

# Access to Information Policy

## Document Control

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<b>Executive Director (Resources)</b>	Sign & Date:	
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## Change History

Version	Date	Description	Change ID
1	2007	Data Protection Policy & Freedom of Information Policy	
2	2013	Access to Information Policy	
3	2018	Access to Information Policy 1 <sup>st</sup> Revision	
4	2021	Access to Information Policy 2 <sup>nd</sup> Revision	
5	2023	Amendments to the description of legislation	



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## 1. Purpose

- 1.1 The purpose of this Policy is to ensure that West Berkshire Council (the "Council") complies with the requirements of the existing access to information legislation, including the General Data Protection Regulations 2016/679 (UK GDPR), the Data Protection Act 2018, the Freedom of Information Act 2000, the Environmental Information Regulations 2004, and the Local Government Act 1972 Schedule 12A and any subsequent amendments or amending legislation.
- 1.2 This Policy applies to all requests for information made to West Berkshire Council, whether written or verbal, and to the security, confidentiality and administration of all personal information.
- 1.3 The Access to Information Policy has been approved under delegated authority by the Service Lead – Legal and Democratic Services.

## 2. Applicability

- 2.1 This Policy applies to:
  - 2.1.1 All non-school based employees working for the Council, including those working from home or at non-Council locations.
  - 2.1.2 Other persons, including Elected Members, Consultants, Agency staff and Contractors working for the Council, external organisations working with the Council, whilst engaged on Council business.
- 2.2 It is the responsibility of each employee and other person mentioned in Section 2.1.2 to familiarise themselves with and adhere to this Policy.
- 2.3 Adherence to this Policy is a condition of working for the Council or using its assets.
- 2.4 This document is published separately on the Council's website <https://info.westberks.gov.uk/dataprotection> and will also be incorporated into any Council Employee handbooks.
- 2.5 The Individual Executive Member for Internal Governance, Leisure & Culture and members of the Council's Security Group have been consulted in respect of this Policy.

## 3. Policy

It is the Policy of the Council to ensure that:

- 3.1 All requests for information are acknowledged and dealt with promptly, and within statutory timescales.

- 3.2 Advice and assistance shall be offered where necessary to help any enquirer frame their request.
- 3.2.1 Assistance will always be offered to children and young people requesting their own personal data to ensure that they are fully supported in their request, and in the receipt of this data.
- 3.2.2 Assistance will always be offered to anyone whose first language is not English to ensure that they are able to access their own personal data, or other information which they may request.
- 3.2.3 Assistance will always be offered to persons with disabilities to assist them in obtaining their own personal data, or other information which they may request, in a form and format accessible to them.
- 3.3 Requests will be assessed to ensure that, where applicable; the confidentiality of personal or commercially sensitive information is not breached; disclosure is in the public interest; and provision of the information would not be prejudicial to the provision of essential Council services.
- 3.4 Information shall only be withheld where a legitimate exemption applies, and in such a case, (where appropriate), the application of the exemption shall be explained to the enquirer.
- 3.5 Any enquirer shall be kept informed of the progress of their request and of any delays to which it may be subject.
- 3.6 Unless otherwise requested, personal data, and other information requested, will be supplied in electronic format and by email.
- 3.7 Assistance shall be offered to any enquirer to help them understand the information they receive.
- 3.8 All enquirers shall be informed of their rights to question the information received and request an internal review, (where appropriate) of what has not been provided, or of any refusal.
- 3.9 Requesters asking for their own personal data shall be informed of their statutory rights under the UK GDPR (Article 15 - right of access, Article 16 - right of rectification, Article 17 - right of erasure, Article 18 - right to restriction of processing, Article 20 – right to data portability, and Article 21 - right to object), and to how these rights apply to the data held by the Council.
- 3.10 All enquirers shall be advised of their right to take any complaint to the Information Commissioner following an internal review, or the processing of a complaint about their request, if they remain dissatisfied with the service received or the information provided.

- 3.11 All requests shall be monitored, and performance indicators made available to the appropriate Council Committee to demonstrate compliance with the legislation.
- 3.12 Information which can be made publicly available shall be published under the provisions of the Publication Scheme to West Berkshire Council website, or, where provided in response to a request, shall be published to the Council's Disclosure Log. The Council shall make all efforts to anticipate, and publish proactively, information which is of interest to the public domain.
- 3.13 All staff shall be provided with training, guidance and procedures to enable them to manage requests for information.
- 3.14 Guidance and training will be provided to Members to enable them to identify, and pass on to the Council, requests made by their constituents.

#### **4. Management of Records**

- 4.1 Personal information, special categories of personal data and confidential information shall be stored, updated, transferred, shared, and protected, as required by law and in line with the Codes of Practice and guidance published by the Information Commissioner, and as required for personal privacy, commercial sensitivity and corporate security.
- 4.2 A Records Management Policy and Record Retention Schedule shall make provision for the formal management of all Council records.
- 4.3 An officer or officers shall be appointed with specific responsibility for the administration of all requests for information made under the legislation cited in 1.1 (above).
- 4.4 The management of the access to information and Data Protection regimes shall be regularly audited to ensure compliance with statutory requirements and that the relevant national Codes of Practice are followed.

#### **5. Implementation**

- 5.1 This Policy will be supported and implemented by the development and publication of Standards (requirements), Procedures (how to) and Guidance (advice), where required.
- 5.2 Training in the access to information legislation, and the appropriate procedures to follow in administering requests shall be provided for all officers, and regularly updated. Responsibility for arranging and providing training rests with the Planning & Governance Team in Legal & Democratic Services, in conjunction with Human Resources. Line Managers are responsible for ensuring new starters undertake mandatory Data Protection training.

5.3 Training for Members can be provided on request and as part of the Induction process for Councillors.

## 6. Roles and Responsibilities

6.1 The overall responsibility for access to information and Data Protection within West Berkshire Council rests with the Chief Executive.

6.2 The responsibility for day-to-day management of access to information throughout West Berkshire rests with the Service Lead, Legal & Democratic Services, who is also responsible for maintaining this Policy, for reviewing related procedures and for providing advice and guidance on their implementation.

6.3 All managers are directly responsible for implementing this Policy and any subpolicies and procedures within their service areas, and for the adherence of their staff and others (2.1.2).

6.4 All personnel detailed at 2.1.1 and 2.1.2 have an individual responsibility to adhere to this Policy and any relevant Standards and/or Procedures.

6.5 All requests under Freedom of Information/Environmental Information legislation will be administered centrally by the Planning & Governance Team in Legal & Democratic Services. Requests for personal data under the General Data Protection Regulation will be administered by either the Planning & Governance Team in Legal & Democratic Services or by the relevant Team in Social Care Services.

6.6 All requests will be processed by a senior officer or officers in the relevant Service, with advice and assistance from the Planning & Governance Team in Legal & Democratic Services.

6.7 All officers processing personal data are required to comply with the seven enforceable Principles set down in the General Data Protection Regulations:.

- Lawfulness, fairness and transparency
- Purpose limitation
- Data Minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)
- Accountability

These Principles are the foundation for the approach to processing personal data.

## 7. **Failure to comply with Access to Information Policy**

7.1 This document provides staff and others with essential information regarding access to information and Data Protection and sets out conditions to be followed. It is the responsibility of all to whom this Policy document applies to adhere to these conditions. Failure to do so may result in:

- withdrawal of access to relevant services
- informal disciplinary processes
- formal disciplinary action (in accordance with WBC's Disciplinary Rules and Procedure)

7.2 Additionally if, after internal investigation, a criminal offence is suspected (for example under The Data Protection Act 2018), the Council may contact the police or other appropriate enforcement authority to investigate whether a criminal offence has been committed.

## 8. **Review**

8.1 This policy will be reviewed to respond to any changes in the legislation, Codes of Practice or formal Guidance, and at least every three years.

8.2 The Service responsible for reviewing and maintaining this Policy is Legal & Democratic Services.

## Glossary

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The General Data Protection Regulation (Regulation (EU) 2016/679) - The General Data Protection Regulation (GDPR) is EU legislation which came into force in the UK on 25<sup>th</sup> May 2018, and has been written into UK law as the UK GDPR. It provides a detailed regime for the protection of personal data in the digital age. It replaces previous European legislation on the protection of personal data.

Data Protection Act 2018 – The Data Protection Act 2018 (the Act) repeals and replaces the UK's previous data protection laws to keep them up to date and in line with the digital age. It sets new standards for protecting personal data, in accordance with the GDPR. It also deals with elements of the regulatory framework not covered by GDPR, and implements the provisions of the Law Enforcement Directive.

The Freedom of Information Act 2000 – The Freedom of Information Act 2000 (FoIA 2000) is UK legislation which makes provision for the disclosure of information (excepting environmental information) held by public authorities or by persons providing services for them.

The Environmental Information Regulations 2004 – The Environmental Information Regulations 2004 (EIR 2004) is EU legislation which make provision for the disclosure of and proactive publication of environmental information held by public authorities or by persons providing environmental services for them.

The Local Government Act 1972 Schedule 12A – The Local Government Act 1972, Schedule 12A - Access to Information: Exempt Information, is UK legislation which makes provision for local authorities to exempt from publication certain information, and cross refers to the provisions in a number of other Acts. All the Schedule 12A exemptions are qualified by a public interest test.

Information Commissioner – The Information Commissioner is the independent supervisory authority for Data Protection, The Freedom of Information Act and The Environmental Information Regulations within the UK.

## Other Relevant Documentation

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[Data Protection requests](#)

Subject Access  
Procedure

[Records Management Policy](#)

[Security Policy](#)

[Security Incident Management Standards & Procedures](#) -

[Records Retention Schedule](#)