

# Freedom of Information Policy



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## Document References

Ref	Document Reference	Title
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## Definitions

Title	Definition
FOIA	Freedom of Information Act
ICO	Information Commissioner's Office

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## 1. Purpose

The objective of the Freedom of Information Policy is to outline the policy and procedures in place that must be adhered to at all times when dealing with Freedom of Information requests.

It establishes the principles that underpin the Council's approach to promote open government by following set procedures for dealing with requests for information.

## 2. Scope

The policy applies to all recorded information held by the Council or by someone else on behalf of the Council. It does not apply to information which the Council only holds on behalf of another person or organisation.

This document outlines how employees and members should handle requests for information by members of the public.

This is not a legal document. It does not confer rights nor override any legal or statutory provisions which either require or prevent disclosure of information.

The Policy takes into account the key features of the FOIA and outlines what steps the Council will take to comply with the FOIA.

This document outlines how an applicant can make a request for information under the FOIA.

Throughout this document all references to the Council are references to Blaenau Gwent County Borough Council.

As schools are Data Controllers in their own right; where the schools hold the information requested but the Council does not, we will advise the requester to contact the schools directly.

## 3. Key Features of the FOIA

The FOIA provides public access to recorded information held by the Council and places two general duties on the Council;

- a. To confirm or deny that it holds the information requested and
- b. If the information is held give the requestor access to it.

The FOIA also provides that some documents are subject to exemptions; these are set out under Part II of the FOIA. Some exemptions are subject to a public interest test.

The FOIA provides that in addition to the exemptions, the Council may refuse to confirm or deny holding information and/or to give access to it on the ground of excessive cost, vexatious requests, where the request has been repeated or if the applicant has not provided sufficient detail to identify the information required.

The FOIA allows the Council to charge fees in accordance with regulations to be made by the Home Secretary and exempts the Council from disclosing information until the fee has been paid. It also exempts the Council from the obligation to disclose the information requested if the cost of doing so exceeds a specified threshold.

The FOIA requires the Council to provide advice and assistance to people seeking information. It requires the Council to state the basis for the refusal of a request for information and to provide advice on how to complain in those circumstances.

The FOIA also places statutory time limits for complying with a request for information on the Council which is 20 working days from the date of receipt.

## 4. Implementation Responsibilities

The Information and Governance Officer shall develop, maintain, and publish processes to achieve compliance with this policy. Any queries and requests should be directed to [foi@blaenau-gwent.gov.uk](mailto:foi@blaenau-gwent.gov.uk).

All Heads of Service shall be responsible for implementing this policy within their areas of responsibility.

All employees are responsible for ensuring that any request for information is dealt with in line with the requirements of the FOIA and in compliance with this policy.

The Information and Governance Officer is available to provide advice and guidance relating to Freedom of Information requests to employees and members when required.

## 5. Legal Requirement

The Council will set out in its Freedom of Information publication (FOI) scheme:

- The classes of information which the Council publishes or intends to publish;
- The manner in which the information is or is intended to be published; and
- Whether the information is or is intended to be available free of charge or on payment.

## 6. The Scheme

The Council scheme covers information already published and information which is to be published in the future. Some information may not be made public, for example personal information about named persons.

The Council's publication scheme conforms to the model scheme for local authorities approved by the Information Commissioner.

The Council's policy is that:

An enquirer must be informed whether the Council holds that information or not, and if it does, it must supply the information:

- The information must be supplied within 20 working days of the request;
- The information can include personal or non-personal information, but no information relating to named individuals will be released;
- Other information that the Council considers to be of a sensitive nature may also be withheld. In so deciding the Council will consider whether it should be released in the public interest, if in withholding the information is greater than the public interest in releasing it;
- The Information and Governance Officer will administer the Council's process for providing information. In so doing the Information and Governance Officer will take into account the ICO Code of Practice.

## 7. Publication Scheme and Information Register

The Council will maintain an information register as part of its publication scheme which provides a means by which the public can identify key information produced by the council in the course of its business.

The publication scheme can be found on the Council's website

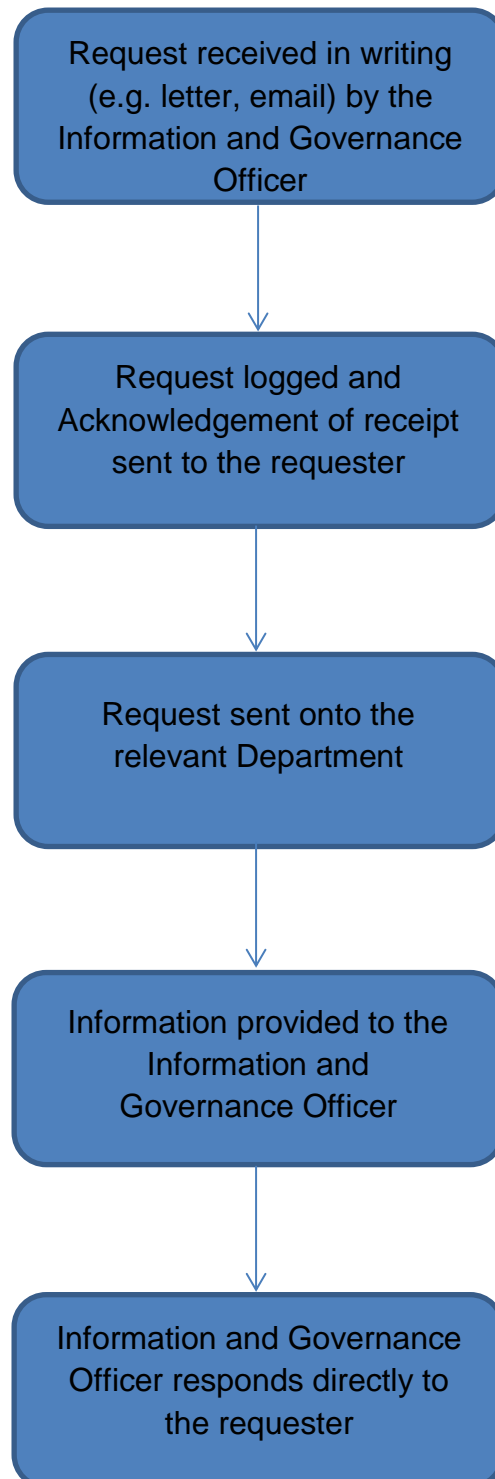
<http://www.blaenau-gwent.gov.uk/>

The Council will maximise the use of its website to publish information, in addition the publication scheme and other information such as guidance on how to submit a FOI request, will be available at Council Offices.

## 8. Internal Procedure for Processing FOI Requests

The full Internal Procedure can be found on the supporting guidance document: 'BG Info Requests - Internal Procedure'.

Please find the process in summary below:



## 9. Procedure for making a request for information

All requests must be made in writing and sent to the Information & Governance Officer for processing.

Blaenau Gwent County Borough Council  
Legal & Corporate Compliance Division  
General Offices  
Steelworks Road  
Ebbw Vale  
Gwent  
NP23 6DN  
Email: [foi@blaenau-gwent.gov.uk](mailto:foi@blaenau-gwent.gov.uk)  
Phone: 01495 355080

There are numerous ways a request can be submitted to the Council. The main methods used are via the post or by email (using the details outlined above)

## 10. Timeframe for a response

The Council will inform the applicant in writing whether we hold the information requested and if so, communicate that information to the applicant, no later than 20 working days after receipt of the request.

The 20 working days runs from the day after the Council receives the request.

Where a request for information is received after the close of the Council offices, which is 5pm Monday – Friday, it will be received by the Council the following working day.

A request is classed as received as soon as it is delivered to the Council, or it is within the Council's possession.

## 11. Requesting Clarification

In the event that a request received from an applicant is unclear or is not specific enough the Council may request clarification. The Council is not required to respond to a request for information until the further information has been provided.

Therefore the 20 working day deadline will not start until the Council receives the information required, which will enable the Council to prepare the required response.

The Council will contact the applicant seeking further information as soon as possible, and will not under any circumstances, cause a delay for response in order to have more time to prepare a response.

The Council will acknowledge the applicants clarification promptly and respond in the same manner as other FOI requests.



## 12. Third Party Consultations

There are instances where information requested concerns the details of or documents that have been provided by another organisation, public body or individual, these are known as third parties. In these circumstances the Council will need to take reasonable steps to contact and consult with the third party prior to the release of the information.

During the consultation with the third parties the identity of the individual will not be disclosed. If the applicant's identity is required by the third party the Council will seek permission from the applicant first.

Although the third party will be consulted, the decision as to whether or not to release the information will remain with the Council. Each case will be considered based on its individual merits.

## 13. Charging for information

There are instances when the Council can charge for complying with a request for information.

Currently, the cost limit for complying with a request or a linked series of requests from the same person or group is set at £450. The Council is able to refuse a request if we estimate that the cost of compliance would exceed this limit. This provision is found at section 12 of the FOIA.

The Council may also refuse a request if deciding whether we hold the information would exceed the cost limit, for example, because it would require an extensive search in a number of locations.

When calculating the costs of complying, the Council is able to aggregate the costs of all related requests received within 60 days from the same applicant or from applicants who seem to be working together.

When estimating the cost of compliance, the Council will take into consideration the cost of:

- Determining whether we hold the information requested
- Locating the information
- Retrieving the information or documents
- Extracting the information from the documents containing it

The cost of staff time associated with these activities is currently calculated at a flat rate of £25 per hour. This hourly rate has been set by Parliament and therefore cannot be altered by the Council. On this basis, it would take 18 hours or more to reach the appropriate limit.

When considering the costs of replying to a request, the Council will not include the time spent deciding whether or not information is exempt from disclosure when calculating the cost of responding.

Where the limit is not exceeded, or complying with a request will take less than 18 hours, the Council is only able to charge the applicant for the cost associated with providing the information, for example photocopying and postage. These are collectively known as disbursements.

The Council charges are as follows:

- A4 Black and White £0.10p (single sheet)
- A4 Colour £0.15p (single sheet)
- A3 Black and White £0.20p (single sheet)
- A3 Colour £0.30p (single sheet)

Postage charges will vary depending on the size and weight of the parcel. If an applicant is required to pay a fee, according to Section 9 of FOIA the 20 working day deadline for a response will not start until the fee has been received by the Council.

## 14. Receiving a response

The Council will aim to provide responses to all requests for information within the 20 working day time limit.

Responses to requests will be in an easy to read clear language normally in black, Arial font and size 12. There are instances where an applicant may request their response to be in a specific format. Where reasonably practicable the Council will comply with the stated preference. Where it is not reasonably practicable to comply with the applicants preferences an explanation as to why this is will be given.

The Council will respond promptly and positively to each request. A detailed and comprehensive response will be provided to the applicant requesting information. The Council will be as open and helpful as possible ensuring compliance with the FOIA and all other legislation.

## 15. Refusing a request for information

The Council is not always able to provide the information that is requested under the FOIA. There are occasions where there will be a good reason why the Council should not disclose some or all of the information requested.

The Council can refuse all or part of a request under the following circumstances:

- It would cost too much or take too much staff time to deal with the request.
- The request is vexatious.
- The request repeats a previous request from the same person.
- If one of the exemptions under part II of the FOIA apply

The FOIA contains a number of exemptions that allow the Council to withhold information, therefore refusing entry into the public domain. It also enables the Council to refuse to confirm or deny whether the information requested is held.

Exemptions exist to protect information that should not be disclosed, for example because disclosing it would be harmful to another person or it would be against the public interest.

Some exemptions contained within part II of the FOIA relate to a particular type of information, for instance, formulation of Council policy and procedures. Other exemptions are based on the harm that would arise or would be likely arise from disclosure, for example, if disclosure would be likely to prejudice a criminal investigation or prejudice someone's commercial interests.

There is also an exemption for personal data (this information relates to or identifies a living individual) if releasing it would be contrary to the Data Protection Act 1998.

When applying an exemption, the Council will consider the information contained within a document separately against each exemption. This may mean that an exemption may only apply to part of the information requested, or that different exemptions apply to different sections of a document.

There are two types of exemptions, absolute exemptions and qualified exemptions. An absolute exemption provides an automatic right to refuse the disclosure of information. Qualified exemptions are subject to a Public Interest Test (PIT). This is a balancing exercise used to weigh arguments for and against disclosure. As a result before withholding information under a qualified exemption, the Council must consider the public interest arguments. The FOIA requires the Council to disclose information unless there is good reason not to, so the exemption can only be maintained (upheld) if the public interest in doing so outweighs the public interest in disclosure.

The Council considers each request submitted on a case by case basis. We do not apply blanket exemptions to particular pieces of information. As such we do not automatically withhold information.

There are certain circumstances whereby the Council is unable to confirm or deny that the information requested exists. This situation arises when even confirming information is held would be damaging. In these instances the Council will give a neither confirm nor deny response. This response will be applied consistently in any case where confirming or denying the existence of information could be classed as harmful.

The Council will issue a refusal notice within the neither confirm nor deny response. Due to the nature of the response the Council would not address the question of whether any information that is held should be disclosed.

As a general rule, the Council will not take into account the identity or intentions of a requester when considering whether to comply with a request for information. However, the Council is able to refuse to comply with a request that is vexatious. A vexatious request is a repeated request from the same applicant. When assessing whether a request is vexatious, the FOIA permits the Council to take into account the context and history of a request, including the identity of the

requester and the Council's previous contact with them. The decision to refuse a request often follows a long series of requests and correspondence.

When deciding whether a request is vexatious, the Council will consider a number of different factors, including:

- how much work complying with the request(s) creates;
- the applicant's tone and manner when communicating with the Council;
- whether the request appears obsessive; and
- whether there is any value in the request

If the Council refuses all or part of a request a Refusal Notice will be issued to the applicant. The refusal notice will detail whether the Council is refusing to disclose information that is held, refusing to confirm or deny that the information is held, refusing to deal with a vexatious request or whether the cost of complying with a request exceeds the appropriate limit (£450).

The refusal notice will state what exemption has been applied and why. If the exemption is a qualified exemption then the Public Interest Test will be applied and the Council's reasoning for applying the exemption will be explained.

## 16. Complaints

The Council will provide a right of complaint where the requester is not satisfied with the response received to a request for information.

If an applicant is unhappy with the service they have received they should firstly contact the Information and Governance Officer outlining any issues they have. The Information and Governance Officer will try and resolve the issues quickly and courteously, and offer the applicant any help required in order to resolve the issues.

The Information and Governance Officer will try to sort out any mistakes or misunderstandings as soon as possible, in order to resolve the problem as soon as possible in an informal way.

If the applicant is dissatisfied with the Information and Governance Officer's decision they have the right to make a formal complaint using the Council's Corporate Complaints Procedure.

Corporate Complaints are handled by the Council's designated Complaints Officer. If an applicant wishes to make a formal complaint about the handling of their request, they will be required to complete a Complaints Form.

Applicants can find more information about how to make a formal complaint by reading the Compliments, Comments and Complaints Procedure on our external website [www.blaenau-gwent.gov.uk](http://www.blaenau-gwent.gov.uk).

If you are still not satisfied after your complaint has been dealt with via an internal review, you have a further right of complaint to the Information Commissioner. The details will be provided to you and can also be found in the Publication Scheme.

## 17. Appealing a Refusal Notice

If the Council issues a Refusal Notice and the applicant believes that an error has been made they are able to appeal the Council's decision by seeking an internal review.

The Monitoring Officer handles all internal reviews on behalf of the Council. Once an appeal has been received the Monitoring Officer will acknowledge receipt and reconsider the request.

The Monitoring Officer will consider the initial request, the Council's refusal notice and any other supporting documents that were used in reaching the decision to refuse the request.

The Monitoring Officer will then reconsider whether or not a correct decision has been made in refusing the request. The applicant will be notified of the outcomes of the internal review as soon as possible. All internal reviews will be concluded within 40 working days.

If an applicant's appeal is successful they will receive the information they requested within that response. If the appeal is unsuccessful Monitoring Officer will provide a detailed explanation of the findings and supply further information.

## 18. Appealing to the ICO

If an applicant is not satisfied with the outcome of the internal review they have the right to submit a complaint to the ICO. The ICO will make an initial assessment of the case before carrying out an investigation.

The ICO has written guidance notes for applicants on how to complain to the ICO and published it on their website, [www.ico.gov.uk](http://www.ico.gov.uk)

The Information Commissioners Welsh Office contact details are:

Information Commissioner's Office (Wales)

2<sup>nd</sup> Floor,

Churchill House,

Churchill Way,

Cardiff

CF10 2HH

Tel: 029 2067 8400

Fax: 029 2067 8399

Email: [wales@ico.org.uk](mailto:wales@ico.org.uk)

Website: [www.ico.org.uk](http://www.ico.org.uk)

**Further information**

If you need any more information about this policy or any other aspect of freedom of information, please contact The Information and Governance Officer:

Blaenau Gwent County Borough Council

Legal & Corporate Compliance Division

General Offices

Steelworks Road

Ebbw Vale

Gwent

NP23 6DN

Email: [foi@blaenau-gwent.gov.uk](mailto:foi@blaenau-gwent.gov.uk)

Phone: 01495 355080

This Policy will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunal and courts on freedom of information cases.