Access to Information

Handling requests for Information

Guidance Note 5

Members – What to do if you receive a request for information



Access to Information

What to do if you receive a request for information - Members

Introduction

The Council receives many requests for information. Some of these are routine requests which can be dealt with quickly and easily. Others must be handled in accordance with access to information legislation which applies in Scotland. The key provisions are:

- the Data Protection Act 1998 which regulates access to personal information
- the <u>Environmental Information (Scotland) Regulations 2004</u> which regulates access to environmental information
- the <u>Freedom of Information (Scotland) Act 2002</u> which regulates access to all other information held by public authorities

Each provision sets out a framework for providing access to information, including timescales, so it is essential that we recognise, record and respond to requests promptly and correctly.

In your role as a Member of the Council, you might receive several requests for information every day or only one or two in a year, but it is essential that you know what to do if you receive one. The diagram on page 2 shows the decisions and actions you should take and the following pages contain guidance notes.

This guidance assumes that you have read Guidance Note 1.

Access to Information and Councillors

It is important to understand when Councillors are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

Councillors are subject to the provisions of the Act and the Regulations in relation to their work as members of the Council. Information held by:

- councillors relating to their work on Council business
- officers relating to councillors' work on Council business

is covered by both the Act and the Regulations and may be disclosed in response to requests for information.

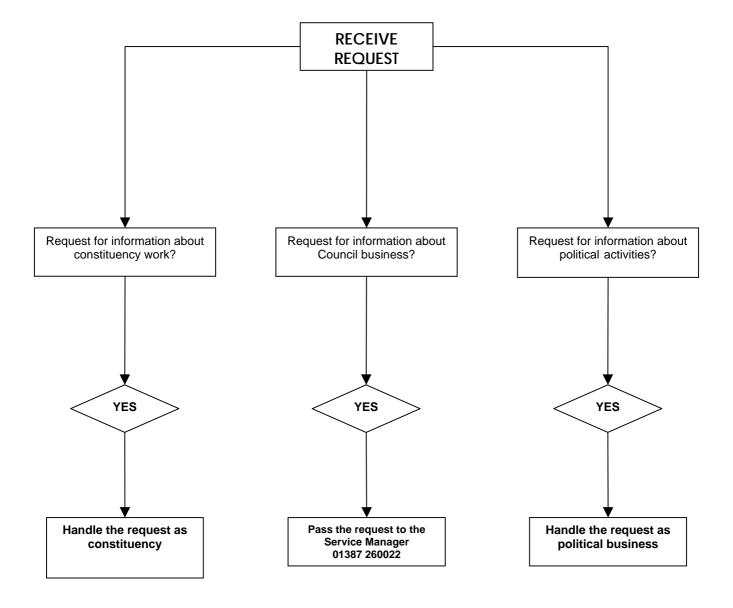
Councillors' work as representatives of constituencies or on behalf of political parties is not covered by the Act or the Regulations. However, as regards disclosure of this information, there is also an important distinction between information held by councillors themselves and information held by the Council on behalf of councillors.

- Information held by councillors in relation to their constituency business or their political activities is not covered by the Act or the Regulations. It would not need to be considered by Members in responding to requests for information.
- Information relating to councillors' constituency or political work may be kept by the Council. For example, the Council may provide councillors with administrative support, including for political meetings. However, this information is not 'held' by the



Council for the purposes of the Freedom of Information (Scotland) Act 2002; the Council holds it on behalf of Members. This is an important distinction, which means that the Council would not disclose the information in response to a request for information under the Act.

However, if information which the Council holds on behalf of councillors is environmental information (as defined by the Environmental Information (Scotland) Regulations 2004), the Council may need to disclose it in response to requests for information under the Regulations. The Regulations do not exempt information, which is held on behalf of another person.



1. Receive request

In your role as a member of the Council, you might receive a request for information:

- by letter
- by e-mail
- on an Information Request Form which is sent to you by post or e-mail or which is forward to you by the Website Co-ordinator
- by telephone
- verbally from anyone you have face-to-face contact with

If you receive a request for information, you must act on it promptly. If you are in any doubt about whether something you receive is a request for information to the Council, ask Carol Henshall, Service Manager, Committee and Member Services for advice immediately.

2. Request for information about constituency work?

Information held by members of the Council relating to their constituency work is not covered by the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004. If you receive a request for information that you hold about your constituency work, you should deal with it as you would deal with any other constituency business. It should not be handled as a request for information to the Council.

If you receive a request for information that the Council holds about your, or other members', constituency work, you must pass it to the Carol Henshall, Service Manager, Committee and Member Services immediately.

3. Request for information about political activities?

Information held by members of the Council relating to their political activities is not covered by the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004. If you receive a request for information that you hold about your political activities, you should deal with it as you would deal with any other political business. It should not be handled as a request for information to the Council.

If you receive a request for information that the Council holds about your, or other members', political activities, you must pass it to the Carol Henshall, Service Manager, Committee and Member Services immediately.

4. Request for information about Council business?

Information held by members of the Council relating to their work on Council business is covered by the Freedom of Information (Scotland) Act 2002 and the



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Environmental Information (Scotland) Regulations 2004. It may, therefore, need to be disclosed in response to a request for information.

Information relating to Council business includes:

- information about formal Council meetings, including minutes, agendas and reports
- information about informal meetings with Council officers or with external bodies on Council business

It may also include information, which councillors hold in relation to membership of external bodies, depending on the terms of appointment.

If you receive a request for information relating to Council business, it may be appropriate to deal with it informally as a 'Business as Usual' request.

If you are not sure whether a request for information should be dealt with as 'Business as Usual', contact Carol Henshall, Service Manager, Committee and Member Services immediately for advice.

If it is clearly a straightforward request for information which the Council routinely provides within 20 working days:

- and it relates to information that you hold; answer it in the usual way by providing the information yourself or by passing it to Carol Henshall, Service Manager, Committee and Member Services who will provide it.
- but you do not hold the requested information; pass it to Carol Henshall,
 Service Manager, Committee and Member Services immediately.

If you think the request should be dealt with formally, because the Council cannot or will not provide the requested information, or for any other reason, pass it to Carol Henshall, Service Manager, Committee and Member Services immediately.

As a rule of thumb, if you are in any doubt about what to do with a request for information that you receive in the course of your work as a member of the Council, you must refer the request to Carol Henshall, Service Manager, Committee and Member Services immediately.

