

**Warwickshire County Council**  
**ACCESS TO INFORMATION**  
**POLICY**

**Approved v2**



# Access to Information Policy

## DOCUMENT CONTROL

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### Approvals

This document requires the following approvals before release,

<b>Title/role</b>
Strategic Director – Customers, Workforce and Governance and Senior Information Risk Owner
WCC Information Governance Steering Group

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# Access to Information Policy

## 1 Introduction

- 1.1 Warwickshire County Council recognises the value of open government in giving public access to the services, activities and decision making undertaken by the Council. Open government enables greater transparency and scrutiny of our use of public resources and the decisions we take which impact on our customers' daily lives. Our information is an asset to the Council, our customers and our partners, and we are committed to greater publication and use of our information wherever appropriate.
- 1.2 The purpose of this policy is to explain people's legal rights to access information that the Council holds and to explain how the Council deals with requests for information.
- 1.3 The policy is supported by further guidance for Council employees and by the guidance issued by the Information Commissioner's Office and relevant Government departments from time to time.

## 2 Scope of this policy

- 2.1 This policy is intended to help members of the public as well as the Council. The obligations in the policy apply to everyone working on the Council's behalf, that is:
  - All permanent employees
  - All temporary/contract employees employed or engaged by the council
  - Workers/volunteers employed or engaged by the council
  - All employees of partner or subsidiary organisations whilst at work and/or engaged on council business
  - Councillors when using information on council business
  - All contractors and subcontractors engaged by the council and their employees, agents and representatives
- 2.2 Any reference in this document to "employee" is deemed to be a reference to any of the above.
- 2.3 Council employees working exclusively in schools should follow the policies and guidance relating to access to information provided by their school governing body.

## 3 Information already made available

- 3.1 The Council already makes a great deal of information available for the public. For example, information can already be accessed:
  - on the Warwickshire Web at [www.warwickshire.gov.uk](http://www.warwickshire.gov.uk) which provides a large amount of information about the Council's services, activities, consultations and Council meetings is available;

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- in our [Publication Scheme Guide](#) (available on the Warwickshire Web) which explains and gives public access to information we regularly maintain and make available;
  - in the Council's Forward Plan which gives details of all Key Decisions the Council is going to make over the following 4 months; and
  - at our libraries, details of many Council services are available as well as copies of minutes of Committee meetings from previous years.
- 3.2 The Council is committed to increasing its publication of useful and relevant information, and keeping pace with any further publication obligations that may be placed on public authorities in the future.
- 3.3 The Council may assert copyright or other intellectual property rights over some information that it publishes but it will explain the conditions under which members of the public can still use this information. There may be a charge for the use of certain information although the Council intends to make available as much information as possible, free of charge, under the Open Government Licence.
- 3.4 The Council through its customer service centres and specialist teams provides direct advice and information to its customers every day at their request. Much of this interaction is face to face or over the phone. The Council does not expect the legal access to information rights should replace its day to day arrangements for providing customers with timely and accurate information which they need. This would not be an effective use of public resources. Instead, access to information requests should be used to request information which is not routinely made available.

## 4 Specific requests for information

- 4.1 In addition to information that the Council makes readily available, members of the public have the right to request access to information that the Council holds under various pieces of legislation.
- 4.2 The Council recommends that someone wishing to access information should first check the Warwickshire Web and the Publication Scheme Guide to see if the information is already publicly available. Members of the public wishing to make specific requests for information are asked to be considerate of the impact that making requests has on valuable public resources, and to ensure that requests are necessary (rather than trivial) and appropriately phrased so as to be manageable.
- 4.3 The three main legal rights are to be found in: the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Data Protection Act 1998.
- 4.4 The **Freedom of Information Act 2000** (FOIA) gives any person the right to make a written request to the Council for information that the Council holds. Unless the Council wishes to rely on an exemptions for non-disclosure (and the use of exemptions must generally be judged to be in the public interest), the Council is obliged to inform the requestor whether it holds that information and to supply it within 20 working days.

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- 4.5 The **Data Protection Act 1998** (DPA) gives an individual the right to ask what personal information is held about them, and subject to exemptions, to be supplied with that information within 40 calendar days. These are known as 'subject access requests' and there is a requirement under DPA that such requests are made in writing. The Council has a Data Protection and Privacy Policy which sets out the Council's responsibilities under the DPA generally.
- 4.6 The **Environmental Information Regulations 2004** (EIR) gives any person a right to make a written or verbal request to the Council for environmental information. Environmental information includes information about air, water, soil, land, flora and fauna, energy, noise, waste and emissions, related information including analysis and surveys, and certain information about human health and the food chain, built structures and cultural sites. The Council is obliged to respond to an EIR request within 20 working days, or 40 working days if the request is complex or voluminous. There are certain categories of information that the Council may not be obliged to disclose if they fall within the exceptions under the EIR.
- 4.7 The rights created by the FOIA, DPA and EIR legislation do not affect rights of access to information that exist independently under different regimes, nor do they alter any existing laws that prohibit the disclosure of information. A useful table setting out the main differences between the various routes for requesting information can be found at Appendix A.
- 4.8 The other main rights to access Council information include:
- access to information relating to Committee meetings of the Council. This includes access to background papers referred to in Committee reports, although the legislation does identify some exemptions to this access;
  - access to information relating to the publication of the Council's accounts;
  - access to information relating to planning and development matters; and
  - access to information relating to the Council's registration services.

## 5 How to make a request for information

### 5.1 Request under FOIA or EIR

Members of the public can make requests for information under FOIA or EIR in a number of ways:

- completing an on-line form (details are available on our website);
- completing our Request for Information form (available on our website as either an Adobe or Word document) and sending it to us either electronically or as a paper form;
- e-mailing a request to [foi@warwickshire.gov.uk](mailto:foi@warwickshire.gov.uk);

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- sending a request by post for the attention of the Freedom of Information Officer at the following address:

Freedom of Information Officer  
Warwickshire County Council  
Shire Hall  
PO Box 9  
Warwick  
CV34 4RR

- Requests for information under EIR can also be made verbally to the Council, however, to ensure that a request is properly understood and dealt with accurately, it is recommended that members of the public confirm the request in writing where possible.

### 5.2 Subject Access Requests under DPA

There may be a number of circumstances in which the Council holds personal data in respect of an individual which that individual may like to see. Many (but not all) requests for personal data are likely to be where a member of the public or their relative have received care or help from our Children, Families or Adult teams (previously Social Services).

If a member of public wishes to see their records:

- they can write to the Council, either addressed to the specific office, if known, or addressed to the Data Protection Officer at the Council; or
- they can fill in a 'Subject Access Request form' which is available on the website or from one of our offices;
- if they are currently receiving services from the Council then they can simply give their letter or form to the office they usually deal with.

The Council may request certain information from an individual to verify their identity before responding to a subject access request.

## 6 Fees

### 6.1 Requests under FOIA

6.1.1 If information that has been requested is not already available the Council's aim is to make as much as possible available to requestors free of charge. However, where it will take time to gather or prepare the information requested, that is deemed to be over the prescribed limit (currently £450 based on 18 hours at a standard rate of £25 per hour), the Council is entitled under FOIA to refuse to supply the information or charge for that work.

6.1.2 It is the Council's usual policy to refuse requests that exceed this prescribed limit. However Council staff will work with the requestor to bring their request under this limit or where appropriate provide any relevant information for under this limit. If a request does attract any

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charges we will ask the requestor whether they wish to continue with the request before we undertake the work.

- 6.1.3 No charges will be made where the Council refuses a request for information. Nor will there be a charge to appeal against the Council's refusal to supply the information requested or where an individual appeals against the charges the Council would make. Where information is available and a charge is payable the Council will only provide the information after receiving the appropriate fee.
- 6.1.4 If information is readily available, the Council may make a charge for photocopying. The actual fee depends on the amount of information that has been requested.
- 6.1.5 The Council will not normally photocopy publications which have been produced for sale. Where this is the case the publication will be charged for at the normal sale price. Where the information is already available in a priced publication from other sources the Council will provide details of the publication and where it can be obtained from.
- 6.1.6 Requestors will be advised of any charges following receipt of their request by the Council. The detailed charges that may be levied for printing, copying, postage and supplying the information in a specific format are listed in Appendix B. The Council would not normally charge for any costs incurred below £10.

### 6.2 Requests under DPA

The Council may charge for supplying any information requested under the Data Protection Act 1998, up to a maximum of £10.00, either as photocopies or on electronic media. The only exception to this limit relates to education records, normally held by schools, in which case the charging rates are set out in Appendix B. Any charge should be paid before the photocopies are provided to the person requesting the information.

### 6.3 Requests under EIR

In respect of charges under the Environmental Information Regulations the Council is entitled to make a charge it considers "reasonable" for providing copies of the requested information. In most circumstances these charges will generally be the same as those made under the Freedom of Information Act. However, in some circumstances the Council is entitled to take into account other factors such as the time taken to locate and retrieve the information, as well as the cost of photocopying and postage when calculating what a "reasonable" charge is.

Details of charges for specific types of documents that may contain environmental information (such as planning documents), can be found on the Council's website and requestors will be advised of any charges following receipt of their request by the Council. No charge would be made for allowing a member of the public to simply inspect such information at a place chosen by the Council.

### 6.4 Any other requests for information

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The Council may charge for the cost of responding to other requests for information outside the scope of FOIA, EIR or DPA, to the extent that the law allows from time to time. Any such charges will be notified to the requestor from the outset.

## 7 Complaints

### 7.1 Requests under FOIA or EIR

7.1.1 If the Council refuses to supply all or part of any other information you have asked for under FOI or EIR, we will write to you giving our reasons for refusal. If you are not satisfied with the reasons or the manner in which your request was dealt with you have the right to request that the Council carry out an internal review of the matter.

7.1.3 All requests for an internal review should be made in writing and the matter will be dealt with under the Council's internal review procedure, as follows:

- The matter will be dealt with on behalf of the Monitoring Officer by a senior officer with appropriate knowledge and experience. Ordinarily this will be the Deputy Monitoring Officer, the Corporate Legal Services Manager or a member of their team as nominated by them.
- The internal review procedure is a single stage review process which in most cases will be completed within no more than 20 working days from the date of the request.
- In some circumstances the review may take longer (e.g. if the matter is complex) however it should take no longer than 40 working days from the date of the request.

7.1.4 Reference to this right of appeal should be included as part of the standard response letter/email to a request and is included in the template letters available for employees to use.

### 7.2 Requests (including Subject Access) under DPA

If a person making a subject access request under DPA is dissatisfied with the response they have received, they should contact the Council officer who dealt with their request and see if they can resolve their concerns. If the person remains dissatisfied following that review they are entitled to complain to the Information Commissioner's Office (details at 7.3 below). If the individual's complaint is complex and extends beyond how their subject access request was dealt with (for example includes complaints about the services they have received), then it may be appropriate for it to be dealt with under the Council's Complaints Procedure.

### 7.3 Complaining to the Information Commissioner's Office

If once a complaint regarding a request for information has been considered by the Council and the requestor is not satisfied with the outcome, then they are entitled to complain to the regulator, the Information Commissioner's Office. The website is: [www.ico.gov.uk](http://www.ico.gov.uk) and the postal address is:

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FOI Compliance Team (complaints)  
Wycliffe House,  
Water Lane,  
Wilmslow  
Cheshire  
SK9 5AF

## 8 Responsibilities

Warwickshire County Council is the overall body responsible for providing information, with the legal obligations being enforced by the Information Commissioner and the courts. Specific responsibilities within the Council are as follows:

### 8.1 Elected Members of Warwickshire County Council

- Members working on behalf of the Council are regarded in exactly the same way as any employee of the Council and their responsibilities are as defined for employees below;
- Members provide a key link to assist the public in obtaining information and should be aware of our obligations and the key contacts within the Council.

### 8.2 Strategic Directors and Senior Managers

- Requests for information within Directorates are processed in accordance with agreed policies and procedures;
- Resources are adequate to meet statutory deadlines and reporting procedures;
- Staff receive the necessary training and support to understand legislation and can respond to requests for information in accordance with the relevant policies and procedures;
- Information and records within Directorates are managed in accordance with policies and best practice.

### 8.3 Corporate Legal Services

- Act as a reference point for legal advice across the Council on specific requests;
- Co-ordination and allocation of all requests for information received centrally and respond to corporate requests where appropriate;
- Overall responsibility for compliance and monitoring for the Council;
- Performance reporting and measurement of requests for the Council.

### 8.4 Directorate FOIA/EIR/DPA Co-ordinators

- Act as a reference point for guidance within their Directorate;
- Provide co-ordination of requests within their Directorate and respond to Directorate requests where appropriate;

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- Ensure that requests for information under the three pieces of legislation are recorded on the Request for Information System;
- Performance reporting, measurement and monitoring of requests within their Directorate.

### **8.5 All Employees**

- Awareness of the relevant legislation relating to requests for information;
- Requests for information are processed in accordance with agreed policies and procedures;
- Responsible for the information request until closed or transferred and accepted by another member of staff, or transferred and accepted by another public body;
- Responsible for ensuring that information created as part of their day to day duties is accurate, appropriate and managed to allow efficient and timely retrieval of information;
- Responsible for ensuring that fees charged are in accordance with this Policy;
- Responsible for ensuring records are created and maintained to defined Council policies and procedures;
- Responsible for ensuring requests are processed in accordance with Council's procedures and the requestor is made aware of the relevant complaints procedure.

## **9 Training and Information for Employees**

- 9.1 All employees of the Council should be aware of their responsibilities if they receive a request for information. Details about the process for dealing with a request and key contacts can be found on the Council's Intranet. If an employee is unsure about what they need to do on receipt of a request, then they should contact their Directorate FOI/EIR/DPA co-ordinator.
- 9.2 Appropriate training will also be maintained for key contacts across the Council in order for them to prepare and deal with requests for information under FOIA/DPA/EIR.

## **10 Performance Management & Reporting**

- 10.1 The Council is obliged to respond to requests for information within the timescales laid out in each of the legislation. Sometimes timescales may be legitimately extended for example when further information or clarification is sought by the Council from the requestor.
- 10.2 Data is collected by the Council on the number of requests under each type, any fees collected and our performance in responding to those requests within the timescales. Where exceptions and exemptions apply, this information will be recorded in order to build a knowledge base to help with future enquiries.

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### Appendix A – Types of Request

Request	Request Format	Legislation	Statutory Deadline
Personal information about <b>the applicant</b> (or someone authorised to act on their behalf)	Must be written	Data Protection Act	40 <b>calendar</b> days
Personal information about <b>someone else</b> (a “third party”)	Must be written	Data Protection Act & Freedom of Information Act	40 <b>calendar</b> days where the request falls within the DPA, otherwise 20 <b>working</b> days
Information about the <b>environment</b> or human interaction with the environment (land, landscape, soil, water, air, atmosphere, flora and fauna; emissions, pollution and smog; sewers and drainage; cultural sites; the food chain, pesticides; policies, and any plans and agreements affecting any of the above).	Can be oral or written	Environmental Information Regulations	20 <b>working</b> days (can extend to 40 days for large or complex enquiries)
Any other written information which may be found in the <b>archives</b> or in your own <b>corporate records</b>	Must be written	Freedom of Information Act	20 <b>working</b> days
<b>General advice</b> e.g. opening hours, how to get to the office, anything which can be answered immediately from memory e.g. local knowledge, etc.	Any	None – operate as normal Directorate/ team procedure	None but WCC Standards for Customer Care apply <ul style="list-style-type: none"> <li>• Telephone: within 7 rings or 20 seconds.</li> <li>• Letters, fax, email: an acknowledgement or response must be sent within <b>5</b> working days</li> </ul>

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### Appendix B – Fees

<b>TABLE OF FEES WHICH MAY BE CHARGED FOR PROVIDING COPIES OF INFORMATION UNDER FREEDOM OF INFORMATION OR DATA PROTECTION ACTS</b>	
Copy charging for	Maximum fee
Black & white copy of A4 sheet	10p per sheet
Colour copy of A4 sheet	50p per sheet
CD/DVD/USB	At cost
Postage	At cost
Other charges – environmental information only	Other costs that the Council considers “reasonable” - factors such as time taken to locate and retrieve information may be taken into account.

<b>TABLE OF FEES WHICH MAY BE CHARGED FOR PROVIDING COPIES OF DOCUMENTS CONTAINING ENVIRONMENTAL INFORMATION</b>	
Copy charging for	Maximum fee
Black & white copy of A4 sheet	10p per sheet
Colour copy of A4 sheet	50p per sheet
Copy of planning decision notices	Free on web from 2004 or £20 per copy if Council provides a paper copy
Copy of other planning documents (such as plans)	£45 per copy plus £5 postage and packaging
Copy of solicitors’ letters and searches information	£50 per copy
Any other printing/copies of plans etc	£25 per copy
Copy of Section 38 Agreement/documents	£50 per copy
Copy of Section 106 Agreement/documents	£50 per copy

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<b>TABLE OF FEES WHICH MAY BE CHARGED FOR PROVIDING COPIES OF EDUCATION RECORDS</b>	
Number of pages of information comprising the copy	maximum fee
fewer than 20	£1
20-29	£2
30-39	£3
40-49	£4
50-59	£5
60-69	£6
70-79	£7
80-89	£8
90-99	£9
100-149	£10
150-199	£15
200-249	£20
250-299	£25
300-349	£30
350-399	£35
400-449	£40
450-499	£45
500 or more	£50