

# Conwy County Borough Council



## **FREEDOM OF INFORMATION ACT 2000**

### **POLICY STATEMENT**

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## Freedom of Information Policy

Conwy County Borough Council's Freedom of Information Policy is based on the Freedom of Information (FOI) Act 2000. The Council intends to comply with the statutory requirements of the act in full.

The Council's Information Regulations Unit maintains the policy document and the latest version is on the Council's Intranet Service and Internet site at [www.conwy.gov.uk](http://www.conwy.gov.uk)

A Information Regulations Officer and Service Compliance Officers assist the Information Regulations Manager in all matters relating to Freedom of Information.

Compliance Officers are nominated by their Heads of Service and are the Information Regulations Units point of contact into all Services.

The following pages contain an outline of the key features of the Freedom of Information Act and how Conwy will implement for them.

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## Freedom of Information Act

The Freedom of Information Act became law in November 2000 and was fully implemented in January 2005.

Openness legislation is not new to Local Government. Over the years a number of enactments have worked to encourage transparency in decision-making at a local level. Access to meetings, the vast majority of reports and many minutes of decisions are already available to a high level within the council. All The Authority has been subject to the principles contained in the Data Protection legislation since the 80's.

The Freedom of Information Act will cover all information held by the authority and works to the presumption that **all information is public** unless it falls into specified excepted cases.

This Act creates valuable additional rights for the public and can only help us in our drive towards effective delivery of public services and creating a trusting relationship. These rights are the continued effectiveness of public administration backed up by strong enforcement powers for the Information Commissioner whose role it is to promote and police the Act.

This legislation is a tool to encourage proactive disclosure of information held by the Council. The Act also requires Conwy to produce a publication scheme setting out the classes of information it will make available, where it will be available and whether there will be a charge for the publication. The Information Commissioner has prepared and approved a Model Publication Scheme which will expire June 2012. Conwy has adopted the Scheme without modification. A Publication Scheme will ensure members of the public are aware of the information we make readily available and that they may request information which is not provided for in the Scheme.. Conwy will provide our complaints procedure for an individual who is dissatisfied with the service or quality of routinely published information.

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## FOI and Data Protection

More information is now covered by legislation than ever before. Both the Freedom of Information Act and the Data Protection legislation affect how we deal with information in our work on a daily basis. This legislative framework ensures that the public information we hold as public servants is dealt with professionally and in a way that respects the rights of others.

The Data Protection Act 1984 established basic principles for handling personal data; it ensured that data controllers registered their use of such data; and it gave data subjects rights of access to the data being processed and a right to have inaccurate data corrected.

The 1998 Data Protection Act implements the 1995 EC Directive on Data Protection. Insofar as it applies to computerised data, its effects are not that great - it doesn't make many changes from the regime under the 1984 Data Protection Act. More information is covered by the Data Protection regime as a consequence of the greater use of IT systems rather than the new legislation. What the 1998 Data Protection Act has done is to further extend the range of personal data covered by the Data Protection Principles to data contained in structured manual files

The Government's intention in legislating for the extension of the Data Protection regime to manual files is a limited extension. Three criteria must be met for a manual record to be within the scope of the Act:

- the information must be part of a structured set of information relating to individuals;
- the structuring must be done either by reference to individuals or by reference to criteria relating to individuals (for example - a unique personal identification number); and
- the structuring must allow specific information relating to a particular individual to be readily accessible.

It is important to recognise the limitations on the requirements under the law to cover manual records within the Data Protection regime.

The Freedom of Information Act interacts with the Data Protection regime and one aspect of the Freedom of Information Act is the fact that it will extend the range of manual files covered by the subject access to include unstructured as well as structured manual files.

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## Publication Scheme

A genuine open and active information policy will not sit back and wait for requests for information to come in, but will look actively at how people can be offered the information they need. The publication scheme indicates a commitment by Conwy to proactively publish as much information as possible and to also look at how best to transmit the information to those who need to know more. Conwy's excellent website is in a good position to maximise the potential of this medium.

Publication schemes have many advantages for all of us, both as members of the public and public servants. They will act as a guide to existing publications. They will help the public navigate the corridors of power and will save time and costs. A good publication scheme will help produce more informed, targeted requests and avoid unnecessary ones and will subsequently minimise the impact on Departments workload.

Proactive publication of information is the key to dispelling some of the myths about local government. The information that is provided can help allay the concerns of the public about areas of our work and can help the public in their dealings with us. The provision of information has become an important service of which our publication scheme is a key part.

A Publication Scheme is the first step towards the introduction of the right of access and a culture of openness. Conwy will be proactive in its approach to ensure that it will be able to meet requests for information when they do come in.

## The Right to Information

To respond to requests for information be it a body or individual, will be able to write and ask for information. They needn't mention the Act when they write or email their request in. This means that every request for information, whether they make specific reference to the Freedom of Information Act or not, must be treated consistently with the Act. Although an applicant need not refer directly to the Act when they write in to request information, they must:

- make clear what information they want
- provide a name and address to reply to.

This is where a good publication scheme can help inform targeted requests.

The Act does, however, set out some exemptions to this right.

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As almost all of the correspondence dealt with requests information, Conwy will ensure all staff that deal with correspondence will be trained in how to deal with requests. Once the 'requests for information' are received the Act requires that they be dealt with promptly and certainly within the deadline of 20 working days. In order to be able to do this we have to be able to find the information quickly. We will provide advice or assistance to anyone seeking information and to explain what is readily available or to clarify what is wanted.

The ability to retrieve records rapidly and accurately will be essential to meeting the demands made by the Act. Conwy acknowledges and accepts that this means an efficient records management system will be of paramount concern in the 'right of access'.

## Freedom of Information Fees

The Council is entitled to refuse to answer a request on the grounds of cost if it would amount to more than £450 to do so. This is equivalent to about two and half days of work (or 18 hours at the rate of £25 per hour of each officer's search time as prescribed in the Regulations).

When calculating whether answering a request would exceed this threshold, the Council will take account of the costs involved in the following activities:-

- Determining whether it holds the information
- Locating and retrieving the information, or a document which may contain the information;

and

- Extracting the information from document(s) containing it (including editing).

In applying fees and charges the Council can take account of neither the costs of considering whether information is exempt under the Act nor possible expenses incurred in the issuing of Fee Notices.

If a request is estimated to cost less than the prescribed £450 limit, and there is no other basis on which it may be refused or otherwise dealt with, the Council will answer the request. The maximum fee that can be charged in these cases is limited to the specified costs of postage, printing and photocopying, referred to as 'disbursement costs', i.e. the costs of:-

Informing the applicant whether the Council holds the information, reproducing any document containing the information; and Communicating the information to the applicant.

The Council, at its own discretion, will determine to waive all costs under £10 in respect of a single request made under the Freedom of Information Act 2000; however, above this sum full disbursement costs will be charged. This decision may be reviewed periodically.

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If the Council chooses to answer a request that will cost more than the £450 threshold, the applicant will be contacted and advised what information will be available below that limit, i.e. it will be discussed with the applicant whether he/she would prefer to modify the request to reduce the cost in terms of officer's time.

If an applicant still wishes to proceed with the original request the maximum fee that may be charged is equivalent to the total estimated costs of:-

- Determining whether the Council holds the information, locating and retrieving the information, and extracting the information from a document containing it (prescribed cost of officers' time); and
- Informing the applicant whether the Council holds the data and communicating the information to the person making the request (disbursement costs).

If the applicant does not agree with the proposed fee, they can appeal through the Council's complaints procedure in the first instance.

Consecutive or Campaign Requests:-

1. These are where two or more requests for information are made to the Council by one person or by different persons who appear to be acting in concert or in pursuance of a campaign.
2. The rule is that the estimated cost of complying with these requests is deemed to be the total cost of complying with them all, i.e. where the cumulative cost becomes £450 or over, the Council could refuse to answer the particular request or charge for officers' time involved in servicing all of the requests. However, for this rule to apply the requests would need to relate to the same or similar information and be received within any period of 60 consecutive working days.

## Implementation

To assist with organising itself effectively for Freedom of Information purposes on a corporate basis a Information Regulations Unit has been established to:

- make sure organised procedures are in place to comply with FOI Act obligations
- put into place a policy which ensures that the publication scheme is reviewed periodically so that it is accurate and up to date, and requests are dealt with as efficiently as possible
- communicate its obligations to all relevant employees so that they can recognise types of information that should be listed on the publication scheme and can identify requests for information
- decide whether internal documents, such as policies, should be reviewed as part of Freedom of Information Act compliance process.

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## Freedom of Information and Record Keeping

It must be recognised the huge importance that effective record keeping will have if the Freedom of Information Act is to be implemented effectively. We cannot give access to information we cannot find. The records management Code of Practice under section 46 of the Act sets standards of record keeping which should enable Conwy to meet statutory duties under the Act.

## FOI and Training

Every member of staff will be made aware of the Act and the implications it will have on the way they work.

## Information Regulations Unit

The Council's Information Regulations Unit is based in Bodlondeb, Conwy and whose remit is to facilitate and advise on the implementation of DP/FOI and the Environmental Information Regulations at a corporate level, and to support Services/Departments.

Information Regulations Unit  
Bodlondeb  
Conwy County Borough Council LL32 8DU

Phone - 574024/574016  
Fax - 574030

Responsibility for DP/FOI and EIR is that of the Corporate Information and Complaints Manager, based also in Bodlond, Conwy. (phone 576009).

The Freedom of Information Act will be wide-ranging in effect and Conwy is committed to implementing the Act properly