

ANGUS COUNCIL

ACCESS TO INFORMATION POLICY

POLICY STATEMENT

This Policy formalises Angus Council's approach to the management and release of information and sets out the Council's commitment to the following principles:-

- to conduct its business in such a way as to promote openness and accountability thereby maximising public trust in the workings of the Council
- to take into account customer needs in presenting information
- to maximise the publication of information through the Council's Publication Scheme
- to respect personal privacy in accordance with the principles set out in the Freedom of Information (Scotland) Act 2002 and the Data Protection Act 1998
- to assist people in exercising their rights of access to information held by the Council.

RIGHTS TO INFORMATION

Information held by the Council can be accessed by any person subject to certain limited conditions and exemptions.

A request for information may be covered by one or more of three information rights:-

- Freedom of Information requests relate to all information held by the Council which is not personal information about the applicant or environmental information
- Data Protection requests (also called subject access requests) are where the applicant wants to see personal information that the Council hold about them
- Environmental Information Regulations requests relate to matters such as air, water, soil, land, landscaping natural sites, biodiversity, human health and safety and decisions and activities affecting these.

The Council will ensure that any information requested will be made available unless there is a compelling reason and basis in law for withholding it.

RECORDS MANAGEMENT

Information is an extremely valuable resource and must be looked after properly. In managing its records, the Council will comply with its duties under the Freedom of Information (Scotland) Act 2002 and the Section 61 Code on Records Management. The Council will also take appropriate technical and organisational measures to ensure that personal information is held securely in accordance with the Data Protection Act 1998.

COMPLIANCE WITH LEGISLATION

The Council will use all appropriate and necessary means to ensure that it complies with relevant legislation including the Freedom of Information (Scotland) Act 2002, incorporating the Environmental Information Regulations 2004 and the Data Protection Act 1998. The Council's policy in relation to these specific pieces of legislation is set out in Appendices A and B to this Policy Statement.

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

(Including Environmental Information Regulations 2004)

1. Introduction

The Freedom of Information (Scotland) Act 2002 provides any person with a general statutory right of access to information held by the Council subject to certain limited conditions and exemptions. It also puts in place certain duties on the Council as to the management of its records. The Council is also required to prepare and maintain a Publication Scheme setting out information which it makes available routinely and which can be quickly and easily accessed. The Scottish Ministers have published 3 Codes of Practice under the Act providing best practice guidance to public authorities on discharging their functions under the Act as follows:-

- Section 60 Code of Practice on Discharge of Functions
- Section 61 Code of Practice on Records Management
- Section 62 Code of Practice on Access to Environmental Information

2. Scope

This Policy is applicable to all recorded information of any age held by Angus Council within the definition contained in the Freedom of Information (Scotland) Act 2002.

This Policy applies to all employees and elected members of Angus Council. Any contractor or agent performing work for, or on behalf of the Council, will be required to assist the Council in implementation of its obligations under the Act, with particular reference to prompt provision of information where requested by the Council.

3. Roles and Responsibilities

The Head of Law and Administration is the Freedom of Information Officer for the Council. She is responsible for ensuring the provision of legal advice on the Act and for coordinating the work of the Council's Freedom of Information Working Group. She is also responsible for monitoring the manner and timescales in which requests for information are dealt with. To ensure impartiality, decisions as to release of information will be taken by individual Directors as the Head of Law and Administration and the Chief Executive will form the Review Panel for dealing with requests for review of decisions from applicants who are dissatisfied with how their request has been dealt with.

Directors are responsible for all aspects of compliance, ensuring that the procedures for handling requests for information and records management are complied with.

Nominated Departmental Information Officers will coordinate compliance with the Act, including dealing with the more complicated requests for information and advising their Director on the applicability of any exemptions.

4. Employee Responsibilities

Employees must be familiar with and adhere to the requirements of the Freedom of Information (Scotland) Act 2002 with regard to recognising requests for information, providing advice and assistance to applicants and management of information in accordance with the procedures for records management.

Employees will be given awareness, induction and update training on the requirements of the Act as appropriate.

Employees must follow the undernoted guidance on adhering to the Act.

Failure to adhere to this Policy and related guidance may be regarded as a disciplinary offence.

5. Charges

There is generally no charge for information provided in the Council's Publication Scheme, unless otherwise stated and in some cases there is a charge for printing and postage.

As far as other requests are concerned, the Council cannot legally charge for requests that cost less than £100 to process, but in the interests of openness and accountability, the Council has decided that it will not charge for dealing with requests that cost less than £400 to process. The Council will charge 10% of the cost of dealing with requests costing between £400 and £600 to process (following deduction of the £100 threshold) so that the charges will range from £30 to £50 respectively. The Council does not have to provide any information if it would cost more than £600 to do so.

6. Compliance

All recorded information will be managed in accordance with the Freedom of Information (Scotland) Act 2002 and the associated Codes of Practice.

7. Review

This Policy will be reviewed as necessary by the Head of Law and Administration to ensure compliance with legislation and fulfilment of Council requirements.

8. Policy Links

The following procedures and guidance notes on Freedom of Information form part of this policy:

- Guidance for Customers
- Guidance for Employees
- Overview for Employees
- Guidance to Staff on Tendering and Contracts
- Procedures for Handling Requests
- Procedures for Management of Records

DATA PROTECTION ACT 1998

1. Introduction

The Data Protection Act 1998 sets out rules for the processing of personal information held in paper form and/or in computer files. The Act establishes a series of eight principles of good information handling, which are set out below. The Council undertakes to comply with these principles in all matters relating to the processing of personal information.

The eight data protection principles can be summarised as follows:

1. Personal data shall be processed fairly and lawfully.
2. Personal data obtained for one purpose shall not be used in any way which is incompatible with that purpose.
3. Personal data should be adequate, relevant and not excessive.
4. Personal data should be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under the Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

2. Scope

This Policy is applicable to all personal data held by Angus Council within the definition contained in the Data Protection Act 1998.

This Policy applies to all employees and elected members of Angus Council and any contractor or agent performing work for or on behalf of Angus Council.

3. Roles and Responsibilities

The Head of Law and Administration is the Data Protection Officer for the Council. As the Data Protection Officer, she is responsible for notification to the Information Commissioner for both the Council and elected members and for ensuring that all departments of the Council are able to comply with the Act.

The Head of Law and Administration is responsible for providing legal advice on the Act and for co-ordinating the work of the Council's Data Protection Working Group. She is also responsible for monitoring the manner and timescales in which subject access requests are dealt with, although the Director of Social Work and Health is responsible for monitoring such requests for social work records.

Directors are responsible for all aspects of compliance, ensuring that the procedures for records management, back-up and storage management and destruction, when appropriate, of personal data are complied with.

Nominated Departmental Data Protection Representatives will co-ordinate compliance with the Act, including notification, security, subject access requests, data matching and employee awareness.

4. Employee Responsibilities

Employees with access to personal information must be familiar with and adhere to the requirements of the Data Protection Act 1998 and the eight data protection principles laid down in the Act.

Employees with responsibilities for handling personal data will be given awareness, induction and update training on the requirements of the Act as appropriate.

Employees must follow any corporate or departmental guidance on adhering to the Act.

Failure to adhere to this policy and any related guidance will be regarded as a disciplinary offence.

5. Charges

The Act allows the Council to make a charge of a maximum of £10 for dealing with a subject access requests. The Council has decided to waive this charge.

6. Compliance

All personal data will be held in compliance with the Data Protection Act 1998.

7. Notification

The Council will ensure that its notification with the Information Commissioner is regularly reviewed and updated where appropriate.

8. Security

All departments must ensure that they have in place systems and procedures to protect the confidentiality and security of data, having regard to the nature and sensitivity of the data held.

All employees must ensure that the data they hold is treated confidentially and must adhere to corporate policies and individual departmental guidance in this respect.

9. Third Party Compliance

Contracts for the processing of information by a third party on behalf of the Council must include confidentiality and security clauses. The Council must be satisfied that the information security measures adopted by any contractor (or agent) directly or indirectly in the employment of the Council comply with the terms of the Act.

10. Review

This policy will be reviewed as necessary by the Head of Law and Administration to ensure compliance with legislation and fulfilment of Council requirements.

11. Policy Links

The following procedures and guidance notes on Data Protection form part of this policy:

- Guide for Customers
- Overview for Customers
- Subject Access Procedures
- Guide for Employees
- Overview for Employees
- Employee Guidance - You, the Council and Data Protection