



South  
Staffordshire  
Council

# Freedom of Information Policy



# **Freedom of Information Policy 2011**

## **1. Introduction to the Freedom of Information**

The Freedom of Information Act (FOI Act) 2000 came into force on 1<sup>st</sup> January 2005. The FOI Act provides individuals and organisations with the right to request information held by Public Bodies.

South Staffordshire Council is fully committed to complying with and implementing its responsibilities under the FOI act. All employees of the Council are responsible for ensuring that the procedures in this policy are followed when replying to a request for information.

## **2. Purpose of Policy**

The policy applies to all recorded information held by the Council.

This purpose of this policy is to provide a clear understanding of the council's internal procedures and approach for monitoring and dealing with requests for information made under the FOI Act.

Any request for recorded information made in writing (by letter or e-mail) must be dealt with under the FOI act and be processed following the procedures outlined in this policy. Requests from individuals for their own personal information will be dealt with under the Data Protection Act 1998.

We have developed and published on the Council's website a Publication Scheme. The Publication Scheme is based on the model scheme as produced by the Information Commissioner's Office, where information will be made routinely available.

## **3. Roles and responsibilities**

The Council is committed to its responsibilities under the FOI Act.

The Chief Executive is the Information Champion for the organisation with day to day responsibility for monitoring requests delegated to the Corporate Policy Officer.

The Corporate Policy Officer will take the lead role in ensuring:

- A response is sent to requests within 20 days
- A strong audit trail is maintained
- The Publication Scheme is kept up to date
- Consideration of the application of exemptions or refusal of the provision of information.

The Council's chief legal officer, the Director of Legal and Public Health Protection, will be the authorised person for making any decisions about exemptions under the FOI Act.

He will consult with the Corporate Policy Officer in deciding whether the exemption should apply. This applies to all exemptions under the FOIA namely both qualified, those where the public interest test applies, and absolute exemptions. In the event that he is absent he may delegate the decision about exemptions to a person nominated by him. In the event that he is conflicted from being the decision maker on exemptions the decision shall be determined by another member of the Senior Management Team (other than the Chief Executive or Deputy Chief Executive).

All new members of staff will receive an introductory training session on the FOI act with further information supplied on the Councils intranet. The Councils intranet will contain specific templates to assist staff when replying to a request to ensure that the correct procedure and compliance is maintained.

Directors will be responsible for ensuring compliance within their service areas and assist the Corporate Policy Officer if difficulties arise.

The Council is committed to promoting access to services to all members of the community and will provide support to anyone who wishes to make a request under the Act but is unable to do so in writing.

#### **4. Relationship with other policies**

The Policy has been devised within the context of the following Council documents:

- Data Protection Policy
- Data Handling Policy

#### **5. Internal handling of information requests**

The Council has developed a set of procedure for handling requests for information as outlined below:

1. All FOI requests are received via the freedom of information external mailbox [freedomofinformation@sstaffs.gov.uk](mailto:freedomofinformation@sstaffs.gov.uk) or in writing to the Corporate Policy Officer. If the request is sent directly to a member of staff, this needs to be forwarded immediately to the Corporate Policy Officer.
2. The FOI request is then logged; a unique reference number is assigned and stored in a secure folder. The Corporate Policy Officer will regularly check the progress of requests and issue reminders as appropriate. Directors will be informed where appropriate of outstanding requests.
3. Once the request has a unique reference number, the Corporate Policy Officer will forward it to the relevant person or department. If the request is being refused subject to exemptions, this will be investigated by the Corporate Policy Office. The application of exemptions is a matter for the Council's chief legal officer, namely the Director of Legal and Public Health Protection, other than where he is conflicted from making such decisions.

4. Where a request requires compliance from a number of departments, a response should be given even if it is a nil return. If South Staffordshire District Council doesn't hold the information, it considers it best practice to as far as possible to refer the requester to the correct organisation in obtaining the information.

5. The information received by the Corporate Policy Officer will then be sent out in the format it has been supplied in or where responses are sent from individuals copied in.

6. Where necessary, advice and guidance will sought by the Corporate Policy Officer from the Director of Legal and Public Health Protection.

## **6. Fees and Charges**

South Staffordshire Council will refuse requests where the cost of supplying the information will exceed the statutory 'appropriate limit', which is currently set at £450.

Any charges for supplying information which exceeds the appropriate limit will be charged at £25 per hour plus costs for photocopying etc. A detailed calculation will be provided to the requester to outline and the requester can then choose to pay the requested fee or amend the request to bring it under the £450 limit.

The requester will then have three months to pay a fee before the request is closed and will need to be resubmitted. Payments will be expected to be made before any further work is carried out on the request.

The Council is allowed to charge for 'disbursement' costs. These are separate costs to the prescribed costs of preparation and can be charged independently, even where no preparation fees have been applied.

Disbursement costs will be charged when they reach over £5 or over, this can include meeting the preference expressed by the applicant as to the format of communicating the information e.g. CD ROM or postage of transmitting the information.

## **7. Transparency**

South Staffordshire Council is fully committed to being an open and transparent organisation.

We will:

- Publish monthly statistics that shows how many request we have had, how long it took us to respond and if we applied any exemptions
- Regularly update our publication scheme.
- Publish and update a list of frequently asked requests and their responses.

## 8. Complaints

The person who has submitted the request is made aware of complaints procedure at the time they receive a response back. Where the requester makes a complaint to the way we have handled the request or the disclosure of information, the Chief Executive will review the complaint including the application of any exemption. The Chief Executive can, if he so decides, substitute his own decision on the request including on the issue of exemptions.

Complaints will undergo an internal review and a requester is entitled to complain to the Council if:

- It is believed that it took the Council longer than 20 working days to respond
- All the information requested isn't received
- It is felt that the exemption being applied isn't correct
- It is felt that the fees have been wrongly calculated

If a complaint is made appealing the decision of a public interest test, this will go to the Council's Standards Committee for consideration.

A requester has 40 working days to submit a complaint from the date of receipt from the response.

The internal review team will comprise of officers who were independent from the original request decision. The review team will look at all information requested and correspondence before reaching their conclusions.

The Corporate Policy officer will then write to the requester informing them of the outcome of the review. The review team will respond within 40 days of the review being requested.

If the requester is dissatisfied with the outcome of the review, they will be advised of their rights to appeal to the Information Commissioner.

FOI/EIR Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **9. Consultation with Third Parties**

The Council may receive requests to disclose third party information and recognises that the disclosure of information may affect the legal rights of a third party.

The Council further recognises that unless an exemption is provided for in the FOI Act there will be a requirement to disclose that information in response to a request.

If the consent of a third party is required prior to disclosing the information, the Council will, at the earliest opportunity, seek to consult with that third party with a view to seeking their consent to disclosure, unless such a consultation is not practical. The consultation may assist the Council in determining whether an exemption under the FOI Act applies to the information requested, or the views of the third party may assist the Council in determining where the public interest lies under section 2 of the FOI Act. A third party's refusal to consent to disclosure of information does not necessarily mean that information will not be disclosed. If the cost of consultation with the third party is disproportionate, consultation may not be undertaken.

## **10. Information provided in confidence**

Information provided in confidence by a third party is exempt information under section 41 of FOI Act if the disclosure of that information to the public would be an actionable breach of confidence by the person providing the information or any other person.

The Council will not agree to hold information in confidence if it is not actually confidential in nature. If a person or organisation seeks to provide information in confidence they will be told if it cannot be treated confidentially.

## **11. Further Information**

For further information contact the mailbox for FOI [freedomofinformation@sstaffs.gov.uk](mailto:freedomofinformation@sstaffs.gov.uk)