team may agree the following.

7.3 Agree Exemption (Absolute) applies - provide details

Agree that an Exemption exists (or a different Exemption or more than one). The Information Officer will then write to the Applicant issuing a Refusal Notice and stating the Exemption(s) that applies, and providing information about the reasons why the factors that applied.

7.4 Sensitive Information or Unsure if Exemption applies

Agree that the information is sensitive and apply an Exemption. The Democratic and Information Services Team will refer the request to the Exemptions Committee if necessary who will decide if an Exemption applies. The Information Officer will then write to the Applicant issuing a Refusal Notice and stating the Exemption(s) that applies.

7.5 Don't agree Exemption Applies - Information should be released

Disagree that an Exemption exists and request the Service Area confirm we hold the information and either issue a fees notice or release the information.

SECTION 8

REQUEST HANDLING PROCEDURE - EXEMPTIONS COMMITTEE

8.1 Exemptions Committee - Public Interest Test, Appeal against Corporate Team decision, Consideration of sensitive information

The Exemptions Committee is scheduled to meet as and when required. It will deal with all referrals from the Corporate Team or the Service Area. It is unlikely to deal with a request that has not been processed by the Service Area or Corporate Team.

8.2 Decision to release information (no Exemption)

The Exemptions Committee may determine that no Exemption applies and that the information requested should be released. (Refer to Section C1.6)

8.3 Agree Exemption applies

That an Exemption applies and that the Applicant should be informed accordingly. (Refer to Section C1.5)

APPENDIX - GLOSSARY OF TERMS

Absolute exemption - applied to information that does not have to be released to the applicant either through a Publication Scheme or through the general right of access under the Act. Information to which an absolute exemption applies does not require a public authority to take a test of prejudice or the balance of public interest to be in favour of nondisclosure.

Applicant - the individual(s), group or organisation requesting access to information under the Act.

Appropriate limit - in relation to fees this relates to the maximum cost above which the public authority does not have to comply with a request. The appropriate limit is £600 for central government and Parliament and £450 for other public authorities. When calculating whether the appropriate limit is exceeded authorities can take account of the costs of determining whether the information is held, locating and retrieving the information and extracting information from other documents. They cannot take account of the costs involved with considering whether information is exempt under the Act.

Complaints Policy - the documented procedures operated by a public authority to deal with complaints received from applicants.

Data Protection Act 1998 (DPA) - came into force on 1 March 2000, repealing the Data Protection 1984. It sets out rules for processing personal information and applies to some paper records as well as those held on computers. The DPA derives from EU Directive 95/46/EC which requires "Member States to protect the fundamental rights and freedoms of natural persons, in particular their right to privacy with respect to the processing of personal data".

Data Controller - the person, organisation or authority which determines the purposes for which and the manner in which any personal data is or is to be processed. In most cases the employer will be deemed as being the data controller.

Disbursements - any costs reasonably incurred by a public authority in :

Informing the applicant whether it holds information of the description specified in the request, and communicating such information to the applicant.

Duty to confirm or deny - any person making a request for information to a public authority is entitled to be informed in writing by that authority whether the public authority holds the information specified in the request or not.

Electronic records management (ERM) - electronic records are documents which have been captured into a corporate classification and filing system, retain the links between documents, and are subject to business rules on retention and disposal. An ERM system must preserve content, structure and context of the electronic records and must ensure that records are registered and that authentication procedures and audit trails are put in place.

Fees Notice - a written notification issued to an applicant stating that a fee is payable and exempts public authorities from being obliged to disclose information until the fee has been paid. The applicant will have three months from the date of notification to pay the fee before his request lapses.

General right of access - the Act confers a general right of access to information held by public authorities. An applicant has a right to be told whether the information requested is held by that authority and if it is held to have it communicated to them.

Information - must be recorded information, this includes:

- On paper
- Electronic
- Photographs
- Sound recordings
- Films and videos

Information Commissioner - the Information Commissioner enforces and oversees the Data Protection Act 1998 and the Freedom of Information Act 2000. The Commissioner has an independent supervisory authority reporting directly to Parliament.

Personal Data - data relating to an individual which if in the possession of a data controller could by itself or with other data already in the possession of the data controller easily identify the living individual.

Prescribed costs - any costs reasonably incurred by a public authority in:

Locating and retrieving such information, and giving effect to any preference expressed by the applicant as to the means of communication of the information.

Public Authority - any body, any other person or the holder of any office who is listed in Schedule 1 of the Act or a publicly owned company as defined by section 6 of the Act.

Schedule 1:

- Government Departments
- Northern Ireland Assembly
- National Assembly for Wales
- House of Commons
- House of Lords
- Armed forces of the Crown
- Local Government - a local authority within the meaning of the Local Authority Act 1972
- National Health Service
- Maintained Schools
- Police
- Other bodies and offices : general e.g.
- Board of Visitors

Housing Action Trust
Local Probation Board
Regional Development Agency

Public Interest Test - applying the public interest test requires a balancing of competing interests, i.e. the general public interest in disclosure and the public interest in maintaining the exemption. There is a presumption that information should be disclosed unless the harm likely to arise from disclosure would outweigh the public interest in making the information available.

It is necessary for the authority to consider whether any harm or unfairness arising from disclosure is outweighed by the public interest in making the information available.

Publication Scheme - essentially a guide to information held by a public authority that is routinely available to the public. A Scheme specifying the classes of information which an authority publishes or intends to publish, the manner of publication and whether the information is available to the public free of charge or on payment.

Qualified exemption - information to which a qualified exemption applies requires a public authority to take a test of prejudice or to demonstrate that the balance of public interest is in favour of nondisclosure.

Retention - the continued storage and maintenance of records for as long as they are required by the creating or holding authority until their disposal, according to administrative, legal, financial and historical evaluation.

Request - must:

Be in writing

State the name of the applicant and an address for correspondence

Describe the information requested

Working day - any day other than a Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, or a day which is a bank holiday.