



# PETERLEE TOWN COUNCIL INFORMATION & INFORMATION SECURITY POLICY

December 2016

## EXPLANATORY NOTE

This policy sets out how Peterlee Town Council interprets the law and complies with regulations regarding information and information security. It aims to give a general overview of the legal requirements imposed on Peterlee Town Council, define how the Town Council makes information accessible and advise how it will protect, store and dispose of information.

Ian Morris, Town Clerk

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## 2 ABOUT THIS INFORMATION POLICY

2.1 This policy details how Peterlee Town Council interprets the law and makes best efforts to comply with the various regulations in place for information and information security. It aims to give a general overview of the legal requirements imposed on Peterlee Town Council, define how the Town Council makes information accessible and advise how it will protect, store and dispose of information.

2.2 There are various areas of legislation that provide the legal framework that governs how information and data should be held, accessed and processed. The Information Commissioner's Office (ICO)<sup>1</sup> is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. They rule on eligible complaints, give guidance to individuals and organisations, and take appropriate action when the law is broken. The ICO enforces and oversees the Data Protection Act, the Freedom of Information Act, the Environmental Information Regulations, and the Privacy and Electronic Communications Regulations.

2.3 In basic terms:

- Personal Information falls under the Data Protection Act 1998.
- All other information falls under the Freedom of Information Act 2000.
- Environmental information falls under the Environmental Information Regulations 2004.
- The Privacy and Electronic Communications Regulations 2003 govern electronic marketing.

## 3 INTRODUCTION

3.1 Peterlee Town Council supports the objectives of increasing openness, accountability and transparency in the public sector. As one of the largest Town Councils in the country, responsible for a wide range of local functions that affect the everyday lives of residents, we understand that information held by the Town Council is of relevance and interest to the public.

3.2 Under the Freedom of Information Act 2000 all public authorities must adopt and maintain a Publication Scheme. The scheme details the information that the Council will routinely make

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<sup>1</sup> See information commissioner's office website: <https://ico.org.uk/>

available to the public, what is included in each 'class' of information, any charges applicable for retrieving the information, and how to request the information.

- 3.3 Peterlee Town Council published its first [Publication Scheme](#) in October 2016, in line with guidance from the Information Commissioner. This Publication Scheme is available on the council's website<sup>2</sup> and is regularly reviewed and updated as we find new ways to publish information in increasingly useful formats.
- 3.4 The Local Government Transparency Code 2014 requires the Council to publish certain information on its website. This is due to the Government's desire to place more power into citizens' hands to increase democratic accountability and make it easier for local people to contribute to the local decision making process and help shape public services. The published 'data' must comply with the Data Protection Act 1998. In September 2016 the Council began an ongoing process of reviewing and updating the way that we respond to the various obligations that under these government requirements and we now have a section of our website dedicated to [Transparency Information](#)<sup>3</sup>.

## 4 PUBLICATION SCHEME

- 4.1 As mentioned, Peterlee Town Council has adopted the Model Publication Scheme. There are a number of ways to obtain information held by the Council:
- I. Self-serve a wide range of information from the searchable publication scheme table on the Council's website: <http://www.peterlee.gov.uk/transparency-information/peterlee-town-council-publication-scheme/>
  - II. Electronic version of the minutes of past Council and committee meetings for the past ten years are also available on the Council website here: <http://www.peterlee.gov.uk/meeting-minutes>
  - III. Physical inspection of documents at the Town Council office. If you wish to view publicly available documents please contact the Town Clerk, either via telephone, by email or in writing. Some documents may require some time to locate, so it may be necessary to make an appointment. Please note normal working hours are Monday to Thursday 9am-5pm and Friday 9am – 4.30pm
  - IV. Request that information is sent to you in the post. Information held by the Town Council which does not fall within the Publication Scheme may be requested in writing and will be considered in line with the provisions of the Freedom of Information Act 2000. The request

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<sup>2</sup> Publication scheme available here: <http://www.peterlee.gov.uk/transparency-information/peterlee-town-council-publication-scheme/>

<sup>3</sup> Transparency Information section of the council's website here: <http://www.peterlee.gov.uk/transparency-information/>

for information must include a name, address for correspondence, and a description of the information required. Peterlee Town Council will respond within 20 working days of receipt of a written request and confirm whether or not it holds the information; advise whether a fee will be charged and provide the information (after relevant fee has been paid) unless an exemption applies.

## 5 FREEDOM OF INFORMATION

- 5.1 The Freedom of Information Act came into force at the beginning of 2005. It deals with access to official information, while parallel regulations deal with environmental information. The Act provides individuals or organisations with the right to request information held by a public authority. They can do this by letter or email. The Council must tell the applicant whether it holds the information, and must normally supply it within 20 working days, in the form requested.
- 5.2 However, the Town Council does not have to confirm or deny the existence of the information or provide it if an exemption applies, the request is vexatious or similar to a previous request, or if the cost of compliance exceeds an appropriate limit.
- 5.3 If an applicant is unhappy with a refusal to disclose information, they can complain to the ICO, after first exhausting any internal review procedure. The ICO will investigate the case and either uphold the Council's use of an exemption or decide that the information must be disclosed. The Act is fully retrospective and applies to all information, not just information filed since the Act came into force.

## 6 ENVIRONMENTAL INFORMATION REGULATIONS 2004

- 6.1 These regulations give members of the public the right to access environmental information held by public authorities. The request can be made by letter, email, telephone or in person.
- 6.2 The regulations apply to most public authorities, but they can also apply to any organisation or person carrying out a public administration function, and any organisation or person under the control of a public authority who has environmental responsibilities. This can include some private companies or public private partnerships, for example companies involved in energy, water, waste and transport.
- 6.3 Environmental information is divided into the following six main areas:
  - I. The state of the elements of the environment, such as air, water, soil, land, fauna (including human beings)
  - II. Emissions and discharges, noise, energy, radiation, waste and other such substances
  - III. Measures and activities such as policies, plans and agreements affecting or likely to affect the state of the elements of the environment
  - IV. Reports, cost benefit and economic analyses

- V. The state of human health and safety, contamination of the food chain
- VI. Cultural sites and built structures (to the extent they may be affected by the state of the elements of the environment)

## 7 THE RIGHT TO KNOW

- 7.1 The right under the Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIR) to request information held by public authorities, known as 'the right to know', came into force from January 2005. The Act allows access to recorded information such as emails, meeting agendas and minutes, research or reports etc. held by Peterlee Town Council.
- 7.2 The Freedom of Information Act 2000 confers basically two statutory rights on applicants: Firstly, to be told whether or not the public authority holds information; and if so, secondly to have that information communicated to them.

## 8 EXEMPTIONS

- 8.1 Some information could be exempt from disclosure. There are 23 exemptions in the FOIA, some of which are absolute and some qualified, and 12 exceptions from disclosure in the EIR, all of which are qualified.
- 8.2 Where information falls under an absolute exemption, the harm to the public interest that would result from its disclosure is already established, for example, in relation to personal information, or if disclosure would result in an actionable breach of confidence.
- 8.3 There are five exemptions that are likely to apply to information held by the Town Council:
  - Information that is readily accessible to the applicant by other means
  - Information that constitutes Court records
  - Information that is defined as personal data under the Data Protection Act 1998
  - Information that has been provided in confidence
  - Information prohibited from disclosure by law
- 8.4 If a public authority believes that the information is covered by a qualified exemption it must apply the public interest test. If the authority believe the information is covered by an absolute exemption the public interest test does not apply.

## 9 PUBLIC INTEREST TEST

- 9.1 The 'public interest test' applies if an exemption from disclosure is 'qualified'. In such cases the Council must weigh the public interest in maintaining the exemption against the public interest in disclosure of the information. The test favours disclosure where a qualified exemption or an exception applies. In such cases, the information may be withheld only if the Council considers that the public interest in withholding the information is greater than

the public interest in disclosing it. Further information on the public interest test is available from the Information Commissioners Office<sup>4</sup>.

## 10 REQUESTS FOR INFORMATION

10.1 Requests for information should be made as specific as possible. If the request is too broad the Council will ask for clarification which could mean it takes longer to get the information. As full a description as possible must be provided of the information required along with a name and address or email address. The request for information must also be clear about the format by which the information should be supplied e.g. by email or as paper copies.

## 11 HANDLING OF REQUESTS

- 11.1 Any request for information will be treated by the Council as a formal request for information and dealt with accordingly. Under the EIR, verbal requests must be treated as formal requests for information.
- 11.2 Peterlee Town Council will respond promptly to requests, and will respond as soon as practicable and in all cases within 20 working days. Under the FOIA, the Council has longer to consider whether the disclosure of normally exempt information would be in the public interest, under guidance from the Information Commissioner's Office. There is no extension to the time limit for considering the public interest test under Environmental Information Regulations, except where the request is complex and voluminous.
- 11.3 When considering the public interest test, the Council will do so 'within a reasonable time'. Applicants will be kept informed of progress as far as practicable.

## 12 FEES

- 12.1 The FOIA only allows the Town Council to charge for answering Freedom of Interest requests for:
- 12.2 Disbursement costs such as printing, photocopying and postage;
- 12.3 estimated staff costs involved in locating and or compiling the information exceeding £450 (based on an hourly charge-out rate of £25).
- 12.4 Peterlee Town Council will adopt Durham County Council's prevailing rates for FOIA charges as published on the County Council's website<sup>5</sup>. Where the costs are estimated to exceed £450, based on an hourly charge-out rate of £25, the Council can decide to:
- 12.5 refuse the request; or

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<sup>4</sup> See the ICO Public Interest Test guidance note: [https://ico.org.uk/media/1183/the\\_public\\_interest\\_test.pdf](https://ico.org.uk/media/1183/the_public_interest_test.pdf)

<sup>5</sup> At the time of publication of this report, DCC charges can be viewed here: <http://www.durham.gov.uk/article/2443/Freedom-of-Information-publication-scheme>

- 12.6 comply with the request and charge for allowable costs as prescribed in the regulations; or
- 12.7 comply with the request free of charge
- 12.8 If the estimated cost of a request is more than £450, and it is decided to release the information and make a charge for the information then a fee notice will be sent to the applicant requesting the appropriate fee. The request for information will not be answered until the fee has been received.
- 12.9 If the actual cost of completing the request is more than the estimate then the Council will incur the additional cost. However where the cost is less than the estimated cost then the difference will be refunded to the applicant.

## 13 REFUSAL TO DISCLOSE INFORMATION

If the Town Council decides not to disclose the information requested it will give reasons for its decision, explain how the exemption or exception applies and explain the arguments under the public interest test.

If someone is unhappy with the Council's response or decision not to disclose information under a Freedom of Information request then they can request a review by the Town Clerk. When requesting a review of a decision not to disclose information the request must clearly identify the grounds on which the request is based.

If the person requesting a review is not satisfied with the response that they receive they may appeal to the Information Commissioner's Office (ICO). Information on the appeal process is readily available on the ICO website<sup>6</sup>.

## 14 ICO APPEAL PROCESS

The role of the Information Commissioner's Office (ICO) is to enforce and promote the FOIA and the EIR. It has responsibility for ensuring that information is disclosed promptly and that exemptions from disclosure are applied lawfully.

Cases can be referred to the ICO if, for example, there has been excessive delay or if the application of an exemption or a refusal made on public interest grounds is disputed. ICO may serve a decision notice on the Council either confirming the decision or directing it to disclose information within a certain timescale. Non-compliance with a decision notice may constitute contempt of court.

Finally if either the applicant or Peterlee Town Council disagrees with the ICO's decision, an appeal can be lodged within 28 days to the independent Information Tribunal. The Information Tribunal may uphold the ICO's decision notice, amend it (for example change the timeframe for release of information) or overturn it. Non-compliance with the Information Tribunal's notice may also constitute contempt of court.

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<sup>6</sup> See <https://ico.org.uk/for-the-public/>

## 15 DATA PROTECTION

Peterlee Town Council is bound by the Data Protection Act 1998<sup>7</sup>. The Data Protection Act 1998 establishes a framework of rights and duties which are designed to safeguard personal data. This framework balances the legitimate needs of organisations to collect and use personal data for business and other purposes against the right of individuals to respect for the privacy of their personal details.

As with the Freedom of Information law, Data Protection legislation is also complex and, in places, hard to understand. However, it is underpinned by a set of eight straightforward, common-sense principles<sup>8</sup>. The Council will ensure it handles personal data and complies with the spirit of these principles.

The Act works in two ways. Firstly, it states that anyone who processes personal information must comply with the eight principles and secondly it provides individuals with a number of rights, including the right to find out what personal information is held about them on computer and paper records.

Peterlee Town Council is registered with the Information Commissioner's as a personal data processor. The main purpose of notification and registration with the ICO is for transparency and openness. It is a basic principle of data protection that the public should know (or be able to find out) who is processing personal data, plus other details about the processing such as why it is being carried out.

The Data Protection Act contains a number of exemptions from the rights and duties in the Act. Personal data must be processed in accordance with the Act unless one of the exemptions applies. Should an individual or organisation feel they are being denied access to personal information that they are entitled to by Peterlee Town Council, or feel their information has not been handled according to the eight principles, they can contact the ICO for help.

Complaints are usually dealt with informally, but if this is not possible, enforcement action can be taken.

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<sup>7</sup> You can read the full data protection act here: <http://www.legislation.gov.uk/ukpga/1998/29/contents>

<sup>8</sup> For the eight data protection principles please see: <https://ico.org.uk/for-organisations/guide-to-data-protection/data-protection-principles/>

## 16 WHAT IS PERSONAL DATA?

Personal data may be held electronically in computerised records or manually in hard copy within filing systems. There is a fine line between determining what is personal data and what is not. The following questions can help to decide whether filed information falls within the scope of the Act - if the answers to the questions are 'yes' then the data should be considered as personal data for the purposes of the DPA:

1. Can a living individual be 'identified' from the data or from other information in your possession, or likely to come into your possession?
2. Does the data 'relate' to the identifiable living individual, whether in personal or family life, business or profession?
3. Is the data 'obviously about' a particular individual?
4. Is the data 'linked to' an individual so that it provides particular information about that individual?
5. Is the data used, or is it to be used, to inform or influence actions or decisions affecting an identifiable individual?
6. Does the data have any biographical significance in relation to the individual?
7. Does the data focus or concentrate on the individual rather than on some other person, object, transaction or event?
8. Does the data impact or have the potential to impact on an individual, whether in a personal, family, business or professional capacity?

It should be borne in mind that even if the information is not considered personal data, it may be information of a sensitive nature such as data about an employee's religious beliefs, medical background, sexual orientation, criminal records etc.

## 17 GENERAL RESPONSIBILITY

All Peterlee Town Council Officers and Members have a duty to comply with the Freedom of Information Act 2000, the Data Protection Act 1998, the Environmental Information Regulations 2004 and the Privacy and Electronic Communications Regulations 2003.

It is however the responsibility of the person who receives an information request to ensure that it is responded to according to the Act. In most cases this will be the Town Clerk or another designated Senior Officer of the Council.

## 18 ADDITIONAL INFORMATION

Additional guidance on the Freedom of Information Act, Environmental Information Regulations and the Data Protection Act are available on the ICO's website [www.ico.gov.uk](http://www.ico.gov.uk) . Alternatively the ICO can be contacted by post, telephone or email:

Information Commissioner's Office

Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Helpline telephone number: 0303 123 1113

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

## 19 INFORMATION SECURITY

The Council's approach to risks involved, assessment criteria and the provision of appropriate measures are based on the following principles:

**Confidentiality:** Protecting sensitive information from unauthorised access or disclosure

**Integrity:** Safeguarding the accuracy and completeness of information and processes

**Availability:** Ensuring that information is available to authorised people when needed

**Suitability:** All systems are suitable for the required tasks

The principle of confidentiality will be upheld throughout the Council and be reflected in its protocols and system procedures.

Our information and IT systems and networks that support it are important business assets. Their confidentiality, integrity and availability are essential in maintaining our respected organisational image, efficiency and legal compliance.

(a) Informing the client: The Council has a duty under the Data Protection Act 1998 to inform

People for whom we hold information of the purpose for which information about them is collected and any organisations to which information may need to be passed. In order to ensure a consistent approach the Council will include a statement on the use of information e.g. 'your personal data will only be used for the purpose for which it has been provided and will not be passed to a third party.'

(b) Physical Security:

Adequate and practical access controls will be provided in all areas in which personal and business data is stored or used.

Staff will be expected, within their level of authority, to minimise the risk of theft or vandalism of the data and equipment through common-sense precautions.

The physical environment in which data and equipment is stored will be suitable and fit for purpose to ensure the safety of the data and equipment e.g. appropriate fire precautions.

The Council will comply with Health & Safety and Fire Safety legislation and policies when implementing security controls.

(c) Logical Security

All computerised information and systems will be regularly backed-up.

All computerised information systems will be password controlled and passwords will be prompted for change at regular intervals.

Only officially purchased and approved software will be loaded onto the Council 's computers to lessen the risk of virus infection.

(d) Disposal and movement of equipment and media

Any media or IT equipment disposed of by the Council will not contain any data or code that could allow an individual to be identified from it.

An inventory of all Council computer equipment will be maintained.

(e) Internet: The Council believes that the use of the internet is beneficial to staff and will adopt a reasonable approach to its use. However, it will be a disciplinary offence to use work-provided internet connection or hardware (eg computers, laptops, mobile devices) to download, view or access inappropriate material or websites.

(f) Staff responsibilities: The Council will make every reasonable effort to ensure that staff are aware of their responsibilities for the security of information. However, each member of staff is responsible to ensure that the security policy is adhered to and report any breaches of security.

## 20 DOCUMENT MANAGEMENT POLICY

This policy applies to all documents produced by the Town Council and all documents received in the Town Council 's offices. Its objective is to aid sensible, timely management and disposal of all filing, paperwork, records and documentation.

It is important that records are carefully retained and systematically filed as they are required for inspection by a number of agencies such as Internal Audit, External Audit, Department of Social Security, HMRC etc.

### **Retention and Disposal of Documents**

The requirements for the retention of specific records are laid down in the Accounts and Audit Regulations for Local Authorities and in the Records Management Society's 'Retention Guidelines for Local Authorities'<sup>9</sup>. Although the current guidelines are currently under review (as of December 2016) Peterlee Town Council will use the guideline timescales from the most recent 2003 version<sup>10</sup> of the guidelines for our retention periods.

Any documents relating to Town Council owned land and property will be retained indefinitely by the Town Council to give a complete picture of refurbishments, disposals or acquisitions. Documents produced by and readily available from other sources will be destroyed when they are outdated or superseded.

Any documents of an historical nature can be offered to the Durham County Records Office for safe keeping.

As details of planning applications are now available electronically, paper copies of applications will be destroyed once they have been considered by the relevant committee.

If there is likely to be a claim made against the Town Council under employment or other relevant legislation, the Personnel file will be archived until such times as any claim has been dealt with or legal advice states that it may be destroyed.

### **Storage of Documents**

Documentation readily in use or where easy and regular access is required will be stored at the Town Council main office at Shotton Hall or another Town Council office if required. From January 2017 the Council will be operating an off-site storage procedure with an accredited storage company for documentation that we are required to keep but do not need easy/regular access. Details of the security and information management credentials of our off-site storage provider is available on request.

Officers are encouraged to scan documentation where and when appropriate so that it is stored electronically for future reference. The IT systems are automatically backed up on a regular basis to ensure the safe keeping of electronic documents. In July 2016 the Council implemented Microsoft Office 365 and as a result much of our electronic records are now held in secure cloud storage repositories rather than in on-site servers.

Certain specific documentation such as meeting minutes will be lodged with the County Archives at County Hall, Durham. This arrangement is expected to commence in February 2017.

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<sup>9</sup> See: <http://www.irms.org.uk/resources/information-guides/196-retention-guidelines-for-local-government>

<sup>10</sup> 2003 version of the retention guidelines available here:

<https://www.whatdotheyknow.com/request/19342/response/54053/attach/3/Records%20Management%20Retention%20Guidelines%20for%20LG.pdf>

### **Destruction of Documents**

All confidential or sensitive documents and any documents containing personal information covered by the Data Protection Act that are earmarked for disposal, will be shredded by our approved document destruction contractor and a destruction certificate will be obtained as proof of proper disposal.