

# Code of Practice on Public Access to Information

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If you require this document in an alternative format, such as large print or audiotope, please contact the Information & Data Protection Officer, Building 14, St David's Park, Jobswell Road, Carmarthen, SA31 3HB Telephone: 01267 246108 Fax: 01267 246134 or e-mail : [foia@carmarthenshire.gov.uk](mailto:foia@carmarthenshire.gov.uk)

# PART 1

## CODE OF PRACTICE ON PUBLIC ACCESS TO INFORMATION

### 1 PURPOSE

1.1 This Code of Practice:-

- Sets out the principles which underpin Carmarthenshire County Council's approach to the promotion of open government;
- Reinforces the Council's commitment to and its intention to promote open government.

### 2 STATUS OF THIS CODE

2.1 This Code is not a legal document. It does not confer rights nor override any legal or statutory provisions which either require or prevent the disclosure of information.

2.2 The Code applies to information held by the Council. Contracts with private companies entered into by the County Council include terms relating to the disclosure of information.

2.3 Throughout this Code references to the Council are references to Carmarthenshire County Council.

### 3 SCOPE OF THE FREEDOM OF INFORMATION ACT

3.1 The Code takes account of the key features of the Freedom of Information Act 2000 (the Act), including the categories of exempt information specified within this legislation.

### 4 KEY FEATURES OF THE FREEDOM OF INFORMATION ACT 2000

4.1 The Act provides a general right of access to recorded information held by the Council and places two general duties on the Council;

- To confirm or deny that it holds the information requested and;
- if it does hold the information to give the person requesting it access to it

4.2 Provides that the above general duties are subject to exemptions (see Appendix 1) and some of them being exemptions which are to be subject to the public interest test.

4.3 The public interest test means that in the case of those exemptions that are not absolute exemptions, the Council will be under a duty to assess whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- 4.4 The Act provides that apart from the exemptions referred to above, the Council may refuse to confirm or deny holding information and/or to give access to it on the grounds of non-payment of a fee, excessive cost or vexatious/repeated requests or where the applicant has not provided sufficient detail to identify the information required.
- 4.5 Requires the Council to adopt, maintain, implement strictly and review regularly a publication scheme approved by the Information Commissioner. The scheme relates to the publication of information by the Council and must specify:-
- The classes of information which the Council publishes or intends to publish;
  - The manner in which the information is or is intended to be published;
  - Whether the material is or is intended to be available free of charge or on payment
- 4.6 Established the office of the Information Commissioner whose duties include the promotion of the observance of the requirements of the Act and the provisions of statutory codes of practice under the Act, the investigation of complaints about a public authority's failure to comply with the statutory requirements of the Act, the promotion of good practice and the approval of publication schemes.
- 4.7 Allows the Council to charge fees in accordance with regulations to be made by the Home Secretary and exempts the Council from disclosing information until the fee has been paid.
- 4.8 Provides statutory time limits for complying with a request for information.
- 4.9 Requires the Council to provide advice and assistance to people seeking information.
- 4.10 Requires the Council to state the basis for the refusal of a request for information and to provide advice on how to complain in those circumstances.
- 4.11 Provides that the Council is not obliged to comply with vexatious or repeated requests or substantially similar requests from the same person.
- 4.12 Exempts the Council from the obligation to disclose the information requested if the cost of doing so exceeds a specified threshold.

## **5 KEY PRINCIPLES OF THE COUNCIL'S APPROACH TO OPENNESS**

- 5.1 Notwithstanding the requirements of the Act, the Council is committed to the following principles which are explained in more detail in Part 3,
- Maximising openness in the way it conducts its business;
  - Presenting information in clear language in line with its language policy and taking account of different needs;

- Making extensive use of the Council's website [www.carmarthenshire.gov.uk](http://www.carmarthenshire.gov.uk) as a means of publishing information;
- Respecting personal privacy, commercial confidentiality, the duty of confidence and all laws governing the release of information;
- Providing a prompt and comprehensive response to requests for information;
- Providing a right of complaint where a member of the public is not satisfied with the response received;
- Providing information free of charge where possible.

## **6 REVIEW OF THE CODE OF PRACTICE ON PUBLIC ACCESS TO INFORMATION**

- 6.1 This Code will be kept under review to ensure that the Council meets statutory requirements and any codes of practice made under the Act.

## PART 2

### REQUESTS FOR INFORMATION

#### 7 PROVIDING ADVICE AND ASSISTANCE

7.1 The County Council will as far as is reasonable and possible provide applicants and potential applicants with advice and assistance in their requests for information. Anybody requiring advice in respect of access to information should contact [John Tillman, Information & Data Protection Officer at Building 14, St David's Park, Jobswell Road, Carmarthen, SA31 3HB](#) telephone: 01267 246108 or e-mail: [foia@carmarthenshire.gov.uk](mailto:foia@carmarthenshire.gov.uk)

#### 8 MAKING A REQUEST FOR INFORMATION

8.1 Requests for Information must be made in writing and should be sent to the address provided above.

8.2 Requests can also be sent electronically to the above e-mail address or through completing the electronic form on the Council website.

8.3 If a person is unable, by reason of disability or other cause to put their request in writing, telephone assistance is available from the Information & Data Protection Officer. In such a case a written note of the application will be sent to the applicant to confirm what was requested.

8.4 Requests for information must:-

- Include a name and address to which a reply may be sent.
- Give sufficient detail for officers to identify what information is required – where a request does not contain enough detail for officers to decide what information the applicant wants they must seek clarification.

Preference may be expressed as to how the information is to be supplied. For example a copy of the information, a digest or a summary.

8.5 Where reasonably practicable, the Council will comply with the stated preference. Where it is not reasonably practicable to comply with the applicant's preference we will explain why.

## PART 3

### EXPLAINING THE PRINCIPLES

#### 9 THE COUNCIL WILL BE AS OPEN AS POSSIBLE

- 9.1 The Council will make information available unless there are legal or public interest reasons for not doing so.
- 9.2 The Council will consider that it is in the public interest to disclose information unless it can be clearly shown that it is in the public interest not to do so e.g. because such disclosure would cause substantial harm or breach confidentiality. Information can only be withheld if it falls within one of the categories listed in Appendices 1 and 2.
- 9.3 Appropriate training and guidance will be given to relevant staff of the Council on maximising openness.
- 9.4 The Council will seek continuously for opportunities to release information.
- 9.5 Meetings of the Council, the Executive Board (the Council's Cabinet) and committees will take place in public. However, there may be occasions when the public will be excluded when exempt information is being discussed. This will usually be identified on the agenda.

#### 10 PRESENTATION OF BUSINESS

- 10.1 The Council will present its business in clear language in line with its language policy. It will aim to produce brief easy to read documents and will have regard to the needs of differing sectors of the community including people with disabilities.

#### 11 PUBLICATION SCHEME

- 11.1 The Council will maintain a publication scheme, which provides a means by which the public can identify key information produced by the council in the course of its business.
- 11.2 The publication scheme can be found on the Council's website. The Council will maximise the use of its website to publish information, In addition the scheme and other information will be available at council offices, Customer Service Centres and main libraries.
- 11.3 The Council will maximise the use of its website for providing information made available under the publication scheme.

## 12 PROVIDING A PROMPT AND COMPREHENSIVE RESPONSE TO REQUEST FOR INFORMATION

- 12.1 The Council will respond promptly and positively to requests for information.
- 12.2 If we withhold information and/or are not able to provide the information in the form preferred and requested by the applicant we will explain why.
- 12.3 The Council's target for responding to a request for information will be 20 working days. Working day means any day excluding a Saturday, Sunday, Christmas Day, Good Friday or any day that is a designated Bank Holiday. This does not include "privilege days" when Council offices are also closed.
- 12.4 The Council has discretion to extend the 20 working days target for the response if a significant amount of research or the putting together of many different items is required. If an extension is necessary we will keep the applicant informed of the delay and a date for a full response.
- 12.5 Where information is considered exempt under the terms of this Code and the provisions of the Act and where the Council is required to whether the public interest in disclosing the information is outweighed by the public interest in non-disclosure, the Council will not be required to comply with its twenty working days target. In such a case we will keep the applicant informed of progress in reaching a decision on whether to disclose the information or maintain the exemption and give an estimate of the date by which we expect to reach a decision.
- 12.6 If the request for information has been prepared by an officer of the Council on behalf of an applicant the twenty working days commitment starts from the date on which the applicant confirms the officer's summary of the request. Where clarification of the information requested is sought the twenty working days commitment starts from the day on which the applicant provides the clarification. Where the Council is not able to provide the information free of charge the twenty days commitment starts on the date on which the applicant confirms that he/she wishes to proceed with the application and submits the necessary payment.
- 12.7 Requests for information received in Welsh will receive a response in Welsh. Where documents are only available in English they will be provided in that form but under cover of a letter in Welsh.
- 12.8 In dealing with a request for information, the Council is not required to acquire information it does not possess. If we consider that another public body may hold the information sought we will consult that body and transfer the request if appropriate. The applicant will be advised that the Council does not hold the information and that the request has been transferred.
- 12.9 Information that is available, as part of an existing charged service will be provided only through that service.

- 12.10 The Council will always be as open and helpful as possible but it will where appropriate proceed in accordance with the provisions of the Act as far as vexatious and repeat requests for information are concerned.
- 12.11 Where the Council refuses to provide information relying on one or more of the exemptions listed in Appendices 1 and 2 the response will include advice on how to make a complaint.
- 12.12 Where information is considered too costly to provide or where the request is vexatious or repeated, the response will be issued within the 20 working day deadline and will include advice on how to make a complaint.

### **13 PROVIDING A RIGHT OF COMPLAINT**

- 13.1 The council will provide a right of complaint where a member of the public is not satisfied with the response received to a request for information.
- 13.2 Where the Council refuses to provide information, the notification of the decision will include details of how to make an initial complaint to the Head of Administration & Law. The contact details of the Information Commissioner's Office will also be provided.
- 13.3 If you are still not satisfied after your complaint has been dealt with via an internal review, you have a further right of complaint to the Information Commissioner. The details will be provided to you and can also be found in the Publication Scheme.

### **14 CHARGING FOR PROVIDING INFORMATION**

- 14.1 The Council aims to make as much information as possible available to you free of charge. However, where a large amount of photocopying or printing is required a charge will be made. The charges applied by the Council are detailed in Appendix 4.
- 14.2 If your request is likely to incur any charge the Council will advise you of this and allow you to confirm whether you wish to continue with the request before it undertakes the work.
- 14.3 The Council will not charge for the following:
- Any information provided on the Council's website (except where this requires extensive printing).
  - Free leaflets, forms and booklets concerning the services we make available to the public.
  - Inspection of public registers held at Council offices during normal working hours. Please note that copies of such information may only be held in one office.
  - Inspection of information held at all public libraries in Carmarthenshire for which the Council is responsible during their normal opening hours.
  - Answers to enquiries made by the press.

- Telephone enquiries where these do not involve significant time or cost.
- No charges will be made where the Council refuses a request for information.
- Nor will there be a charge should you wish to complain against the Council's refusal to supply the information requested or where you appeal.
- Where the information is already available in a priced publication the Council will give you details of the publication and where to get it.
- Where the total costs amount to less than the specified minimum no charge will be made.

## 15 PROTECTING YOUR PRIVACY

- 15.1 A great deal of the information that the Council holds is personal and private to individuals. Such information will not be disclosed under the Freedom of Information Act where this would breach any of the Data Protection principles set out in the Data Protection Act 1998.
- 15.2 Individuals have a separate right to access personal data about themselves under the Data Protection Act. Such requests should be made in writing to the Information & Data Protection Officer, Building 14, St David's Park, Jobswell Road, Carmarthen, SA31 3HB. Enquiries can also be made by telephone: 01267 246108 or via e-mail: [dataprotection@carmarthenshire.gov.uk](mailto:dataprotection@carmarthenshire.gov.uk)

# APPENDIX 1

## Procedure for dealing with exempt information

Part 2 of the Freedom of Information Act 2000 sets out categories of “exempt information”, that is, information which the Council is not obliged to disclose. Some of the categories have “absolute exemption”. This means that if information falls into one of these categories then the Council is not obliged to disclose it.

If the information falls into one of the other categories, then the Council has to apply a “public interest” test (in all the circumstances does the public interest in withholding the information outweigh the public interest in disclosing the information?)

### Absolute Exemptions

- Information that is reasonably accessible already – e.g. information contained in the publication scheme – generally only the latest versions of documents will initially be available under the scheme.
- Court records
- Parliamentary privilege (where information is required for the purpose of avoiding an infringement of the privileges of either House of Parliament)
- Information likely to prejudice the effective conduct of public affairs
- Personal information
- Information provided in confidence
- Prohibitions on disclosure (i.e. may constitute a contempt of Court)

## APPENDIX 2

### Qualified Exemptions (Exemptions subject to the public interest test)

The following are subject to a Public Interest Test. Information must be released unless the public interest in withholding it is greater than the public interest in releasing it.

- **Section 22** Information intended for future publication
- **Section 24** National security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not arise)
- **Section 26** Defence
- **Section 27** International relations
- **Section 28** Relations within the United Kingdom
- **Section 29** The economy
- **Section 30** Investigations and proceedings conducted by public authorities
- **Section 31** Law enforcement
- **Section 33** Audit Functions
- **Section 35** Formulation of government policy, etc
- **Section 36** Prejudice to effective conduct of public affairs (except information held by the House of Commons or the House of Lords)
- **Section 37** Communications with Her Majesty, etc and honours
- **Section 38** Health and safety
- **Section 39** Environmental information, as this can be accessed through the Environmental Information Regulations.
- **Section 40** Personal information. Individuals cannot access personal data about themselves under the Freedom of Information Act as there is a separate right of access to such information under the Data Protection Act 1998. Personal data about other people cannot be released if to do so would breach any of the Data Protection Principles. Where it is considered that the release would breach any of the Data Principles, it is not necessary to apply the public interest test.
- **Section 42** Legal professional privilege
- **Section 43** Information relating to commercial issues.

Where the Council considers that the public interest in withholding the information requested outweighs the public interest in releasing it, the Council must inform the applicant of its reasons, unless to do so would mean releasing the exempt information.

## APPENDIX 3

### Publication Scheme

To view the Publication Scheme please access the Council's website [www.carmarthenshire.gov.uk](http://www.carmarthenshire.gov.uk) or you can view the document at any of the libraries and Customer Service Centres/Points listed below:

### Publication Scheme Access Points

This scheme will be available for all citizens of the community to access. It can be accessed on the Council website and through the electronic public information points (PIPs) located in the community. Hard copies of the Scheme are available from the Reception Desk at County Hall, Carmarthen, and at our Customer Service Centres. Copies of this scheme are available in Welsh or English at the locations set out below (although the information which is requested under the scheme may only be available in the language in which it was originally produced), and in large print and on audiotape on request. Enquiries may be made by post, e-mail or telephone and directed to the Information & Data Protection Officer.

### Customer Service Centres

Llandeilo Municipal Offices,  
Crescent Road  
Llandeilo  
Carmarthenshire  
SA19 6HW

Ammanford Customer Service Centre  
Town Hall  
Iscennen Road  
Ammanford  
Carmarthenshire  
SA18 3BE  
Tel: 01269 228779

Carmarthen Customer Service Centre,  
3 Spilman Street  
Carmarthen  
Carmarthenshire  
SA31 1LE  
Tel: 01267 228779

Llanelli Customer Service Centre  
Ty Elwyn  
Llanelli  
Carmarthenshire  
SA15 3AP  
Tel: 01554 742190

## **Libraries**

Carmarthen Library  
St Peter's Street  
Carmarthen  
Carmarthenshire  
SA31 1LN  
Tel: 01267 230873

Llanelli Library  
Vaughan Street  
Llanelli  
Carmarthenshire  
SA15 3AS  
Tel: 01554 773538

Ammanford Library  
3 Wind Street  
Ammanford  
Carmarthenshire  
SA18 3AS  
Tel: 01269 598150

## APPENDIX 4

### Charges for information

#### Standard Photocopying & Printing Charges

Paper Size & Type	Cost per single copy
A4 Black & White	10p
A4 Colour	20p
A3 Black & White	20p
A3 Colour	40p
A2	50p
A1	£2.00
A0	£5.00

The Authority will not charge for copies costing less than £2.00 in total. All charges are inclusive of VAT.

The Authority reserves the right to charge at a higher rate where any statutory right to do so applies, or when documents are provided in the course of legal transactions.