

# The Moray Council

## Access to Information training

Freedom of Information (Scotland) Act

Data Protection Act

Environmental Information (Scotland)  
Regulations

## Evidence Element 9 – appendix 32

### Document Control Sheet

Name of Document:	<b>Access to Information Training</b>
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Description of Content:	Training guidance under Freedom of Information (Scotland) Act, Data Protection Act and Environmental Information (Scotland) Regulations
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## Reviews & Appeals

- Enquirer has a right to a review by Council
- Enquirer has a right to Appeal to the Office of the Scottish Information Commissioner

## Request for information under FOI(S)A

- In writing stating enquirers details
- Cannot ask why making request
- Duty to be helpful
- All records including electronic open to scrutiny

## FOI(S)A Requests

- Corporate Policy Unit (CPU) will manage and coordinate the request and information, supply templates
- CPU first point of contact
- CPU will liaise with departmental contact
- Create a wide experience base across the council
- Back-up always available
- Everyone's job
- CPU, Records Manager and Solicitors will offer advice and support

## Charges

- Please send the CPU details of the time taken to answer enquiries include staff costs and grades as well as the time
- Charges introduced at Policy Committee October 2007.
- Charges - 10% of cost above £100 and below £600(excessive cost of compliance)
- Must send out a fee notice first stating how much and how the sum was arrived at.
- Contact CPU for advice and help with estimating costs

## The Environmental Information (Scotland) Regulations 2005

The Scottish Information Commissioner is responsible for the Act which applies to Scotland. A separate Act covers England, Wales and Northern Ireland

## Environmental Information (Scotland) Regulations 2004

- Anyone
- Anywhere
- Environmental information

20 days - 40 days if complex

## Except!

- Exceptions apply
- All Exceptions subject to the Public Interest Test
- Personal data must be treated under Data Protection and is the only absolute exception

## Request for information under EISRs

- Verbal or written
- CPU will advise on whether FOI or EISR
- No upper or lower limit on charging

## EISR Requests

- Corporate Policy Unit (CPU) will manage and coordinate the request and information, supply templates
- CPU first point of contact
- CPU will liaise with departmental contact
- Create a wide experience base across the council
- Back-up always available
- Everyone's job
- CPU, Records Manager and Solicitors will offer advice and support

## Reviews & Appeals

- Enquirer has a right to a review by Council
- Enquirer has a right to Appeal to the Office of the Scottish Information Commissioner

## The Data Protection Act 1998

The Information Commissioner is responsible for the Act which applies to the whole of the UK

## Data Protection Act (1998)


- Gives individuals the right to know what information is held about them in a database or structured filing system
- Subject access request (individual requesting information about themselves) - £10.00 charge
- Offers protection for the individual
- Ensures that the personal information is kept, stored and destroyed correctly

### The DPA allows every individual

- to ask the authority if it holds personal information about them
- to ask what the information is used for
- to be provided with a copy of the information
- to ask that incorrect data be corrected

### Eight Principles of DPA

- fairly and lawfully processed
- processed for limited purposes
- adequate, relevant and not excessive
- accurate and up to date
- not kept for longer than necessary [see Retention & Disposal Schedules on the intranet]
- processed in line with your rights
- secure
- not transferred to other countries without adequate protection (with in the European Economic Area and other countries agreed under the legislation)



DATA PROTECTION ACT 1996

Consent Form

I give my consent to the following information [ describe the personal information being taken ]  
being used by The Moray Council for the purposes of  
[ described what you will use the personal information for ]

I agree that this information may be passed by The Moray Council to  
[ list any departments or bodies who you may need to pass personal information to ]

name .....

date .....

### Requests for information under DPA

- Subject Access Request
- Must be in writing
- Cannot ask for information about a third person (unless that person has given their written permission)
- Provide identification
- £10.00 fee
- FOI(S)A requests for personal information is over-ruled by the DPA and cannot be supplied
- There are exemptions

### DPA Requests

- Corporate Policy Unit (CPU) will manage and coordinate the request and information, supply templates
- CPU first point of contact
- CPU will liaise with departmental contact
- Create a wide experience base across the council
- Back-up always available
- Everyone's job
- CPU, Records Manager and Solicitors will offer advice and support

### Replying to a Subject Access Request

- May involve a lot of photocopying or scanning.
- Good idea to keep a list of what released, not released or partly released.
- Can scan originals and email to CPU
- Don't need to keep copies of documents released
- If the names of third parties can be redacted or blanked out (and the document re-copied) then this is acceptable.
- Don't alter a document electronically

DATA PROTECTION ACT 1998  
Subject Access Request Form

1. Personal Details (Please print clearly in black pen)

Surname: Date of Birth:  
Forename(s):  
Address:  
Postcode: Tel no (Incl. STD code):

2. Details of request  
Which Moray Council services do you wish to obtain information from?

3. Additional Information

4. Checklist - have you enclosed.....  
Fee Unless this is an Education only request\* please enclose a fee of £10\*\*

Cheques should be made payable to The Moray Council

Proof of identity (at least one of the following)  
Passport, Birth certificate, Driving licence

\*Fees for an Education subject access request are dependant on the number of photocopies required and will be charged prior to the release of any documents.

\*\* If you are unable to pay the fee, please provide details above in Section 3.

5. Article 19 Notice  
The information provided by you will be used only in processing your subject access request. In terms of the Data Protection Act 1998, you are entitled to know what personal information The Moray Council holds about you, on payment of a fee of £10

Signed  
Date

## Additional Information

- Timescales
- Popular Topics
- Records Management
- Copyright
- Responsibilities
- Examples of Requests

## Timescales/Deadlines

- Freedom of Information (Scotland) Act - 20 working days to answer a request
- FOISA - Request for clarification - clock stops until answer received
- Review by Council - 20 days
- Data Protection Act request - 40 calendar days maximum
- Environmental Information (Scotland) Regulations - 20 working days
- Complex EI(S)R - 40 days
- Re-use of Public Sector Information - 20 days
- TMC Customer Care Policy - respond to written correspondence within 10 working days. If not possible acknowledgement sent within 3 working days advising where possible when a response will be sent.

## Reviews by Office of the Scottish Information Commissioner

- Mrs B - information not supplied - OSIC upheld council decision July 2007
- Mr F - withheld under section 38(1)(b) - personal data under Data Protection Act - OSIC upheld council decision July 2007
- Mr F - withheld under sections 25 (information otherwise accessible and section 36(2) (information obtained from a third party - release breach of confidence) - OSIC upheld council decision May 2006
- Mr W charges for information - OSIC upheld decision to charge but council should have cited other exemptions. Not required to take remedial steps

<http://www.itspublicknowledge.info/ApplicationsandDecisions/Decisions/Decisions.asp?search=Moray+council>

## Popular Topics

- Teachers & Schools - training and behaviour
- Planning
- Single Status, job descriptions
- Contracts
- Repairs and roads
- Costs
- Carers
- Regulations
- Services - refuse collection
- Absence
- Drugs/Alcohol


## Who would like to know what?

Majority of requests come from journalists, followed by solicitors and businesses. The percentage from the public is the smallest, although its growing!

Best enquiry so far - request for information re chaplaincy and spiritual counselling for staff and public on pagan, wiccan or jedi religions

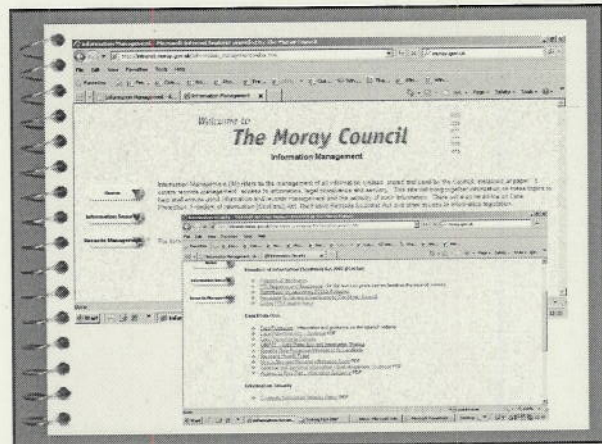
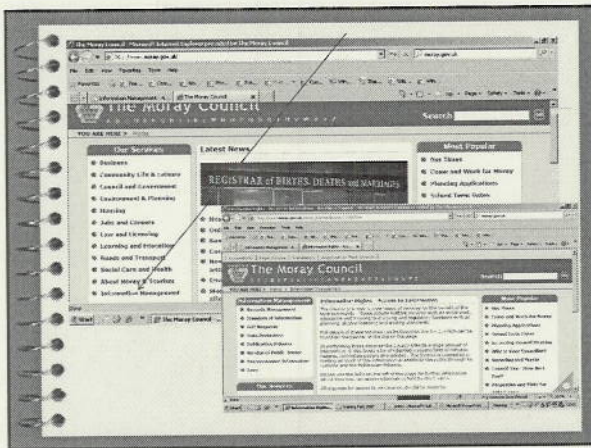
## Records Management

- Any FOI legislation is only as good as the quality of the records to which it provides a right of access
- Accurate and up to date information
- Record Retention & Disposal Schedules
- Secure - records storage, access and destruction of records (DPA & FOI(S)A)
- Compliance with legislation including FOI(S)A, DPA, Disclosure Scotland, Environmental Information (Scotland) Regulations



## Copyright

- Information provided under FOI(S)A and EISRs is subject to copyright protection
- Applicants do not have a right to re-use that information in a way that would infringe copyright
- Permission must be sought to use material supplied commercially
- Copyright may rest with a third party in which case permission to reuse must be sought directly from the copyright holder



## Responsibilities

- Everyone has to be aware of FOI(S)A, EISRs and DPA
- Everyone must be prepared to answer an enquiry or to give advice
- Corporate Policy Unit will co-ordinate, give advice, supply templates, help with the estimation of charges and watch the clock
- You will not be alone - there are several people in the council who can offer help and advice

## Examples of Requests received by the Council

### FOI Requests - examples - solicitors

We would like to (and hereby do) make an Information Request

that we be provided with a copy of all Notices or Orders made, served, discharged or released and those which remain extant (i.e. works and/or monies still outstanding to the council), during period 1st September 2005 to 31st January 2006, under or pursuant to -

Section 92 of the Civic Government (Scotland) Act 1982  
Part VIII Building Etc, Miscellaneous works etc. - Cleaning and painting of common stairs, etc.

Section 87 of the Civic Government (Scotland) Act 1982  
Part VIII Building Etc, Miscellaneous works etc. - Local authorities' powers in relation to building in need of repair

etc etc etc

### FOI Requests - examples - solicitors

Please provide the number of Property Enquiry Certificates that have been issued by the Council commencing 1 December 2002 and for details of the income generated from each Property Enquiry Certificate. This information should be broken down into each of the relevant years

### FOI Requests - examples - journalists

- Can you provide me with a breakdown of all the works of art bought by your organisation in the last 5 years, their value, where they are held and how much they are insured for
- We are interested in knowing exactly how much is still owed to the Council in Poll Tax and what steps you are taking to recover it
- Could you please provide the number of children born to registered sex offenders who were allowed to remain in the care of their parents in your area. Please supply the figures for the past 3 years (2003-2005).

### FOI Requests - examples - journalists

1. How many breaches of security have there been reported at schools throughout the region in the past year?
2. How many in primary schools and which ones?
3. How many in secondary schools and which ones?
4. Can you give details of these incidents and when they happened?
5. Did any of these schools have secure entry systems at the time?
6. How many primary and secondary schools have been fitted with secure entry systems?
7. How many are still to have these installed?

### FOI Requests - examples - journalists

- Under Freedom of Information provisions, I seek information on CCTV and CCTV operating staff at your authority.
- Please tell me how many staff involved in CCTV operations have been the subject of disciplinary proceedings over inappropriate conduct relating to viewing people or retaining CCTV footage of members of the public over the past five years.
- Please tell me how many staff involved in CCTV operations have been dismissed as a result of improper conduct relating to viewing people or holding footage of people over the same period.
- If you have any queries relating to this request, please do not hesitate to contact me on xxxxx

### FOI Requests - examples - market researchers

I am writing to you, in accordance with the Freedom of Information Act and Environmental Information (Scotland) Regulations, to ask for information on planning gain held by your council. I would be grateful if you could give the following details for the time period January 2003 to date:

- Names of developers with whom planning gain agreements, under the Town and Country Planning (Scotland) Act 1997, have been made.
- Details of how much money was paid, in respect of that agreement, by each of those developers on each separate occasion.
- Details of what the money was used for.
- Details of all enforcement notices issued by the council against public limited companies and limited companies
- Details of what that enforcement notice concerned.



## FOI Requests - examples

Under Freedom of Information law, please can you provide me with:-

digital scanned copies of all rejected ballot papers for the Holyrood 2007 elections in your area. I am happy to receive these in any suitable format that suits you and would envisage these would be available without the bar code to avoid any potential risk of traceability.

## FOI Requests - examples - the public

You will recall that we corresponded in December regarding XXXX Properties building site at Dufftown. I hope that you may again be able to help me regarding the following numbered points.

1. I first emailed xxxx@moray.gov.uk, but this address was rejected by my sender.
  2. My enquiry was regarding tax rates for 2006/07. My understanding was that in Moray these were lower than here (East Renfrew).
  3. However, on looking over the Moray Council website, it states that houses over £100,000, and in the price bracket into which the house I intend purchasing fall, will attract Council Tax, water rates etc. of EXXXX.XX, appreciably more than I pay here. Is this correct?
  4. Additionally, am I correct in believing that there is a 25% reduced rate for single occupancy?
  5. At age XX assume the above is the only concession to which I would be entitled?
- Thank you in anticipation of your help.

## FOI Requests - examples - the public

Dear Sir

Moray Council Guidelines for Dealing with Unauthorised Encampments

Under the rights of Freedom of Information Act, I hereby request a copy of the above document.

Yours truly

## FOI Requests - examples - the public

### Learning Disability

- 1) The number of people with learning disability funded by you in a Residential care home in your County as at 15th January 2007.
- 2) The number of people with learning disability "placed" in a Residential care home out of your local authority area but funded by you as at 15th January 2007.
- 3) What is the range of fee rates paid in respect of these placements as at 15th January 2007.

### Mental disorder/Mental Health

4. The number of people with a Mental Disorder /Mental Health Issue funded by you in a Residential care home in your County as at 15th January 2007.
5. The number of people with a mental disorder/Mental Health issue "placed" in a Residential care home out of your local authority area but funded by you as at 15th January 2007.
6. What is the range of fee rates paid in respect of these placements as at 15th January 2007.

## FOI Requests - examples - the public

I would like to make the following request for information under the Freedom of Information (Scotland) Act 2002. In order to keep the cost down please supply in electronic form if possible.

To ask since 1999 how many primary and secondary school teachers have been employed who have a disability, also what training has been provided to teachers with relation to disability awareness skills. I would be grateful if the information could be broken down by school and year on year figures.

Thank you for taking the time to consider this request. I look forward to hearing from you soon.

## Data Protection - requests examples

I wish to request the release of information contained in my House File/Tenants Files. I realise this request is made to [a member of staff] in the first instance. This I now do, in written form as required.

Under provisions of the Data Protection Act please provide copies of all information relating to me held by Moray Council between 10-03-04 - 01-03-06. I enclose the £10 fee together with identification.

I wish to request any and all correspondence (email, letters, reports, bulletins, etc.) that pertain to me, or mention me within them.