



Leicester  
City Council

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**Information Assurance  
Policies and Guidance**

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**Information Governance Policy**

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**Owner: Information Governance Manager**

## Document History

Revision Date	Version Number	Summary of Changes
01012013	V0.1	Original draft
04012013	V0.2	Amendments suggested by Head of Information Assurance.
09012013	V0.3	Amendments suggested by Director of Information & Customer Access.
14032014	V0.4	Update to procedure for sensitive requests, addition of Protection of Freedoms Act datasets requirements, addition of Caldicott Guardian log to meet IG toolkit requirements, addition of traded service, addition of charges.
10042015	V0.5	Update contact details, plus release arrangements for information not held and s21

## 1. Introduction

1.1 Information and personal data are major assets that Leicester City Council ('the Council') has a responsibility and requirement to protect, and, where required by law, to publish. They take many forms and include information and data stored on computers, transmitted across networks, printed out or written on paper, sent by fax, stored on tapes, disks or other electronic media and spoken in conversation or over the telephone.

## 2. Aim

2.1 To provide a framework for the management of information requests made to the Council, and the management and protection of personal data held by the Council.

2.2 To assist staff to meet the presumption in favour of disclosure of information required by legislation thereby promoting greater openness, provide increased transparency of decision making and to build public trust and confidence.

2.3 To ensure all legal obligations on the Council are met including

confidentiality of information relating to such areas as personal privacy, commercial sensitivity, security issues, and where disclosure would not be in the public interest.

### **3. Applicability**

3.1 This policy applies to all information and personal data held by the Council. Information and personal data can take many forms and includes, but is not limited to, the following:

- Hard copy data printed or written on paper.
- Data stored electronically.
- Communications sent by post / courier or using electronic means.
- Stored tape or video.
- Recordings.

### **4. Review and Maintenance**

4.1 This policy will replace any previous Data Protection Policy Statement, and replace the existing Access to Information Policy 2011 and Access to Information Charging Policy 2011. The new policy also includes reference to the Re-Use of Public Sector Information Regulations and Open Data as new legislation has been introduced relating to these areas.

4.2 This policy is agreed and distributed for use across the Council by the Information Management Programme Board (IMPB) on behalf of CMT. It will be reviewed annually by the Information Governance Manager, who will forward any recommendations for change to the IMPB for consideration and distribution.

### **5. Need for an Information Governance Policy**

5.1 The information and personal data stored in the Council's manual and electronic information systems represent an extremely valuable asset on which is placed an ever-increasing reliance for the effective delivery of services. The value of and our reliance on our information makes it necessary to ensure that:

- All systems, manual or electronic, that create, store, archive or dispose of information or personal data are developed, operated, used and maintained in a safe and secure fashion.
- The public and all users of the Council's information systems are confident of the confidentiality and accuracy of the information and personal data used.
- All legislative and regulatory requirements are met.
- All transmission and essential sharing of information with partners, be that in manual or electronic format, is properly authorised and effected within agreed sharing protocols.

## **6. Legal Requirements**

- 6.1 The Council is obliged to comply with all relevant UK and EU information legislation. This requirement to comply is devolved to Elected Members, staff, contractors or others permitted to use information and personal data held by the Council, who may be held personally accountable for any breaches of personal data security for which they may be held responsible.
- 6.2 The Council shall comply with the following legislation and other legislation as appropriate:
- Freedom of Information Act 2000
  - The Data Protection Act (1998)
  - Human Rights Act (1998)
  - Regulation of Investigatory Powers Act 2000
  - Environmental Information Regulations 2004
  - Protection of Freedoms Act 2012
- 6.3 For more detailed explanations of the above see the Information Governance section of the Staff e-Handbook.

## **7. Policy Statement**

- 7.1 Leicester City Council supports the objectives of the Freedom of Information Act 2000, the Data Protection Act 1998 and other legislation relating to Data Processing and information access, including the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, the Environmental Information Regulations 2004 and the Protection of Freedoms Act 2012. This policy aims to assist staff with meeting their statutory and other obligations which covers the issues of Information Governance.

## **8. Objectives**

- 8.1 The policy is intended to establish and maintain the security and confidentiality of personal data, and provide a framework for maintaining the normal business activities of the Council by:
- Creating and maintaining within the organisation a level of awareness of the need for Freedom of Information and Data Protection as an integral part of the day to day business;
  - Ensuring that all data users are aware of and fully comply with the relevant legislation as described in policies and fully understand their own responsibilities;
  - Ensuring that all information users are aware of the rights of requesters in accessing Council information under the Freedom of Information Act 2000;

- Ensuring that all data users are aware of the rights of data subjects in accessing and correcting their personal data under the Data Protection Act 1998;
  - Protecting sensitive personal data from unauthorised disclosure;
  - Safeguarding the accuracy of information;
  - Protecting against unauthorised modification of information;
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- Storing, archiving and disposing of sensitive and confidential information in an appropriate manner;
  - Lawful use or sharing of Council information.

8.2 The Council will achieve this by ensuring that:

- Confidentiality of personal data and exempt information is assured;
- Regulatory and legislative requirements are met;
- All transmission and essential sharing of information internally or with partners, in manual or electronic format, is properly authorised and effected within agreed sharing protocols.
- Freedom of Information and Data Protection training is provided;
- All losses of personal data, actual or suspected, are reported, investigated and any resulting necessary actions taken;
- Standards, guidance and procedures are produced to support this policy.

## 9. Scope

9.1 The policy applies to all:

- Information and personal data held by The Council whatever format in which it is held;
- Locations from which Council systems are accessed (including home use or other remote use). Where there are links to enable partner organisations to access Council information, prior assurance must be obtained that information security risks have been identified and suitably controlled.

## 10. Responsibilities

10.1 The Chief Operating Officer, on behalf of the City Mayor is the Senior Information Risk Owner and has overall responsibility for Information Governance within the Council.

10.2 The Information Governance Manager is responsible for:

- Developing, implementing and maintaining the corporate Freedom of Information and Data Protection and relevant Information Governance policies, procedures and standards that underpin the

effective and efficient creation, management, dissemination and use of personal data;

- Provision of Freedom of Information and Data Protection support and advice to staff and managers.
- The production, review and maintenance of Freedom of Information and Data Protection policies and their communication to the whole Council;
- Provision of professional guidance on all matters relating to Freedom of Information and Data Protection.
  
- Oversight management of all information data protection breaches and suspected breach investigations.
- Provision, via the Intranet, of Freedom of Information and Data Protection Awareness briefing materials and, through City Learning, of on-line training.
- Oversight management of all information requests under the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Data Protection Act 1998, and any subsequent appeals and complaints to the Information Commissioner;
- Management and recording of Information Sharing processes and agreements;
- Production of an annual Information Governance Report.

10.3 All Directors and Managers will:

- Implement this policy within their business areas;
- Ensure compliance to it by their staff;

10.4 Additionally they will specifically ensure that:

- All current and future users of Council information are instructed in their data protection responsibilities and have access to and have read the Information Governance Policies and guidance.
- Authorised users of computer systems/media are trained in their use and comply with policy and procedural controls to protect personal data.
- Determine which individuals are given authority to access specific information systems. The level of access to specific systems which contain personal data should be on a job function need, irrespective of status.
- Any breach of this policy, real or suspected, is reported as required in the Information Security Incident Reporting Policy.

## **11. Freedom of Information Principles**

11.1 Leicester City Council is committed to an access to information framework that ensures:

- All requests for information are dealt with promptly and within statutory timescales;
- Advice and assistance is offered to help any enquirer frame their request so that they receive the information they require;
- Requests are assessed to ensure the confidentiality of personal or commercially sensitive data is not breached, disclosure is in the public interest and provision of the information is not prejudicial to provision of essential Council Services;
- Information is withheld if a legitimate exemption applies and the application of the exemption is explained to the enquirer;
- All enquirers are kept informed in a timely manner of the progress of their request and of any delays to which it may be subject;
  
- A full and proper information risk management process is in place at all times;
- Assistance is offered to any enquirer to help them understand the information they receive;
- All enquirers are advised of their rights to question the information received and know what has not been provided and why;
- All enquirers are advised of their right to take any appeal or complaint to an internal review process (where appropriate) or to the Information Commissioner, if they are dissatisfied with the service received or the information provided;
- The majority of information which can be made publicly available is published on the Leicester City Council website as and when resources allow;
- All requests are monitored and performance indicators made available to demonstrate compliance with the legislation;
- All staff are provided with suitable training, guidance and procedures to enable them to manage requests for information;
- Charges are raised in accordance with Appendix A. (All charges owed must be paid in advance. No work will be undertaken until the fee is paid);
- The Information Governance Manager is responsible for the management and monitoring of all requests for information made under the legislation;
- The Information Governance Manager is responsible for ensuring the access to information process is regularly audited to ensure compliance with statutory requirements, and that relevant national codes of practice are followed.

## **12. Processing Freedom of Information Requests**

12.1 All Requests for information should be sent at first instance to The Information Governance Team, Tel. 0116 4541300, Email: [info.requests@leicester.gov.uk](mailto:info.requests@leicester.gov.uk) and these will be logged on the central IG logging system and acknowledged to the requester within 2 working days.

## Not Protectively Marked

- 12.2 The Council recognises that environmental information should be processed under the Environmental Information Regulations 2004.
- 12.3 The procedure for dealing with information requests is contained in the Leicester City Council publication – ‘Guidance on how to handle Freedom of Information Requests’ which is available on the Council’s Intranet.
- 12.4 Ways in which an information request can be made will be published on the Council’s website.
- 12.5 The Information Governance Team will pass requests to the relevant Service Area to action the request after seeking clarification if necessary.

If the Service Area is unable to deal with the request or requires clarification, they should revert to the Information Governance Team.

- 12.6 If a charge is applicable a fees notice will be issued by the Information Governance Team. Charges should be levied as in Appendix A.
- 12.7 Leicester City Council will respond within the statutory time limit of 20 working days by making the information available to the data subject. This can be extended by another 20 working days or a reasonable time if the public interest is considered.
- 12.8 If Leicester City Council considers that an exemption applies and does not consider that disclosure is appropriate, the requester must also be informed of this within 20 working days of making the request.
- 12.9 If an exemption is considered to apply, the decision not to disclose information should be made by the Information Governance Manager, in consultation with the Service Area, and the reasons for non-disclosure documented.
- 12.10 Requests will be authorised by the relevant Service Director, after consultation with the relevant elected member where required, before release to the requester. Responses can be released by the Information Governance Manager without a Director’s authorisation if it is information not held, or is exempt under s21 (accessible elsewhere).
- 12.11 The Chief Operating Officer, City Mayor, Deputy Mayors and Directors will be informed of sensitive requests by the Information Governance Team weekly.
- 12.12 Councillors will be informed of any request relating to them by the Information Governance Manager.

- 12.13 Information that is released via FOI that meets the definition of a dataset



will be released wherever possible in an open data format, under an open government licence, and this dataset will be published and updated regularly on the Council's website where it is reasonable to do so.

### **13. Vexatious Requests**

13.1 Before applying section 14 and deeming a request vexatious under the Freedom of Information Act 2000, the Information Governance Manager will consult the Head of Information Assurance or Monitoring Officer before making a decision.

### **14. Data Protection Principles**

14.1 All organisations that 'process' 'personal data' are data controllers and are required to be registered with the Information Commissioner. The Information Governance Manager will ensure that this is completed annually and the registration number published on the Council's website

14.2 The Council will adopt a "best practice" approach at all times based on the Information Commissioner's guidelines, and, where appropriate, professional codes of practice.

14.3 Any data controller must observe the eight Data Protection principles which govern the manner in which data is collected, held and processed. The Council is committed to ensuring that all information held is necessary, used fairly and responsibly and in compliance with the principles as follows:

#### **1. Processed fairly and lawfully**

- Information will only be held where it is justified to do so and processing may be carried out where one of the following conditions has been met, namely where:-
  - The individual has given their consent to the processing
  - The processing is necessary for the performance of a contract
  - The processing is required as part of a legal obligation
  - The processing is necessary to protect the vital interests of an individual
  - The processing is necessary in order to pursue legitimate interests
  - Local Authorities have specific legal authority to use or disclose information under duties or powers given to them under statute.

#### **2. Processed only for the specified lawful purposes and not processed in any way incompatible with those purposes**

- The Council is one data controller. Personal data held by the Council can be used within the Council as permitted by the Council's Fair Processing Notice to carry out the functions of the Council. This

however must be on a 'need to know' basis and appropriate security and access controls implemented where necessary so only staff that need access to the personal data are allowed it.

- All requests for information from other public bodies, including the police, are to be in writing except in an emergency.
- When receiving requests for personal data, clarification must be obtained as to who the requesting party is, the reason why information is requested and if there is authority to give the personal data.

### **3. Adequate, relevant and not excessive in relation to the purpose(s) for which personal data is processed**

- Leicester City Council will only hold the minimum personal information necessary to enable it to perform its functions.

### **4. Accurate and kept up-to-date**

- All efforts will be made to ensure that information is periodically assessed for accuracy and is kept up to date.

### **5. Processed no longer than is necessary for the purpose(s)**

- Information must be destroyed once it is no longer required.

### **6. Processed in accordance with the rights of the data subject**

- Leicester City Council recognises the rights given to people under the Data Protection Act 1998 including the right to access information, the right to have inaccurate information corrected or erased and the right to entitlement to compensation should any damage be suffered as a result of any breach of the Data Protection Act 1998 principles.

### **7. Protected by appropriate and organisational measures**

- Leicester City Council has systems in place to keep information secure. Staff must refer to the Information Security Policy.

### **8. Not transferred to any country outside the EU unless that country has an 'adequate level of protection' in respect of data protection**

- Leicester City Council operates its own website which is obviously accessible by countries outside the EU and which involves the transferring of data on an international basis. The website provides structured information about Leicester City Council, its staff and the services which Leicester City Council provides. Where personal data regarding individuals or companies is published on the website, consent from the data subject must be obtained prior to any personal details

being published.

- There may also be times when Leicester City Council will receive a specific request to transfer specific data to another country. If this situation arises, the necessary enquiries will be made as to whether the transferee country has adequate data protection. If not, information will not be transferred. Data can, however, be transferred to any country, even if outside the EU, if the data subject has given their consent to disclose.

## **15. Sensitive Personal Data**

15.1 There are additional requirements placed upon the data controller where the holding of 'sensitive personal data' is concerned. The definition of 'sensitive personal data' is data in respect of: -

- A. racial or ethnic origin
- B. political opinion
- C. religious belief
- D. union membership
- E. physical/mental health
- F. sexual life
- G. commission of offences
- H. proceedings for offences and sentences of Court

15.2 If disclosing sensitive personal data (even if required to do so by law) consent of the data subject must be obtained unless a specific exemption applies. If an exemption is considered to apply, it may be prudent to inform the data subject of the information given to the third party and the reason why such information has been disclosed. This decision should be made at senior level and the reasons for disclosure well documented.

15.3 Additionally, if sensitive personal data is held, security measures for holding such data will need to be considerably higher than that for other service areas holding less sensitive data. The Information Risk Manager is to be consulted for guidance on the delivery of appropriate standards.

## **16. Fair Processing Notices**

16.1 Under the Data Protection Act 1998, data subjects have the right to know what the Council will use their personal data for. This is called a Fair Processing Notice (FPN) or Privacy Notice. It should be added on all Council forms where personal data is collected or on the Council's web based forms. Leicester City Council will publish its FPN on the Council website.

## **17. Subject Access Requests – What the Data Controller has to do**

17.1 Under the Data Protection Act 1998, data subjects have the right to

know what information is held about them. This is known as a Subject Access Request.

- 17.2 All Requests for information under Subject Access should be sent at first instance to The Information Governance Team, Tel. 0116 4541300, Email: [info-requests@leicester.gov.uk](mailto:info-requests@leicester.gov.uk).
- 17.3 The procedures for dealing with Subject Access requests is contained in the Leicester City Council publication – ‘Guidance on how to handle a Subject Access Request’ which is available on the Council’s Intranet.
- 17.4 Ways in which a Subject Access request can be made will be published on the Council’s website.
- 17.5 The Information Governance Manager will pass requests to the relevant Service Area to action the request. If the Service Area is unable to deal with the request or requires clarification, they should revert to the Information Governance Manager.
- 17.6 A maximum fee of £10 (non-refundable admin fee) per request will be charged for a copy of their records. There will be no charge for the viewing of their records. In respect of access to Looked After Children’s data, the charge of £10 will be waived if the Looked After Child is under 25 years old.
- 17.5 Employees of Leicester City Council will be charged a non-refundable admin fee of £10 for a copy of their records. There will be no charge for the viewing of their records.
- 17.6 Leicester City Council will respond within the statutory time limit of 40 calendar days by making the information available to the data subject.
- 17.7 If Leicester City Council considers that an exemption applies and does not consider that disclosure is appropriate, the data subject must also be informed of this within 40 days of making the request.
- 17.8 If an exemption is considered to apply, the decision not to disclose information should be made by the Information Governance Manager, in consultation with the Service Area, and the reasons for non-disclosure documented.
- 17.9 In considering whether to disclose information, Leicester City Council must take care not to reveal the identity of another third party individual. Any information supplied by a third party should not usually be revealed without first seeking permission from the source.

**18. Section 10 Requests (Inaccurate Data)**

- 18.1 The data subject also has a right to have inaccurate information corrected, blocked or erased. If a request to amend information is received from a data subject, the Information Governance Manager must respond within 21 days to confirm what action has been taken. Any decision will be taken by a senior member of staff in the relevant Service Area in consultation with the Information Governance Manager and the reasons documented.
- 18.2 The data subject also has a right to know the process and information involved in any automated decisions regarding them. If the data subject objects to the decision made by automated decision, a further decision should be made by other means if possible. The data subject has 21 days in which to request a further decision be made by non-automated decisions and the data controller has 21 days to action.

## **19. S29 Requests (Prevention of Crime)**

- 19.1 Wherever possible s29 requests should be submitted in writing.
- 19.2 Requests for information should be sent at first instance to the Information Governance Team.
- 19.3 Leicestershire Constabulary police officers should submit s29 requests on their own s29 form, countersigned by their superior officer.
- 19.4 If any Leicester City Council staff member is in doubt about releasing information under s29 in an emergency, they must contact the Information Governance Team immediately for advice.
- 19.5 There will be no charge for s29 requests.

## **20. S35 Requests (Legal Proceedings)**

- 20.1 Wherever possible s35 requests should be submitted in writing.
- 20.2 Requests for information under s35 should be sent at first instance to the Information Governance Team.
- 20.3 Where a commercial company is acting on behalf of a requester, Leicester City Council will charge a non-refundable administration fee of £75 per s35 request. No charge will be made to non-profit making organisations unless the request is for CCTV footage.
- 20.4 Where an individual is making a request under s35, a non-refundable administration fee of £10 will be charged.

## **21. CCTV Requests**

- 21.1 Requests for CCTV footage should be submitted in writing.
- 21.2 Requests for CCTV footage should be sent at first instance to the Information Governance Team.
- 21.3 Where a commercial company or organisation (e.g. solicitor, insurer, housing association) is acting on behalf of a requester, Leicester City Council will charge as per the CCTV Charging Policy.
- 21.4 Where an individual is making a request for CCTV footage involving their personal data, a non-refundable administration fee of £10 will be charged under Subject Access procedures.
- 21.5 Leicester City Council will charge a non-refundable administration fee of £75 for CCTV footage under a s35 request.

## **22. Requests made on behalf of children**

- 22.1 A request for information may be made by a parent, guardian or agent on behalf of another individual.
- 22.2 Requests made on behalf of others will be dealt with as above, however great care should be taken to verify the identity of those making the request if there is any doubt. It should be ascertained if the person making the request on behalf of the child has parental responsibility, or consent from the child (where the child is old enough
- 22.3 Nothing is to be disclosed to a third party which would not be in any child's best interests to do so. This includes where information is requested on the child's behalf by any parent or Guardian. The decision as to what not to disclose should be made by the Information Governance Manager in consultation with the relevant Service Area and the reasons for any non-disclosure documented.

## **23. Requests made by children**

- 23.1 Requests by children can be made to a number of services. Any child may be allowed to see their own records unless it is obvious that they do not understand what they are asking for.
- 23.2 Again, the Information Governance Manager should consider that nothing be disclosed to a child which would be likely to cause serious harm to their physical or mental health. The decision as to what not to disclose should be made by the Information Governance Manager in consultation with the Service Area and the reasons for any non-disclosure documented.
- 23.3 In respect of children who are or have been in the care of the

Authority there will be no charge where the child or young person is under the age of 25.

23.4 In addition, the usual principles of subject access requests as outlined in this policy will apply.

## **24. Disclosure to a Third party**

24.1 Any request for data received from a third party should be in writing and the third party must be identified. Where the third party seeks to rely on a legal authority for disclosure, they must quote the relevant authority.

24.2 Unless an exemption applies (see below), personal data will not usually be disclosed, except where the data subject consents to such disclosure.

24.3 'Third party' includes members of a data subject's family, legal representatives of a data subject, a data subject's employer and any organisations acting on behalf of an individual such as the Citizen's Advice Bureau or a Housing Association.

24.4 Requests for access from a third party should be accompanied by either an Authority to Disclose from the data subject or in the absence of this, necessary enquiries should be undertaken by the Information Governance Manager to ascertain if consent is given. If there is any doubt, written confirmation direct from the Data Subject should be sought.

24.5 The 40 day time limit also applies to requests for data from a third party, including the requirement to inform why a decision for not disclosing is made and the reasons for doing so. Again, this decision should be taken by a senior member of staff and the reasons for not disclosing documented and made clear to the third party.

24.6 Nothing should be disclosed which would be likely to cause serious harm to a child's or vulnerable adult's physical or mental health. In all requests for access, the interests of the subject, particularly in the case of a child or vulnerable adult must be paramount and the duty of the Council to protect children and vulnerable adults from potential harm of primary importance.

## **25. Exemptions**

25.1 The rights of data subjects are subject to certain statutory exemptions. The Council will disclose personal information, without the data subject's consent in accordance with the Data Protection Act 1998. This includes but is not limited to: -

- On production of a court order for disclosure
- Where the purpose of disclosure is to enable the Authority to assess or collect any tax or duty or any imposition of a similar nature
- Where the purpose of disclosure would be to prevent or detect a crime, apprehend or prosecute offenders
- By order of the Secretary of State
- Where we are obliged by any law to disclose information
- Where information is required for research purposes providing such data is general and does not cause damage or distress to the data subject
- Where disclosure would be to safeguard national security
- To Leicester City Council councillors, where disclosure is necessary to enable them to fulfil their statutory duties as Councillor, for example where the Councillor is a member of a specific committee or when acting on behalf of a Constituent. NB: Councillors are not automatically entitled to information, particularly sensitive information.

## **26. Other Rights of the Individual**

- 26.1 This policy shall not affect or in any way compromise an individual's rights under the Human Rights Act 1998.
- 26.2 At present an individual's right to privacy outweighs another individual's right to information under the Freedom of Information Act (i.e. if personal data is contained in a document that document cannot usually be released to a third party).

## **27. Caldicott**

- 27.1 This policy should be read alongside the latest Caldicott review outcomes. The Caldicott principles and processes, issued by the Department of Health, provide a framework of quality standards for the management of confidential information within Health and Social Care services.
- 27.2 The Caldicott requirements provide a set of good practice guidelines to assist in the implementation of the Data Protection Act and underpin appropriate information sharing. However, it is the Data Protection Act that is the key legislation covering all aspects of information processing, and therefore takes precedence.
- 27.3 Health Records should be accessed under the Access to Health Records Act 1990 and the appropriate charges applied. The relevant health professional must be consulted prior to release.
- 27.4 The Council will publish the name of its Caldicott Guardian on the



Council's website.

- 27.5 A central list of Caldicott incidents will be logged, and The Caldicott Guardian will assess these incidents with the Information Governance Manager.

## **28. Security**

- 28.1 Personal data will only be kept for as long as the service provided to the data subject is in existence or is as required by law. If there is no legal requirement to keep the records, they will be destroyed as soon as is practicable in line with Leicester City Council's Retention and Deletion Policy.
- 28.2 Personal data should be handled in accordance with the Council's Information Security Policy.
- 28.3 In the event that employees take home manual or computerised files containing data, it is the employee's responsibility to ensure that such data is made secure.
- 28.4 Any data protection breach must be reported immediately to a manager as required in the Information Security Incident Reporting Policy.

## **29. Elected Members**

- 29.1 Councillors must ensure that Data Protection legislation and policies are complied with whatever role they may exercise. If the Member is in any doubt, they should contact the Information Governance Manager for clarification.
- 29.2 If a Councillor seeks clarification over whether they are processing data as a separate data controller from Leicester City Council, information for Councillors is also available from the Information Commissioner's website at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)
- 29.3 If the Councillor is processing data for their own purposes they must register with the Information Commission as a data controller as well as ensure compliance with the principles of the DPA 1998. The Information Governance Manager will complete the annual registration on the behalf of each elected member.

## **30. Information Sharing**

- 30.1 The Council will require its partners and agents through contractual terms, partnership agreements and information sharing agreements to

comply with the law when providing services to the Council and when sharing data with the Council.

- 30.2 Managers responsible for procurement of services must ensure that privacy impact assessments are carried out, potential bidders are compliant with data protection requirements and the necessary Data Processing Agreements are put in place when contracts are awarded.
- 30.3 Managers responsible for services which share personal data with outside partners and agencies must ensure that a written Information Sharing Agreement is in place.
- 30.4 The Information Sharing Agreement must be agreed by the Information Governance manager, who will record a copy centrally for monitoring purposes.
- 30.5 The Information Sharing Agreement must be signed by the relevant Service Director for single service agreements and the Chief Operating Officer for cross service agreements. A list of such agreements will be published on the Council's open data site.

## **31. Use of Personal Data in Marketing**

- 31.1 Leicester City Council will comply with the Privacy and Electronic Communications Regulations (PECR).
- 31.2 Personal Data collected by Leicester City Council will only be used for marketing purposes where customers have been told this will happen via a FPN or where customers have consented to receive such information.
- 31.3 All emails sent to customers for marketing purposes will include a 'how to opt-out' message.
- 31.4 Databases used by Leicester City Council for marketing purposes will be 'cleansed' at least every two years to determine customers still wish to receive information and to verify the accuracy of the data.

## **32. Schools**

- 32.1 Local Authority Schools are separate data controllers and responsible for their own Freedom of Information and Data Protection policies and procedures.
- 32.2 Where the Council and schools need to share information and can legally do so, appropriate information sharing agreements should be implemented where necessary.
- 32.3 If a Subject Access request is received by a school or the Council by a

member of school staff asking for information which may be held by both organisations, the Council and school should advise the requester that he or she must submit two separate requests to both organisations. The Council and school should then liaise as normal with each other as interested third parties if applicable before any disclosure is made.

- 32.4 If a Freedom of Information is received by the Council but the school holds the information, the request must be forwarded to the school.
- 32.4 Requests for educational records should be processed under The Education (Pupil Information) (England) Regulations 2005 and the relevant charges applied.
- 32.5 Where schools require advice on information governance matters from the Local Authority, they should access this support via the traded service arrangements.

### **33. Compliance with the Legislation**

- 33.1 The Council recognises the need to make the contents of this Policy known and ensure compliance by every employee.
- 33.2 All staff will be mandatorily trained in basic Freedom of Information and Data Protection principles and made aware of this policy and of relevant Leicester City Council publications which are available. Freedom of Information and Data Protection awareness will be included in both the corporate induction course and the IT induction course. Training updates for staff will also be provided annually. The Information Governance Manager will notify staff of changes to Freedom of Information and Data Protection legislation, how these changes will affect them, when they will occur and what is needed to stay within the law.
- 33.3 All Councillors will receive training in Freedom of Information and Data Protection policy where possible.
- 33.4 The Council also recognises the need to make their policies known and accessible to the public. This policy will be published on the Council's website.
- 33.5 The Council must notify the Information Commissioner's Office annually which classes of data it intends to process. An internal review of these  
  
Notification requirements will be undertaken by the Information Governance Manager annually and the Information Commissioner informed of any changes required in notification.
- 33.6 Leicester City Council expects all employees to comply fully with this policy, the Freedom of Information and Data Protection principles, other information legislation and the Council's Employee Handbook.

Disciplinary action may be taken against any Council employee who knowingly breaches any instructions contained in, or following from this policy.

- 33.7 Individual employees are affected in the same way as the Council as a whole. Anyone contravening the Freedom of Information Act 2000 and/or Data Protection Act 1998 could be held personally liable and face court proceedings for certain offences which may result in a fine and / or a criminal record.
- 33.8 The Information Governance Manager can recommend service areas, which are causing concern over Freedom of Information and/or Data Protection compliance, to Internal Audit for further investigation.
- 33.9 As well as the annual Information Governance report, The Information Governance Manager will provide weekly management data reports showing compliance with Freedom of Information requests, Subject Access requests and other data protection requests.

#### **34. Complaints**

- 34.1 Complaints relating to any information access request or data protection matter should be made in writing and addressed to:  
Information Governance Manager  
Legal Services  
1<sup>st</sup> Floor  
16 New Walk  
Leicester  
LE1 6UB  
[info.requests@leicester.gov.uk](mailto:info.requests@leicester.gov.uk)
- 34.2 If the applicant is still unhappy following the appeal decision they should be advised to write to:  
The Office of the Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
[www.ico.org.uk](http://www.ico.org.uk)

## Appendix A

### Applicable Fees

#### 1. Freedom of Information Act 2000

- 1.1 The Council will charge for answering any request for information made under the legislation except that no charge will be made for a value of less than £5.75. All charges will be communicated in writing to the applicant through a fees notice.
- 1.2 The Authority will not take into account any cost other than those set out in the Fees Regulations (SI 2004/3244 Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations). In particular, it will **not** take into account:
- Time taken to check a request meets the Act's requirements;
  - Considering if the requested information should be withheld because of an exemption;
  - Considering whether a request is vexatious or repeated;
  - Obtaining authorisation to send out the information;
  - The time taken to calculate any fee charged, including any costs associated with producing and serving a fees notice; or
  - Providing advice and assistance under the Act.
- 1.3 The applicant will be sent a fees notice detailing the estimated costs of meeting the request as soon as possible, but within 20 working days of receiving the request. The 20 working days clock will stop ticking when the fees notice is issued and restart when payment is received - if a cheque this means cleared.
- 1.4 No further work need be undertaken until full payment has been received. On receipt a cheque must be passed immediately to Financial Services for clearance. Unless advised to the contrary the co-ordinating officer should assume the cheque is cleared after four working days.
- 1.5 If full payment is not received within three months of the date that the fees notice is issued the request should be closed. Any subsequent request should be treated as a new request.
- 1.6 If the cost of finding the requested information is:
- (i) **Below the prescribed limit:** The only charge will be for the *Disbursements* (see below for relevant charges) involved in answering the request. No charge can be made for staff time taken in finding or supplying the information.
  - (ii) **Over the prescribed limit:** Any request that will cost more than prescribed limit will be refused as allowed by legislation. The

Council will work with requesters in these cases to reduce costs, but will not undertake any work where the prescribed limit ceiling is breached.

- (iii) **Working out the prescribed limit:** This is an estimate of the staff time needed to do any or all of the following when answering the request and includes:
- Determining if the Authority holds the requested information;
  - Locating the information or a document that contains the information;
  - Retrieving the information or a document that contains the information; and
  - Extracting the information from a document containing it.

**1.7 Disbursements** costs are incurred in:

- Complying with the request for information in a specific format (e.g. summary, inspection, etc.);
- Reproducing any document; and
- Postage and other forms of transmission e.g. fax.

Charge rates are: <b>DISBURSEMENT</b>	<b>CHARGE</b>
<b>Complying with any obligation under the Act when communicating the information, for example putting the information in a specific format</b>	Charged at cost. Time spent putting the Information in the requested format, summarising the information or supervising an inspection of the information is charged at £25 and hour
<b>Photo-copying</b>	10p per impression, regardless of size. Staff time involved is <b>not</b> chargeable.
<b>Postage and other forms of Transmission e.g. fax, CD, DVD</b>	Charged at cost. Staff time involved is <b>not</b> chargeable.

1.8 Where the applicant asks to see the information, but does not want a copy of it no charge will be made. The applicant must not be left alone with the information. Staff charges for accompanying the applicant while the information is inspected will be charged at £25 an hour under Freedom of Information legislation. Environmental information can be viewed free of charge.

1.9 The costs of answering more than one request can be added together (or *aggregated*) for the purpose of estimating if the threshold will be exceeded where they:

## Not Protectively Marked

- Are either from the same person or from different persons who appear to be acting in concert or in pursuance of a campaign; and
  - Relate to the same or similar information; and
  - Have been received within a space of 60 consecutive working days.
- 1.10 Each request will be charged at the average of the costs for answering all requests. In case where a request has been made and paid for and subsequent requests are made then costs will not be so averaged.
- 1.11 All applicable charges to access information included in the Publication Scheme must be included in the Scheme e.g. published on the Council's website. This will be:
- As defined by legislation; or
  - At cost.
- 1.12 Where applicable, legislative charges will take precedence followed by existing charging practice. Any requested information that is not in the Scheme will be included in the Scheme at the next review. Any relevant charges will be identified in the Scheme at this point.
- 1.13 The Copyright, Designs and Patents Act 1988 allows copyright information to be reused without the user obtaining formal consent from the copyright holder for:
- Research for non-commercial purposes;
  - Private study; or
  - News reporting and review
- 1.14 If the applicant wants to reuse the information for other purposes, for example commercial purposes, s/he needs permission from the copyright holder and should be advised to contact the holder direct.
- 1.15 Leicester City Council does not make any information available for commercial re-use at present under the Re-use of Public Sector Information Regulations (PSI).
- 1.16 Data available through the Transparency Agenda and Protection of Freedoms Act 2012 which is available at [www.leicester.gov.uk/opendata](http://www.leicester.gov.uk/opendata) is an exception and can be downloaded and re-used in line with conditions laid out in the Open Government Licence.

## 2. Environmental Information Regulations 2004 Charges

- 2.1 All requests will be charged as for the Freedom of Information Act with the exception that full charges will be made at all times when the initial £5.75 trading limit is breached.

### 3. Data Protection Act Charges

- 3.1 All Subject Access Requests will be charged at £10 as permitted by law, except where this is specifically stated to the contrary where the applicant will be notified of the then applicable cost. e.g. Looked After Children under 25 years of age free of charge.
- 3.2 Requests for Educational Records will be charged as per the Education (Pupil Information)(England) Regulations 2000. This is normally the cost of supplying the information.
- 3.3 Requests for Health records can be charged as follows:
- Health records held electronically: up to a maximum £10 charge.
  - Health records held in part electronically and in part on other media (paper, x-ray film): up to a maximum £50 charge.
  - Health records held totally on other media (including paper): up to a maximum £50 charge.
- 3.4 Requests submitted under section 35 will be charged as follows:
- Where a commercial company is acting on behalf of a requester, Leicester City Council will charge a non-refundable administration fee of £75 per s35 request.
  - No charge will be made to non-profit making organisations unless the request is for CCTV footage.
  - Where an individual is making a request under s35, a non-refundable administration fee of £10 will be charged.
- 3.5 Requests submitted under section 29 will be free of charge.
- 3.6 Requests for CCTV footage will be charged for as per the CCTV Charging Policy.

### 4. Value Added Tax

- 4.1 If the requested information is available from another non-Public Authority source then Value Added Tax is chargeable. In all other cases Value Added Tax is **not** chargeable.

### 5. Mixed Requests

- 5.1 Requests may be made for access to information under more than one of the above pieces of legislation. Charges will be raised as applicable for each applicable piece of legislation.



## **6. Information supplied under other legislation**

- 6.1 Requests for information under other legislation, where there is no legal prohibition on charging, will be charged for at £25.00 per hour.