**Causeway Coast & Glens**

Borough Council

**FREEDOM OF INFORMATION ACT (2000) AND ENVIRONMENTAL INFORMATION REGULATIONS (2004)**

**POLICY AND PROCEDURES**

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**1. INTRODUCTION**

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) gives rights of public access to all types of recorded information, (although certain exemptions have been provided), held by public authorities. This right will facilitate better understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money. This policy covers both the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

**2. POLICY STATEMENT**

Causeway Coast and Glens District Council (the Council) is fully committed to the principles enshrined in Freedom of Information legislation and will operate an access regime on the presumption that information is open unless there is a valid reason to restrict access.

The Council will make information about its activities publicly available through its Publication Scheme, which is based on the Model Publication Scheme adopted by Local Authorities. The Information Commissioner has also published a ‘Definition Document'  which sets out in some detail what the minimum expectations are as far as Council is concerned. The information routinely put into the public domain to ensure Council is compliant with the Definition Document will be regularly reviewed.

 Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_

 Presiding Councillor (or Chair or Mayor post 1st April 2015)

Causeway Coast and Glens Council

 Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_

 Chief Executive

Causeway Coast and Glens Council

**3. SCOPE**

3.1 This policy applies to all recorded information held across the Council, by all staff and all departments. It also applies to information held by third parties on the Council’s behalf. The policy applies irrespective of the information’s format, storage medium or age. Information ‘held’ encompasses any information in the Council’s possession.

3.2 This policy is binding on all those who use Council information such as staff, contractors, consultants of the Council when accessing information.

**4. ACCOUNTABILITY AND RESPONSIBILITIES**

4.1 The Council has corporate responsibility for compliance and the Chief Executive has the authority to define and implement the Council’s Freedom of Information Policy.

4.2 All staff can receive an information request and are responsible for ensuring that the request reaches designated officers with authority to respond to information requests as quickly as possible.

4.3 The Head of Policy has overall responsibility for ensuring that information requests are acted on in the correct way and that designated officers have the support they need to respond to requests.

4.4 The Head of Policy is responsible for promoting compliance with this policy, for managing the Council’s Publication Scheme and for drawing up guidance about Freedom of Information good practice. The Head of Policy will monitor and co-ordinate responses to requests. Where exemptions or exceptions may be applied the Head of Policy must be consulted prior to their application.

**5. IMPLEMENTATION ARRANGEMENTS**

**5.1 What Information Can Be Requested?**

The FOIA and the EIR cover all information held by the Council, which is not included in the Publication Scheme. Information will be made available, on request, subject to any exemptions or exceptions applied.

Information requests surrounding the release of personal information will be handled under the Data Protection Act 1998.

In cases where an exemption may be applied, due consideration will be given as to whether or not the information is disclosed. This will include consideration of public interest, the rights of data subjects, legal and contractual obligations and issues of information access and security. Under EIR all exceptions are subject to the public interest test. Information will only be withheld in accordance with the exemptions applied by legislation. The reasons for applying the exemptions will be provided to the requester.

If a requester is unhappy with how the Council has dealt with a specific request they are entitled to ask for the information provided to be reviewed in accordance with the procedure for handling information requests.

Information provided to the Council from third parties may be the subject of an access request. In considering whether exemptions apply, the Council will seek to consult with the third party but the legal responsibility for deciding whether or not the information should be released rests with the Council.

When entering into contractual arrangements with third parties the Council will take reasonable measures to identify that information which would be clearly exempt from disclosure under the Act and seek to agree a schedule that identifies clearly that information which should not be disclosed.

**5.2. How to Request Information**

Under the FOIA 2000 requests must be in writing (including emails) giving details of the requester’s contact information and a detailed description of the information which is being sought.

Requests under the EIR 2004 do not need to be made in writing.

Requests for information should be sent to:

Causeway Coast and Glens District Council

66 Portstewart Road

Coleraine BT52 1EY

Tel: 028 7034 7163 Email: elizabeth.beattie@causewaycoastandglens.gov.uk

**5.3 When Will Information Be Released**

 Council will respond to requests promptly and in any event, within 20 working days. If a charge applies or if additional information is required to deal with this request, this may lengthen the response time. In cases where information is covered by an exemption, but Council is required to apply the public interest test in releasing it, the Council will still endeavour to provide the information, where possible, within the 20 working day target.

**5.4 When Will There Be a Charge?**

The Council believes strongly in openness so we will attempt to keep the cost of information as low as possible. There is no charge for making a request, the charge will only apply before you are granted access to the records (if applicable).

 For information provided in response to specific requests the Council may apply charges as allowed by the legislation.

**5.5 Appeal**

Those requesting information from Council have rights of review and appeal against decisions to withhold information; about the amount charged, or if they feel the request has been poorly handled.

These rights consist of two review processes. Firstly, by using Council’s internal Complaints procedure, which is available by request from:

Head of Policy

Causeway Coast and Glens District Council

66 Portstewart Road

Coleraine

BT52 1EY

Tel: 028 7034 7163 Email: elizabeth.beattie@causewaycoastandglens.gov.uk

(Appendix II outlines the Environmental Information Regulations 2004 Internal Review Process.)

Secondly, by appealing directly to:

The Information Commissioner’s Office – Northern Ireland

3rd Floor, 14 Cromac Place

Belfast, BT7 2JB

Telephone: 028 9027 8757 Email: ni@ico.org.uk.

The Information Commissioner expects that the internal complaints procedure is completed before an appeal is made.

**6. Evaluation and Review of the Policy**

This Freedom of Information Policy and Procedure will be reviewed on an annual basis by the Chief Executive and Senior Management Team and, as part of this review, an evaluation will be conducted on the effectiveness of the policy and procedures in relation to receiving, handling, assessing and resolving complaints received by the Council.

**7. Section 75 Equality and Good Relations**

Causeway Coast and Glens Council is fully committed to meeting its obligations in relation to Equality and Good Relations under Section 75 of the Northern Ireland Act. In this regard this policy will be screened using Section 75 guidelines and will be subject to an Equality Impact Assessment if found necessary as a result of the screening process.

**8. Contact Details**

Any issues or queries relating to this policy should be addressed to:

Head of Policy
Causeway Coast and Glens District Council
c/o Coleraine Borough Council
66 Portstewart Road
Coleraine BT52 1EY

Tel: 028 7034 7163
E-Mail: elizabeth.beattie@causewaycoastandglens.gov.uk

**APPENDIX I**

**PROCEDURES FOR HANDLING INFORMATION REQUESTS**

**1. COMPLIANCE**

1.1 In practice most requests for information will relate to information that is readily available. These should be dealt with as part of normal business activity.

1.2 The FOIA will impact on requests for information that are outside normal activity or require research. The Council must comply promptly and in any event within 20 working days. Where a delay beyond this is anticipated the Council must give a realistic and reasonable estimate of when a decision will be reached.

**2. PROCESS**

2.1 The following steps should be followed by officers designated to respond to FOI requests:-

**Step 1**

Record date request received.

**Step 2**

Validate request i.e

a) request is in writing

b) includes names and address of applicant

c) describes the information sought.

**Step 3**

Check that the request relates to information held by the Council, ie created by the Council or received by the Council from a third party or held by a third party on the Council’s behalf.

**Step 4**

Check if a fee is required and collect before releasing information.

**Step 5**

Consider whether any of the qualifications or exemptions apply.

**Step 6**

Provide the information confirming that Council holds it and detailing the information released or refuse information. A refusal should be accompanied by a notice setting out the basis for the refusal.

**3. ADVICE AND ASSISTANCE**

The Council is required by the Act to provide reasonable advice and assistance to applicants for information.

Appropriate assistance might include:-

* Providing an outline of the different kinds of information which might meet the terms of the requests.
* Providing a general response setting out options for further information which could be provided on request.
* Giving the applicant details of where to redirect their request to e.g. another public authority.

**APPENDIX II**

**ENVIRONMENTAL INFORMATION REGULATIONS 2004 INTERNAL REVIEW PROCESS**

**Overview**

1. The Environmental Information Regulations 2004 (EIR) gives people a right of access to information about the activities of public authorities that relate to or affect the environment, unless there is good reason for them not to have the information. This is sometimes referred to as a presumption in favour of disclosure. This means that:
* everybody has a right to access environmental information. Disclosure of information should be the default – in other words, information should be kept private only when there is a good reason and the Regulations allow it;
* an applicant (requester) does not need to give a reason for wanting the information;
* all requests for information are treated equally;
* any information released under the Regulations is considered as if it were being released to the world at large.
1. The legislation relates to providing a copy of records held, there is no duty to explain the content of the records held and it is for the requester to clearly identify the nature of records being sought. Further, the duty is to provide a copy of the records and to review if the requester is dissatisfied. It is not a means to enter into dialogue with regard to the subject matter.
2. The requester has a right to complain to Council if their request for information is denied or partially denied or if they are otherwise dissatisfied or unhappy with the Council’s response to the request for information made under EIR.
3. They also have the right to complain to the Information Commissioner but, before doing so, they must exhaust the Council’s internal review process.
4. The Council’s internal review process is intended to be as straightforward possible; where practical, and their concern is only relating to the wording of the response letter, the Council will try to resolve the concerns informally by:
* explaining in more detail the grounds for refusal to disclose any/all of the information requested;
* clarifying the exceptions being relied on; or
* by giving more details about the charging process and how any fee was calculated.

This informal resolution should take the form of no more than one letter or phone call and if this does not resolve the requester’s request for clarification with regard to the wording of the letter, they should be advised in writing of their right to a formal internal appeal. It should be noted, this informal approach relates to the EIR process and the wording of the letter, it is not a means for the requester to initiate an enquiry / complaint about the related subject.

1. Where it is not possible to resolve the complaint informally, or the requester is dissatisfied with the approach taken, they will be informed of the right to have the decision reviewed initially through the internal review procedure and then, if they remain dissatisfied, by the Information Commissioner.
2. The requester should request the Chief Executive for an internal review of the Council decision. The request for a review will be acknowledged, it will be treated as a formal complaint and will be subject to the internal review procedure.
3. A number of outcomes are possible, including:
* the original decision is upheld; or
* the original decision is reversed in part or in full.
1. To assist with communicating this process to the public and in particular to requesters, a leaflet entitled “The Right to Know” is avilable on Council’s website and availabe in Council civic buildings and is also referred to in all letters of acknowledgement. This outlines at any time a requester is dissatisfed with the process, they have a right to appeal by writing directly to the Chief Executive. In addition, all response letters include guidance on the right of appeal. Further, all internal appeal letters, include guidance on the right of appeal to the Information Commissioner.

**Internal review**

1. The requester should exercise their right to an internal review by contacting the Chief Executive directly within 40 working days from the date the response was issued to the request. The complaint will be acknowledged and they will be informed that Council will respond in line with the Regulations, while best practice is within 20 days, this must be no later than 40 working days after the review request is received. A copy of “The Right to Know” leaflet will be provided.
2. Where a request for an internal review is made to the issuing department, the requester will be advised as per the procedure, to write to the Chief Executive outlining their representations.
3. Requests for internal review will be handled by the Council’s Chief Executive who will be responsible for reviewing the decision. Other Council staff may also be involved before reaching a decision.
4. The final decision will be made by the Chief Executive or another senior member of staff who was not involved in making the original decision.
5. As part of the process, consideration will be given to whether:
* the Regulations have been properly applied, in particular, whether the information requested genuinely falls within the exception(s) cited and (where relevant) the public interest in maintaining the exception outweighs the public interest in disclosing the information;
* if there have been any developments since the original response, including any points made by the requester when making their complaint, that would alter Council’s approach;
* it is possible to provide any further information; and
* if there are any lessons for handling future cases.
1. If the original decision is reversed, the requester will be informed and either sent the information requested or notified of the date by which they may expect to receive the information.
2. If the outcome of the review is that the original decision is upheld or to release more of the information requested, but not all of it, they will be notified in writing and the Council will explain why, referring to the relevant exception(s). A fee may be payable. They should also be advised of their right to appeal further to the Information Commissioner.
3. The legislation provides for an internal appeal. On occasions, a requester can initiate the appeal procedure due to a delayed response. Technically once a internal appeal response is issued there is no further right of appeal. However, on a discretionary basis, a further right of appeal to the substantive response can be granted or an approach used by the ICO (in response to an FOI) can be considered - “I note you have requested a review of your request prior to this response being sent. Please let me know, using the process explained below, if you would like to continue with that process following receipt of this correspondence.”  See request IC-40394-M0S2 on whatdotheyknow.com at <https://www.whatdotheyknow.com/request/drafting_of_the_draft_guidance_o>

**Role of the Information Commissioner**

1. EIR is enforced by the Information Commissioner. The Information Commissioner is the UK’s independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.
2. Complaints about decisions made under EIR by public authorities, including the Council, can be made to the Information Commissioner (after internal review) for a decision on whether the Council dealt with the request in accordance with EIR. In particular the Commissioner will consider whether:
* an exception has been properly applied and (where relevant) the public interest exercise has been properly carried out;
* any fees were appropriately levied;
* the time taken by the public authority to comply was reasonable; and
* correspondence complies with statutory requirements.
1. The Information Commissioner can assess the merits of the complaint and decide either that Council has complied with the Regulations or that further action is necessary to comply. The nature of this action (e.g. to provide information previously withheld or revise any fees) will be set out in a Decision Notice or an Enforcement Notice. These notices are binding on public authorities although the requester and the Council can appeal the Information Commissioner’s decision to the First Tier Tribunal (Information Rights) and thereafter on a point of law only, to the Upper Tribunal.
2. If the Information Commissioner upholds a complaint and decides that the Council must disclose information, a Decision Notice will be issued and served on the complainant and the Council. This will specify the information which must be disclosed and the time period for doing so.
3. If the Council receives a Decision Notice that over-rules previous action taken by the Council (e.g. to withhold information), the Council may either comply or it can appeal to the First Tier Tribunal (Information Rights). Date: 09 October 2020.