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<b>POLICY</b>	<b>Information Requests Policy</b>			
<b>Corporate Services</b>				

## **INFORMATION REQUESTS POLICY**

**Under the terms of the**

**FREEDOM OF INFORMATION (SCOTLAND) ACT 2002  
ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004  
GENERAL DATA PROTECTION REGULATION (GDPR)/DATA PROTECTION ACT  
2018**

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## 1. Introduction

This policy sets out Fife Council's approach to the release of information requested by the public and other external bodies under:

Freedom of Information (Scotland) Act 2002 (FOISA)

Environmental Information (Scotland) Regulations 2004 (EIR)

INSPIRE (Scotland) Regulations 2009 (INSPIRE)

GDPR/Data Protection Act 2018 (DP Legislation)

Re-Use of Public Sector Information Regulations 2015

The Pupils Educational Records (Scotland) Regulations 2003

Anyone, anywhere can request information and Fife Council are responsible for ensuring the above are complied with, whilst ensuring openness and transparency by the Council.

## 2. General Rights of Access

FOISA gives a general right of access to recorded information held by the Council, within 20 working days, subject to certain conditions and exemptions.

EIRs provides a similar right of access to environmental information as defined in section 2 of the EIRs.

DP Legislation allows for Personal Information to be requested by the data subject, other authorities and other companies such as utility companies.

Data sharing agreements and adhoc data sharing agreements do not fall within the scope of this policy, these are managed by the [Security & Compliance Team](#) and covered by the Data Sharing Guidance.

Educational Records allows parents/guardians the right to access information relating to their children's education.

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Portability of Data is a right within the GDPR that allows the data subject to request an electronic transfer of personal data they have previously provided to Fife Council. The Applicant can request it is transferred in a specific format and where technically possible this request requires to be granted. The Council will respond to such requests in line with the Subject Access Request procedure.

### **3. Services Not Covered By This Policy**

Various areas of the Council are run independently and are not required to comply with this Policy in relation to their statutory function unless it relates to council information.

These Services are:

- Assessors
- Arm's Length Organisations: Golf Trust, Fife Cultural Trust, Fife Sports and Leisure Trust; Fife Coast & Countryside Trust; Fife Business Gateway
- Integration Joint Board (IJB)

### **4. Educational Records**

The Information Management & Request Team (IMRT) will be required to provide guidance and advice to Education Service in relation to Education Records Requests. This is in compliance with the Educational Record Requests and Separated Families Guidance, which is written by the Education Service.

### **5. Information Held**

The Council recognises the wide range of information that it holds and the need to manage this effectively in line with relevant sections of the above regimes and codes of practice.

The [Council's Records Management Policy](#) and File Retention Schedules set out the basis for the management and destruction of information.

Information Requests, Reviews and Appeals/Complaints are held for 3 years after completion.

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The Council treats information as “held” by the Council once it is physically stored by us (or contractors on our behalf), this applies to official information held on personal computers and devices (which includes all types of personal e-mail accounts) and a member of staff (or contractor) has knowledge of its content and access to it.

The Council treats paper based information as no longer held once the files are actually destroyed, or have been marked for immediate destruction and physically removed from their normal location into the care of specialist staff (or contractors) for the purpose of destruction.

The Council treats electronic files as information no longer held once the files have been deleted from their normal location and deleted again from the recycle/salvage software systems used by the Council.

Members of the IMRT and the [Head of Legal Services](#) (for review purposes) are required to have access to all information that is currently held by Fife Council if it is requested by them.

Access to all internal systems is required by the IMRT for identifying information held and contacts to provide the data. Training on these systems is to be provided to IMRT members. No editing rights are required to be given unless the Service request updates to be added to case files.

## 6. Publication Scheme

A publication scheme sets out the classes of information routinely published by a public authority; details the format in which the information is available and states whether a charge may be made for the information.

The Council has adopted and maintains a publication scheme as required under section 23 of FOISA.

The publication scheme can be accessed via our website [www.fife.gov.uk](http://www.fife.gov.uk) and is available in hard copy on request. The publication scheme will be subject to an annual review.

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The Information Asset Owners are accountable for their Service's publications and are required to update the IMRT of relevant changes. The IMRT are responsible for the update and yearly review of the Publication Scheme.

## 7. Conditions, Exemptions and Exceptions

The law requires the Council to be open and transparent and therefore, information that is held by the council must be considered on receipt of a request and provided to the applicant unless there are genuine and substantial reasons for not disclosing all, or part of it. FOISA/EIR/INSPIRE require that information is released unless an exemption applies. DP Legislation requires that personal data is only processed where it complies with the Data Protection Principles. This includes "securely" but also covers the other requirements. However, personal data must be disclosed to the data subject unless an exemption applies.

All exemptions/exceptions in relation to requests require to be applied in the first instance by the information owner. Guidance on exemptions is provided by the IMRT. The information owner is required to complete the relevant proforma and forward it to the IMRT to approve. The final decision in applying exceptions/exemptions rests with the IMRT.

## 8. Requirement for Review & Right of Appeal

An applicant has the right to require the Council to review the decisions it makes in relation to their request for information. The Council must consider all requests for review made within the prescribed timescales set out in section 20(5) of FOISA and section 16 of the EIR's.

The Council will consider and seek to resolve any request for review that falls outside the prescribed timescales but the [Scottish Information Commissioner](#) (OSIC) may not accept an application to further review the case if the request for review was submitted outwith the statutory timescales and the applicant is still dissatisfied with the outcome. FOI/EIR reviews will be carried out within 20 working days from the day after receipt of the review

The Council are also required to carry out a review of Subject Access Request responses in relation to DP Legislation. The Council will carry out reviews 30 calendar days from the day after receipt of the review.

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The Council will also undertake an internal review in relation to requests made under The Pupils' Educational Records (Scotland) Regulations 2003 on the same terms as Subject Access Request reviews under the DP Legislation. Reviews will be carried out within 30 calendar days from the day after receipt of the review.

All reviews will be carried out by the Head of Legal Services. Requests for review should be forwarded timeously to [Info.Review@fife.gov.uk](mailto:Info.Review@fife.gov.uk).

## 9. Charges and Fees

The Council will generally not charge for information that we have chosen to publish in the publication scheme, unless otherwise stated. Charges may be levied for hard copies, photocopying or copying onto media such as CD-ROM.

The Council will apply the Freedom of Information (Fees and Appropriate Limit) (Scotland) Regulations 2004 for general rights of access under FOISA. These set an appropriate limit on costs of compliance, the manner in which an appropriate fee is calculated and circumstances in which no fee should be levied. In all cases where the Council chooses to levy a fee arising from an information request under FOISA, a fees notice will be issued to the applicant. Applicants will be required to pay any fees within a period of three months beginning with the day on which the fees notice is issued to them.

The Council will apply the charges set out in its published [schedule of costs](#) to requests for environmental information under the terms of section 8 of the EIRs. Applicants will be informed of any fees that are being applied and must pay them before the information is provided.

Requests made under the DP Legislation Subject Access Rights will not be charged for unless:

- The data subject makes repeated request within a 6 month timescale. In these cases, IMRT will calculate the cost of reprinting/providing the Applicant with the requested data.

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- Excessive requests may incur a cost in cases where the IMRT have requested the applicant to reduce the scope of the request but the applicant refuses to do so. The IMRT will identify the cost in providing the information and request the charge is paid prior to the request being worked on. In cases where the applicant provides sufficient reasoning for failure to reduce their request, the IMRT will consider whether this can be provided without charge.

## 10. Copyright / Re-use

The copyright of material released by the Council under FOISA or the EIRs is owned by the Council unless otherwise stated. The supply of material under this legislation does not give the person, or organisation, that receives it any right to re-use the material that would infringe copyright. For example by making multiple copies, publishing and issuing copies to the public. Breach of copyright laws is actionable in civil law and can also be a criminal offence.

Brief extracts of the material may be reproduced under the fair dealing provisions of the Copyright, Design and Patents Act 1988 (section 29 & 30) for non-commercial purposes.

All commercial publications as defined in section 175(2) of the Copyright, Design and Patent Act 1988 where the Council does not hold the copyright will be treated as exempt information on the basis of being “otherwise available” wherever possible.

The Re-use of Public Sector Information Regulations 2015 provide for the [re-use](#) of Council information and the Council has established processes for licensing information under these regulations.

Information Asset owners are responsible for updating the Records Manager of changes to their Service Information Assets. The Records Manager is responsible for the upkeep of the Information Asset Register.

## 11. Roles and Responsibilities

The Council has established the following roles and responsibilities for managing information.

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- The Chief Executive is responsible for the Council's notifications to the Scottish Information Commissioner and for ensuring that all Directorates of the Council have made arrangements to comply with Legislation.
- The Head of Legal Services, is responsible for providing the legal advice to the Information Management & Request Team in relation to the associated regimes. He/She is also responsible for carrying out the internal reviews for Fife Council.
- The Executive Director, Community Services, is responsible for policy guidance on the discharge of functions under the regimes in relation to information requests and for the management of training opportunities.
- Each Executive Director is responsible for disclosure of all information under his or her control and for all aspects of compliance, ensuring that adequate training is provided to ensure all staff are aware of their responsibilities in relation to information requests and general records management.
- Data Protection Officer (DPO) is responsible for overseeing requests falling under the Data Protection Legislation and providing guidance and advice to the IMRT and reporting to the ICT Governance Board. All Communication to ICO should be made through the DPO.
- The IMRT, are responsible for Policy and Processes relating to this policy. Providing guidance to internal staff, communicating with Applicants, managing requests, system improvement and all communication with OSIC in relation to Information Requests. IMRT require to approve all cases where exemptions/exceptions and costs and extensions are to be applied to requests. This team are also responsible to co-ordinate Application investigations received from OSIC.
- The Records Manager is responsible for the Information Asset List and communicating with Records Management Officers of their responsibilities relating to Service Publications.



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- The Education Service is responsible for the updating of the Education Record Requests and Separated Families Guidance in accordance with The Pupils Educational Records (Scotland) Regulations 2003.
- Each employee is responsible for recognising information requests and forwarding them on to the Information Management & Request Team at:  
[information.requests@fife.gov.uk](mailto:information.requests@fife.gov.uk). They are also responsible for assisting individuals who may be unsure of how, or unable to make the request to the Council directly.
- All Employees may be asked to confirm an Applicants ID. ID is requested during the acknowledgement of a subject access request (SAR) and a request under the Portability rules and the Applicant is required to provide proof of ID to any Council Office. Employees are not required to copy or scan the documents provided, however they are required to email confirmation of ID to [information.requests@fife.gov.uk](mailto:information.requests@fife.gov.uk). Advice is provided by the [IMRT](#).

## 12. Policy Links

This policy forms part of an Information Governance framework for the Council, elements of which are the Council's:

- [Data Protection Policy](#)
- [Records Management Policy](#)
- [File Retention Schedules](#)
- [Data Sharing Guidance](#)
- [Re-use of Public Sector Information procedures](#)
- [Education Record Requests and Separated Families Guidance](#).