# LONDON BOROUGH OF MERTON

## INFORMATION AND RECORDS MANAGEMENT

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LONDON BOROUGH OF MERTON

INFORMATION AND RECORDS MANAGEMENT

Part 1 General Policy Statement

1. Introduction and background

1.1.1 The Council is dependent on its records to operate efficiently and to account for its actions. This policy sets out a framework to ensure that records are processed effectively to fulfil legal, operational and information needs and obligations in the most cost effective manner. It is supported by a framework of procedure and guidelines concerning the management of and access to the records created and held by the Council. These will be available to all staff via the intranet.

1.1.2 The information and records of the Council are its corporate memory. They provide evidence of actions and decisions and represent a vital asset to support its daily functions. They support policy formation and managerial decision-making, protect the interests of the Council and the rights of staff and of members of the public who have dealings with it. They support consistency, continuity and efficiency, and productivity, and help the Council to deliver its services in consistent and equitable ways.

1.1.3 Records and information management, (through the proper control of the content, storage and volume of records), reduces vulnerability to legal challenge, criminal use or financial loss. It also promotes best value in terms of human and space resources through greater coordination of information and storage systems, by removing semi-current records to less-expensive storage, and by ensuring that information and records are kept for as long as they are required for legal and administrative purposes and are then destroyed or retained as archives to ensure a permanent record of the activities of the Council.

1.2 Scope of the policy

1.2.1 This policy covers all information and records created or received by the Council in the course of business and captured in retrievable form in any medium, providing evidence of the functions, activities and transactions of the Council. They include administrative records (including minutes, personnel files, property documents, financial records, contracts and litigation papers); plans; photographs, slides and other images; microform; audio and video tapes and cassettes; records in all electronic formats, including email, databases and websites; and records of the Council’s agents acting in the course of Council functions. They do not include copies of publications created by other organisations, kept for reference
only.

1.2.3 This policy applies to all employees, workers and contractors of the Council.

1.3. **Policy Objectives**

1.3.1 The management of the Council’s information will be monitored by the Information Governance Steering Group who will provide an annual report to the Corporate Management Team. The Council is committed to managing its records effectively throughout the organisation by ensuring that the following objectives are fulfilled:

(a) Adequate records are created and maintained to meet the Council’s business needs and to account fully and transparently for all actions and decisions. Such records should provide credible and authoritative evidence; protect legal and other rights of the Council, its staff and those who have dealings with the Council; facilitate audit; and fulfil the Council’s legal statutory obligations.

(b) Records and information are complete and accurate, and the information they contain is reliable and its authenticity can be guaranteed.

(c) Records and the information within them can be efficiently found and retrieved by those with a legitimate right of access, in line with legal and statutory requirements, for as long as they are held by the Council, despite any changes in format.

(d) Records are kept secure from unauthorised access, alteration or destruction, and access and disclosure will be properly controlled and documented.

(e) Vital records, which the Council needs in order to function effectively, are protected.

(f) There are consistent and documented retention, appraisal and disposal procedures to ensure that records are confidentially destroyed when no longer required, or passed for permanent preservation as archives.

(g) Workers and contractors are made aware of their record-keeping responsibilities through the issuing of guidelines and the provision of training.

(h) The records and information management procedures are regularly monitored and amendments made where necessary.

(i) Records and the information within them will be processed in accordance with the Data Protection Act.

The Council declares its commitment to open access to information based
on the following principles.

- There will be a co-ordinated approach to the management of information.
- The public should be aware of their statutory rights to information.
- Councillors should be aware of their right to access information.
- Information will be made available in response to all reasonable requests for information from the public and Councillors, unless it falls within an exempted category under the Freedom of Information Act 2000.
- There will be procedures established for handling requests and for reviewing decisions about disclosure.
- Reasons will be given if it is decided to withhold access to information.
- Personal privacy and confidentiality will be respected fully in accordance with the law.
- Commercial privacy and confidentiality will be respected fully in accordance with the law.
- As much information will be held electronically as is consistent with good governance

1.4. Implementation Audit and Reporting

1.4.1 This policy will be implemented by the provision of electronic systems, storage facilities and procedures, which conform to national standards and guidelines, including ISO 15489: 2001 Information and Documentation – records management (International Standards Organisation), and The National Archives standards for the management of public records and Model Action Plan for Developing Records Management Compliant with the Lord Chancellor’s Code of Practice Under Section 46 of the Freedom of Information Act 2000. Implementation will also be by way of information sharing protocols and agreements and good practice procedures.

Audit will be carried out by the Information Governance Steering Group who will provide an annual report to the Corporate Management Team.

1.4.2 Records Creation and Record Keeping

The Council will:
- create adequate records to document essential activities;
- structure information to facilitate shared systems;
link records to metadata which documents their context;
reference and classify records to enable effective retrieval of information;
produce guidelines on the creation and use of record systems;
adequately document the record keeping system.

1.4.3 Records Maintenance

The Council will:

- provide adequate and appropriate storage for current and semi-current records;
- transfer semi-current records in a controlled manner to a designated record centre or other central storage (e.g. for electronic records);
- protect records from fire, theft and unauthorised access or alteration;
- track the location and movement of records for easy retrieval and to provide an audit trail;
- identify and safeguard vital records and put in place arrangements for business continuity.

1.4.4 Record Retention and Disposal

The Council will:

- put retention and disposal schedules and procedures in place to ensure that records are appraised and disposed of, or transferred for permanent preservation as archives in a consistent and timely manner;
- maintain documentation of the appraisal, disposal and transfer process.

1.4.5 Training and Guidance

The Council will:

- provide generic and specific guidance on record-keeping standards and procedures;
- provide training programmes for staff, contractors and workers involved in record creation, management and disposal.

1.4.6 Performance Measurement

The Council will:

- develop effective indicators to monitor the effectiveness of records management systems;
- regularly review systems in order to improve standards.
1.4.7 External Customers

The Council will apply the same levels of care to the records of external records management customers.

2 Organisational Arrangements

2.1 Responsibilities of the Council

As a Corporate body the Council has legal duties on collecting storing disseminating sharing and destroying information.

These responsibilities are discharged through a number or organs which reflect the allocation of legal responsibilities. The allocation of responsibilities is primarily effected through the Council to

- The Full Council
- The Cabinet
- Overview and Scrutiny Commission
- Standards Committee
- Chief Executive and Directors
- Head of Civic and Legal Services
- Head of Information and Communication Technology Services
- Head Of Human Resources
- Information Governance Manager

2.2 Responsibilities of the Chief Executive

The Chief Executive is ultimately responsible to the Council for the implementation and review of the information policy and publication scheme. This responsibility extends to the following:-

- Ensure the Cabinet or Council is kept informed of current legislation requirements that may affect its criminal and civil liability including changes that would require amendments to the policies.
- Ensure that appropriate responsibilities are properly assigned and accepted at all levels.
- Ensure that Directors fulfil their responsibilities for Information Governance as Heads of their own Departments and as Members of the Corporate Management Team.
2.3 Responsibilities of the Head of Civic and Legal Services

Is responsible for Information Governance arrangements across the Council.

Will promote good practice guidelines in respect of the retention of information and documents.

- The Corporate File Plan (a description of the data held by the Council, who may access it and how long it is to be retained).
- Arrangements for the proper management of the Council's duties and functions in relation to the collection and processing of information.
- Arrangement for the proper management of requests for information and reviewing refusals.
- Arrangements for authorising information sharing arrangements within the Council and with the Council's strategic partners.
- Making final determination on an appeal relating to vexatious requests.

2.4 Responsibilities of the Head of Information and Communication Technology

Is responsible for the development, provision and support of ICT systems to support the implementation and delivery of Information Governance policies.

- The capture, indexing, retrieval, security, retention and disposal of electronic information.
- The identification and implementation of such measures as are necessary for the preservation and maintenance of electronic data.
- The provision and maintenance of Electronic Record and Document Management Systems.
- The development of robust back up and disaster recovery systems.
- Assisting in the retrieval of electronic information for FOI and DPA processes.
2.5 Responsibilities of the Head of Human Resources

The Head of Human Resources is responsible for

- Making arrangement (in conjunction with HOCLS) for the proper management of personnel related information.

- Implement procedures for ensuring that sensitive personal data is processed lawfully during recruitment exercises.

- Implement procedures for processing sensitive personal data for monitoring purposes.

- Agreeing written procedures with occupational health professionals for disclosing health related information about employees to managers within the law and on a “need to know” basis.

- Disclosing personnel related information for FOI and DPA purposes.
2.6 Responsibilities of the Information Governance Manager

The Information Governance Manager is responsible as the Council’s lead Information Professional for ensuring

- Up to date knowledge of all legislation regulation and codes of practice relating to Information Management.

- Develop monitor evaluate and review Corporate policies that ensure compliance with current and amended legislation regulation and code of practice.

- Provide advice and assistance as requested on the development of departmental codes of practice policy guidelines and working practices.

- Maintain corporate records of all requests for information under FOIA. Analyse performance by reference for the 20 day response time and report to Departmental Management.

- Providing a general statement of the Council’s policy on Information Management including organisational arrangements for ensuring that the policy is effective.

- Preparing a publication scheme explaining which documents which will be published as a matter of course and how the information may be obtained.

- Provide a Corporate FOIA and DPA training programme designed to meet the requirements arising from new legislation and any training needs analysis

- Liaison with the Information Commissioner regarding developments on information governance.

- Provide advice and information relating to information governance and the contracting process.

- Create and maintain an information asset inventory of major records to support the Records Management functions and enable reuse and licensing of council information by third parties.

- Undertake a rolling programme of inspection of information governance arrangements.

- Liase with IT Managers and facilities manager on matters relating to physical and electronic record creation, filing storage and destruction of information.
2.7 Responsibilities of Individual Directors

Directors are responsible to the Council through the Chief Executive for ensuring the effectiveness of the council’s corporate information governance in relation to their own department. In particular each Director will

- Ensure that each operational/business unit of the Department has in place an adequate system for documenting its activities. This system should take into account the legislative and regulatory environments in which the authority works.

- Records of business activity should be complete and accurate and allow employees and their successors to undertake appropriate actions in the context of their responsibilities, to
  - facilitate an audit or examination of the business by anyone so authorised.
  - protect the legal and other rights of the authority, its clients and any other person affected by its actions, and
  - authenticate records so that the evidence derived from them is shown to be credible and authoritative.

- Records created by the Department should be arranged in a record keeping system that will enable the authority to obtain the maximum benefit from the quick and easy retrieval of information.

- Provide adequate storage facilities for the retention of physical records.

- Make effective arrangements to ensure that disclosures of information are dealt with systematically and efficiently in accordance with corporate requirements.

- Ensure that responsibilities within their respective departments are properly assigned and fulfilled

- Facilitate the provision to all staff of instruction and guidance on information governance

- Afford such assistance and information as is required by the Information Governance Manager who may make an inspection visit without notification

- Ensure that support is provided for CSO’s when carrying out their duties of progress chasing FOIA and DPA requests.
3 Retention and Disposal Policy

3.1 Introduction
This policy covers records retention and disposal scheduling for the London Borough of Merton, so that the council’s records are kept only for as long as needed, with all legitimate considerations having been balanced.

Retention periods of many records need to comply with specific legal and regulatory requirements; including the Data Protection Act 1998, the Limitations Act 1980 and the Freedom of Information Act 2000. Risk management also has to be applied to record retention. There are costs and liabilities for the council retaining information that they do not need, which may result in legal actions and disputes being taken out against them. This needs to be offset against the need to keep records for long enough to provide evidence in case of other legal actions.

3.2 Scope
The policy applies to all records held by the council including electronic files, video, microfiche, paper files and photographs. Separate procedures apply for the retention and destruction of electronic and paper documents. Please ensure that the appropriate procedures are used. The procedures are owned and will be updated by the Information Governance Team. The procedures will be available on the intranet.

3.3 Responsibilities
The Records Manager, in consultation with the record owners and legal services will decide on the retention of records using legislative and regulatory retention and good business practice to inform decision making. The Records Manager will maintain a retention and disposal schedule for paper records. The Records Management Society of Great Britain retention guidance for local authorities will continue to be the default retention requirements for the Council’s electronic records, but may be supplemented with locally agreed schedules and procedures with the agreement of the Records Manager.

As the Electronic Document and Records Management System is implemented across the council, the corporate file plan will be updated to include specific retention and disposal arrangements for each record type. These arrangements will be agreed in consultation with those teams who require access to the information and will be published on the intranet.
3.4 Review of Retention Schedule

Due to the creation of new records and functions, new or changes to legislation, regulations or regulatory direction, directions from the Information Commissioner, changes in auditing practice, greater public interest in policy or operational issues and increased levels of litigation, the Retention Schedule will be constantly reviewed and amended, and the latest version will be available on the intranet. The review of the Retention Schedule is the responsibility of the Information Governance team; all employees, workers, contractors and Councillors are responsible for being aware of the latest version of the schedule and informing the Information Governance team of changes in their retention requirements.
4 Data Protection Policy

4.1 Introduction
The Council uses personal information in order to carry out the Council’s functions as required by law. A large number of Acts of Parliament and Regulations made under them requires and sometimes empowers the Council to provide goods and services to the community and to individuals in the community. The Council therefore collects information required for or incidental to the discharge of its functions.

Therefore the council will endeavour to ensure that it uses personal information in line with the expectations and interests of its citizens and the Data Protection Act 1998.

The Data Protection Act 1998 has eight principles on handling personal data. Personal data covers both facts and opinions about individuals. The principles require that data must be:

• Obtained and used fairly and lawfully
• Used for limited specified purposes
• Adequate, relevant and not excessive
• Accurate and up-to-date (if necessary)
• Not kept longer than necessary
• Handled in accordance with the individual’s rights
• Secure
• Not transferred to countries without adequate protection for data

In order to comply with the Act you must do the following:

1. Personal Information will be processed fairly and lawfully. Citizens will be informed about how their information is used and shared. Information supplied in confidence will not be disclosed without consent, unless it can be shown that the sharing is in the overriding public interest.

2. Personal Information will not be used for secondary purposes that are against the legitimate interests of the people it relates to, unless those purposes are required by law or are in the overriding public interest.

3. You will only seek to obtain relevant information. Whilst records kept by the Council will be adequate to support and record our work, they will not be excessive.

4. If you become aware that the information we hold is inaccurate or out of date you will take appropriate steps to correct it.

5. We will not keep personal information longer than is necessary and will maintain a Records Management Function to support this.

6. Any who wants to exercise their rights to access information will be
assisted by the London Borough of Merton Information Governance Team.

7. Personal data will be kept securely with appropriate safeguards in place according to the information’s sensitivity. Personal data will be processed in accordance with the London Borough of Merton’s Information Security policies.

8. Personal data will not be sent out of the European Economic Area without appropriate safeguards to protect the rights of individuals.

4.2 Collection of Personal Data and Fair Processing
The Data Protection Act requires that the collection and use of personal information is fair. For this reason you must make available information about how and why information is being collected and who it may be disclosed to. You must also make available any other information necessary to make our collection and use of that information fair and transparent. Guidance will be available to staff to help them include this information on any forms or publicity materials they produce.

There are occasions when this fair processing information will not always be available. The collection or disclosure of information where authorised or required by any enactment does not require us to make available information about how it will be used (this information being a matter of public record). However, we will always provide details of how we use personal data on request, unless to do so would prejudice a criminal investigation or place someone at risk of harm.

4.3 Sharing Personal Information
Depending on the original purpose for which it was obtained and the use to which it is to be put, information may be shared with a variety of services. It may also be shared, where necessary, with other organisations that provide services on our behalf such as providers of residential accommodation, providers of voluntary care and contractors for housing maintenance. We will always seek to share information with partners for the benefit of service users unless legal restrictions prevent this.

In all of these examples the information provided is only the minimum necessary to enable the provision of services to the community. We will inform citizens about who their data is shared with at the earliest opportunity.

Personal information may also be provided to central government departments, where we are required to do so by law, or under certain circumstances to other local authorities. An example would be when someone has moved from one local authority to another and the new authority requires confirmation of the services they were receiving. Information may also be provided for statistical research, although this will not include names and address unless we have been given permission to provide that information. Information is shared with the Police, Customs and Excise, the Inland Revenue and the National Fraud Initiative to prevent and detect crime, prosecute offenders and assess taxes.

The Council will support employees in following the guidance in HM Government
publication “Information Sharing Guidance for Practitioners and Managers (Oct 2008)”. The council is committed to providing efficient, easy to access services that meet the needs of individuals. To achieve these aims it is important that we share information across the council and with other organisations effectively and ethically.

When we share personal information we will do so securely and in compliance with our information security policy. We respect the privacy of service users, whilst ensuring that we use the information that we hold to provide the vulnerable with the protection that they need.

We will support our officers in using their professional judgement when sharing information by providing expert advice and support on information sharing, appropriate training and effective supervision and support.

We will work with our partners to develop frameworks for sharing information across multi agency teams and document pre-specified, regular or bulk sharing of information.

We expect our officers to respect the confidentiality of information about individuals. Whilst we will support officers in taking decisions about information sharing in accordance with their professional judgement we take disciplinary or legal action against officers who wilfully misuse personal data for unauthorised purposes.

4.4 Rights of access and prevention of processing
The Data Protection Act gives individuals the right to access the information we hold about them. This is right is not absolute, information about third parties, information prejudicial to investigations or social work as well as legal advice may be withheld in accordance with the law. The council supports the right of individuals to know how the council uses their information and will be proactive in allowing people access to their files.

Requests to access information held about individuals need to be supported by proof of identity and the appropriate fee and will be responded to within 40 days.

Children are entitled to access the information held about them in ContactPoint. When a parent or guardian applies on behalf of a child certain information may not be disclosed without the child’s consent or where disclosure is not in the child’s best interests. Should any information be disputed, this will be addressed in accordance with the guidance contained in the ContactPoint – Manage Data Best Practice Procedures.
4.5 Misuse of Personal Information
It is an offence for a person, knowingly or recklessly, without the consent of the council to:
• obtain or disclose personal data or the information contained in personal data, or
• procure the disclosure to another person of the information contained in personal data.
Unless the disclosure
  - was necessary to prevent or detect crime; or
  - was required or authorised by law,

The council will take action against anyone found to be supplying information to a third party or using information for their own purposes without the consent of the council, or a reasonable belief that they were working in accordance with the wishes of the council. Such offences are criminal offences and may be punished with a fine or imprisonment.

5 Freedom of Information Policy
5.1 Statement of objectives
The London Borough of Merton supports the Freedom of Information Act 2000 and its objectives of openness and accountability in the public sector. The purpose of this policy is to assist employees in meeting the requirements of the Freedom of Information Act.
A copy of this policy will be made available to the public via the website.

5.2 The Freedom of Information Act – a summary
The Freedom of Information Act 2000 gives the public a statutory right to access the majority of records held by public authorities. In doing so it aims to make public authorities more accountable and bring about a change in the provision of information to the public from need to know to right to know.

5.3 The Right of Access
The Act gives any person the right to request information held by the Council. Provided the request is made in writing, the Council must either confirm or deny whether or not information of the description sought is held by the Council. The Council must also provide applicants with such advice and assistance as may reasonably be expected.
5.4 The Publication Scheme
The Council is required by the Act to operate a publication scheme. This is a guide to information that the Council publishes or intends to publish routinely. It is intended that information will be made accessible unless there is a valid justification for not doing so. Information that is published, or is to be published under the publication scheme, will not be provided in response to a request for information. Instead the applicant will be directed to the publication containing the information requested. Departments wishing to add to, or update the publication scheme should inform the Freedom of Information Officer as necessary.

5.5 Applicable Fees
Where information is published in hard copy there may be a charge. Information available on the website will generally be free, although a charge may be made for printing.

Charges may be levied for both the material costs (paper, printing etc). Additionally the officer time involved in locating and extracting information may be charged if it exceeds 18 hours or £450. The Council undertakes to inform the applicant of the likely cost within a reasonable time. Requests will be deemed to have expired after three months of notification of the charges if no payment is forthcoming. Where a fee is payable no information will be released until the Council has received the fee.

5.6 Timescale
The Council is required to provide the information requested within the statutory time limit of 20 working days. Where a fee is required the information will be provided within 20 working days of the receipt of the request (excluding any time period between the notification to the applicant of any fees and the receipt by the Council of those fees). In the event that exceptional circumstances make compliance with the 20 working day time limit impossible, officers will contact the applicant offering them as much information as possible and giving a timeframe for the provision of the outstanding information.

5.7 The Provision of Information
The Council will provide advice and assistance where appropriate. In complying with the legislation the Council may provide the information contained in its records in a different format to the one it is held in. The Council will provide information in different formats where this will increase access to the information provided that the costs of doing so are within reason.

5.8 Complaints and Appeals
Should access to information be refused, the applicant may appeal in accordance with the Council’s complaints policy. Applicants have a further right of appeal to the Information Commissioner. The Council will work together with the Office of the Information Commissioner to resolve such appeals.
5.9 Responsibility for Locating and Accessing Information
It is the responsibility of all employees to ensure compliance with this policy and the procedures issued with it. The decision to apply an exemption under the Freedom of Information Act will be the responsibility of the FOI Officer, who will endeavour to ensure a consistent and fair approach to the application of exemptions.

It is a criminal offence to alter, deface, block, erase, destroy or conceal information to prevent disclosure

5.10 Responsibilities of Elected Members
Elected Members must ensure that they abide by both the Freedom of Information Act 2000 and this policy.

As representatives of the Council, Members may receive requests for information from the public. These requests are subject to this policy and any applicable fees. Members should not use their position to obtain information for individual constituents. Additionally Members must not pass information that has been obtained in the course of their duties to any outside body or organisation where such information is confidential or subject to any of the exemptions contained in the Freedom of Information Act.

Members may make use of the Freedom of Information Act to request information from the Council. The information will be provided within the time period set down in this policy and will be subject to the exemptions and the payment any applicable fees. Members will not be required to state the purpose they intend to use the information for when making a request.

Information held by Members in connection with party activities or the representation of their constituents (those activities which are covered by their individual notifications to the Information Commissioner under the 1998 Data Protection Act) are not subject to the Freedom of Information Act. However information held as part of their Council duties (e.g. as a committee member) will be subject to this policy.

5.11 Guidance and Training
- The Council will provide printed guidance on the handling and logging of requests, the application of exemptions and the interpretation of the public interest considerations.
- Briefing sessions will be available to all staff. These sessions will comprise of basic awareness training.
- FOI awareness will form part of every employee’s induction.
- Specialist training will be provided on the processing of requests for “frontline” staff who regularly receive requests.
- All Councillors will be provided with guidance regarding the implications of the Act to Councillors.
5.12 Applying the Exemptions
When responding to a request the intention will always be to provide as much information as possible. Where an exemption applies, the Council will still provide as much information as possible, either through editing out the exempt information or suggesting alternative sources of information. Exemptions will only be applied where there are good grounds to do so and will not be applied merely to hide embarrassing or sensitive information.

Schedule 12A of the Local Government Act 1972 (as amended by The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 lays down circumstances under which access to meetings and documents can be refused. Steps should be taken to ensure that reports are prepared on the basis that the public is entitled to them unless there is a good contrary reason which reflects one of the statutory exemptions. Since the public expect the Council to release as much information as possible it would be sensible to avoid the need for time consuming future redaction exercises by identifying and separating confidential information at the earliest possible stage e.g. through submitting confidential addenda to reports which cite the relevant exemption and the reason for preventing disclosure.

5.13 Vexatious or Repeated Requests
The Council is not obliged to respond to vexatious or repeated requests. Requests that are judged to be vexatious or repetitive in nature will be answered by the Freedom of Information Officer. Applicants have the right to appeal against such judgements through the Council’s complaint procedure.

5.14 Guidance for users
The Information Governance Manager may issue guidance notes to users of this policy as necessary.