



Breckland District Council

Freedom of Information Act Policy

July 2014

Democratic Services

Document Control and History

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Introduction

The Freedom of Information Policy ensures that Breckland District Council (“the Council”) acts in compliance to the Freedom of Information Act 2000 (FOIA). This Policy also covers the Environmental Information Regulations 2004 (EIR).

Scope – Policy Aim

The aim of this Policy is to;

- Promote a more open government;
- Promote a better informed public debate;
- Improve public confidence in operations of government;
- Improve decision making to promote accountability;
- Improve regulation;
- Increase public participation to enhance democracy;
- Promote the FOIA, in terms of accuracy and objectivity; and
- Improve information management.

Legislation or Executive Summary

The FOIA provides public access to information held by the Council. It does this in two ways:

- The Council is obliged to publish certain information about their activities; and
- Members of the public are entitled to request information from the Council.

The Act covers any recorded information held by a public authority. The Act does not, however, give people access to their own personal data - these requests should be made under the Data Protection Act 1998. Any information that the Council holds in relation to the environment should be processed in alignment with the Environmental Information Regulations 2004.

The Council has continued to demonstrate its commitment to all aspects of the FOIA and will continue to promote its values and ensure that the Council is compliant with legislation.

Policy Consultation and Consideration

Corporate Management Team; Portfolio Holder; and Cabinet.

Policy Statement

1.1 Statement

Breckland District Council supports the principle of openness, transparency and accountability and will continue to improve access to information.

1.2 Requests for Information

A request for information under the FOIA must be;

- In writing;
- State the name of the applicant and an address for correspondence; and
- Describe the information requested.

1.3 Fees

Wherever possible, Breckland District Council will provide information free of charge. However, in some cases this is not possible. We are entitled to charge for information under Section 9 of the FOIA and the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. The Council will issue a Fees notice which must be paid within 3 months. If no payment is received we will close the request for information. Details of our charges can be found within our Publication Scheme and a copy of our charging guidance is available upon request.

1.4 Time of compliance

The Council aims to comply with requests for information as quickly as possible. Section 10 of the FOIA states that a public authority must respond to a request promptly and, in any event, no later than the twentieth working day following the date of receipt. Working day means any day other than Saturday, Sunday or bank holidays. The time for compliance is subject to change if:

- The Council seeks clarification under Section 1(3) of the FOIA;
- There is a need for an extension to consider the Public Interest Test under Section 10(3) of the FOIA; or
- A fees notice is issued under Section 9.

1.5 Appropriate Limit

Under Section 12 of the FOIA Breckland District Council does not have to comply with requests where the cost of compliance exceeds the appropriate limit. Section 12 applies if the following factors would cost the Council more than four hundred and fifty pounds or 18 hours of officer time:

- Determine whether the information is held;
- Locating the information;
- Retrieving the information; and
- Extracting the information.

Under Section 13 of the FOIA and the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 Breckland District Council is able to charge for the cost of disbursements.

1.6 Vexatious or Repeated Requests

Under Section 14, Breckland District Council will not comply with vexatious requests where there is a strong likelihood that such requests are being made to intentionally cause disproportionate or unjustified levels of disruption, irritation or distress.

The Council will not comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request.

1.7 Advice and Assistance

In compliance with Section 16 of the FOIA, Breckland District Council will provide advice and assistance in response to all requests for information as far as reasonably

practicable.

1.8 Publication Scheme

Every public authority has a duty to adopt and maintain a Publication Scheme in order to facilitate pro-active release of information. Breckland District Council has adopted the model Publication Scheme produced by the Information Commissioner and it is available on our website.

Our publication scheme contains the following seven classes of information:

- Who we are and what we do;
- What we spend and how we spend it;
- What our priorities are and how we are doing;
- How we make decisions;
- Our policies and procedures;
- List and register; and
- The service we offer.

1.9 Codes of Practice

The FOIA is supported by two codes of practice;

- Access Code (Section 45) – Detailing good practice within Freedom of Information; and
- Lord Chancellors Code (Section 46) – Detailing good practice within record management.

Breckland District Council will ensure that wherever possible the codes of practice will be applied.

1.10 Refusals

In some cases, Breckland District Council may refuse requests for information under Section 17 of the FOIA. The Council may issue a refusal notice for the following reasons;

- Information is not held; or
- An exemption applies (see Part II of the FOIA).

In some cases we may not hold the information requested - it may be that it is held by another party. If possible, the Council shall provide the requestor with information to re-direct the request. However, for Data Protection reasons the Council will not transfer the requestor's request.

1.11 Exemptions

There may be certain circumstances under which Breckland District Council is not obliged to release information. The Council may decide to apply exemptions under Part II of the FOIA. The exemption, if relied upon, will be explained thoroughly in the Council's refusal notice under section 17.

A list of the exemptions to the FOIA can be found on the Information Commissioner's website: <http://ico.org.uk/>

Some exemptions are 'absolute', which means that the exemption applies to any information falling within a defined type. Other exemptions are 'qualified' and require a public interest test to be applied. The council will ensure that the public interest test is carried out for each of the qualified exemptions. If an exemption is applied it will be authorised by a senior officer.

1.12 Internal Review

If a requestor is unhappy with a decision that Breckland District Council has made it may request an internal review, as detailed in the Section 45 code of practice. The Council's internal review comprises, one stage, an independent review by a senior officer. The Council has 20 working days to complete the review.

1.13 Data Protection

A request for information may relate to personal data of the requestor or third parties. The Council may refuse the request if to disclose information in relation to third parties would be an actionable breach of confidence or would breach one or more of the data protection principles.

In cases where the request relates to personal data of the requestor, the authority will refuse under Section 40(1) and shall ask for the request to be submitted as a Data Subject Access request under the Data Protection Act 1998 Section 7. This process is detailed within the Council's Data Protection Policy.

1.14 Re-use of Public Sector Information Regulations 2005

The regulations implement an EU directive that encourages the re-use of public information for purposes other than its original purpose.

The regulations do not oblige Breckland District Council to make their information available for re-use unless there is a statutory obligation to do so.

The regulations apply to any recorded information (Freedom of Information), including whole or part of documents. Requests for re-use should be in writing and the Council will aim to respond within 20 working days.

1.15 Environmental Information Regulation 2004

The Environmental Information Regulations 2004 (EIR) came into force on 1 January 2005 and give members of the public the right of access to environmental information held by public authorities, which includes Breckland District Council.

Breckland District Council will class a request for information as an EIR request if it falls within the description stated in the regulations under Part 1 Regulation 2.

Breckland District Council is not obliged to disclose all information requested if an exception applies under Part 3 Regulation 12. The Council will carry out a public interest test for any exception that is applied.

1.16 Information Commissioner

Breckland District Council will consult with the Information Commissioner when required. The Council will refer to Commission guidance and ensure that it is

compliant with any good practice that the Commissioner promotes. The Commissioner will investigate complaints in relation to Freedom of Information and Environmental Information Regulations request.

1.17 Training

Breckland District Council will ensure that staff and members receive appropriate training to ensure they are fully informed of their obligation under the FOIA.

2.0 Implementation

The Council has a responsibility to ensure that:

- The Freedom of Information Policy and supporting documents reflect the corporate priorities of Breckland District Council; and
- There is genuine commitment throughout the Council to promote openness and accountability through the FOIA.

The Corporate Management Team has a responsibility to ensure that:

- The Council is fully compliant with legislation;
- The policy is approved and that procedures that support the policy are implemented; and
- Information in relation to the policy and procedures is circulated within their service areas.

Managers are responsible for ensuring that:

- Information held within their areas, including information processed by contractors, partners or other bodies working under a service level agreement, complies with the appropriate policies and procedures;
- Their team members are aware of the process for information requests and understand the possible risks of disclosing sensitive information; and
- Requests are responded to within the timeframe set by legislation and that if they have any concerns they should be made aware to the appropriate person.

All staff are responsible for ensuring that:

Any Complaint, Compliment, Suggestion or Feedback, as detailed in our Customer Feedback Policy, surrounding the handling of information requests are addressed at the time of occurrence. Staff are responsible for familiarising themselves, following and complying with the Council's policy, procedures and guidance in relating to information management.

The Democratic Services Team is responsible for;

- Assisting the Corporate Management Team, Managers, Staff and Councillors in all aspects of requests for information; Freedom of Information, Environmental Information and Data Protection;
- Ensuring that the Council is compliant with legislation under the Freedom of Information Act 2000, Environmental Information Regulations 2004, Section 45 code of practice, Section 46 Lord Chancellors code of practice, Information Commissioners guidance and records management; and
- Reporting statistical data for information requests to the Corporate Management

Team;

- Administration of requests for information is maintained in an efficient manner; and
- Records management under the Lord Chancellors section 46 code of practice is applied.

Breckland District Councillors have a responsibility for ensuring that;

- They understand they are covered under the FOIA in their capacity as a District Councillor;
- That they promote openness and accountability to their role; and
- That they follow the Council's policy and procedures.

2.1 Management Control and Organisation

Breckland District Council will provide suitable management and control arrangements for its information and records. The Council will seek legal advice if and when required.

2.2 Monitoring

Requests for information will be assessed thoroughly through the Council's performance indicators and a robust reporting system. The Corporate Management Team will receive updates on a scheduled basis and will also be made aware of any pressing matters.

3.0 Related Policies and Strategies

Data Protection Policy and Publication Scheme.

4.0 Appendices

None.