

1. Version Control

Version	Date	Description	Review Date*
1.0	March 2020	Initial Version	March 2023
2.0	June 2021	Updated roles and responsibilities.	June 2024

*3 yearly review or in response to legislative changes

2. Introduction

The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) both came into effect on 1 January 2005 and mean that any person can make a request for information held to Milton Keynes Council (MKC).

3. Purpose

- To ensure MKC meets its obligations under FOIA and EIR and that all requests are treated fairly and consistently.
- To ensure that MKC meets the standards set out in the Section 45 FOIA Code of Practice.

4. Scope

- This policy applies to all requests made under FOIA or EIR and therefore to all information held by, or on behalf of the Council.
- This policy applies to all employees of the Council, elected members and any person handling data on behalf of the Council including consultants, contractors and suppliers.
- This policy covers all requests for information held except those for an individual's own data (handled under the Data Protection policy) and "business as usual" requests.

5. Roles and Responsibilities

- Overall responsibility for compliance with FOIA and EIR sits with the Information Governance Team and specifically the Corporate Information Officer for FOIs (CIO).
- The CIO is responsible for logging, acknowledging, assigning, monitoring and ensuring responses within MKC's statutory obligations on a daily basis.
- Where issues arise the Information Governance Officer is the first stage for escalation and the Head of Customer Services and Data Insight is the second stage for escalation.
- Liaison Officers within the service areas are responsible for compiling the information from the various teams/officers in their service areas within the statutory timeframe. In some cases Liaison Officers are responsible for sending responses and in others this falls to the Information Governance team. Full details of the responsibilities of Liaison Officers are detailed within the Liaison Officer Responsibilities document.

6. Handling of Requests

6.1 Receipt

New requests will be acknowledged within 2 working days of receipt including confirmation of the legislation the request will be processed under and a reference number.

6.2 Vexatious requests

Where a FOIA request is deemed vexatious in line with Section 14 of FOIA or an EIR request is deemed manifestly unreasonable as it is vexatious under Regulation 12(4)(b) the request will be refused. We will endeavour to advise the applicant within 5 working days and no later than 20 working days from receipt of the request.

6.3 Data not held

Where we do not hold the information requested we will advise the applicant as soon as possible and within 20 working days of receipt of the request.

6.4 Large requests

Where a FOIA request is too large to comply with within the appropriate cost limits set out in the Freedom of Information and Data Protection (Limit and Fees Regulations) 2004 or an EIR request is deemed to place a manifestly unreasonable burden on the Council in line with Regulation 12(4)(b), we will endeavour to advise the applicant, including an explanation of why this decision has been made and the ways in which the request can be refined, within 10 working days and no later than 20 working days from receipt of the request.

6.5 Unclear requests

Where a request is unclear we will endeavour to request clarification within 5 working days and no later 20 working days from receipt of the request. Any parts of a request which do not require clarification will be responded to within 20 working days or 40 working days under EIR if complex or large. Applicants will be given 40 working days to provide clarification before a request is closed.

6.6 Charges

In line with the Freedom of Information and Data Protection (Limit and Fees Regulations) 2004 there will be no charge for FOIA requests which are estimated to cost less than £450. We will not comply with requests where the estimated cost of finding out if the information is held and locating, retrieving and extracting the information exceeds £450 under FOIA or is deemed “manifestly unreasonable” in line with Regulation 12(4)(b) under EIR. We may charge for disbursements exceeding £5 at 10p per sheet of A4 over 175 sheets.

6.7 Exemptions / Exceptions

If the requested information is subject to any of the exemptions detailed in Section 21 to 44 of the Freedom of Information Act 2000 or Regulation 12 of the Environmental Information Regulations 2004 we are not obligated to release the information. Where a qualified exemption under FOIA or an exception under EIR is relied on a fair and unbiased public interest test will be undertaken. Where a prejudice based exemption under FOIA is relied on a fair and unbiased prejudice test will be undertaken. We will seek to provide information where possible.

6.8 Responses / Refusals

- We will respond to all requests within 20 working days from the date of receipt including details of how to request an internal review and the applicant’s right of appeal to the Information Commissioner’s Office.
- Where an EIR request is complex or large we will email the applicant no later than 20 working days from the date of receipt of the request to confirm that additional time is

required, including justification. This additional time will not exceed a further 20 working days.

- Refusal notices will be sent within 20 working days from the date of receipt and include the reason for refusal, whether the information is held (if confirm/deny applies), details of any exemptions/exceptions applied and why they apply, details of the public interest test (if applicable), details of how to request an internal review and the applicant's right of appeal to the Information Commissioner's Office.

7. Public Interest and Prejudice Tests

- We will undertake a public interest test when applying a qualified exemption under FOIA or any exception under EIR. We will always act on the presumption of disclosure and information will only be withheld when the public interest in withholding the information outweighs the public interest in disclosure. If additional time is required to undertake a public interest test we will notify the applicant within 20 working days of receipt of the request. This additional time will not exceed a further 20 working days.
- We will undertake a prejudice test when applying a prejudice based exemption under FOIA.
- The Information Governance team will review all public interest and prejudice tests prior to a refusal being issued to ensure a fair a consistent approach.
- We will detail within our refusal notice the findings of the public interest and prejudice tests where applicable

8. Consultation with Third Parties

We will endeavour to consult third parties which may be affected by a disclosure for their views prior to disclosing the information. We retain the right to disregard the views of third parties where the public interest in disclosure outweighs the public interest in withholding.

9. Personal Data

- Requests for personal data of the applicant will be refused and directed to make a Subject Access Request in line with the Data Protection Act 2018 and the General Data Protection Regulations 2018.
- Requests for the personal data where the applicant is not the data subject will be refused under FOIA if the data falls within the requirements of Section 40(2) and under EIR if the data falls within the requirements of Regulation 12(3) and 13.
- MKC will not release information other than the names or contact details of colleagues below the level of Heads of Service in response to an information request. For colleagues above the level of Head of Service the decision will be based on individual requests, taking into account the Data Protection Act 2018 and General Data Protection Regulations 2018.

10. Internal Reviews

- We will consider requests for an internal review of a FOIA or EIR response/decision received within 40 working days of the date of the original response.
- Requests for internal reviews should be sent via email to FOIA@milton-keynes.gov.uk or posted to:

Freedom of Information
Milton Keynes Council

Civic
1 Saxon Gate East
Milton Keynes
MK9 3EJ

- We will endeavour to complete internal reviews within 20 working days. Where the information is complex or large we may take up to 40 working days to respond. We will notify the applicant within 20 working days of receipt of the internal review request if this is the case.
- Internal reviews will be carried out by a different individual than the initial request, and where possible, a more senior individual. The Information Governance team will oversee all internal reviews.
- Internal reviews will be processed fairly and impartially, bearing in mind any public interest in the information. Internal reviews will take a view of challenging the original decision and be willing to amend or reverse previous decisions.
- Acknowledgements will be sent by the Information Governance team.
- Responses will be sent by the Information Governance team and include details of the investigation and findings as well as details of the applicant's right of appeal to the Information Commissioner's Office.

11. ICO Complaints

We will comply promptly and within the specified timeframe with all requests for information or complaints received from the Information Commissioner's Office.

12. Publication Scheme

We have adopted a publication scheme in line with Section 46 of FOIA which contains documents, policies, plans and guidance used by the Council. The publication scheme is available online and any charges applied are clearly displayed.

13. Training & Guidance

- This policy is supported by two internal guidance documents for MKC employees on the handling of requests under FOIA and EIR.
- Online training is available to all MKC employees at any time. Face-to-face training is available on request.

14. Review and Revision

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 3 years. Policy review will be undertaken by the Information Governance Team.

15. Contact

Freedom of Information Team – FOIA@milton-keynes.gov.uk