



Lostwithiel Town Council

Combined Freedom of Information, Environmental Information & Publication Scheme Policy

**This policy was developed and adopted on: 10th March 2026
Minute Reference 339/25**

PART 1 – GENERAL POLICY STATEMENT

1. Commitment to Transparency

Lostwithiel Town Council is committed to openness, transparency and accountability.

The Council recognises its statutory duties to provide information under:

- The Freedom of Information Act 2000 (FOIA)
- The Environmental Information Regulations 2004 (EIR)

The Council will:

- Proactively publish information where possible
- Respond to requests promptly and lawfully
- Apply exemptions only where justified
- Provide advice and assistance to applicants

PART 2 – FREEDOM OF INFORMATION (FOIA) POLICY

2. Scope

FOIA gives a general right of access to recorded information held by the Council.

This includes:

- Paper records
- Emails
- Electronic files
- Minutes and reports
- Contracts
- Financial information

It does not require the Council to create new information.

3. Making a Request

Requests must:

- Be in writing (email acceptable)
- Include the requester's name
- Provide a contact address
- Clearly describe the information requested

Requests should be sent to:

Sandra Harris, Town Clerk, Lostwithiel Town Council,
Edgcumbe House Lostwithiel Cornwall PL22 0BL

clerk@lostwithieltowncouncil.gov.uk

4. Timescales

The Council will respond within **20 working days**.

Where clarification is required, the statutory clock pauses until clarification is received.

5. Fees

- Most requests are free.
- Reasonable photocopying and postage costs may apply.
- If costs exceed the statutory limit (£450 equivalent), the request may be refused or a fee notice issued.

6. Exemptions

Information may be withheld where exemptions apply, including:

- Personal data (Data Protection Act 2018)
- Commercial confidentiality
- Legal professional privilege
- Information provided in confidence

Where a qualified exemption applies, the public interest test will be considered.

7. Internal Review & Appeal

If dissatisfied, the requester may request an internal review within 40 working days.

The review will be conducted by a Councillor or Panel not previously involved.

If still dissatisfied, the requester may complain to the Information Commissioner's Office.

PART 3 – ENVIRONMENTAL INFORMATION REGULATIONS (EIR) POLICY

8. What is Environmental Information?

Environmental information includes information on:

- Land and buildings
- Planning matters
- Trees and open spaces

- Allotments
- Burial grounds
- Noise or nuisance
- Environmental health impacts
- Measures affecting the environment

EIR has a broader definition than FOIA and applies to most Council land and planning matters.

9. Request Requirements

Unlike FOIA, EIR requests:

- May be made verbally
- Do not need to mention the Regulations
- Must be responded to within 20 working days

This may extend to 40 working days for complex requests.

10. Exceptions Under EIR

EIR contains “exceptions” rather than exemptions.

These are subject to a presumption in favour of disclosure and include:

- Personal data
- Confidential commercial information
- Internal communications
- Manifestly unreasonable requests

All exceptions require a public interest test.

11. Internal Review Under EIR

If dissatisfied, the applicant may request an internal review within 40 working days.

The Council must respond within 40 working days.

Further appeal lies with the Information Commissioner.

PART 4 – PUBLICATION SCHEME

12. Adoption of Model Publication Scheme

The Council adopts the Information Commissioners Office Model Publication Scheme and commits to publishing information in the following classes:

Class 1 – Who We Are and What We Do

- Councillor details
- Council structure
- Contact details
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Class 2 – What We Spend and How We Spend It

- Annual budget
- Precept
- Accounts
- Asset register
- Audit reports

Class 3 – What Our Priorities Are and How We Are Doing

- Strategic plans
- Annual reports

Class 4 – How We Make Decisions

- Agendas
- Minutes
- Standing Orders
- Financial Regulations

Class 5 – Policies and Procedures

- Complaints
- Data protection
- Equality
- Risk management
- Health and safety

Class 6 – Lists and Registers

- Register of Members' Interests
- Asset register

Class 7 – Services We Offer

- Allotments
- Open spaces
- Burial grounds
- Community facilities

Information will be made available:

- On the Council website
- For inspection by appointment
- In hard copy (reasonable charges may apply)

PART 5 – RECORDS MANAGEMENT

The Council will:

- Maintain accurate and up-to-date records
- Retain records in accordance with retention guidance
- Ensure secure storage
- Dispose of records lawfully

Effective records management reduces FOI risk.

PART 6 – UNREASONABLE OR REPEATED REQUESTS

The Council may refuse requests that are:

- Vexatious (FOIA)
- Manifestly unreasonable (EIR)
- Repeated without significant change

Each case will be assessed individually and proportionately.

PART 7 – RESPONSIBILITIES

- The Town Clerk is responsible for day-to-day compliance.
- Councillors must forward information requests promptly to the Clerk.
- All Members must ensure Council email accounts are retained appropriately.

Appendix 1 Clerk FOI & EIR Handling checklist

This checklist should be used **for every request received**.

STEP 1 – Log Immediately

- Date received
- Requester name and contact details
- Summary of request
- Deadline date (20 working days)
- FOI or EIR? (Environmental information has different rules)
- Acknowledgement sent

Note: If unclear whether FOI or EIR, treat as EIR (wider right of access).

STEP 2 – Is It a Valid Request?

FOI must:

- Be in writing (email acceptable)
- Include requester's real name
- Include contact address
- Describe information requested

EIR may:

- Be verbal
- Not mention legislation

If unclear → request clarification (clock pauses until received).

STEP 3 – Is the Information Held?

- Check Council systems, emails, files
- Check committee papers
- Check archived records
- Confirm whether held on behalf of the Council

If not held:

- Issue "Not Held" response within 20 working days

STEP 4 – Consider Exemptions / Exceptions

Common FOI Exemptions

- Personal data (Data Protection Act 2018)
- Legal professional privilege
- Commercial confidentiality
- Information provided in confidence
- Vexatious request
- Repeated request

Common EIR Exceptions

- Personal data
- Manifestly unreasonable
- Internal communications
- Confidential commercial information
- Apply Public Interest Test where required
- Record reasoning in writing (internal file note)

STEP 5 – Cost Assessment

- Will staff time exceed £450 limit (18 hours)?
- If yes → issue refusal or fee notice
- If photocopying/postage → calculate reasonable charge

STEP 6 – Draft Response

Response must:

- Confirm whether information is held
- Provide information (unless exempt)
- Cite specific exemption/exception
- Explain public interest reasoning (if required)
- Advise right to internal review
- Provide ICO complaint details

Tone must be factual, neutral and professional.

STEP 7 – Internal Review (if requested)

- Logged
- Assigned to Councillor/Panel not previously involved
- Completed within 40 working days
- Response explains decision clearly
- ICO appeal rights included

STEP 8 – File & Retain

- Save request and response
- Save internal reasoning notes
- Update FOI log
- Flag if pattern of repeated requests

Operational Golden Rules for Clerk

- Never ignore a request.
- Never delay without reason.
- Never delete records after receiving a request.
- Always document exemption reasoning.
- When unsure → seek advice before refusing.

Appendix 2 – Red Flag legal risk guide

This guide helps Members avoid escalation and legal exposure.

RED FLAG 1 – “We don’t have to answer that.”

Risk: Failure to comply with statutory duties. Reality:
If information is held, the Council must respond unless a lawful exemption applies.

Members should:

- ✓ Refer to Clerk
- ✓ Avoid making public statements about refusing requests

RED FLAG 2 – Deleting Emails After a Request

Risk: Criminal offence under FOIA if records are altered or destroyed to avoid disclosure.

Members must:

- ✓ Preserve all relevant emails and documents
- ✓ Never delete after a request is received

RED FLAG 3 – Personal Data Disclosure

Risk: Breach of Data Protection Act 2018

Common mistakes:

- Releasing complainant identities
- Sharing employee HR matters
- Disclosing personal email addresses

Always redact personal data unless lawful basis for disclosure exists.

RED FLAG 4 – Using “Vexatious” Casually

Risk: ICO challenge if unjustified. A request is not vexatious simply because:

- It is critical
- It is frequent
- It is politically inconvenient

Must show disproportionate burden or harassment.

RED FLAG 5 – Mixing FOI with Complaints

Risk: Confusion of legal processes.

FOI is about **access to information**, not grievance resolution.

Do not refuse FOI because the issue is “part of a complaint.”

RED FLAG 6 – Environmental Information Mistakes

Planning, land, allotments, trees, burial grounds = likely EIR.

EIR has:

- Broader disclosure duty
- Presumption in favour of disclosure
- Public interest test for all exceptions

Members should assume environmental requests are harder to refuse.

RED FLAG 7 – Email & WhatsApp Governance

Council business conducted via:

- Personal email
- Messaging apps
- Social media

May still be disclosable if it relates to Council business.

Members must:

- ✓ Avoid conducting Council business informally
- ✓ Forward relevant communications to the Clerk

RED FLAG 8 – Public Meeting Statements

Statements like:

- “We won’t be releasing that.”
- “That’s confidential.”

Should only be made after Clerk advice.

RED FLAG 9 – Pre-Litigation Indicators

Escalation likely if requester:

- Mentions judicial review
 - Mentions discrimination
 - Mentions ICO repeatedly
 - Requests internal review immediately
- Proceed carefully and document everything.

Practical Member Rule

If unsure whether something should be disclosed:

Do not debate it publicly.

Refer it to the Clerk.

Record the process.

Appendix 3

ICO Compliance Self-Audit Checklist

Review Frequency: Annually

Completed by: Town Clerk

Reported to: Full Council

PART 1 – Governance & Policies

- FOI, EIR and Publication Scheme policies formally adopted
- Policies reviewed within last 3 years
- ICO Model Publication Scheme adopted
- Policies published on website
- Internal Review process clearly documented
- Unreasonably Persistent/Vexatious policy in place
- Records retention policy adopted
- Data protection policy adopted

If any “No” → High governance risk

PART 2 – FOI & EIR Request Handling

- Central FOI/EIR log maintained
- All requests acknowledged promptly
- 20 working day deadline consistently met
- Extensions properly documented (EIR complex cases)
- Exemption reasoning recorded in writing
- Public Interest Tests documented where required
- Internal reviews completed within 40 working days
- ICO contact details included in refusal letters
- No requests ignored or left unanswered

Red flag: Any missed statutory deadlines without explanation.

PART 3 – Records Management

- Clear filing system (electronic and paper)
- Councillors forward FOI requests to Clerk immediately
- Council email accounts used for official business

- Procedures discourage use of private messaging apps
- Retention periods defined and followed
- No evidence of document deletion after request receipt

Critical Risk: Deleting or altering records after an FOI request is received.

PART 4 – Personal Data & Redaction

- Personal data routinely reviewed before disclosure
- Redaction process consistent and documented
- Staff aware of data protection obligations
- Sensitive HR matters securely stored
- Minutes reviewed for unnecessary personal data

High Risk Area: Accidental disclosure of complainant or employee data.

PART 5 – Environmental Information (EIR) Awareness

- Clerk understands broad definition of environmental information
- Planning, land, allotments and burial matters treated as EIR
- Public interest presumption considered
- Verbal requests recognised as valid

Common Failure: Treating environmental requests as standard FOI only.

PART 6 – Website Transparency

- Agendas published in advance
- Minutes published promptly
- Budget and precept published
- Annual accounts published
- Asset register published
- Register of Members' Interests accessible
- Policies publicly available

Transparency reduces FOI volume and ICO scrutiny risk.

PART 7 – Training & Member Awareness

- Members briefed on FOI & EIR obligations in past 2 years
- Members aware not to delete emails relating to Council business

- Members understand WhatsApp/social media may be disclosable
- Chair understands managing FOI issues at meetings

Governance Risk: Informal communication channels not controlled.

PART 8 – Previous ICO Engagement

- Any ICO complaints logged
- ICO decision notices reviewed by Council
- Lessons learned implemented
- No repeated patterns of complaint

If ICO has issued a decision notice → Review compliance carefully.

PART 9 – Risk Rating Summary

After completing checklist, rate overall compliance:

- Low Risk – Fully compliant, minor improvements only
- Medium Risk – Some gaps, corrective action required
- High Risk – Immediate governance review required

Action Plan Section

| Identified Issues | Action Required | Responsible | Deadline |
|--------------------------|------------------------|--------------------|-----------------|
|--------------------------|------------------------|--------------------|-----------------|

Governance Best Practice

Full Council should minute annually that:

“The Council has reviewed its compliance with FOI, EIR and Publication Scheme requirements and is satisfied that appropriate systems are in place.”