RENFREWSHIRE VALUATION JOINT BOARD

FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION POLICY

IG2

Title	Policy Statement – Freedom of Information
Author	Kate Crawford, Assessor
Approved By	Management Team
Date of Approval	May 2017
Reviewer	Assistant Assessor
Review Date	As required (at least two-yearly)

Review History

Review No.	Details	Release Date
1	Full review of policy and change of Responsible Person to Assistant Assessor	September 2018
2	Fully review of Policy by RVJB Information Governance Solicitor	February 2021
3	Review by DPO/ Information Governance Solicitor	February 2023
4	Updated website on Section 1 as per email from Scottish Information Commissioner	August 2024
5	Review by DPO/ Information Governance Solicitor	October 2026

SECTION		PAGE
1.	Purpose	3
2.	Responsibilities	3
3.	Publication Scheme	4
4.	Handling Requests	4
5.	Advice and Assistance	5
6.	Different Formats	5
7.	Exemptions	5
8.	Data Protection	6
9.	Environmental Information	6
10.	The Re-use of Public Sector Information	7
11.	Information Not Held	7
12.	Refusing Requests	7
13.	Charging	8
14.	Reviews	9
15.	Monitoring and Reporting	9
16.	Responsible Officer	9
17.	Audit	10
18.	Review	10

Appendices:

1. Flowchart: Frontline Staff – Dealing with Requests 11
2. Responsible Officer – Key Responsibilities 12

1. Introduction

1.1

The Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 gives the public the right to ask for and be given information from a wide range of public organisations in Scotland.

The **Freedom of Information (Scotland) Act 2002 (FOISA)** gives any person the right of access to 'recorded' information held by public authorities in Scotland.

The **Environmental Information (Scotland) Regulations** 2004 (**the EIRs**) means RVJB has a duty to make environmental information available on request. No types of information are excluded from the potential scope of environmental information. Environmental information should be interpreted broadly. This includes the state of the elements of the environment, such as air and atmosphere, water, soil, land etc., as well as factors, such as substances, energy, noise, radiation or waste.

Public Authorities are legally required to respond to requests from the public for the information it holds.

Public Authorities are listed at Schedule 1 of FOISA and include in Part 3 Local Government:

- An **Assessor** appointed under section 27(2) of the Local Government etc. Scotland) Act 1994 (c.39).

- A **Joint Board**, within the meaning of section 235(1) of the Local Governme nt (Scotland) Act 1973 (c.65).

The Assessor and the Joint Board will be treated, for the purposes of this policy, as the same body unless the nature of the request suggests otherwise.

The Responsible Officer will take any decision required regarding the applicability of the request in this regard and the requestor will be notified if appropriate. RVJB's Information Governance Solicitor will be consulted if necessary. Any request will be handled as detailed within the Policy.

Requests must be responded to within 20 working days (this can only be extended in limited circumstances).

1.2 This policy sets out the arrangements The Assessor / Joint Board has made to ensure compliance with FOISA and the EIRs. This Policy has been drafted in line with the Code of Practice prepared in consultation with the Scottish Information Commissioner and issued by the Scottish Ministers in terms of Section 60 of FOISA.

1.3 For further information on Freedom of Information in Scotland, please visit the website of the Office of the Scottish Information Commissioner, whose duties include promoting good practice and enforcing compliance with FOISA (http://www.foi.scot).

2. RESPONSIBILITIES

2.1 **All staff** must be aware of FOISA and the EIRs and the duties it places on the Assessor / Valuation Joint Board as public authorities. Training will be carried out to keep staff up to date with any changes in legislation. This Policy is included in the Induction Pack for new employees.

2.2 **Frontline staff** are the likely initial recipients of requests for information. As a result, frontline staff should primarily familiarise themselves with sections 3 - 9, and Appendix 1 of this policy document.

2.3 **The Assistant Assessor** has been nominated as the Freedom of Information Responsible Officer. Contact details are to be found in section 16.1, and a list of the key responsibilities for the Responsible Officer is included under Appendix 2.

2.4 RVJB's Information Governance Solicitor is able to provide general guidance and advice on freedom of information and environmental information matters.

3. PUBLICATION SCHEME

3.1 FOISA requires that the Assessor / Joint Board must produce a Publication Scheme. This is a document describing the information that the authority publishes, in what format it is published, and details of any charges for providing the information.

3.2 The person responsible for the day-to-day maintenance of the Assessor's Publication Scheme is the Assistant Assessor and will be updated regularly to take account of changes to the information included.

3.3 A copy of the Publication Scheme and associated Guide to Information are available on the Joint Board's website at www.renfrewshire-vjb.gov.uk or, on request, from RVJB's office.

4. HANDLING REQUESTS (see Appendix 1)

4.1 A Freedom of Information request must meet the following criteria:

- it is in a permanent form capable of being used for subsequent reference
- for example, email, letter, audio recording or voice mail message.
- it is accompanied by the applicant's name and a correspondence address.
- it contains a description of the information being requested.

However, the applicant **does not** need to specifically refer to FOISA or the EIRs.

4.2 If a request for information can be routinely dealt with by an employee in the course of his/her everyday duties, it should just be handled as normal. For instance, if a telephone call is received asking what the office opening hours are, this can be answered immediately without asking the caller to put their request in writing. Although Council Tax band and Net Annual/Rateable Value information is included in the publication scheme a telephone request for bands and/or values may be answered – a request for more than a reasonable number of subjects can be referred to the Portal (www.saa.gov.uk) or asked for in writing.

4.3 Employees must respond flexibly to requests for information. If a potential applicant is clearly unaware of their rights under FOISA, employees have a duty to outline the key points of FOISA, and inform applicants of the procedures for requesting information.

4.4 When a request for information is being dealt with under FOISA it should be passed to the Assistant Assessor as soon as possible as the Assessor / Joint Board has **20 working days** from date of receipt of the request to reply to the applicant. As a result, it is important that e-mail 'inboxes' are checked by colleagues/line managers if members of staff are not at work for a substantial length of time. Also, the Out of Office Assistant facility should always be used for email.

4.5 The applicant can request a preference as to the form in which the information is provided, e.g. on tape, in large print (see section 5 for further details). Otherwise, the information can be provided by:

- photocopying/scanning the relevant information (subject to exemptions etc).
- producing a new document summarising the information that was referred to.
- allowing access to the original documents.

4.6 If it is not possible to answer the applicant's request because they have provided insufficient information, the Assistant Assessor must contact the applicant as soon as possible to inform them of this and, if necessary, to help the applicant express more clearly what information they actually want. The information originally requested does not have to be provided until the applicant clarifies their request.

5. ADVICE AND ASSISTANCE

5.1 **All staff** have a duty to advise and assist people who want to access their information. The duty to advise and assist makes sure that customer service and customer engagement are central to FOI practice.

Taking a positive and proactive approach to the duty to advise and assist will strengthen relations with service users and help build trust. Offering help, support and guidance to people looking for information will also reduce the likelihood of more FOI requests.

FOISA requires authorities to provide reasonable advice and assistance to people who have made, or are planning to make, a request for information (section 15). The EIRs contain a similar provision for requests for environmental information (regulation 9).

6. DIFFERENT FORMATS

6.1 Together with the Equality Act 2010, FOISA places a duty on public authorities to be sensitive to the needs of disabled applicants and, where reasonable, to provide any information requested in their preferred format. This could include large-print, audio recording or Braille.

6.2 Applicants may also request that information be provided in a different language. We are duty-bound, under FOISA and the Race Relations (Amendment) Act 2000, to consider such requests.

6.3 In such cases, requests should be promptly referred to the Responsible Officer who will, in turn, liaise with the translation service providers.

6.4 Any additional costs for providing the information in an alternative format can not be passed on to the applicant. Instead the cost must be borne by the Joint Board.

7. EXEMPTIONS

7.1 Within FOISA there are a number of exemptions – absolute and non-absolute – that can be applied, thereby preventing the release of information to an applicant.

7.2 Information covered by **absolute** exemptions need not be released. Examples include:

- Information otherwise accessible, for example via the Publication Scheme/Guides to information or in published hard copy, regardless of whether

payment is required. However, information available solely on the Internet might not be included as not everyone has access to the Internet.
- Disclosure is prohibited by enactment.
- Information that, if disclosed, constitutes a breach of confidence.
- Personal data, as defined by Data Protection legislation (see Section 8).

7.3 **Non-absolute** exemptions are subject to a "public interest test", meaning that we have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing it. Examples include:

- Information to be published within the next twelve weeks, from the date of request.
- Research information, if its release could substantially prejudice the research programme.
- Commercially sensitive information.
- Law enforcement information (including any form of tax assessment).
- Information that may endanger the health and safety of an individual if disclosed.

It is worth noting, however, that potential embarrassment to the public authority if information is released is **not** adequate ground for it being withheld.

8. DATA PROTECTION

8.1 Data Protection legislation (the Data Protection Act 2018) protects information that is held about individuals by public authorities. Individuals can ask for and receive a description of the personal data held about them (a "subject access request").

8.2 Information is exempt from disclosure under FOISA if it is a request for information from an individual about themselves. Such a request should be handled under Data Protection legislation. In these cases the applicant should be notified of the transfer and the different procedures that apply.

8.3 Requests for information about other living individuals should be dealt with under FOISA but refusal may be appropriate on the basis that they breach the principles of Data Protection legilsation.

8.4 Any request received that may come under the jurisdiction of Data Protection legislation should be dealt with by the Responsible Officer, together with the Data Protection Officer/ Information Governance Solicitor.

9. ENVIRONMENTAL INFORMATION

9.1 Staff should note that requests for access to environmental information may come under the jurisdiction of the Environmental Information (Scotland) Regulations 2004 (EIR) rather than FOISA. Examples of subjects dealt with under EIR include emissions into the environment, nature sites, roads, sewage and even air-conditioning systems.

Environmental Information is defined as:

a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal & marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the

environment, affecting or likely to affect the elements of the environment referred to in (a);

c) measures (including administrative measures), such as policies, legislation plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

d) reports on the implementation of environmental legislation;

e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures in as much as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

9.2 Though EIR and FoI are closely aligned, there are some key differences:

- Requests for environmental information do not have to be in writing but can
- be made orally.
- A 40 day response time can apply for complex or voluminous requests.
- There are no absolute exemptions under EIR.
- Fees charging is different.

9.3 If you consider that a request falls under EIR rather than FOISA, and are unsure as to how to proceed, please refer the request to the Responsible Officer.

10. THE RE-USE OF PUBLIC SECTOR INFORMATION

10.1 Staff should be aware that The Re-use of Public Sector Information Regulations 2015 provide a public right to re-use information that public sector bodies must Produce, hold, collect or disseminate within their **'public task'.**

Requests must be in writing, state the document required and the intended use. The Joint Board has 20 days to respond whether by accepting the request, refusing the request or requesting a charge.

For further information please see the Joint Board's "Re-Use of Public Sector Information Procedures and Asset List".

11. INFORMATION NOT HELD

11.1 If an applicant requests information that is not held by the Assessor/ Joint Board, the applicant must be informed of this as soon as possible.

12. REFUSING REQUESTS

12.1 If an exemption applies to the information requested, and the Assessor/ Joint Board decides not to release the information, the applicant must be provided with a written refusal notice. This must be sent within the 20 working day timescale.

12.2 A refusal notice must contain the following information:

- that we hold the information
- that we are claiming an exemption

- why the exemption applies
- in the case of non-absolute exemptions, why the public interest in maintaining the exemption outweighs the public interest in disclosing it
- details of our review procedure including the right to subsequent appeal to Information Commissioner (see section 14)

12.3 Refusal notices can also be issued if the cost of complying with the request would exceed an upper cost limit (see section 13).

12.4 Requests can be refused if they are "vexatious" or "repeated" (an identical or similar request from the same person received in a short period of time). Again, the applicant should be sent a refusal notice within 20 working days. However, these reasons for refusal should be used sparingly and as a last resort only, especially as the legislation does not specifically define the term "vexatious".

12.5 In any doubt as to the correct course of action, the decision should be made in conjunction with the Responsible Officer. Additional advice can be obtained from RVJB's Data Protection Officer/ Information Governance Solicitor.

13. CHARGING

13.1 Fees can be levied for particularly complex or lengthy enquiries but the vast majority of requests for information will not incur a charge. This is because the first £100 of "projected" costs must be provided free of charge.

13.2 If the estimated costs exceed £100, the cost of the request must be formally calculated. A £600 upper limit exists on these costs, after which we do not have to comply with the request.

The Assessor/Joint Board can charge for:

- direct or indirect costs incurred in locating, retrieving, and providing the information requested.
- providing the information in the format preferred by the applicant.

However, the Assessor/Joint Board can not charge for:

- costs incurred in deciding whether or not to release the information.
- costs incurred in determining whether we actually hold the information. If we have difficulty finding the information because of poor records management, we cannot pass on these costs to the applicant.
- providing the information in an alternative format as per our duty under the Equality Act 2010.

13.3 When calculating the cost of staff time, the amount cannot exceed £15 per hour regardless of who is undertaking the work. The costs passed on to the applicant should accurately reflect the grade of the employee carrying out the work.

13.4 Only 10% of the projected cost can be passed on to the applicant, meaning in effect, that the maximum amount that can be charged for a request for information is £50 (the upper cost limit is £600: 10% of £600 is £60, minus £10 for the first £100 of work which must be provided free of charge).

13.5 If a request for information is going to incur a charge, a Fees Notice must be issued. This must include:

- a detailed breakdown of the projected costs;
- advice about the procedure for dealing with complaints and the right of appeal.

At this point the applicant can decide to proceed with the request or decline the quote. At this point no work should have been undertaken regarding the request. If the fee is not paid within 3 months the request can be treated as withdrawn, though the applicant must be contacted in writing confirming this.

13.6 Accounts should be issued through the Debtors Control System, operated by Renfrewshire Council Finance.

14. REVIEWS

14.1 An applicant may be dissatisfied with the response that they received from the Assessor/Joint Board. For example, they may consider that they did not receive adequate advice and assistance, or that their request was refused without good reason. In such cases, the applicant can request that a review be carried out, investigating the way the request was handled and the decision that was reached.

14.2 Applicants should be advised that they have 40 days to lodge a written "requirement for review".

The following information should be included:

- address for correspondence
- a description of the original request
- why he/she is dissatisfied

14.3 Reviews will normally be handled by RVJB's Information Governance Solicitor/ DPO.

14.4 The applicant will receive a response within 20 working days, explaining the findings of the review and advising them of their rights to complain to the Scottish Information Commissioner.

15. MONITORING AND REPORTING

15.1 It is the responsibility of the Responsible Officer to keep a log of information requests received. The log should be initiated on receipt of each request.

15.2 FOISA states that the following information should be recorded:

- the number of requests that have been refused and the reasons for the refusal;
- the number of requests for which a fee is charged;
- the number of reviews which have been carried out and their outcome;
- the number of instances when the time limit was exceeded and why.

15.3 The Responsible Officer will compile and submit such reports as are required by the Information Commissioner on a quarterly basis.

16. RESPONSIBLE OFFICER

16.1

Title	Name & Location	Telephone Number
Assistant Assessor	Lindsey Hendry Renfrewshire House Cotton Street PA1 1BF email: lindsey.hendry@renfrewshire-vjb.gov.uk	T: 0141 487 0635 | M: 07483 921 235

17. AUDIT

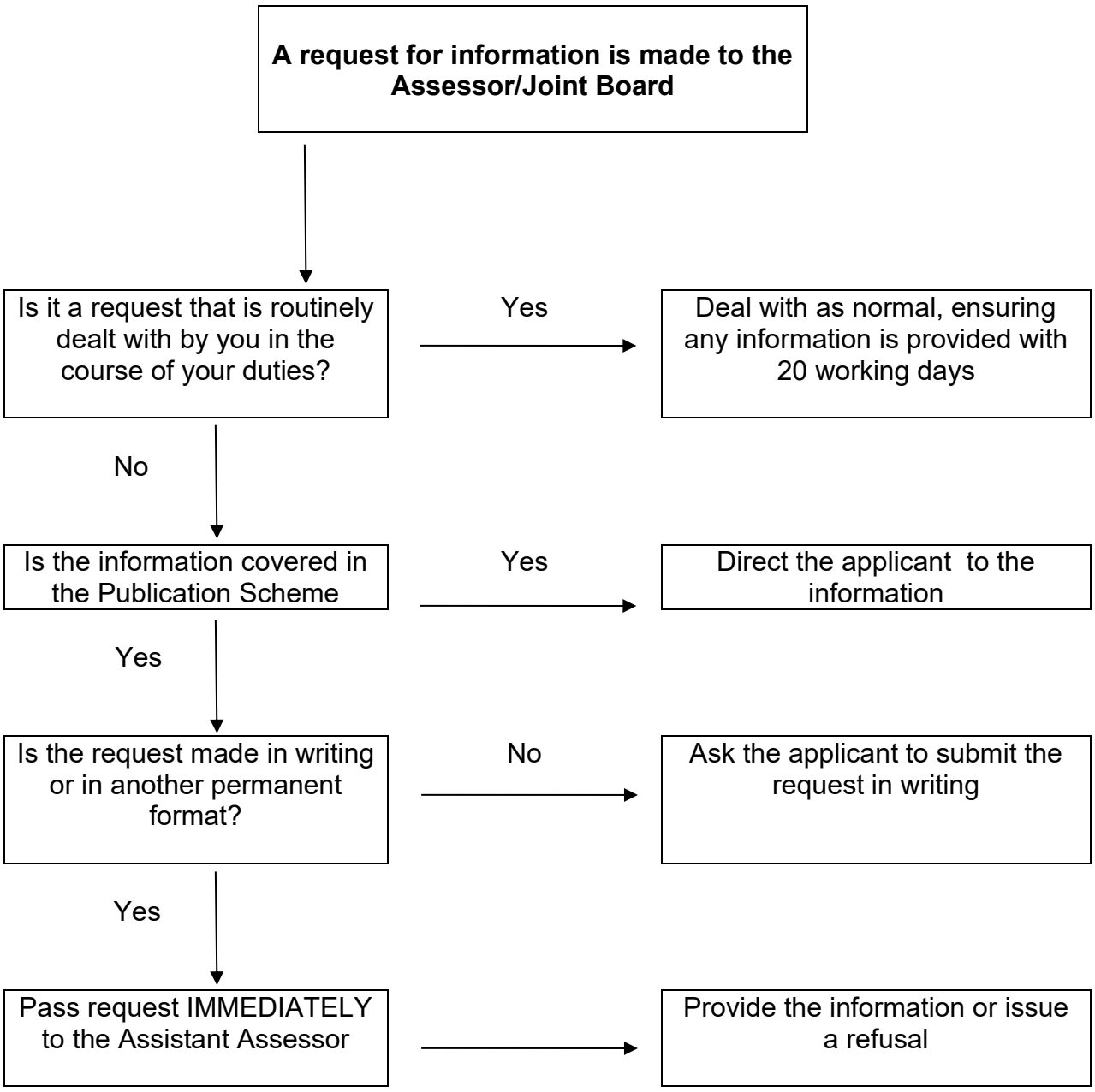
17.1 Freedom of Information procedures are subject to routine internal and external audit and recommendations implemented accordingly.

18. REVIEW

18.1 To ensure compliance with FOISA and the EIRs, this policy will be reviewed by Assistant Assessor and/ or the Information Governance Solicitor at least two-yearly. However, more regular updates will be made as necessary to maintain the accuracy and currency of this policy in line with any legislative changes, significant cases, guidance from the Scottish Information Commissioner, or other lessons learned, which inform best practice.

APPENDIX 1

FRONTLINT STAFF – DEALING WITH REQUESTS



APPENDIX 2

RESPONSIBLE OFFICER

Key Responsibilities

1. To be a source of guidance and advice on Freedom of Information matters within the Joint Board and for the Assessor.

2. To liaise with the Information Governance Solicitor on matters relating to Freedom of Information and EIR.

3. To participate in FoI training, as and when appropriate.

4. To co-ordinate the answering of requests for information that front line staff are unable to deal with in the normal course of their duties.

5. To handle requests for information that may be subject to exemptions.

6. To handle requests for information that may include personal information as defined by Data Protection legislation.

7. To handle refusals to release information – including the drafting of refusal notices.

8. Where relevant, to calculate fees to be levied on requests for information and issue fee notices.

9. To monitor requests for information and report to the Management Team and the Information Commissioner on a quarterly basis.