

FREEDOM OF INFORMATION ACT 2000

NEWRY, MOURNE AND DOWN DISTRICT COUNCIL

PUBLICATION SCHEME

PUBLICATION SCHEME

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PUBLICATION SCHEME

Freedom of Information Act 2000

Publication Scheme for Newry, Mourne and Down District Council

1 Background

Newry, Mourne and Down District Council is a Local Government District Council established under the Local Government Act (Northern Ireland) 2014 to administer a range of social, economic, cultural and environmental services to the local community.

As a public authority the Council is required under the Freedom of Information Act to adopt and maintain a Publication Scheme setting out the classes of information it holds, the manner in which it publishes/intends to publish the information and the charges it intends to make for the information.

As a public body Newry, Mourne and Down District Council is committed to the highest standards of accountability and openness and this Publication Scheme is prepared to enable the Council to fulfil its obligations under the legislation and to better inform the public of its communication and information systems. The information contained in the Scheme will be made available to individuals on request under the terms as detailed in the Scheme.

Overall responsibility for this Publication Scheme rests within the Administration Department within Newry, Mourne and Down District Council. The Publication Scheme is maintained on a day to day basis by the Head of Compliance.

2 Notes on Using the Scheme

This Publication Scheme sets out the information that Newry, Mourne and Down District Council will publish, how and when it will do so, and whether this information will be available free of charge or on payment. The classes of information to be published are set out under clearly defined headings which reflect the structure and operations of Newry, Mourne and Down District Council.

Publication does not refer solely to printed material. Publication has been interpreted as broadly as possible to include electronic documents, information included on the website, minutes of meetings, reports and leaflets.

It is intended, as far as possible, to make material available on the Newry, Mourne and Down District Council website on an ongoing basis: www.newrymournedown.org.

3 Requesting Information

Where information is available on the website, a hypertext link will direct you to the correct page on the website. Where information is available by post, a request can be made in writing. Applicants should provide as much detail as possible to identify the information sought. Requests should be addressed to the Head of Compliance, Newry, Mourne and Down District Council, Downshire Civic Centre, Ardglass Road, Downpatrick, BT30 6GQ.

4 Charging and Copyright Issues

The Council has determined four categories for charging for information requested under this Scheme as follows:

1. **Free of charge.** This includes general facts and information on the services offered to the public as well as information published on the Council's website (for those without internet access, a single print-out of the specific website content can be requested). It also includes answering telephone queries, providing copies of free leaflets and inspection of reference materials at Council Offices.

2. **Priced Publications.** Where the information required is available in a priced publication details of the publication, its cost and where to obtain it will be supplied.

3. **Photocopying costs and postage (plus a small administrative charge).** This covers information which has already been prepared which the Council can photocopy or provide a computer printout. This includes copies of entries in public registers, copies of the Council's internal guidance documents and explanatory material on dealing with the public. There will be a minimum charge of £5 for such requests.

4. **Professional charges for locating and preparing information for release.** Where preparing or gathering the required material can only be done by specialists or other professionals at a charge to the Council, a written estimate will be given of the cost of providing such information. The cost will have to be paid in advance. The Council will then aim to provide the information within a target of 20 days.

No charges will be made where a request for information is refused. There will be no charge to appeal against a refusal to supply requested information. Nor will there be a charge to appeal against any charges made for requested information.

Newry, Mourne and Down District Council owns the copyright to the information it produces. If information is to be re-used or reproduced, commercially or otherwise, written approval must be obtained from the office of the Chief Executive.

5. Exempt Information

In order to protect confidential or other information where its disclosure may prejudice the interests of others, the Freedom of Information Act 2000 sets out a series of exemptions.

The classes of information which the Council has specified in this scheme as being classes of information which it publishes or intends to publish may in some cases contain material which the Council considers to contain exempt information, as defined in Part II of the Act. Accordingly, any such information is excluded from this Publication Scheme. Where this occurs the Council will outline which information has been withheld and explain what exemption has been applied and why.

Examples of exempt information under Part II of the Act include:

1. Information supplied by, or relating to, bodies dealing with security matters
2. Investigations and proceedings conducted by public authorities
3. Information likely to prejudice law enforcement

4. Court records including records of tribunals and inquiries
5. Information likely to endanger the health and safety of any individual
6. Personal data or information
7. Information provided in confidence
8. Information in respect of which a claim to legal professional privilege could be maintained
9. Commercial interests and trade secrets.

It should also be noted that information is exempt from the Act if it is reasonably accessible to the applicant by other means. One example where information would qualify for this exemption is where it is made available via the Council's Publication Scheme. In instances where someone makes a written request for information which is already available via the Publication Scheme, the Council will refer the applicant to the Scheme.

Where the Council invokes the exemption provisions to withhold information, an applicant may seek a review of the decision.

6 Complaints/Review Procedure

If an applicant is dissatisfied with the response from the Council to a request for information or a response from the Council for requested information is not received within 20 days, the applicant may proceed to a two-stage review process. An *internal* review must normally be completed before an appeal may be made to the Information Commissioner for an *independent* review.

An internal review should be sought through the office of the Chief Executive of the Council. A member of staff who was not involved with the original request will undertake the review.

If the applicant remains dissatisfied, he/she can seek an independent review from the Information Commissioner. Requests for a review by the Information Commissioner should be made in writing directly to: The Information Commissioners Office, 51 Adelaide Street, Belfast, BT2 8FE, (Tel: 030 3123 1114), www.ico.gov.uk.

7 Categorisation of Classes of Information

The following pages describe the various classes of information, relevant publications and their availability and cost under the following management headings:

- **Corporate Management**
- **Elected Members**
- **Personnel & Recruitment**
- **Financial Performance**
- **Procurement Practices**
- **Licensing & Approvals**
- **Services Provided.**

CLASSES OF INFORMATION

7.1 Corporate Management

Information on how the Council manages its business - the structure of the Council; its Committee system; its business plans and policies; reports produced by or on behalf of the Council; and its Equality Scheme.

Charges: Information is provided free of charge, or at the rate shown in the Council's Charging Structure for Published Information.

* **Availability Column:** Detail how to access each document, eg, Website; Post; Council Offices; Local Libraries, and the date of availability

Class of Information	Description	Relevant Publications	Availability *
Management Structure	Who's who in the management of the Council, the Chief Executive, Directors and other senior managers. Information on membership of other public bodies where senior officers represent the Council's interests	Management Structure	Website
Committee and Sub Committee Structure	The Committees and Sub- Committees of the Council; membership (elected members, lay members and officials); their roles and responsibilities	Committee Structures Details of Committee Members	Website By Post By post
Corporate Plan	The coming year's business objectives and targets for the main services provided by the Council; also its longer term vision and strategic plan	Corporate Plan	Website

Class of Information	Description	Relevant Publications	Availability *
Events Planned for the Current Financial Year	Events and promotions planned, organised or funded within the Council area during the current financial year, including contact details	Various Event Guides/ Advertisements	Website Tourist Information Offices By post
Equality Scheme	How the Council will fulfil its duty under Section 75 and Schedule 9 of the Northern Ireland Act by putting equality and good relations at the heart of policy decisions	Equality Scheme	Website
Economic Development Strategy	The Council's Economic Development Strategy for the Council area including information on partnerships with other major stakeholders	Economic Development Strategy	Website
Cultural Development Strategy	The Council's Arts and Cultural Development Strategy for the Council area including information on partnerships with other major stakeholders	Cultural Development Strategy	Website
Tourism Development Strategy	The Council's Tourism Development Strategy for the Council area including information on partnerships with other major stakeholders	Tourism Development Strategy	Website

Class of Information	Description	Relevant Publications	Availability *
Community Development Strategy	The Council's Community Development Strategy for the Council area including information on partnerships with other major stakeholders	Community Development Strategy	Website
Community Planning Strategy	The Council's Community Planning Strategy for the Council area including information on partnerships with other major stakeholders	Community Planning Strategy	Website
Planning Strategy	The Council's Planning Strategy for the Council area including information on partnerships with other major stakeholders	Planning Strategy	Website
Waste Management Strategy	The Council's Waste Management Strategy for the Council area including information on partnerships with other major stakeholders	Waste Management Strategy	Website
Annual Report	The Annual Report includes the Annual Accounts and details progress against objectives and targets throughout the past year	Annual Report	Website

Class of Information	Description	Relevant Publications	Availability *
Council Policies and Procedures (including Standing Orders)	The Council's policies, procedures and Standing Orders which apply to Committees, Sub-Committees, Council officials, their agents and subcontractors, and elected members. These documents define the way the Council carries on its affairs	Standing Orders	Website
Council Minutes and Agendas	A comprehensive record of Council proceedings (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include information provided in confidence	Council and Committee Minutes and Agendas	Website
Reports and Investigations commissioned by Council	Each year the Council commissions various studies and investigation for the benefit of its citizens. These are the published reports produced as a result	Reports	Website

Class of Information	Description	Relevant Publications	Availability *
Complaints Policy and Procedures	Information on how to make a complaint on any aspect of the Council's services or facilities	Complaints Procedure/Form	Website Available at Council buildings By post
Charging Structure for Published Information	Charges, if any, for information supplied by the Council	Publication Scheme	Website

7.2 Elected Members

Information on the Councillors; the Code of Conduct they operate within; and payments due to them for various activities.

Charges: Information is provided free of charge, or at the rate shown in the Council's Charging Structure for Published Information.

* **Availability Column:** Detail how to access each document, eg, Website; Post; Council Offices; Local Libraries, and the date of availability

Class of Information	Description	Relevant Publications	Availability *
Information on Members	Information on elected members including membership of Committees and Sub-Committees. Information on membership of other public bodies or representation of the Council on such bodies (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above eg. this class may include personal data or information). Information on the Register of Members Interests	Committee Structures including Membership Membership of Outside Bodies Register of Members Interests	Website By post By post On-line

Class of Information	Description	Relevant Publications	Availability *
Code of Conduct for Members	The Code of Conduct which Councillors operate within (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include information protected under legal professional privilege)	Code of Conduct for Members	Website By post
Rates and Allowances	Rates and allowances payable to Councillors while undertaking Council business (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include personal data or information)	Published and Agreed Rates for Attendance and Mileage Allowances Actual Allowances Claimed published annually for the previous financial year	Website Website

Class of Information	Description	Relevant Publications	Availability *
Attendance Records	Records of Councillor attendance at Council meetings, including Committee and Sub-Committee meetings (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include personal data or information)	Attendance Records	Website – published annually for the previous financial year
Election Results and Expenses	Records of Councillors' expenses from the most recent Local Government Election (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include personal data or information)	Election Results by District Electoral Area	Website

Class of Information	Description	Relevant Publications	Availability *
Official Visits and Civic Functions	Records of official and courtesy visits and civic functions within the current financial year and preceding financial year including attendees and costs incurred (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include personal data or information)	Record of civic functions during the current and previous year	By post

7.3 Personnel & Recruitment

Information on how Council staff are recruited; their roles and responsibilities; rates of pay and expected standards of behaviour.

Charges: Information is provided free of charge, or at the rate shown in the Council's Charging Structure for Published Information.

* **Availability Column:** Detail how to access each document, eg, Website; Post; Council Offices; Local Libraries, and the date of availability

Class of Information	Description	Relevant Publications	Availability *
Code of Conduct for Staff	Information on the conduct which is expected of staff in the performance of their duties (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include personal data or information)	Code of Conduct for Staff	By post
Job Roles	Documents detailing the duties and responsibilities required of each job role within the Council	Job Roles for all Staff	By post
Pay and Grading Structure	The pay structure for grades of staff within the Council	Northern Ireland Joint Council for Local Government Services Pay Rates	By post

Class of Information	Description	Relevant Publications	Availability *
Job Vacancies	Current job vacancies and jobs advertised within the past year	Current Job Vacancies within the Council Jobs advertised within the past year	Website Job Application By post
Statutory Return	Annual reports on the composition of staff by grade, gender, etc in accordance with current legislation	Equality Commission Monitoring Report Local Government Auditor Sickness Reports	By post By post

7.4 Financial Performance

Financial data showing the Council's income and expenditure.

Charges: Information is provided free of charge, or at the rate shown in the Council's Charging Structure for Published Information.

* **Availability Column:** Detail how to access each document, eg, Website; Post; Council Offices; Local Libraries, and the date of availability

Class of Information	Description	Relevant Publications	Availability *
Summary Accounts	Summary financial data by service line and corporate overheads. The audited accounts, including the auditor's report, for the past six years	Annual Accounts	Last audited year on website By post
Annual Budgets	Planned income and expenditure by service line and corporate overheads for the current financial year	Annual Estimates	Website By post
District and Regional Rates	The rates applicable to businesses and householders in the current financial year	Statement of Rates	Website By post

7.5 Procurement Practices

Information on how the Council procures products and services from suppliers.

Charges: Information is provided free of charge, or at the rate shown in the Council's Charging Structure for Published Information.

* **Availability Column:** Detail how to access each document, eg, Website; Post; Council Offices; Local Libraries, and the date of availability

Class of Information	Description	Relevant Publications	Availability *
Tendering Procedures	Procedures and guidelines used in the tendering process for Council products and services	Procurement Policy/Procedures	By post
Tender Reports	Tendering activity over the current financial year and preceding financial Year (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include information provided in confidence or covered by commercial interest and trade secrets)	Details of Tenders	Website By post

7.6 Licensing & Approvals

Information on how the Council grants licences for various trading activities within the Council area; standards and procedures for building control approvals and environmental health issues.

Charges: Information is provided free of charge, or at the rate shown in the Council's Charging Structure for Published Information.

* **Availability Column:** Detail how to access each document, eg, Website; Post; Council Offices; Local Libraries, and the date of availability

Class of Information	Description	Relevant Publications	Availability *
Entertainment and Trading Licences	Procedures regarding the granting of licences for entertainment; amusement; street trading; and petroleum retailing. Also allocation of market stalls. How to apply for such licences or permits	Licensing Procedures and Forms	Website By post
Building Control	Standards and procedures regarding building control approval and how to go about applying	Building Control Application Procedures	Website By post
Building Control Approvals	Current Building Control applications and approvals granted within the last 2 years	List of applications and approvals	By post
Building Control Inspections	Annual Departmental performance report in relation to building control applications received, as measured against departmental plan	Building Control Annual Report	By post

Class of Information	Description	Relevant Publications	Availability *
Environmental Health	Standards and procedures for the public and businesses and guidelines on Environmental Health matters. Council's enforcement policy in relation to breaches of legislation	Environmental Health Standards and Procedures	Website By post
Environmental Health Inspections	Annual performance report on Environmental Health activity as measured against targets contained within Departmental Action Plan (some of the information in this class is derived from documents considered to contain exempt information. See Section 5 "Exempt Information" above. For example, this class may include information likely to prejudice law enforcement)	Environmental Health Annual Report	Website By post
Dog Licensing	Procedure for applying for a dog licence	Procedures for Dog Licensing	Website By post
Council Bye laws	Bye laws made by Council	Details of Bye laws	Website By post

7.7 Services Provided

Information on the range of services and facilities available from the Council.

Charges: Information is provided free of charge, or at the rate shown in the Council's Charging Structure for Published Information.

* **Availability Column:** Detail how to access each document, eg, Website; Post; Council Offices; Local Libraries, and the date of availability

Class of Information	Description	Relevant Publications	Availability *
Council Offices	Information on Council offices, addresses, opening hours, main telephone numbers and other contact details	Schedule of opening hours, services and contacts	Website At offices By post
Arts and Cultural Facilities	Information on arts and cultural facilities within the Council area including addresses, opening hours, fees and charges, main telephone numbers and other contact details	Schedule of opening hours, services and contacts	Website At offices By post
Tourism	Information on tourist facilities and services within the Council area including (where applicable) addresses, opening hours, fees and charges, main telephone numbers and other contact details	Schedule of opening hours, services and contacts	Website At offices By post

Class of Information	Description	Relevant Publications	Availability *
Leisure Facilities and Services	Information on leisure facilities within the Council area including addresses, opening hours, fees and charges, main telephone numbers and other contact details	Schedule of opening hours, services and contacts	Website At offices By post
Sports Development	Information on Sports Development including summer schemes, grants available and sports provision	Sports Development Schemes/Grants Information Sheets and Promotional Information	Website By post
Economic Development	Information on Economic Development support including contacts and funding opportunities	Economic Development Strategy and Promotional Information	Website At offices By post
Community Centres and Services	Information on community centres and outreach facilities and services within the Council area including addresses, opening hours, fees and charges, main telephone numbers and other contact details	Schedule of opening hours, services and contacts	Website At offices By post
Travelling People	Information on the Council's policies towards Travelling People, the facilities available and contact details	Policy on Travellers	Website By post

Class of Information	Description	Relevant Publications	Availability *
Access to the Countryside	Information on the Council's approach to resolving 'rights of way' disputes including contact details	Access to the Countryside Policy/Information	Website By post
Parks and Grounds	Information on parks and grounds within the Council area including addresses, opening hours, telephone numbers and other contact details	Parks and Grounds Information	Website By post
Markets	Information on markets within the Council area including addresses, opening hours, fees and charges, main telephone numbers and other contact details	Details on Locations, opening hours, fees and contacts	Website By post
Registration of Births, Deaths and Marriages	Information on offices, addresses, opening hours, main telephone numbers and other contact details	Location and service details	Website By post
Street Naming, Postal Numbering and Property Certificates	Information on Street Naming, Postal Numbering and Property Certificates, including addresses, telephone numbers and other contact details	Policy on Street Naming and Numbering Procedure for the Processing of Property Certificates	Website By post

Class of Information	Description	Relevant Publications	Availability *
Building Control	Information on the full range of functions carried out by Building Control including Dangerous Buildings and Structures	Details on functions and services	Website By post
Environmental Health	Information on the full range of functions carried out by the Department under the core function headings of Food Safety, Health and Safety at Work, Consumer Protection, Pollution and Noise Control, Licensing and Regulatory and General Environmental Health matters	Details on functions and services	Website By post
Refuse Collection, Waste Disposal and Recycling	Information on refuse collection routes & timetables, 'bulky' collection services, landfill sites, skip sites, depots including (where appropriate) addresses, opening hours, fees and charges, main telephone numbers and other contact details. Details of the Council's recycling policy and facilities. Supply of refuse containers and 'wheelie bins'	Details on function, services, contact details and charges	Website By post

Class of Information	Description	Relevant Publications	Availability *
Street Cleansing and Litter Control	Information on street cleansing and litter control services include street cleaning rotas and contact details	Details on function, services and contact details	Website By post
Public Conveniences	Locations, charges (if any), cleaning schedules and contact details for further queries	Location details and contact details	Website By post
Bus Shelters	Location and contact details for further queries	Location details and contact details	By post
Cemetery Services	Information on cemetery services and facilities within the Council area including addresses, opening hours, charging mechanisms, telephone numbers and other contact details. Also information on cemetery maintenance	Details of service provision	Website By post
Dog Warden Services	Information on how the Council deals with stray dogs, the enforcement of dog fouling laws and investigations into dog attacks on other animals and people. Also charging mechanisms, telephone numbers and other contact details	Details of service provision	Website By post

Class of Information	Description	Relevant Publications	Availability *
Harbour Facilities	Information on harbour facilities within the Council area, including charging mechanisms, addresses, and contact details	Details of service provision	By post

Freedom of Information Procedure

Procedure Overview

This Procedure outlines Newry, Mourne and Down District Council's ("the Council") commitment to the Freedom of Information Act 2000 ("the Act") and provides a framework for the Council's compliance with and implementation of the Act.

Introduction

The Freedom of Information Act 2000 gives the public the legal right to access information held by public authorities (subject to a number of legal exemptions established by the Act).

The Act applies to all recorded information which the Council holds including (but not limited to) any information which is created, received and maintained by Council Officers and Elected Members on behalf of the Council. The Act is fully retrospective so any past records held by the Council are covered by the legislation.

The aim of the Act is to promote a culture of openness and accountability in local Government and to facilitate a better understanding of how we, as a Council, conduct our duties, make decisions and spend public money.

The Freedom of Information Act is part of a series of legislation providing individuals with the right to access information held by public bodies. The legislation includes:-

- The Data Protection Act 1998. This legislation gives individuals the right to access personal information held about them by the Council (subject to a number of legal exemptions to disclosure) and;
- The Environmental Information Regulations 2004. This legislation gives individuals the right to access information held by the Council regarding the environment (subject to a number of legal exemptions to disclosure).

The Procedure for Making a Request

All requests for information held by Newry, Mourne and Down District Council should be made in writing setting out a clear description of the information required by the Applicant. Ideally, requests should be addressed to the Freedom of Information Officer at Newry, Mourne and Down District Council, but, requests (falling within the remit of the Freedom of Information Act) received by other Officers / Elected Members will nonetheless be processed in accordance with the legislation. When submitting a request for information to the Council there is no need for individuals to expressly indicate that they are making their request under the Freedom of Information Act 2000 as all requests for information received in writing will ordinarily be treated as Freedom of Information requests by the Council.

Newry, Mourne and Down District Council's Handling of Requests

Newry, Mourne and Down District Council will offer advice and assistance to any person wishing to make a request for information.

Where a request for information is received by Newry, Mourne and Down District Council the Council will ask the Applicant to provide their full name, postal address and contact telephone number. Where the request is being made on behalf of a Company the Council will ask the Applicant to provide the name of the Company on whose behalf the request is being made.

Any person who makes a request to the Council for information will be informed within 20 working days from the date of receipt of their request whether the Council holds the information requested. If the Council holds the information requested the Applicant will be provided with the information within 20 working days of the date of receipt the request (subject to legal exemptions). Please note that 20 working days is the statutory maximum period within which public bodies must respond to a request. The Council will, however, endeavour to provide information to Applicants in as short a timeframe as possible. Please also note that the statutory period of 20 working days may be extended in limited circumstances and the Applicant will be advised if this is the case.

Newry, Mourne and Down District Council may request clarification in relation to a request for information. Clarification may be sought in order to assist the Council in identifying and locating information relevant to a request. Where the Council requires clarification to be provided by an Applicant the Council will inform the Applicant of this as soon as reasonably possible following receipt of the request. Where clarification is sought the statutory period of 20 working days for dealing with the request will be suspended until clarification has been provided. The Applicant will then be given a period of 1 month within which to provide clarification. If clarification is not provided within this period the Council will no longer proceed with the request.

Where the Council does not hold the information being requested but the Council is aware that another organisation may hold the information the Council will advise the Applicant to contact that organisation and, where possible, will provide up to date contact details for that organisation.

Third Party Information

Where the information being requested is held by the Council but was created by or relates to third parties the Council will take reasonable steps, where appropriate, to contact the third party to advise them of the request. Whilst the Council will take the views of third parties into account in deciding whether or not to release information relating to them the final decision on whether the information will be disclosed rests with the Council.

Statutory Exemptions to the Duty to Disclose Information

Under the Freedom of Information Act 2000 the Council may refuse to provide information where it believes the information is subject to one or more of the legal exemptions to disclosure prescribed under the Freedom of Information legislation.

In applying the legal exemptions to information held by the Council the Council will at all times maintain a commitment to openness, scrutiny and the public interest.

A full list of the exemptions prescribed under the Freedom of Information Act 2000 is attached at Appendix A hereto.

Some exemptions are absolute and if invoked there is no obligation on the Council to consider the request for information further. However, most of the exemptions under the Act are qualified exemptions and are subject to the Public Interest Test. The Public Interest Test is the test applied to information to determine if the public interest in disclosing the information is greater than the public interest in applying an exemption and not disclosing the information. The Council will apply the Public Interest Test in all cases where qualified exemptions apply.

Where a request for information is refused the Council will, in most cases, confirm the fact that the Council holds the information and will provide the Applicant with details of the legal exemption under which the Council is refusing to provide the information. The Council will also provide details of the reason that the exemption has been applied to the information in question. However, in some cases, the Freedom of Information Act recognises that it would not be appropriate to even confirm or deny whether the Council holds certain information. Where this is the case the Council will, in accordance with Section 17 of the legislation, issue a Refusal Notice stating the fact of refusal, the exemption being used and the reason why the exemption applies.

In addition to the legal exemptions referred to above the Council may refuse a request where the cost to the Council of locating, retrieving and extracting the requested information would exceed the appropriate time and cost limits set by the Freedom of Information Act 2000. These limits are currently set at £450 or 18 hours of a Council Officer's time. Where this amount will be exceeded the Council will inform the Applicant of this and may refuse the request or issue a Fees Notice to the Applicant specifying the fee payable. Where a Fees Notice is issued the statutory period of 20 working days for dealing with the request will be suspended until payment of the Fee has been received by the Council. The Applicant will be given a period of 1 month within which to make payment of the Fee. If the Fee is not received within this period the Council will no longer proceed with the request.

The Council reserves the right to refuse a request on the basis that the request is vexatious. In deciding whether a request is vexatious the Council will look at each case individually and will take into account all the circumstances of the case.

Further, where the Council has previously complied with a request for information which was made by any person the Council is entitled to refuse a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between the compliance with the previous request and the making of the current request. The Council will determine whether or not a reasonable interval has elapsed on a case by case basis.

Responsibilities of Council Officers

All Council Officers who hold or process information covered by the Freedom of Information Act (i.e. all recorded information held by Newry, Mourne and Down District Council) are responsible for complying with the Freedom of Information legislation and the terms of the Council's Freedom of Information Policy and Procedures.

Requests under the Freedom of Information Act can be made to any Council Officer. All Officers who receive requests for information that cannot be dealt with within the normal everyday requirements of their role and function should ask the Applicant to put their request for information in writing to the Officer responsible for Freedom of Information at

the Council. Alternatively, the Officer can themselves transfer the request to the responsible Officer and advise the Applicant accordingly. If an Officer is in doubt as to whether a request for information requires to be dealt with under the terms of the Freedom of Information Act the Officer should immediately contact the Officer responsible for Freedom of Information for assistance. All transfers of requests to the Officer responsible for Freedom of Information should be made immediately upon receipt of the request to allow the Officer sufficient time to deal with the request within the statutory timeframe as set down by the Freedom of Information legislation. Where an Officer deals with a request for information within the normal everyday requirements of their role they should be aware that they have a duty to provide all of the information requested within 20 working days of the date of receipt of the request.

When requested by the Officer responsible for Freedom of Information to provide information requested under the Act all Council Officers must provide all information held by them in relation to the request. If an Officer is unsure whether information they hold is relevant to a request they should check this with the Officer responsible for Freedom of Information.

Whilst the Council has a statutory maximum period of 20 days within which to respond to a request Officers will be required to provide the Officer responsible for Freedom of Information with the requested information within the timeframe as specified by the Officer. This to ensure that the Freedom of Information Officer has sufficient time within which to consider the information in light of the Freedom of Information Act 2000, contact relevant third parties and redact exempt information where necessary.

It is an offence to wilfully conceal, damage or destroy information in order to avoid responding to a request. It is therefore important that no records that are the subject of a request are amended or destroyed.

All Council Officers are also responsible for good information handling practice and implementing records management policies and procedures as appropriate.

When a request is made for information and that information includes the names of employees in connection with their work on behalf of Newry, Mourne and Down District Council the question of disclosure of the employee's name will be looked at on a case by case basis. The main consideration in deciding whether to release the names of employees in connection with their work on behalf of the Council will be whether it is fair in all the circumstances to identify an individual employee. Special consideration will be given where the disclosure of an employee's name would cause unwarranted damage or distress to that individual.

Responsibilities of Councillors

For the purpose of the Freedom of Information Act 2000 individual Councillors are not deemed to be public authorities. However, information received, created or held by a Councillor on behalf of the Council will be covered. This includes information received, created or held by a Councillor outside of the Council Chamber / Council Offices where the information forms part of their work as a Councillor on behalf of Newry, Mourne and Down District Council. Correspondence between Councillors or information held by a Councillor for their own private, political or representative purposes will not usually be covered.

As Councillors are not public authorities in their own right they have no obligation to respond to a request for information addressed to them individually. However, as a matter of good practice, a Councillor should explain this to the Applicant and, with the permission of the Applicant, pass the request to the Officer at the Council responsible for Freedom of Information. All transfers of requests to the Officer responsible for Freedom of Information should be made immediately upon receipt of the request to allow the Officer sufficient time to deal with the request within the statutory timeframe set down by the Freedom of Information legislation.

When requested by the Officer responsible for Freedom of Information to provide information requested under the Act all Councillors must provide all relevant information held by them in their role as an agent or representative on behalf of Newry, Mourne and Down District Council. If a Councillor is unsure whether information they hold is relevant to a request they should check this with the Officer responsible for Freedom of Information.

Whilst the Council has a statutory maximum period of 20 days within which to respond to a request Councillors are required to provide the Officer responsible for Freedom of Information with the requested information within the timeframe as specified by the Officer. This to ensure that the Freedom of Information Officer has sufficient time within which to consider the information in light of the Freedom of Information Act 2000, contact relevant third parties and redact exempt information where necessary.

It is an offence to wilfully conceal, damage or destroy information in order to avoid responding to a request. It is therefore important that no records that are the subject of a request are amended or destroyed.

Councillors should be aware that where their names appear on any recorded information or documentation held by them or by the Council in connection with their work on behalf of the Council their names and position within the Council will ordinarily be disclosed under the Freedom of Information Act as a matter of course.

Charging

The Council will endeavour to provide most information requested under the Act without charge to the Applicant. However, as above the Council reserves the right to refuse a request for information or issue a Fees Notice where the cost of providing the information would exceed the statutory limit of £450 or 18 hours of Council Officers' time. Where this is the case the Council will inform the Applicant and provide advice and assistance to them.

Where a request for information can be resolved within the limits outlined above the Council will not levy a fee for providing the information electronically. However, if information is required to be provided in hardcopy the Council reserves the right to charge Applicants for both photocopying and posting the requested information to the Applicant. Photocopying will be charged at the cost to the Council of copying the information and postage will be charged at the cost to the Council of posting the information.

In terms of charging an Applicant for photocopying and postage the Council will not ordinarily charge any fees unless the collective cost to the Council of photocopying and posting the information requested would exceed £10.00 (Ten Pounds). However, if a

document cannot be copied internally (for example, due to the size of the document) and therefore requires to be photocopied externally a charge will automatically be levied at the cost to the Council of photocopying the document externally.

In order to determine whether the costs of the request exceed the £10.00 limit referred to above the Council will estimate the costs of photocopying and posting the information. Where this is deemed to be in excess of £10.00 a Fees Notice will be issued to the Applicant setting out the likely costs of providing the information. Where a document cannot be photocopied internally the Applicant will be informed of the likely costs of externally photocopying the document. The information will not be provided to the Applicant until such time as the fees due to the Council have been discharged. Where a fee is sought the statutory period of 20 working days for dealing with the request will be suspended until the fee has been received by the Council. The Applicant will be given a period of 1 month within which to make payment of the fee to the Council. If payment is not received within this period the Council will not proceed with the request.

Publication Scheme

In accordance with Section 19 of the Freedom of Information Act 2000 the Council maintains a Publication Scheme and is committed to updating and maintaining it. The Council has adopted the Information Commissioner's Model Publication Scheme.

The information that the Council routinely makes available to the public is included in the Publication Scheme which sets out the classes of information available and guidance on how this information can be accessed. Details of material contained in the Council's Publication Scheme and a copy of the Scheme are available on the Council's website at:

Complaints & Reviews

Where an Applicant is unhappy with the response provided by the Council in relation to a request for information or where the Applicant is dissatisfied with the way in which their request has been handled they may apply to the Council for an Internal Review of the Council's response in the first instance. When responding to an information request the Council will inform all Applicants of their right to an Internal Review. Internal Reviews can be requested by contacting the Freedom of Information Officer and requesting a Review of the Council's initial response. All Reviews will be handled by the Assistant Director Corporate Services (Administration) or, in the absence of the Assistant Director Corporate Services (Administration), by an Officer more senior than the Officer responsible for the Council's initial response. The Council will accept a complaint or a request for a Review in relation to an information request no later than 2 calendar months after the date of the original response to the Applicant. The Applicant will be advised in writing of the outcome of the Internal Review within 20 working days of the date of receipt by the Council of the request for the Review.

Where the Applicant is unhappy with the outcome of any Internal Review conducted by the Council the Applicant may apply to the Information Commissioner's Office (ICO) for a review of the Council's decision. The Council will inform all Applicants of their right to appeal the outcome of an Internal Review to the Information Commissioner's Office. The contact details for the ICO are as follows:

Information Commissioner's Office

51 Adelaide Street

Belfast

BT2 8FE

Tel: 030 3123 1114

www.ico.gov.uk

Monitoring & Reviews

To ensure this Procedure complies with the terms of the Freedom of Information Act 2000 and meets the needs of the Council it will be reviewed annually.

Contacts

Assistant Director Corporate Services (Administration)

Head of Compliance

Appendix A

Statutory Exemptions to the Disclosure of Information under the Freedom of Information Act 2000

1. Information Accessible By Other Means (Section 21)
2. Information Intended For Future Publication (Section 22)
3. Information Supplied by, or Relating to, Bodies Dealing with Security Matters (Section 23)
4. National Security (Section 24)
5. Certificates under ss. 23 and 24: Supplemental Provisions (Section 25)
6. Defence (Section 26)
7. International Relations (Section 27)
8. Relations within the United Kingdom (Section 28)
9. The Economy (Section 29)
10. Investigations & Proceedings Conducted by Public Authorities (Section 30)
11. Law Enforcement (Section 31)
12. Court Records (Section 32)
13. Audit Functions (Section 33)
14. Parliamentary Privilege (Section 34)
15. Formulation of Government Policy (Section 35)
16. Prejudice to the Effective Conduct of Public Affairs (Section 36)
17. Communications with Her Majesty etc & Honours (Section 37)
18. Health & Safety (Section 38)
19. Environmental Information (Section 39)
20. Personal Information (Section 40)
21. Information provided in Confidence (Section 41)
22. Legal Professional Privilege (Section 42)
23. Commercial Interests (Section 43)
24. Prohibitions on Disclosure (Section 44)

Freedom of Information Policy

Title

Newry, Mourne and Down District Council Freedom of Information Policy.

Statement

The Council endorses the Freedom of Information Policy as a framework for the Council's compliance with and implementation of the Freedom of Information Act 2000.

Aim

The aim of the Freedom of Information Policy is to ensure the Council's compliance with and consistent application of the Freedom of Information Act 2000. Newry, Mourne and Down District Council is committed to providing sufficient resources and appropriate training to ensure the Council achieves this objective.

The Policy will be implemented in the public interest to promote a culture of openness and transparency in Council.

Scope

The Council recognises the right of individuals to access official Council information in accordance with the terms of the Freedom of Information Act 2000.

The Policy applies to all recorded information which the Council holds including (but not limited to) any information which is created, received and maintained by Council Officers and Elected Members on behalf of the Council. The Act is fully retrospective so any past records held by the Council are covered by the legislation.

All Council Officers and Elected Members are responsible for complying with the terms of the Freedom of Information Act 2000. All Officers and Members are also expected to comply with the Council's Policy and Procedures in relation to Freedom of Information. Non-compliance with the Act and the Council's Policy & Procedures on Freedom of Information may result in the Council breaching its' legal obligations under the Act. This, in turn, may result in Newry, Mourne and Down District Council being the subject of formal action by the Information Commissioner's Office.

Related Policies / Legislation

Freedom of Information Act 2000

Data Protection Act 1998

Environmental Information Regulations 2004

Newry, Mourne and Down District Council's Publication Scheme

Definitions

The "Act" means the Freedom of Information Act 2000.

The "Information Commissioner's Office" means the independent authority set up to uphold information rights in the public interest.

Policy Owner

Assistant Director Corporate Services (Administration)

Contact Details

Assistant Director Corporate Services (Administration)
Head of Compliance

MT Authorised on

30 September 2014

**Governance Committee
Authorised on**

11 November 2014

Council Authorised on

2 December 2014

Policy Effective Date

2 December 2014

Policy Review Date

2 December 2017

Procedures

The Freedom of Information Procedures attached hereto must be adhered to in the delivery of this Policy.

Equality Impact Assessment

This Policy has been assessed on 13 November 2014 under Newry, Mourne and Down District Council's Equality Impact Assessment process and has been screened out as having no impact on any of the groups designated in Section 75 of the Northern Ireland Act 1998.

Environmental Information Procedures

1. Introduction

- 1.1 The Environmental Information Regulations 2004 (EIR) came into force on 1 January 2005. They updated the previous (1992) regulations and brought the UK into line with international requirements.
- 1.2 EIR gives certain rights of access to Environmental Information to the general public.
- 1.3 All Environmental Information held by the Council, both paper and electronic documents (including email), is considered to be publically available. All information, unless subject to an exception, will be released if requested.
- 1.4 This document replaces any previous Environmental Information Regulations policy documents created by this Council's predecessors.
- 1.5 Newry, Mourne and Down District Council shall make its own decisions in relation (but not limited) to access to information and shall not be bound by previous decisions of its predecessors.
- 1.6 Reference to any document, guidance note, Act or regulation includes any amendment made from time to time.

2. Scope

- 2.1 The purpose of this document is to define the elements of the Council's EIR procedures which include:
 - Confirmation that the Council will comply with the EIR Regulations (2004)
 - The duties imposed by the Regulations and how the Council intends to discharge those duties
 - Responsibility for ensuring Council compliance
 - Charges
 - Appeals
 - The role of Department for Environment, Food and Rural Affairs (Defra)
 - The role of the Information Commissioner

3. What is covered by the Act?

- 3.1 Regulation 2(1) states that Environmental Information is information held in any format on any of the following:
- The state of the elements of the environment, such as
 - Air and atmosphere,
 - Water, soil, land, landscape and natural sites including wetlands, coastal and marine areas,
 - Biological diversity and its components; genetically modified organisms, and the interaction among these elements.
- 3.2 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);
 - Measures (including administrative measures) such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the environment.
- 3.3 Reports on the implementation of environmental legislation.
- 3.4 Cost-benefit and other economic analysis and assumptions used within the framework of the measures and activities referred to above.
- 3.5 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 inasmuch as they are or may be affected by the state of the elements of the environment referred to in 3.1 or, through those elements, by any of the matters referred to in 3.2 and 3.3 above.

4. Roles and responsibilities

4.1 Head of Compliance

The Head of Compliance or their delegated officer is responsible for:

- Providing legal support and expert professional advice on compliance with EIR,
- Providing impartial reviews in the case of appeals where the Information Officer has had direct dealings in the original response.

Information Officer

- 4.2 This person has delegated responsibility for the following:
- Drafting guidance to process access requests made under the Act
 - Logging and monitoring the volume of access requests and ensuring compliance
 - Ensuring appropriate and adequate training is delivered to Council officers/members
 - Providing technical support and guidance to Council Officers as necessary
 - Liaison with the Head of Compliance over the application of qualified exceptions
 - Leading the internal appeals process.

Services Managers

- 4.3 Service Managers or delegated officers are responsible for:
- Complying with this policy and any associated procedures in handling requests.
 - Ensuring that their teams maintain their information in a way that is compatible with ensuring an effective and efficient response to any request.
 - Providing access to information following a request.
 - Ensuring that their Officers are appropriately trained in their responsibilities under the Act.

Officers/Elected Members

- 4.4 All Officers/Elected Members have a responsibility to:
- Assist in the processing of requests in accordance with the Council's Policy and Procedures.
 - Advise and assist the public in obtaining the information they require.
 - Ensure that information is created and managed in accordance with the Council's policies and procedures.

5 Codes of Practice

- 5.1 The Council will ensure its compliance with EIR according to the codes of practice issued from time to time by the Department for Environment, Food and Rural Affairs (Defra).

6 Access Rights

- 6.1 From 1 January 2005 the EIR gave a general right of access to the public for recorded Environmental Information. EIR applies to all public authorities in England, Wales and Northern Ireland.
- 6.2 Public authority' means Government Departments and any other public authorities. This definition is the same for both EIR and Freedom of Information (FOI): but in addition EIR includes the following authorities that are not covered by FOI:
 - Any other body or other person, that carries out functions of public administration, such as utility companies; or
 - Any other bodies or other persons under the control of the aforementioned, such as waste contractors performing waste collection on behalf of the local authority.
- 6.3 The Regulations allow retrospective access to all Council information that is in the public domain.
- 6.4 The Council will respond to requests for Environmental Information within the 20 working days time limited. In certain circumstances, under Regulation 7 of the EIR, the Council may extend that deadline up to a maximum of 40 working days (if it reasonably believes that the complexity and volume of the information requested means that it is impracticable to comply with or refuse the request within the shorter period).
- 6.5 The Regulations list exceptions under which disclosure can be refused. All of these require a 'public interest test' to determine if it is in the public interest to disclose the information. See section 10 of this Policy for further details.
- 6.6 See Appendix A for a summary of relevant exceptions.

7 Disclosure Log

- 7.1 The Council's Head of Compliance will log all Freedom of Information and Environmental Information requests for tracking and audit purposes and will be able to identify repeat, similar or vexatious requests.
- 7.2 Multiple requests for information on a particular subject will prompt the Head of Compliance to consider adding it to the Publication Scheme during the annual review.

8 Charges

- 8.1 Under Regulation 8 of the EIR the Council may charge the applicant for Environmental Information. Access to and viewing of Environmental Information that forms part of a public register will be free of charge. It is at the Council's discretion to make a reasonable charge for Environmental Information that does not form part of the public register (or for copies thereof). If it levies a fee the Council will act in line with Defra's most recent Fee guidance.
- 8.2 The charge will cover only the processing and making available of the information and not the time taken to consider any exceptions. A Charges Schedule will be made available to the requester. Where advanced payment is required the case will remain active for 60 working days until payment is received. During this period the response time for dealing with the request will be put on hold.
- 8.3 A regular and transparent system for reviewing such charges will be in place. Requesters may appeal to the Head of Compliance for a review of any such charges made.
- 8.4 The Council will not comply with any request for information that is 'manifestly unreasonable' as defined in Regulation 12(4) of the Regulations. This also applies to repeated and vexatious requests.

9 Requests

- 9.1 Environmental Information requests should be submitted to the Head of Compliance for logging and processing. Enquiries can be made via the following channels:
- **In person:** At Council offices
 - **By post:** Head of Compliance, Downshire Civic Centre, Ardglass Road, Downpatrick, BT30 6GQ
 - **By e-mail:** patrick.green@nmandd.org
- 9.2 Note – EIR requests do not have to be submitted in writing, they can be received verbally.

10 Exceptions and the Public Interest Test.

- 10.1 On all requests for Environmental Information, the Council is required to conduct a public interest test to determine if it is in the public interest to release the requested information.

- 10.2 The presumption is that Environmental Information must be released, unless there are compelling and substantive reasons to withhold it. The Regulations list the conditions under which a body can refuse information (see Appendix A for further information).
- 10.3 A request for information will be refused (or information redacted) if:
- Information is not held (then there is a duty to refer the request onwards as appropriate).
 - The request is manifestly unreasonable, such as vexatious requests, continuous questioning and multiple questions on the same theme.
 - The request is too general (after fulfilling the duty to advise and assist), such as a request for pollution incidents in the Mourne Area. This would be far too general as there are different types of pollution matters, e.g. air, water, land etc.
 - The request is for unfinished documents or data (in which case estimated time for completion will be given) such as contaminated land prioritisation lists.
 - The request is for internal communications (as with all EIR exceptions, the public interest test must be applied), such as unfinished data being sent to others in the Council, in draft format, information between the Northern Ireland Environment Agency and the Council; information regarding on-going or closed accident investigations.
- 10.4 Information may also be withheld or redacted in order to protect the following, subject to the public interest test:
- Confidentiality of proceedings
 - International relations/public security/defence
 - The course of justice and right to fair trial
 - Commercial confidentiality
 - Intellectual property rights
 - Personal Information
 - Data supplied voluntarily
 - Environmental protection
- 10.5 On receipt of a request to supply information, Service Managers should advise the Head of Compliance on any potential exception that needs to be considered. The Head of Compliance will conduct the public interest test and where necessary, seek advice from the Council's Solicitor. If there is equal weight between withholding information and disclosing, the Council will disclose.
- 10.6 The final say on applications of the public interest will rest with the Head of Compliance. Where an exception may apply to all or part of the information requested, the requestor will be notified in writing, citing the relevant exception. The Head of Compliance will maintain an audit trail of decisions in the disclosure log.

11 Complaints and Reviews

11.1 Where an Applicant is unhappy with the response provided by the Council in relation to a request for information or where the Applicant is dissatisfied with the way in which their request has been handled they may apply to the Council for an Internal Review of the Council's response in their first instance. When responding to an information request the Council will inform all Applicants of their right to an Internal Review. Internal Reviews can be requested by contacting the Assistant Director of Corporate Services (Administration) and requesting a Review of the Council's initial response. All Reviews will be handled by Assistant Director of Corporate Services (Administration) or, in the absence of Assistant Director of Corporate Services (Administration), by an Officer more senior than the Officer responsible for the Council's initial response. The Council will accept a complaint or a request for a Review in relation to an information request no later than 2 calendar months after the date of the original response to the Applicant. The Applicant will be advised in writing of the outcome of the Internal Review within 20 working days of the date of receipt by the Council of the request for the Review.

Where the Applicant is unhappy with the outcome of any Internal Review conducted by the Council the Applicant may apply to the Information Commissioner's Office (ICO) for a review of the Council's decision. The Council will inform all Applicants of their right to appeal the outcome of an Internal Review to the Information Commissioner's Office. The contact details for the ICO are as follows:

Information Commissioner's Office
51 Adelaide Street
Belfast
BT2 8FE
Tel: 030 3123 1114
www.ico.gov.uk

12 Advice and assistance

12.1 The Council is obliged to provide advice and assistance, so far as it would be reasonable to expect it, to those persons who propose to make or have made, requests for information. Where the records are not held by the Council but are held by another public body, the requester will be directed, where possible, to the appropriate body.

13 Use of Personal Information

- 13.1 The Data Protection Act 1998 prohibits the disclosure of personal data without the explicit consent of the data subject. Therefore, personal and identifying information that is contained within documents collated in response to an information request will be removed.
- 13.2 Where appropriate, and depending on the sensitivity of the personal data, advice and guidance will be sought from the Head of Compliance to ensure that the integrity of personal data is not compromised. In exceptional circumstances and under Regulation 13, personal data may be released if it is in the public interest to do so.
- 13.3 For further guidance see the Council's Data Protection Policy and Procedures.

14 Third party information

- 14.1 The Council is obliged to provide environmental information to the public unless an exception applies. The Council is not obliged to consult with third parties regarding the information that it holds (information that may be owned wholly or in part by a third party) but may choose to do so.

15 Copyright

- 15.1 Information released under EIR may be subject to copyright. If a requester wishes to re-use the information in any way they must apply to the copyright holder.

16 Role of the Information Commissioner and Information Tribunal

- 16.1 The Information Commissioner's Office is the enforcement body for EIR and is responsible for arbitrating on information requests that have not been resolved to the applicant's satisfaction after the Council's appeals process has been completed.
- 16.2 The Information Commissioner also has the responsibility to enforce and arbitrate on matters of Data Protection and Freedom of Information.
- 16.3 The Information Tribunal provides the avenue of appeal against decisions made by the Information Commissioner. The Tribunal has the power to request and inspect all documentation pursuant to the initial request to enable an independent disclosure decision to be made. The Information Tribunal has the authority to use the courts to enforce its disclosure decisions.

Monitoring & Reviews

To ensure this Procedure complies with the Environmental Information Regulations 2004 and meets the needs of the Council it will be reviewed annually.

Contact: Assistant Director Corporate Services (Administration)
Head of Compliance

16.1 Appendix A – Summary of Relevant Exceptions for the Council

Below is a list of exceptions most relevant to the Council. For a complete list of exceptions, consult the EIR exceptions.

Regulation(s)		Guidance
12(3)	Personal Data	Information that would breach the Data Protection Act. Disclosure of 3 rd party information will only be made in accordance with Regulation 13 of the EIR
12(4)	Type and/or Amount of Information	Requests for information we do not hold or ones that are manifestly unreasonable, too general a request, drafts that are incomplete and internal communications
12(5)(b)	Adversely affect justice or disciplinary procedures	That releasing information would not jeopardise the administration of justice or personnel-related disciplinary proceedings
12(5)(c)	Intellectual Property Rights	To protect the registered rights of both 3 rd parties and those of the Council where disclosure would harm those rights
12(5)(d)	Confidentiality of Proceedings	The Statutory duties carried out by the Council where disclosure would not be in the public interest (except emissions)
12(5)(e)	Commercial Interest	Where the disclosure of information would prejudice the commercial interests of an individual or body, or of the public authority itself
12(5)(f)	Voluntary Information	Where the disclosure of information would harm the interests of a third party if that third party supplied the information voluntarily and has not consented to its release (except emissions)
12(5)(g)	Protection of the Environment	Releasing the information would cause harm to the environment (except emissions)
12(9)	Emissions	Exceptions listed in 12(5)(d to g) above may not be used to release information about emissions
13	Third party Personal Data	Data that would be in breach of the Data Protection Act

Data Protection Procedures

PROCEDURE OVERVIEW:

This Procedure outlines Newry, Mourne and Down District Council's ("the Council") commitment to the Data Protection Act 1998 ("the Act") and provides a framework for the Council's compliance with and implementation of the Act.

INTRODUCTION:

In order to carry out Council business Newry, Mourne and Down District Council collects and uses information about individuals. This may include information on members of the public, customers, suppliers, employees (past and current) and all others with whom the Council communicates.

In handling personal data the Council is required, by law, to fulfil certain statutory duties and, in particular, to comply with the terms of the Data Protection Act 1998 ("the Act"). The Act establishes a framework of rights and duties which are designed to safeguard personal data. The Council fully endorses the statements and intent of the Data Protection Act and recognises that it must treat personal information correctly and lawfully. The Council regards compliance with the Act as essential to creating and maintaining confidence between the Council and individuals with whom the Council communicates.

The Council will implement these Procedures to ensure that all employees, elected members, contractors, agents, consultants or other servants of the Council who have access to personal data held by or on behalf of Newry, Mourne and Down District Council are fully aware of and adhere to the responsibilities and duties established by the Data Protection Act.

SCOPE:

This Procedure applies to all personal data held by Newry, Mourne and Down District Council. The obligations and controls outlined in this Procedure apply to all those who have access to personal data held by Newry, Mourne and Down District Council (including but not limited to employees, agency staff, elected members, other public representatives, contractors, agents, consultants, servants of the Council and all third party data processors).

DEFINITIONS:

Personal Data means data (manual or electronic) which relates to a living individual who can be identified from those data or from those data and other information which is in the possession of or is likely to come into the possession of the Data Controller. It also includes any expression of opinion about an individual and any intentions of the data controller or any other person in respect of the individual. Personal Data must be processed fairly and lawfully and, in particular, shall not be processed unless one of the Conditions set down in Schedule 2 of the Data Protection Act 1998 is met.

Data means information that is being processed automatically or is recorded with the intention of being processed automatically. Any data recorded as part of a manual filing system or with the intention that it should form part of a relevant filing system is also included in this definition.

The Data Controller means a person who determines the purpose for which and the manner in which any personal data are, or are to be, processed. For the purpose of this Procedure Newry, Mourne and Down District Council is the Data Controller.

The Data Processor means any person / organisation who processes the data on behalf of the Data Controller.

The Data Subject means the individual who is the subject of the personal data.

Processing means obtaining, recording or holding the information or carrying out any operation on the data including organisation, adaptation or alteration of the information or data; the retrieval, consultation or use of the data; the disclosure of the data and the alignment, combination, blocking, erasure or destruction of the information or data. It is difficult to imagine any activity which does not amount to processing.

Sensitive Personal Data means personal data consisting of information as to an individual's racial or ethnic origin, political opinions, religious or other beliefs; trade union membership; physical or mental health or condition; sexual life; the commission or alleged commission of an offence or any proceedings for any offence committed or alleged to have been committed by an individual. The presumption in respect of sensitive personal data is that because information about these matters is likely to be of a particularly sensitive nature it needs to be treated with greater care than other personal data. This is particularly so as the loss, theft or mishandling of this category of information is likely to be of a greater detriment to the individual than the loss, theft etc of other categories of personal data. Sensitive personal data must be processed fairly and lawfully and shall not be processed unless one of the Conditions set down in both Schedule 2 and Schedule 3 of the Data Protection Act 1998 are satisfied. The nature of the data is also a factor in deciding what security measures are necessary to protect the information.

Information Commissioner's Office means the independent authority set up to regulate and oversee the implementation of the Data Protection Act 1998 and other related legislation.

THE DATA PROTECTION PRINCIPLES:

The Act provides that anyone processing personal data must comply with the 8 Data Protection Principles. The Principles are designed to protect the rights of the individual and the Council is committed to complying with these Principles. The 8 Data Protection Principles are as follows:-

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions are met

2. Personal data shall be obtained for one or more specified or lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed
4. Personal data shall be accurate and, where necessary, kept up to date
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes
6. Personal data shall be processed in accordance with the rights of data subjects under the Act
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

RESPONSIBILITY FOR PERSONAL DATA:

Each Council Department is responsible for the personal data that it holds. This responsibility extends to personal data that is processed by third parties on behalf of Newry, Mourne and Down District Council.

All employees, agency staff, elected members, other public representatives, contractors, agents, consultants, servants of the Council, third party data processors and all those with access to personal data on behalf of Newry, Mourne and Down District Council are responsible for complying with the Data Protection Legislation and the Council's Data Protection Policy & Procedures.

THE COLLECTION & USE OF PERSONAL DATA:

Newry, Mourne and Down District Council collects and uses personal information (names, addresses etc) in many ways. In doing so the Council must meet its legal obligations under the Data Protection Act 1998. In particular:

- the Council shall only collect and use personal data where it has legitimate reasons for doing so
- When personal data is collected it should be for one or more specified and lawful purpose and shall not be further processed in any manner incompatible with that purpose (the Second Data Protection Principle)
- The personal data collected should be adequate, relevant and not excessive for the purpose for which it is processed (the Third Data Protection Principle)
- When personal data is obtained it shall be processed fairly and lawfully (the First Data Protection Principle) and should be accurate and, where necessary, kept up to date (the Fourth Data Protection Principle).

Privacy Notices

When collecting personal data the Council will inform individuals why their personal data is being collected and will be open and honest as to how they intend to use it. The Council will not deceive or mislead any individual when obtaining their personal data. The Council will use people's personal data in ways that they would reasonably expect and will make sure not to do anything unlawful with the data.

All individuals collecting personal data (in any capacity) on behalf of Newry, Mourne and Down District Council must ensure that individuals are fully informed. A "Privacy Notice" must be provided to all individuals from whom the Council collects personal data.

What is a Privacy Notice?

A Privacy Notice is basically a Notice to let individuals know how Newry, Mourne and Down District Council will use their personal information. This will be different for each case in which personal data is collected. This Notice should be clearly communicated to individuals and should be visible on all Application Forms etc so that the Data Subject is fully aware of the intended uses of their personal information.

"Privacy Notices" should tell people:-

1. **Who we are** - the identity of the Council (if this is not already obvious)
2. **What we are going to do with their information** - the purpose or purposes for which their information is being collected and is to be processed
3. **Who their information will be shared with** - any foreseen disclosures of the information and;
4. **Any further information** as may be necessary in order to make the processing fair.

It is the responsibility of all Officers collecting personal data on behalf of Newry, Mourne and Down District Council to ensure that the appropriate Privacy Notices are provided. Sample Privacy Notices are available from the Council's Head of Compliance.

When collecting personal data via the telephone or face to face the above information should be made clear to the data subject before any processing of their personal data takes places.

Should Officers wish to use information collected for a purpose other than the purpose for which it was originally collected or to disclose information to a third party the Officer may be able to do this if it is fair to the individual to do so. However, if you intend to make a significant change to how you use or process the information you will need to get the individual's consent.

In collecting information the Council must ensure that individuals are told the difference between information which they are required to give and information which is optional.

THE SECURITY OF PERSONAL DATA:

There is an obligation under the Data Protection Act for the Council to take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against accidental loss or destruction of or damage to personal data (the Seventh Data Protection Principle).

Some technical security measures are set out below and should be adhered to. This is not an exhaustive list and anyone handling personal data on behalf of Newry, Mourne and Down District Council must take all steps necessary to protect personal data and keep it secure at all times.

Physical Security of Personal Data:

Physical security measures should be in place to protect personal data. This includes things like locking doors, securing filing cabinets containing personal information, protecting premises with alarms, security lighting and CCTV cameras.

It also includes ensuring that access to Council Premises is controlled and monitored. The Council will introduce a Visitor Book for all non-staff members entering Newry, Mourne and Down District Council's Downshire Civic Centre, Downpatrick, and Council Offices at Greenbanks and Monaghan Row, Newry (beyond the reception area) requiring visitors to sign in and out of the Premises. They must also state the time of their arrival and departure from the Premises. On the introduction of the Visitor Book all Visitors to Council headquarters will be provided with Visitor's Passes on arrival.

The Council will also introduce Visitor Books at other Council Properties (including, for example Council Leisure Centres) for non-staff members who will have access to non-public areas where personal data is held (for example, staff offices).

Manually held Personal Data:

Each Department must make sure that it knows and holds a record of what personal data it holds and how and where it is stored.

The Processing of Manually held Personal Data by Fax, Post etc

When information containing Personal Data is sent by fax extra care should be taken. For example fax numbers should be checked to ensure that the information is being sent to the correct recipient. In addition you should ring ahead to the recipient and advise them that the information is being sent. You should also ask the recipient to acknowledge receipt of the information. Sensitive Personal Data should only be faxed as a last resort.

When confidential and sensitive personal data is being sent via post the information should be checked by another member of staff before being sent to ensure it is being posted to the correct recipient. In addition Officers should 'double bag' information being sent where the information contains sensitive personal data or personal data of a confidential nature. Double bagging works by putting the personal data in an inner envelope which marks the material as confidential and has a postal return address. The inner envelope acts as a second barrier to the information being opened by the wrong recipient accidentally or otherwise.

When printing personal data to a printer employees should use the Secure Printing Facility. All personal data sent to printers etc should be collected immediately and either stored securely or disposed off appropriately. Personal data should not be left on printers, photocopiers, fax machines etc.

Clear Desk Policy:

As a general rule personal data should never be left unattended on desks or in meeting rooms etc. Further and upon the implementation of the Data Protection Procedures the Council will operate a Clear Desk Policy. This will reduce the risk of unauthorised access to, loss of or damage to personal data. It will also ensure that all personal data and confidential information held by the Council is held securely and adequately protected.

The Clear Desk Policy means that at the end of each day it is the responsibility of individual Officer's to clear their desk of all documents that contain any personal data or confidential information. This information must be stored safely and securely (for example, in a locked office, locked filing room or filing cabinet etc).

Electronically held Personal Data:

Personal data held on computers and computer systems (including any information held on back-up systems) must be protected by the use of secure passwords, which, should be changed regularly. Individual passwords should not be such that they can be easily compromised.

Computers must not be accessible when unattended. Officers are responsible for safeguarding data by ensuring that equipment is not left logged-on when unattended. Where staff leave their computer station for short periods they should "lock" their computer. This is done by pressing the Ctrl, Alt and Delete Keys simultaneously and then choosing the "Lock Computer" option. To unlock their computer staff should enter their log-in details.

Sending Personal Data via Email etc

Anyone sending personal data via email or electronic media must ensure that it is encrypted. Passwords protecting the information should also be used depending on the sensitivity of the personal data. Passwords must never be emailed. The sender should contact the recipient via telephone to provide the password to decrypt the data.

When emailing personal data extra care should be taken that the information is being sent to the correct recipient and is adequately protected. This is particularly so when using the automated type-ahead facility available on Lotus Notes. Email Addresses should always be checked prior to information being sent via email to ensure the content is being sent to the correct recipient.

The use of Removable Media Devices

Newry, Mourne and Down District Council will ensure the controlled use of removable media devices used to store and transfer information for the purpose of conducting official Council business. Removable media includes but is not limited to laptops, mobile phones, tablets, CDs, DVDs, Optical Disks, External Hard Drives, USB Memory Sticks (known as pen drives or flash drives); media card readers, microchips (including SIM Cards), MP3 Players, digital cameras, backup cassettes and audio tapes. The following guidelines must be adhered to when using approved removable media devices:

- All removable media devices and associated equipment must only be purchased and installed by the IT Department. Non-Council owned removable media **must not** be used to store any information used to conduct official Council business and must not be used with any Council owned equipment.
- Only data that is authorised and necessary to be transferred should be saved on removable media devices.
- Removable media must not be used for archiving or storing records.
- Anyone using removable media devices must be responsible for them and must take all steps necessary to protect the device and data from loss, theft or damage.
- Removable media should not be the only place where personal data held for Council purposes is held. This increases the risk of the loss, destruction or malfunction of the data. Copies of the information should be held on the Council's computer system.
- In order to minimise physical risk, loss or theft or electrical corruption all storage media must be stored in an appropriately secure and safe environment.
- Each user is responsible for the appropriate use and storage of the data and for not allowing any removable device to be comprised.
- Each laptop and mobile device should have a unique password.
- All software and data stored on removable media devices must be encrypted and / or password protected (depending on the sensitivity of the data).
- Council reserve the right to audit / log the transfer of data files to and from any removable devices attached (physically or wirelessly) to Council IT equipment.
- Damaged or faulty removable media devices must not be used.
- Virus and threat management software approved by the IT Department must be used to scan removable media devices as soon as they are connected to Council IT equipment.
- Where removable media devices are no longer required or are damaged etc they must be disposed of securely to avoid data leakage. Any previous content must be permanently erased. All removable media devices that are no longer required / are damaged etc must be returned to the IT Department for secure disposal. For advice on removing all data (including deleted files) from removable media please contact the IT Department.
- If any Council mobile / removable media device is lost, stolen or otherwise compromised you must report this immediately to the Council's Head of Compliance.

Home Working & The Removal of Personal Data from Newry, Mourne and Down District Council Premises:

As a general rule manual and electronic records containing Personal data should not be removed from Newry, Mourne and Down District Council Premises. Further, records containing personal data should never be left unattended at any time and the appropriate measures should be taken to ensure that it is not left in public places, on public transport or in cars etc. Personal data processed on behalf of Newry, Mourne and Down District Council should not be held by Officers / Councillors at their homes.

It is however recognised that there will be occasions where Officers / Councillors need to remove personal data from Newry, Mourne and Down District Council Premises in order to fulfil their roles as Council Officers / Councillors. If this is the case and you need to remove personal data from Newry, Mourne and Down District Council Premises you must seek the permission of your Line Manager before doing so.

When dealing with personal information at home or outside of Newry, Mourne and Down District Council Premises the same measures must be applied as if working in the office. You must ensure that you take the appropriate technical and organisational measures against the unauthorised or unlawful processing of the personal data and against the accidental loss or destruction of, or damage to, personal data. Officers and Councillors are responsible for the security of equipment, software, files and any other information in their possession outside of Council Premises.

All Council paperwork held outside of Council Premises should be securely locked away (when not in use) and should only be accessible to the Council Officer / Councillor. It is particularly important to ensure that non-authorised personnel (in the home environment or whilst working off site) cannot gain access to confidential or personal information.

Considerations should be made when working remotely on laptops to ensure that the screen cannot be overseen by others and precautions taken to avoid laptops and other mobile devices being stolen or lost.

Council Officers and Councillors should not receive personal data (in their role as an Officer of Council or Councillor) to their home addresses, fax machines, home email addresses etc. Personal data being communicated in your role as an Officer or Councillor must be communicated to Newry, Mourne and Down District Council's official postal addresses, fax / phone numbers, email addresses etc.

Access to Records containing Personal Data:

Access to paper and electronic records containing personal data must be restricted. Line Managers must ensure that officers with responsibility for and access to personal data are properly supervised. It is essential that all staff members and Councillors only access records which they have authority to access and which it is necessary for them to access in the course of their work as Newry, Mourne and

Down District Council employees/representatives. Any employee/Councillors finding that they have access to data which they are not authorised to use must report this to their Line Manager so that the access can be removed. In the case of Councillors they should report this to the Head of Compliance. Any employee/Councillor with access to data which is no longer relevant to or necessary for their work must ask for the access to be removed. Any employee / Councillor who is aware that unauthorised access is taking place must report this to their Line Manager as soon as they become aware of it. In the case of Councillors they should report this to the Head of Compliance.

RESPONSIBILITIES OF STAFF, ELECTED MEMBERS AND ALL PARTIES ACCESSING OR HOLDING PERSONAL INFORMATION ON BEHALF OF NEWRY, MOURNE AND DOWN DISTRICT COUNCIL:

All employees, agency staff, elected members, other public representatives, contractors, agents, consultants, servants of the Council, third party data processors and those with access to personal data on behalf of Newry, Mourne and Down District Council are responsible for complying with the Data Protection Legislation and the Council's Data Protection Policy & Procedures.

All individuals must ensure that personal data is treated confidentially. Confidentiality must be preserved and personal data treated in accordance with the Data Protection Act and the Council's Data Protection Policy & Procedures.

Any individual who knowingly or recklessly processes data for purposes other than those for which it is intended or deliberately acts outside of their responsibilities under the Data Protection Act or the Council's Data Protection Policy and Procedures may be subject to the Council's disciplinary procedures up to and including dismissal and, where appropriate, legal action.

Individuals could be committing an offence by sharing information with others where that information does not need to be shared in order for the Council to carry out its business.

DATA PROCESSORS:

This section applies to third party external organisations, companies and individuals (other than employees) who process personal information on behalf of Newry, Mourne and Down District Council. Third parties holding or processing Personal Data on behalf of the Council are known as "Data Processors." When the Council contracts or arranges for someone to process personal data on its behalf the Council remains responsible for the processing and is liable for any breaches of the Data Protection legislation caused as a result of that processing. Therefore, when the Council engages another organisation to process personal information on its behalf the Council must make sure that the Data Processor only uses and discloses the personal data in accordance with the Council's instructions and must require the Data Processor to take appropriate security measures.

In light of the above all Data Processors are required to confirm that they are willing and able to abide with the requirements of the Data Protection Act 1998 and the Council's Data Protection Policy and Procedures. **Further, all Data Processors will be required to sign a Data Processing Agreement with Newry, Mourne and Down District Council confirming their commitment to process personal data on behalf of Newry, Mourne and Down District Council in accordance with the Data Protection legislation.** It is the responsibility of all Officers engaging Data Processors to ensure that this Agreement is signed and enforced. Sample Agreements can be obtained by contacting the Council's Head of Compliance.

The items listed below are further good practice recommendations that must be followed when engaging data processors:-

- Engage a reputable Company which offers suitable guarantees to ensure the security of personal data. Guarantees provided by a Company must be of a similar standard to the protection afforded personal data under Newry, Mourne and Down District Council's Data Protection Policy and Procedures.
- Make sure the organisation has appropriate security measures in place
- Check if the organisation is registered with the Information Commissioner's Office
- Make sure that they make appropriate checks on their staff. Their staff must be trained and aware of their responsibilities under the Data Protection legislation. Any breach of the legislation or the Council's Policy and Procedures will be deemed to be a breach of the Contract between the Council and that organisation, individual etc
- Require the organisation to report any security breaches or other problems and;
- The organisation will be required to indemnify the Council against any prosecutions, claims, proceedings, actions or payments of compensation or damages arising as a result of a breach of the Data Protection Act without limitation

THE RETENTION & DISPOSAL OF PERSONAL DATA:

Personal data shall not be kept for longer than is necessary for the purpose(s) for which it was first collected (the Fifth Data Protection Principle).

Personal data shall be retained and disposed off in accordance with the Council's Retention & Disposal Policy and the Data Protection Act 1998.

All personal data must be disposed of securely, appropriately and confidentially.

RIGHTS OF INDIVIDUALS UNDER THE ACT:

An individual has the right to be informed that the Council are processing their personal data.

An individual has the right to require the Council to correct, rectify, block, erase or destroy information relating to that individual which is regarded as wrong or inaccurate.

If an individual believes that the Council is processing personal data in a way that causes them substantial unwarranted damage or substantial unwarranted distress they can request the Council (in writing) to cease or not to begin the processing within a reasonable time.

An individual is entitled to make a request to the Council (in writing) to cease or not to begin processing their personal data for the purpose of direct marketing.

An individual is entitled to make a request to the Council in writing to make sure that no decision which significantly affects that individual is based solely on the processing by automatic means of personal data of which that individual is the data subject.

SUBJECT ACCESS REQUESTS:

An individual is entitled on making a written request to be supplied with a copy of personal information held by the Council of which they are the data subject. This is subject to a number of exceptions as prescribed by the Data Protection Act 1998. Requests for personal information are known as Subject Access Requests. There is an obligation on the Council to comply with a Subject Access Request / request made under the Data Protection Act promptly and, in any event, within 40 days of the date of receipt of the request by the Council.

Making a Subject Access Request:

Subject Access Requests should be made by the data subject in writing directly to the Council's Head of Compliance. A fee of £10 is payable for each Subject Access Request made and the Applicant may be asked for proof of identity. A Subject Access Request may also be made on behalf of an individual where the individual has expressly consented to the request being made on their behalf. For example, a Solicitor may make a Subject Access Request on behalf of their client. In such cases the Council will require a Form of Authority to be signed by the Data Subject consenting to the disclosure of the information.

Subject Access Requests can also be made directly to any Council Officer. All Officers who receive requests for personal information that cannot be dealt with within the normal everyday requirements of their role should ask the Applicant to put their request in writing to the Head of Compliance. Alternatively, the Officer themselves can transfer the request to the Head of Compliance. If an Officer is in doubt as to whether a request for information requires to be dealt with under the terms of the Data Protection Act 1998 they should contact the Head of Compliance for advice. All transfers of requests for personal data to the Head of Compliance should be made immediately upon receipt of the request to allow the Officer sufficient time to deal with the request within the statutory timeframe as set down by the Data Protection Act 1998.

When requested by the Officer responsible for Data Protection to provide information requested under the Act all Council Officers must provide all relevant information held by them in relation to the request. If an Officer is unsure whether information they hold is relevant to a Subject Access Request they should ask the Head of Compliance for advice on this.

The Council reserves the right to request an individual to narrow the scope of their request. Further, in accordance with Section 8(2) of the Data Protection Act the Council reserves the right to refuse to provide the data subject with a copy of the information they hold on that data subject where the supply of a copy of the information is not possible or would involve a disproportionate effort on the part of the Council.

SHARING PERSONAL DATA:

Personal data should only be shared internally and disclosed to external third parties (other than the individual who is the subject of the data) where the sharing is compatible with the Data Protection Act, the Data Protection Principles and the Council's Data Protection Policy & Procedures.

In considering whether to share personal data (either systematically or in response to a one-off request) you must consider whether you have a legal basis for sharing; a power or statutory function which allows the sharing or whether the sharing is justified (in cases where you don't have a legal basis or power to share).

It is essential to check why the data is required and to whom the person intends to disclose it. When information is being shared you must ensure that the recipient is properly identified and authorised to receive the data.

Individuals should generally be allowed to decide whether or not their personal data is disclosed to another party. There are however a number of exemptions set out in the Data Protection Act which permit the disclosure of personal data in the absence of consent.

When deciding whether to share personal data the first thing you should consider is the issue of **consent** and whether it is appropriate to seek the consent of the individual(s) in question to the disclosure / sharing of their personal data.

Consent is likely to be needed in the following circumstances:

1. Where the information is of a confidential or sensitive nature;
2. If the individual is likely to object to the data being shared without his / her consent or;
3. If the sharing is likely to have a significant impact (for example, if disclosure could cause harm / detriment) on an individual(s).

In such cases you should seek the consent of the individual prior to sharing their information.

There will however be cases where it will not be possible / viable to obtain the consent of the data subject. In such cases you should consider whether the sharing is **necessary** in accordance with the **legitimate interests** of the Council or the legitimate interests of the third party to whom the information is to be disclosed. You should also consider whether the sharing is **fair** to the data subject.

In deciding if data sharing is necessary to meet the legitimate interests of the Council or a third party you must determine whether there is a clear objective for sharing the information. You should consider whether this objective can be achieved without sharing personal data. The legitimate interest condition cannot be fulfilled if the sharing is unwarranted because it prejudices the rights and freedoms of the individual whose data is being shared.

In considering fairness you should consider whether the sharing of the personal data is reasonable. You should also consider the expectations of the individual in relation to the information. Was the individual told how their information would be used or would they expect it to be shared in this way? Would the individual object to the sharing of the information if they were given the chance? You also need to assess whether the sharing of personal data could cause harm, detriment or distress to the individual(s).

The decision as to the disclosure of personal data in the absence of consent should be made by balancing the above factors (necessity, legitimate interests, expectations of the data subject and fairness) and deciding if it reasonable in the circumstances of the case to release the information.

If you decide to share personal data you should only share the information which it is necessary to share in order to meet the objectives of the Council / third parties. If the sharing is a one-off then you will have to record your decision to share demonstrating how a decision to share (or not) was reached, how it was justified, the actual information being shared, with whom and when it was shared, whether it was shared without consent and any considerations around the impact or detriment to the individual(s).

When personal information is shared you should advise the recipient of the purpose for which the information is being provided. You should also state that the information should only be used for that purpose and, depending on the nature of the information, you may want to restrict the onward sharing of the information by advising that the information should not be disclosed to third parties. You should seek assurances from the recipient on how long the personal data will be held for and an assurance that the data will be securely disposed of. You should also enquire about the arrangements in place to provide individuals with access to their personal data if they require it.

CCTV CAMERAS:

Newry, Mourne and Down District Council operate a number of CCTV Cameras at various Council premises throughout the District. The purpose of the cameras is as follows:-

- Protecting areas and premises used by Council staff and the public;
- Deterring and detecting crime and anti-social behaviour;
- Assisting in the identification of offenders leading to their arrest and successful prosecution or other appropriate action;
- Reducing violent or aggressive behaviour towards staff;
- Reducing fear of crime, anti-social behaviour and aggression;
- Protecting Council property and assets;
- Maintaining and enhancing the commercial viability of the District and encouraging continued investment.
- Assisting in staff disciplinary, grievance, formal complaints and Health and Safety Investigations.

The systems will not be used for any other purpose than those set out in this document without Council approval, and, where appropriate, notification to staff and following consultation with the Trade Unions. Any novel or non standard use of the CCTV cameras will require the approval of the Council.

Cameras will not be used to monitor the progress of staff or individuals in the ordinary course of lawful business in the area under surveillance. Nor are managers permitted to use the cameras to observe staff working practices or time keeping or to assist them in the day-to-day management of their staff.

Individuals will only be monitored if there is reasonable cause to suspect a criminal offence or serious breach of discipline, potentially amounting to misconduct has been, or may be, about to be committed and this will only be permitted when authorised and may require the use of RIPA authorisation. Officers should consult the Head of Compliance before any such action is taken.

Each service operating CCTV cameras must establish who is responsible for the Camera and the images recorded by the Camera. That Officer will be responsible for the implementation of the good practice guidelines set out below:

Guidelines for the Operation of CCTV Cameras:

- You must let people know they are in an area where CCTV cameras are operational and that CCTV Cameras are recording their personal data. You should also provide an explanation of why CCTV cameras are in operation (ie, the purpose of the camera) and what they are used for
- CCTV Cameras should not view areas which are not of interest and are not intended to be the subject of surveillance

- In areas where people have a heightened expectation of privacy (for example, toilets, changing rooms etc) cameras should only be used in the most exceptional of circumstances and where they are necessary to deal with serious concerns. In these cases an extra effort should be made to ensure that those under surveillance are aware of the cameras. This may be by way of signs highlighting the fact that there are cameras in operation
- CCTV should not (usually) be used to record audio (for example, conversations between members of the public) as this is highly intrusive
- You must consider whether the CCTV Camera is delivering the desired benefits or whether there are alternative less privacy intrusive solutions to CCTV which might deliver the same objectives.

Use, security and Retention of Recorded Images:

- There should be restricted access to recorded material and recorded images should be viewed in a restricted area or designated office. Access to CCTV recordings should be restricted to authorised personnel only
- The public should not be allowed access to the area where staff can view CCTV
- The Council must ensure that images obtained using CCTV are not used for any purpose other than the reason they were originally captured

Disclosure of CCTV Images:

- Disclosure of images from CCTV must be controlled and consistent. Requests for images should be treated with care as a wide disclosure may be unfair to the individuals concerned (effectively breaching the Data Protection Act)
- Individuals may request images recorded of them. Such requests should be dealt with formally as Subject Access Requests under the Data Protection Act 1998. All such requests should be passed to the Head of Compliance as soon as they are received
- CCTV Images should not generally be released to third parties (although there will be times when this is permissible under the Data Protection Act). Requests for images of third parties should be dealt with formally as requests for information under the Freedom of Information Act. All such requests should be passed to the Head of Compliance as soon as they are received
- Council recognise that individuals have a right to prevent processing of their images where this would cause substantial and unwarranted damage/distress.

Breaches of The Data Protection Act:

A breach of the Data Protection Act may occur in a variety of ways. For example, this may arise from a theft or accidental loss of personal data (for example, mobile devices, laptops, documents containing personal data). It may also occur due to a deliberate attack on the Council's systems; the unauthorised use of personal data by a staff member or accidental loss or equipment failure.

ICO Penalties for breaching the Data Protection Act:

The ICO has the power to take regulatory action against public bodies for breaches of the Data Protection Act as follows:-

1. The ICO has the power to impose monetary penalties up to the value of £500,000 on organisations;

2. The ICO may issue an Undertaking or Enforcement Notice requiring an organisation to take action or;
3. The ICO has the power to criminally prosecute organisations. Individuals may also be prosecuted under the Act. Upon summary conviction (in a Magistrate's Court) fines up to £5,000 could result if employees / members process information about other people without their consent or proper authorisation from the Council. Upon conviction or indictment in the Crown Court the fine can be unlimited.

The Council's Breach Management Plan:

Should a breach of the Data Protection Act occur there are 4 main elements the Council will focus on:

- Containment & Recovery of the breach;
- Assessment of the ongoing risk caused by the breach;
- Notification of the breach and;
- Evaluation of the Council's response to the breach

The Council's Breach Management Plan is as follows:

1. All breaches should be notified immediately to the Council's Head of Compliance in order that the breach can be addressed. The Council hold a Breach Register so that staff can report breaches or potential breaches of the Data Protection Act 1998.
2. Upon becoming aware of the breach the Council will take all steps necessary to recover the information and limit the damage caused by the breach.
3. The Council will assess the risks associated with the breach. In particular it will consider what type of data is involved; how sensitive it is; if data has been lost or stolen; were there any protections in place; what has happened to the data; the level of risk posed; how many individuals are affected; who the individuals affected are; what harm can come to those individuals and any perceived wider consequences of the breach.
4. The Council will inform the appropriate people and organisations that a breach has occurred. Where appropriate the Information Commissioner's Office and the Police will be informed. The decision to inform the ICO and / or the Police will rest with Newry, Mourne and Down District Council.
5. The Council will review its response and take steps to avoid the breach reoccurring.

DATA PROTECTION TRAINING:

All individuals permitted to access personal data in line with their work duties will be trained in Data Protection following the implementation of the Data Protection Policy & Procedures. All individuals with access to personal data on or behalf of Newry, Mourne and Down District Council must agree to undertake any relevant training that may be appropriate and deemed necessary by the Council.

Following the implementation of the Data Protection Policy & Procedures Data Protection Training will form part of the Council's Induction for new employees. A copy of the Council's Data Protection Policy and Procedures will be provided to all employees (including Agency Staff) and members.

NOTIFICATION TO THE INFORMATION COMMISSIONER'S OFFICE:

The Data Protection Act requires every Data Controller who is responsible for processing personal data to notify the Information Commissioner's Office that they are processing personal data and to renew their Notification on an annual basis. Failure to do so is a criminal offence.

The Council's Head of Compliance is responsible for the Council's Notification to the Information Commissioner's Office on an annual basis.

All officers are required to make the Head of Compliance aware of any changes to the processing of personal data or any proposals to create a new system (paper or automated) which contains personal data. Any changes to the Council's Notification should be brought to the attention of the ICO within 28 days.

Complaints Regarding Subject Access Requests

If the data subject (including cases where the data subject is an employee of Newry, Mourne and Down District Council) is not happy with the response provided by Newry, Mourne and Down District Council to a Subject Access Request they have made the data subject may complain and ask that their request be reviewed by an Officer more senior than the Officer who initially processed the request for information. When responding to all requests for personal information the Council will inform all Applicants of their right to have their request reviewed by a more senior Officer. The Council will accept a request for a review no later than 2 calendar months after the date of the original response to the Applicant. The Applicant will be advised in writing of the outcome of the review within 40 days of the date of receipt by the Council of the request for the Review.

Alternatively, the data subject may complain directly to the Information Commissioner's Office (ICO). The Council will inform all Applicants of their right to complain to the ICO in responding to all requests for information. The details of the ICO are as follows:-

Information Commissioner's Office
51 Adelaide Street
Belfast
BT2 8FE
030 3123 1114
www.ico.gov.uk

All other Complaints

Where an individual believes the Council have not acted in accordance with the Data Protection Act 1998 they should complain using the Council's Complaint's Procedure. Alternatively, the individual may complain directly to the Information Commissioner's Office (ICO) (details above).

Where an employee of the Council believes the Council have not acted in accordance with the Data Protection Act 1998 they should complain using the Council's Employee Grievance Procedure. Alternatively, the employee may complain directly to the Information Commissioner's Office (ICO) (details above).

IMPLEMENTATION:

Implementation of these Procedures will be led and monitored by the Council's Head of Compliance. Compliance checks will be carried out to ensure adherence to the Council's Data Protection Policy and Procedures and the Data Protection Act 1998.

MONITORING & REVIEWS:

To ensure this Procedure complies with the terms of the Data Protection legislation and meets the needs of Newry, Mourne and Down District Council it will be reviewed annually.

CONTACTS:

Assistant Director Corporate Services (Administration)
Head of Compliance

Environmental Information Policy

1 Title

Newry, Mourne and Down District Council Environmental Information Policy

2 Statement

The Council endorses the Environmental Information Policy as a framework for the Council's compliance with and implementation of the Environmental Information Regulations 2004.

3 Aim

The aim of the Environmental Information Policy is to ensure the Council's compliance with and consistent application of the Environmental Information Regulations 2004. Newry, Mourne and Down District Council is committed to providing sufficient resources and appropriate training to ensure the Council achieves this objective. The Policy will be implemented in the public interest to promote a culture of openness and transparency in Council.

4 Scope

The Council recognises the rights of individuals to access environmental information held by the Council in accordance with the terms of the Environmental Information Regulations 2004.

The Policy applies to all recorded information which the Council holds including (but not limited to) any information which is created, received and maintained by Council Officers and Elected Members on behalf of the Council. All Council Officers and Elected members are responsible for complying with the terms of the Environmental Information Regulations 2004. All Officers and members are also expected to comply with the Council's Policy and Procedures in relation to the Environmental Information Regulations.

Non-compliance with the Regulations and the Council's Policy and Procedures on Environmental Information may result in the Council breaching its legal obligations. This, in turn, may result in Newry, Mourne and Down District Council being the subject of formal action by the Information Commissioners' office.

5 Related Policies/Legislation

Freedom of Information Act 2000

Data Protection Act 1998

Newry, Mourne and Down District Council's Policy and Procedures on Freedom of Information

Newry, Mourne and Down District Council's Policy and Procedures on Data Protection

Newry, Mourne and Down District Council's Publication Scheme

6 Definitions

The "Regulations" means the Environmental Information Regulations 2004.

The "Information Commissioners Office" means the independent authority set up to uphold information rights in the public interest.

7 Policy Owner

Assistant Director Corporate Services (Administration)

8 Contact details in regard of this policy are:

Assistant Director Corporate Services (Administration)
Head of Compliance

9 Policy Authorisation

MT Authorised on **30 September 2014**

Governance Committee Authorised on **11 November 2014**

Council Authorised on **2 December 2014**

10 Policy Effective Date **2 December 2014**

11 Policy Review Date **2 December 2017**

12 Procedures

The Environmental Information Procedures attached hereto must be adhered to in the delivery of this Policy.

13 Equality Impact Assessment

This Policy has been assessed on 13 November 2014 under Newry, Mourne and Down District Council's Equality Impact Assessment process and has been screened out as having no impact on any of the groups designated in Section 75 of the Northern Ireland Act 1998.

Data Protection Policy

Title

Newry, Mourne and Down District Council Data Protection Policy.

Statement

In handling personal data Newry, Mourne and Down District Council ("the Council") recognises that it is required, by law, to fulfil certain statutory duties and, in particular, to comply with the terms of the Data Protection Act 1998 ("the Act"). The Act establishes a framework of rights and duties which are designed to safeguard personal data. The Council fully endorses the statements and intent of the Data Protection Act and recognises that it must treat personal information correctly and lawfully. The Council regards compliance with the Act as essential to creating and maintaining confidence between the Council and individuals with whom the Council communicates.

Aim

The aim of the Data Protection Policy is to ensure the Council's compliance with and consistent application of the Data Protection Act 1998. Newry, Mourne and Down District Council is committed to providing sufficient resources and appropriate training to ensure the Council achieves this objective.

Scope

This Policy applies to all personal data held by Newry, Mourne and Down District Council.

The Policy applies to all those who have access to personal data held by Newry, Mourne and Down District Council (including but not limited to employees, agency staff, elected members, other public representatives, contractors, agents, consultants, servants of the Council and all third party data processors). All parties referred to above are responsible for complying with the terms of the Data Protection Act 1998, the Council's Data Protection Policy and Data Protection Procedures. Non-compliance with the Act and the Council's Policy & Procedures on Data Protection may result in the Council breaching its' legal obligations under the Act. This, in turn, may result in Newry, Mourne and Down District Council being the subject of formal action by the Information Commissioner's Office.

Related Policies / Legislation

The Data Protection Act 1998

The Freedom of Information Act 2000

Newry, Mourne and Down District Council's Freedom of Information Policy & Procedures

The Environmental Information Regulations 2004

Newry, Mourne and Down District Council's Retention & Disposal Schedule and Policy

Newry, Mourne and Down District Council's Publication Scheme

Definitions

The "Act" means the Data Protection Act 1998.

The "Information Commissioner's Office" means the independent authority set up to regulate and oversee the implementation of the Data Protection Act 1998.

Policy Owner

Assistant Director Corporate Services (Administration)

Contact Details

Assistant Director Corporate Services (Administration)

Head of Compliance

MT Authorised on

30 September 2014

Governance Committee Authorised on

11 November 2014

Council Authorised on

2 December 2014

Policy Effective Date:

2 December 2014

Policy Review Date:

2 December 2017

Procedures

Data Protection Procedures attached hereto must be adhered to in the delivery of this Policy.

Equality Impact Assessment

This Policy has been assessed on 13 November 2014 under Newry, Mourne and Down District Council's Equality Impact Assessment process and has been screened out as having no impact on any of the groups designated in Section 75 of the Northern Ireland Act 1998.