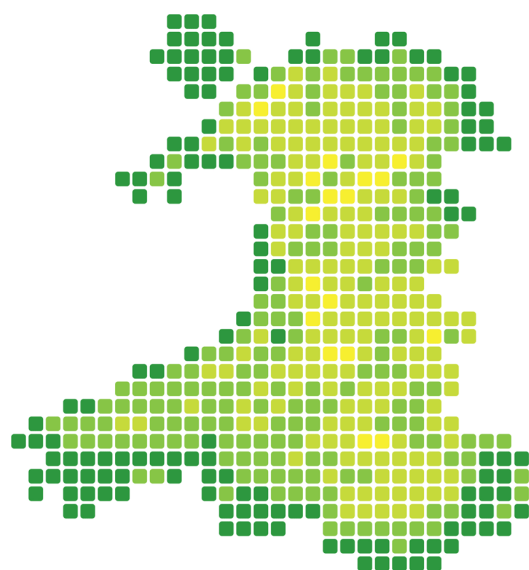


Local Democracy and Boundary Commission for Wales



Comisiwn Ffiniau a
Democratiaeth Leol
Cymru



Local Democracy and
Boundary Commission
For Wales

Code of Practice on Access to Information

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CONTENTS

1	Code of Practice on Access to Information	1
1.1	Purpose	1
1.2	Scope	1
1.3	Principles of Our Approach to Openness	1
1.4	Status	2
1.5	Review of this Code	2
2	Requests for Information	3
2.1	Providing Advice and Assistance	3
2.2	Making a Request	3
2.3	Which Law Applies?	4
3	The Principles Explained	5
	Principle 1: Maximising Openness	5
	Principle 2: Using Clear Language	5
	Principle 3: Maintaining a Publication Scheme	6
	Principle 4: Publishing on the Internet	6
	Principle 5: Respecting Privacy, Confidentiality and Law	7
	Principle 6: Prompt and Comprehensive Responses	7
	Principle 7: Right of Complaint	8
	Principle 8: Providing Information Free of Charge	9
4	Contacts	10
4.1	Making Requests	10
4.2	Providing Advice or Assistance	10
4.3	Publication Scheme	10
4.4	Complaints	10
4.5	Our Website	10
4.6	Statute Law Database	10
	Annex A – List of reasons for withholding information	11
	Derived from the Freedom of Information Act 2000	11
	Derived from the Environmental Information Regulations 2004	13
	Derived from the Data Protection Act 1998	14
	Annex B – How we will apply the public interest and substantial harm tests to Freedom of Information Act 2000 exemptions and Environmental Information Regulations 2004 exemptions	15

1 Code of Practice on Access to Information

1.1 Purpose

This Code of Practice sets out:

- the principles guiding our approach to open government;
- the principles under which we will publish information or make it available on request; and
- the circumstances in which we may withhold information.

It also tells you where to seek advice about requesting information and reinforces:

- our commitment to open government; and
- our intention to be at the forefront of open government.

1.2 Scope

This Code of Practice sets out the principles by which we will meet our commitments and obligations under:

- the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004; and
- the relevant codes of practice and guidance issued by government departments and by the Information Commissioner.

Access to documents is determined by the provisions of this Code.

1.3 Principles of Our Approach to Openness

We are committed to the following principles. They are explained in detail in Part 3:

- Principle 1 - Maximising openness
- Principle 2 - Using clear language
- Principle 3 - Maintaining a Publication Scheme
- Principle 4 - Publishing on the internet
- Principle 5 - Respecting privacy, confidentiality and law
- Principle 6 - Prompt and comprehensive responses
- Principle 7 - Right of complaint
- Principle 8 - Providing information free of charge

1.4 Status

This Code does not override any legal provisions that require or prevent the disclosure of information.

This Code applies to information held by the Local Democracy and Boundary Commission for Wales. The approach to openness set out in this Code is based on that produced by the Welsh Government which Welsh Government Sponsored Bodies are required to follow where possible.

Contracts with third parties entered into by us include terms covering the disclosure of information. Information provided by third parties will be considered for disclosure if it is requested.

1.5 Review of this Code

We will review this Code at least every three years to ensure that we continue to meet legal requirements governing access to information.

2 Requests for Information

2.1 Providing Advice and Assistance

We will, as far as is reasonable and possible, provide advice and assistance on making requests for information. Contact details are given in Part 4. Advice on making a request is given on the website of the Information Commissioner's Office (www.ico.org.uk).

Information about the different types of information we publish is available on our website (www.ldbc.gov.wales).

2.2 Making a Request

You can request information:

- in writing, including by fax email or social media channels;
- by contacting us to ask to see specific published information and to make an appointment to see it;
- by phone or in person if:
 - you are unable to put your request in writing because of a disability;
 - you are requesting environmental information
 - it is otherwise reasonable to do so.

If your request is not in writing because one of the circumstances specified above applies, we will write to you to confirm what information you asked for. Where we do so, you will need to check that our understanding of your request is accurate. If it is not, you should contact us to clarify the request but if you do not we will proceed on the basis of our interpretation of your request.

When requesting information, you must:

- give a name and address to which a reply may be sent;
- give enough detail for us to identify what information you want. If your request does not contain enough detail for us to decide what information you want, we will seek clarification from you and will only be able to proceed with your request when you have provided it;

You may tell us how you would prefer to receive the information. For example:

- a copy of the information;
- by inspecting the information; or,
- a digest or summary of the information.

Whenever reasonable, we will provide information in the format you prefer. If we cannot do this, we will explain why.

2.3 Which Law Applies?

You do not need to mention which law you think applies to your request for information. We will gather the information you seek and examine it to see which laws apply and then apply them. This may mean that we apply more than one law to your request.

You are encouraged to be as precise as possible in your request; if you are not sure what to say in your request, you can ask us for help. You may, if you wish, restrict the information you seek.

3 The Principles Explained

Principle 1: Maximising Openness

We will be as open as possible

- We will be as open as possible and only withhold information if it falls into one of the exempt categories in Annex A or disclosure would breach any other provision of law. Annex A also shows, for each exemption, whether we will apply the public interest test or the substantial harm test or both. Annex B shows how those tests will be applied.
- Our staff will receive guidance and training on maximising openness.
- We will continually seek opportunities to publish information unless it is exempt under this Code.
- Our meeting minutes (except for parts that are exempt under this Code) are published on our website at www.ldbc.gov.wales. The minutes will be published in both Welsh and English and will be available shortly after they have been confirmed at our next meeting (provided they do not disclose information that is to be published in a future Review report).

Principle 2: Using Clear Language

We will use clear language, in line with our bilingual policies and taking account of different needs
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- We will use plain and gender neutral language in our dealings with the public.
- We will aim to produce brief, easy to read documents and will avoid the use of small print.
- We will produce documents in English and Welsh in accordance with our Welsh Language Scheme.
- We will respect the differing needs of different sectors of the community.

Principle 3: Maintaining a Publication Scheme

We will maintain a Publication Scheme
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- We have adopted the Information Commissioner's Office Model Publication Scheme. The Publication Scheme outlines the information that we commit ourselves to make readily available to you.
- The Publication Scheme states our commitment to make information publicly available and sets out:
 - the information we promise to publish as a matter of course;
 - how this information will be published;
 - whether the information is available free of charge or not.
- The Model Publication Scheme is published on the Information Commissioner's website at www.ico.org.uk.
- People without access to the Internet can read the scheme at our office in Cardiff. Personal callers are welcome.
- We will also provide copies of the Scheme on request.

Principle 4: Publishing on the Internet

We will publish information on the Internet
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- Our website holds information that falls within the categories listed in our Publication Scheme.
- We will provide a bilingual website in accordance with our statutory obligations and our policies on the use of the Welsh and English languages.
- We will publish minutes of our meetings on our website. This includes minutes of our Audit and Risk Assurance Committee.
- Our website will conform to international and national standards for accessibility.
- Our website will provide search facilities and contact details for further enquiries about the availability of information.

Principle 5: Respecting Privacy, Confidentiality and Law

We will respect personal privacy, the duty of confidence, and all laws governing the release of information

- Before we reply to a request that will involve disclosing information about someone whose interests are likely to be affected by disclosure, we will normally consult them to ensure that any disclosure complies with the law.
- Examples of legislation covered by this principle include the Official Secrets Act 1989, the Data Protection Act 1998, the Human Rights Act 1998, the Environmental Information Regulations 2004, and the Freedom of Information Act 2000. Other laws include the law of defamation and the law of confidence.

Principle 6: Prompt and Comprehensive Responses

We will provide prompt and comprehensive responses to requests for information

- We will send information you request and which is not exempt, promptly and in any case within legal time limits.
- We may send information in several instalments to ensure that you receive as much as possible as early as possible.
- Our target for responding to a request for information will be **15 working days**. “Working day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day, which is a bank holiday. (The Freedom of Information Act 2000 provides a statutory, general deadline of 20 working days for responding to a request for information. It also provides that in certain circumstances this may be extended to 60 working days. However, we will wherever and whenever possible, aim to respond within **15 working days**).
- If you need our help to make a request we will write to you for confirmation that we have understood your request correctly and so that you have a record of your request. Where we do so you will need to check that our understanding of your request is accurate. If it is not, you should contact us to clarify the request but if you do not we will proceed on the basis of your interpretation of your request.
- Any information we disclose will be in the language in which we hold the information.
- If we receive a request in Welsh or English, the covering letter for our reply will be in the same language as the request.
- If we receive a request for information in a language other than English or Welsh the covering letter for our reply will, where practicable, be in that language.

- We do not have to obtain information we do not hold. If we think that another public authority holds some or all of the information, we will consult them and you about transferring your request. We will transfer the request if you agree or, if not, we will provide contact details for the other public authority.
- We will always be as open and helpful as possible but will, where appropriate, handle vexatious and repeated requests in line with the law.
- If we refuse to send you information, we will send a refusal with an explanation within the legal deadline and tell you about our complaints procedure (see Principle 7).

Principle 7: Right of Complaint

We will provide a right of complaint where a member of the public is not satisfied with the response received

- Where we refuse to provide information, the notification of that fact will include details of our formal complaints procedure, which is set out in our Complaints Procedure. The Procedure can be found on the Internet on www.ldbc.gov.wales. Printed copies and advice are available from our Complaints Officer – telephone 02920 464819: email address ldbc.wales@wales.gsi.gov.uk.
- In line with paragraph 2.3 of our Complaints Procedure, and in accordance with the principles set out in that Procedure, any complaint that information, which should have been provided, has not been will be investigated. The Procedure explains that the complaint should normally be made first to the person who responded to the request. Thereafter it will be investigated in accordance with the principles set out in paragraph 2.4 of Part 2 of that Procedure.
- If, after using our complaints procedures, you are still unhappy with the outcome, you may, in respect of complaints relating to the Freedom of Information Act refer the complaint to the Information Commissioner. Usually, they will expect you to have tried our own procedures before investigating your complaint.

Principle 8: Providing Information Free of Charge

We will provide information free of charge where possible
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- Our aim is to avoid charging if we can and, if not, to keep any charges as low as possible. We will use our discretion when deciding whether or not to charge, even if we are legally entitled to charge.
- We may review this principle in the light of experience.
- The legislation makes provision for us to make a charge if the cost of complying with a request for information exceeds an appropriate amount. Under the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 an “appropriate amount” of £600 has been set for a number of public bodies including the Commission.

4 Contacts

4.1 Making requests

Requests for information, publications, advice or assistance can be made in writing to our office at:

Local Democracy and Boundary Commission for Wales
Hastings House
Fitzalan Court
Cardiff
CF24 0BL

You may also use telephone: 02920 464819, fax: 02920 464823, e-mail: ldbc.wales@wales.gsi.gov.uk or social media channels.

4.2 Getting Advice or Assistance

If you need advice or assistance with requests for information from the Local Democracy and Boundary Commission for Wales please contact our office (details above).

4.3 Publication Scheme

The Information Commissioner's Office Model Publication Scheme is available on the Information Commissioner's website at www.ico.org.uk. Our Publication Catalogue and this Code can be obtained from our office and is also available via our website (www.ldbc.gov.wales).

4.4 Complaints

You can get advice about our complaints procedures from the Complaints Officer (contact details as above) or from the Complaints Procedure document available from our website.

4.5 Our website

Our website is www.ldbc.gov.wales.

4.6 Statute Law Database

You can view the full text of the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Data Protection Act 1998 at: www.legislation.gov.uk

Annex A – List of the Exemptions

This list is intended as a quick reference to the exemptions and other reasons that may be the basis for withholding information and the tests that we will apply. For the full text of each, you should refer to the legislation (the Statute Law Database website at www.legislation.gov.uk holds up-to-date copies of each law).

As far as exemptions are concerned the purpose of this annex is only to show what tests we will use in deciding whether or not an exemption applies to information.

A1 - Derived from the Freedom of Information Act 2000

FoI Act 2000 Part 1	Section
1(3)	Description of information does not allow us to locate and identify the information
9(2)	Fee not paid within three months
12	Cost of compliance exceeds the appropriate limit
13	Fees lawfully requested for disclosure not paid
14	Vexatious or repeated

A2 - Derived from the Freedom of Information Act 2000

FoI Act 2000 Part II	Exemption	Absolute or Qualified	Public interest test?	Substantial harm test?
21	Information accessible to applicant by other means	Absolute	No	No
22	Information intended for future publication	Qualified	Yes	Yes
23	Information supplied by, or relating to, bodies dealing with security matters	Absolute	No	No
24	National Security	Qualified	Yes	No
26	Defence	Qualified	Yes	No
27	International relations	Qualified	Yes	Yes
28	Relations within the United Kingdom	Qualified	Yes	Yes
29	The economy	Qualified	Yes	Yes

FoI Act 2000 Part II	Exemption	Absolute or Qualified	Public interest test?	Substantial harm test?
30	Investigations and proceedings conducted by public authorities	Qualified	Yes	Yes
31	Law enforcement	Qualified	Yes	Yes
32	Court records, etc.	Absolute	No	No
33	Audit functions	Qualified	Yes	Yes
34	Parliamentary privilege	Absolute	No	No
35	Formulation of government policy, etc.	Qualified	Yes	Yes
36	Effective conduct of public affairs	Qualified	Yes	Yes
37	Communications with Her majesty, etc. and honours	Qualified	Yes	Yes
38	Health and safety	Qualified	Yes	Yes
39	Environmental Information	Qualified	Yes	No
40 (1)	Personal information (about applicant)	Absolute	No	No
40 (2)	Personal information about others where the circumstances described in section 2(3)(f)(ii) FoIA are the case	Absolute	No	No
40 (2)	Personal information about others where the circumstances described in section 2(3)(f)(ii) FoIA are not the case	Qualified	Yes	No
41	Information provided in confidence	Absolute	No	No
42	Legal professional privilege	Qualified	Yes	Yes
43	Commercial interests	Qualified	Yes	Yes
44	Prohibitions on disclosure	Absolute	No	No

A3 - Derived from the Environmental Information Regulations 2004

EIR 2004 regulation	Exception	Public interest test?	Substantial harm test?
12 (4) (a)	Information not held when request received	Yes	No
12 (4) (b)	Request is manifestly unreasonable	Yes	No
12 (4) (c)	Formulated in too general a manner	Yes	No
12 (4) (d)	Material is still in course of completion, unfinished documents or incomplete data	Yes	Yes
12 (4) (e)	Internal communications	Yes	Yes

A4 - Derived from the Environmental Information Regulations 2004

EIR 2004 regulation	Exception	Public interest test?	Substantial harm test?
12 (5)	Where disclosure would adversely affect -		
12 (5) (a)	International relations, defence, national security or public safety	Yes	Yes
12 (5) (b)	Course of justice, fair trial, criminal or disciplinary inquiry	Yes	Yes
12 (5) (c)	Intellectual property rights	Yes	Yes
12 (5) (d)	Confidentiality of proceedings of a public authority where confidentiality is provided by law	Yes	Yes
12 (5) (e)	Confidentiality of commercial or industrial information where confidentiality is provided by law to protect a legitimate economic interest	Yes	Yes
12 (5) (f)	Interests of person who provided information where that person: (i) not under legal obligation to have supplied the information (ii) did not supply it in circumstances where the public authority is entitled to disclose the information apart from these regulations (iii) has not consented to disclosure	Yes	Yes
12 (5) (g)	Protection of the environment to which the information relates	Yes	No

A5 - Derived from the Environmental Information Regulations 2004

EIR 2004 regulation	
8 (5)	Fee not paid within 60 working days
13	Personal data of third parties. We will apply this exception as it appears in the legislation

A6 - Derived from the Data Protection Act 1998

The Data Protection Act 1998 and orders made under it set out exemptions from the duty to provide access to your personal data. We will apply them as they appear in the legislation.

Annex B – How we will apply the public interest and substantial harm tests to exemptions

Annexes A2, A3 and A4 show, exemption by exemption, whether the public interest and substantial harm tests are applied to information falling under the exemptions in Part II of the FoIA and regulation 12 of the EIRs. This annex sets out what each test means:

- If Annex A2 or A3 shows that an exemption is qualified, and that we will apply the public interest test and the substantial harm test, we will only rely upon the exemption if disclosing the information would cause or be likely to cause substantial harm to the purpose which the exemption aims to protect. Even if disclosure would cause or be likely to cause such substantial harm, we will not rely upon the exemption unless that harm outweighs the public interest in disclosure of the information;
- If Annex A2, A3 or A4 shows that an exemption is qualified, and that we will apply only the public interest test, it means that we will only rely upon the exemption if the public interest in withholding the information for the purpose that the exemption aims to protect, outweighs the public interest in disclosing the information;
- If Annex A2 or A3 shows that an exemption is absolute, and that we will apply neither the public interest test or the substantial harm test, it means that we will rely on that exemption and not disclose the information;
- We will only rely upon exceptions 12(5)(a) to 12(5)(f) in Annex A4 if disclosing the information would cause substantial harm to the purpose which the exception aims to protect. Even if disclosure would cause such substantial harm, we will not rely upon the exception unless the public interest in avoiding that harm outweighs the public interest in disclosure of the information.