Re-use of Public Sector Information Policy

Implementation date: 04 October 2016

Control schedule

Approved by	Corporate Policy and Strategy Committee
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Senior Responsible Officer	Kevin Wilbraham, Information Governance Manager
Author	Kevin Wilbraham, Information Governance Manager
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Version control

Version	Date	Author	Comment
0.1	21.08.16	Kevin Wilbraham	Policy created and first draft circulated
0.2	28-08-2016	Kevin Wilbraham	Comments incorporated
0.3	03-09-2016	Kevin Wilbraham	Draft version agreed by Head of Strategy (interim)
1.0	04-10-2016	Kevin Wilbraham	Agreed by CP&S

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
30-09-2014	Corporate Policy & Strategy	Information Governance Policies	Minute
04-10-2016	Corporate Policy & Strategy	Information Governance Policies	Minute

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THE CITY OF EDINBURGH COUNCIL

Re-use of Public Sector Information Policy

Policy statement

1.1 The Re-use of Public Sector Information Regulations 2015 ("the Regulations") provides a legal framework to encourage the re-use of public sector information. This policy formalises and sets out the City of Edinburgh Council's ("the Council") approach to complying with the Regulations, and reaffirms the Council's commitment to open data.

Scope

2.1 This policy applies to all information (regardless of format) produced, held or disseminated by the Council which relate to the delivery of services and provision of a statutory function. These are defined by the Council's Public Task.

2.2 All Council staff, including temporary staff, contractors, consultants and volunteers that create and manage Council information are covered by this policy, including third parties that carry out a statutory function or service on behalf of the Council.

Definitions

3.1 **Data**: the raw input from which information is derived.

3.2 **Data quality***:* recognition that the accuracy, coverage, timeliness and completeness of data can significantly impact on the value of its use.

3.3 **Data stewards** are nominated by Information Asset Owners with operational responsibility for information assets within their respective service areas. This will involve the application of information governance rules, and the up-dating of Council data and records to help ensure data integrity and quality, and the proactive identification of data sets that can be published on the Council's Open Data Portal.

3.4 **Freedom of information laws**: comprises of the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and the INSPIRE (Scotland) Regulations 2009.

3.5 **Information:** is recorded in any form or format that is held by the Council, or held by a third party on the Council's behalf.

3.6 **Information asset**: information that is defined and managed as a single unit so it can be understood, shared, protected and exploited effectively.

3.7 **Information asset register:** a governance tool that lists the Council's key information assets.

3.8 **Information asset owners:** senior officers involved in managing a business area(s) with responsibility for the information assets within their respective business area(s).

3.9 **Machine-readable format**: a file format structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure. Information is in a standard computer language (not English text) that can be read automatically by a web browser or computer system (e.g., XML or CSV).

3.10 **Marginal cost**: limited to the cost of collection, production, reproduction, provision and dissemination of information (which for digital or online information may be nil) for most public sector bodies.

3.11 **Metadata**: information that describes or defines other information, includes file descriptions, codebooks, processing details, sample designs, etc

3.12 **Open data**: data that is accessible (usually via the internet), in a machine readable form, free of restriction on use. It supports transparency and accountability, effective services and economic growth. Public sector information and its metadata should available in open format whenever possible.

3.13 **Public sector information**: information collected, held, produced, reproduced or disseminated by a public sector body while accomplishing its public task.

3.14 **Public task**: what a public sector body does, or produces, holds, collects or provides to fulfil its core role and functions, whether those are statutory or established through custom and practice

3.15 **Publication Scheme**: Details what information the Council routinely makes publicly available. A requirement under the Freedom of Information (Scotland) Act 2002,

3.16 **Re-use**: using information for a purpose other than the initial public task purpose for which the public sector body produced, collected, held or disseminated the information. Re-use can be for either commercial or non-commercial purposes.

Policy content

Legislative context

4.1 The Re-use of Public Sector Information Regulations 2015 ("the Regulations") provides a legal framework to encourage the re-use of public sector information. It creates a right to apply to re-use information which is held by the Council.

4.2 Under the Regulations, re-use means using public sector information for a purpose different from the one for which it was originally produced, held or disseminated, including commercial and non-commercial purposes. This aligns with the Council's vision for Open Data and is designed to promote economic

opportunities, enhance job creation, and improve the flow of information from the public sector to the citizen.

4.3   The Council's Public Task determines what information produced, collected or held by the Council falls within the scope of the Regulations. The Public Task relates to a public authority's core statutory role, including functions established through custom and practice. The Council's Public Task is set out in the appendix to this policy.

4.4   Under the Regulations, public authorities have to produce an information asset list. This requirement is provided by the Council's Publication Scheme which details the classes of information that the Council routinely makes available.

4.5   The Regulations are concerned with permitting the re-use of information and how it is made available. It is not about accessing information. Access rights are covered by Scotland's freedoms of information laws which provide statutory rights of access to information held by the Council. Obtaining information in this way does not provide an applicant with an automatic right to re-use that information. An application must still be made under the Regulations.

Open Data

4.6   The Council's vision for Open Data is that "data will be open by default, of a high quality, timely, comprehensive and usable by all". To deliver this vision, significant amounts of Council information and data sets are already available for re-use through the Council's Open Data Portal.

4.7   Information already available through the Council's Open Data Portal, unless otherwise indicated, is offered under the Open Government Licence. This means that a re-use application is not required. If the information is not available through Open Data Portal but is part of the Council's Public Task, the council will consider all requests to re-use information under the Regulations.

4.8   All data sets released under the Regulations will be considered for open data publication with a presumption in favour of publication whenever possible.

4.9   Similarly, data sets released under Scotland's freedom of information laws will be considered for open data publication, subject to assessment around copyright and formatting issues.

Dealing with requests

4.10   When making a re-use request, applicants must:

4.10.1   submit their requests in writing,

4.10.2   provide their name and a correspondence address,

4.10.3   specify the information they want to re-use,

4.10.4   state what the purpose they intend to use it for.

4.11   If the information has not been previously disclosed, the request will be treated as a request for information under Scotland's freedom of information laws to

determine if the information is exempt. Only when the information is provided will it become eligible for re-use. At that point the re-use element of the request will become a valid re-use request.

4.12   The Council will respond to re-use requests within 20 working days. This timescale may be extended if the request involves an extensive number of documents or raises complex issues. If the timescale is extended, applicants will be informed before the 20 working day deadline why the response time has been extended, and provided with a date on which to expect a response.

4.13   If Council receives two requests from different applicants, it will not discriminate between them. This means that exclusivity arrangements can only be granted in exceptional circumstances and will be subject to regular review.

Formats

4.14   The Council will make information available for re-use in the format and language in which we hold it. The Council will endeavour, whenever possible, to make information available in a machine readable format with appropriate metadata.

4.15   The Council can refuse re-use requests where valid exceptions apply. These may include:

4.15.1   Information for which the copyright is held by a third-party.

4.15.2   Information that falls outside the scope of the Council's Public Task.

4.15.3   Information that contains personal data.

4.15.4   Information exempt from disclosure under information access legislation such as the Freedom of Information (Scotland) Act 2002.

4.16   The Regulations do not apply to third-party copyright information. Any applicant requesting re-use of such information will be directed to the copyright holder. Where the copyright is jointly held by the Council and a third party, the permission of both bodies must be agreed before re-use is permitted.

4.17   Where requests are refused, the applicant will be advised of the decision and their right to make a formal complaint.

Charging

4.18   The Council can charge marginal costs for allowing the re-use of its information. These are limited to the reproduction, provision and dissemination of documents. There are three exceptions to this:

4.18.1   Where the Council is required to generate revenue to cover a substantial part of the costs relating to our public task.

4.18.2   Where the Council is required to generate revenue from documents to cover a substantial part of our costs.

4.18.3   Where the information is held for the purposes of our libraries, museums or archives.

4.19   While the Council reserves the right to charge, it is committed to providing information at no cost whenever possible. Any costs levied will be based on a reasonable rate of return for the re-use of the requested information. Applicants will be made aware of any costs at the time of their application and their right to make a formal complaint.

Terms and conditions of re-using information

4.20   The Council is committed to being as open and non-restrictive as possible in relation to re-use requests. To achieve this Council will use the [Open Government Licence](#). This arrangement is already used as part of the Council's Open Data arrangements and allows the re-use of public sector information without charge for any purpose, commercial or otherwise, with minimal conditions.

4.21   Other licences may be appropriate in particular situations, including where a charge for re-use is permitted beyond the marginal cost of reproduction, provision, and dissemination of documents.

4.22   Applicants will be made aware of licensing arrangements at the time of their application and their right to make a formal complaint. Applicants are expected to read and understand their responsibilities in relation to any licensing arrangements.

Complaints procedure

4.23   Re-use complaints will be dealt with through the Council's freedom of information review procedures, and a response issued within 20 working days. This timescale may vary depending on the complexity of the matter. Complainants will be informed

4.24   If an applicant is not satisfied with the Council's response to their complaint, they can complain to the UK Information Commissioner. The UK Information Commissioner will confer with the Scottish Information Commissioner (as appropriate) and investigate and assess if the Council has met its obligations under the Regulations.

4.25   Any complaints to the UK Information Commissioner must be in writing, state the nature of the complaint, and include a copy of the Council's decision notice.

Implementation

5.1   This policy will be implemented and monitored through the Information Council's annual plan. The plan will outline key tasks, outcomes, accountabilities and progress.

5.2   Key measurements of successful implementation of this policy will be:

5.2.1   Meeting deadlines when responding to requests

5.2.2   Managing the review processes to address concerns without regulator involvement

5.2.3   Operating a model of continuous review and improvement when responding to requests.

5.3   Performance will be routinely reported to the Information Council, Council Leadership Team and other senior management teams, where appropriate

5.4   Council staff will be given awareness, induction and refresher training on the Regulations.

Roles and responsibilities

6.1   The Information Governance Policy provides a detailed explanation concerning overall roles and responsibilities around information governance. This section provides a summary of those responsibilities, but also outlines specific responsibilities in relation to compliance with the access legislation detailed in this policy.

Elected Members

6.2   All Elected Members will be aware of the Regulations and know to pass any re-use requests to the Information Governance Unit.

Council Leadership Team

6.3   The Corporate Leadership Team has overall responsibility for information governance. This involves providing high-level support to ensure that each directorate and locality applies relevant information governance policies and controls, including compliance with the Regulations.

Senior Information Risk Owner

6.4   The Head of Strategy and Insight is the Council's Senior Information Risk Owner (SIRO) within the Chief Executive's Office. The SIRO has delegated authority through the Corporate Leadership Team with specific responsibility for information risk. The SIRO ensures information risks are identified, assessed and effectively managed, including compliance issues concerning the Regulations.

Information Governance Manager

6.5   Accountability for the on-going strategic development of information governance lies with the Information Governance Manager within the Strategy & Insight service area of the Chief Executive's Office. The Information Governance Manager deputises for the SIRO as required.

Digital Innovation Manager

6.6   The Digital Innovation Manager is responsible for the continued development of the Council's Open Data Strategy and Open Data Portal.

Information Council

6.7   The Information Council (IC) has delegated responsibility, through the SIRO and the Corporate Leadership Team, for the development and delivery of effective information governance throughout the Council. In particular, the IC will provide the necessary ownership and advocacy required to support, co-ordinate, promote, monitor and assure compliance with the Regulations and the on-going development of open data within the Council.

Information Governance Unit

6.8   The Information Governance Unit will:

6.8.1   Act as the first point of contact for all re-use requests received by the Council.

6.8.2   Log, process and respond to re-use requests received by the Council.

6.8.3   Assess and allocate re-use requests to the relevant service to ask them to identify any relevant, recorded information that they hold which would fulfil the request.

6.8.4   Liaise with services concerning exemption/ charge/ licence condition.

6.8.5   Provide the final decision as to whether any exemption/ charge/ licence condition applies to the re-use request.

Information Rights Manager

6.9   The Information Rights Manager is responsible for:

6.9.1   Co-ordinating the work of the Information Rights Team, including monitoring compliance with re-use requests.

6.9.2   Maintenance of the Council's Publication Scheme

6.9.3   Providing guidance and training in relation to the Regulations

Review Officer

6.10   To ensure impartiality, reviews of decisions where the applicant is dissatisfied with how their response has been dealt with are carried out by the Council's Review Officer. The Review Officer is part of the Information Compliance Team under the Information Governance Unit.

6.11   The review officer also acts as the liaison link with external regulators and provides submissions in relation to any appeals made by applicants.

Managers and supervisors

6.12 All managers and supervisors have a responsibility for enabling effective information governance within their respective service areas and teams. In relation to this policy this includes:

6.12.1 Providing local and effective arrangements to ensure the timely return of relevant information to the Information Governance Unit to fulfil re-use requests.

6.12.2 Pro-actively identifying data sets that can be published on the Council's Open Data Portal.

6.12.3 Ensuring that staff have received information governance training and are aware of their role and responsibilities in relation to identifying and processing re-use requests, including assisting applicants when required.

Staff

6.13 All Council staff must be able to:

6.13.1 Identify any request that falls under the Regulations.

6.13.2 Provide advice and assistance to persons making re-use requests.

6.13.3 Know to pass any re-use requests onto the Information Governance Unit.

6.14 As part of their role and remit, individuals may also be nominated as Data Stewards with operational responsibility for data quality and the proactive identification of data sets that can be published on the Council's Open Data Portal.

Related documents

Council Policy

7.1 Archives Policy

7.2 Data Quality Policy

7.3 Information Governance Policy

7.4 Information Rights Policy

7.5 Information Security Policy

7.6 Managing Personal Data Policy

7.7 Records Management Policy

Codes, Guidance, Procedures and Strategy

7.8 Employee Code of Conduct

7.9 Open Data Strategy

Legislation

7.10 [Re-use of Public Sector Information Regulations, 2015](#)

Equalities impact

8.1 There are no equalities issues arising from this policy.

Sustainability impact

9.1 There are no sustainability issues arising from this policy.

Risk assessment

10.1 The risks of not implementing this policy include reputational damage to the Council, non-compliance with legislation and potential litigation.

Review

11.1 This policy will be reviewed annually or more frequently if required by significant changes in legislation, regulation or business practice. It will be reviewed by the Information Council and presented to Council committee annually, in line with the Council's Policy Framework.

City of Edinburgh Council Statement of Public Task

Statement

This statement sets out the functions carried out by the City of Edinburgh Council that are within our public task under the Re-use of Public Sector Information Regulations 2015 (the Regulations). Re-Use means the use of public sector information for a purpose other than the initial purpose for which it was produced, held, collected or disseminated.

The City of Edinburgh Council's powers are conferred by statute and include:

- **Mandatory powers –** such as providing schooling and social work services
- **Permissive powers –** such as economic development and recreation services
- **Regulatory powers –** such as planning control, trading standards, environmental health and the issue of licences for taxi's and public houses

The City of Edinburgh Council is responsible for the provision of a range of public services within the Edinburgh area. The main services the Council provides, in addition to its regulatory and licensing functions, are:

- Arts
- Culture
- Economic Development
- Education
- Environmental Protection
- Housing and the Build Environment

- Sport
- Libraries
- Parks
- Roads and Transport
- Social Work
- Waste Management

In addition, The Local Government Scotland Act 2003 gives a statutory basis for partnership working between all agencies (such as health boards, benefits agencies, further and higher education institutions) responsible for public service delivery in an area. This partnership approach is called Community Planning. The Council is responsible for initiating, facilitating and maintaining Community Planning within the Edinburgh area.

Information which the Council produces in the delivery of these public tasks is generally available for re-use under the Regulations. However:

- the Regulations do not apply to information that would be exempt from disclosure under information access legislation, e.g., the Data Protection Act 1998, the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004;

- the Regulations do not apply to documents held by schools; and
- the Regulations do not apply to a document where a third party owns certain intellectual property rights in the document.

Details of information that we have already published for re-use can be found on the open data pages of our website and in the Council's Publication Scheme.

Review of public task statement

This statement is regularly reviewed and is due to be considered again in April 2017.

Request for re-use of information

If you wish to apply for access to our information under the Re-use of Public Sector Information Regulations please email the Council's Information Governance Unit at foi@edinburgh.gov.uk, or write to them at:

Information Governance Unit
City of Edinburgh Council
Business Centre 2:1
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

Queries and complaints

If you have any queries on this public task statement, you can submit them to this email address (add relevant email address in here). If you have a complaint about the City of Edinburgh Council under the Re-use Regulations, you can contact us at legalfoi@edinburgh.gov.uk.

If you remain unhappy with our response, you can make an appeal to the Office of the UK Information Commissioner online at: https://ico.org.uk/concerns/getting, or by post to the address below:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Alternatively, you can contact the UK Information Commissioner's office via telephone on 0303 123 1113.