

**Report To:** Corporate Governance Committee

**Date of Meeting:** 27<sup>th</sup> February 2013

**Lead Member / Officer:** Alan Smith, Head of Business Planning & Performance

**Report Author:** Lisa Jones, Deputy Monitoring Officer.

**Title:** Information Legislation Policies

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**1. What is the report about?**

To provide the Corporate Governance Committee with the draft reviewed Freedom of Information and Data Protection Policies.

**2. What is the reason for making this report?**

The Council was subject to a Wales Audit Office report in relation to its Information Management governance. More recently in 2012 in relation to Data Protection, Freedom of Information and access to Environmental Information, by the Council's internal Audit team. One of the recommendations emanating from both reports was that the Council can improve its policies in this area.

**3. What are the Recommendations?**

That the Corporate Governance Committee:-

- (1) Note the contents of both policies.
- (2) Provide Officers with the Committee's views on the contents of the Policies and their fitness for purpose.

**4. Report details.**

The aim of the revised policies is to provide a clear policy statement, where this is possible, in relation to Freedom of Information and Data Protection, acknowledged at the highest level by the 'Personal Information Promise'. The policies go further than pure policy however, and provide a procedural guide to officers, members and the public on the Councils handling of requests for information and the processing of personal data.

Officers involved in drafting the policies had considered having one overarching policy; however, the two regimes to some extent pull in opposite directions. One is a measure to safeguard personal privacy; the other is designed to secure open access to information. They do overlap in parts, for example, some personal information of public facing figures such as elected members or senior executives is disclosed.

This interface between the two areas of law is a thread that flows through both policies, however their application is easier to understand in separate policies.

The implications of breaching this area of the law are significant; not only in relation to the public's confidence in this Council and how it processes personal information, but also the heavy fines (maximum of £500,000 in serious cases) that the Information Commissioner now has power to hand down.

A parallel regime to Freedom of Information is the Environmental Information Regulations 2004 and the revision of that policy will not be concluded until later in the year, due in part to litigation that is in progress surrounding access to land charges information and a group action that is being brought by personal search companies against the majority of local authorities in England and Wales.

As part of the strategy to improve our information management and move towards greater electronic records management and streamlined data flows, members will note from perusal of the policies, the role of the Corporate Information Management Team.

The revised policies appended to this report, also take into consideration the existence and value of the recently formalised Access to Information Exemptions Panel. This Panel now has the delegated authority to make decisions on whether an Exemption from disclosure is appropriate, rather than leaving such decisions to individual officers within the Council. This decision making is made with the support of at least one legally qualified officer. The starting point will always be open government, unless there is a very good reason not to disclose information requested. This reflects the legal approach in the legislation and provides consistency and proportionality to decision making. The Panel received full council approval in April 2012 as part of the review of the Constitution.

Open government is good government and the traditional culture of unnecessary secrecy is starting to erode at a local and central government level. It is essential therefore that we have robust processes in place that facilitate this, whilst respecting personal privacy rights.

## **5. How does the decision contribute to the Corporate Priorities?**

Improved practices and governance will contribute to the priority of becoming a high performing Council.

Weaknesses in the Council's approach to Information Management is currently a risk on the Corporate Risk Register.

## **6. What will it cost and how will it affect other services?**

There are no implications on other services as a result of this report.

Those services that process sensitive personal data will benefit from further specialist support, expertise and training in order to ensure they comply with their obligations to our customers.

**7. What consultations have been carried out?**

Consultation has taken place with the following:

The Information Management Officers within each service/area.  
The Corporate Information Management team.  
CET  
Internal Audit

Following Corporate Governance Committee, it is intended the two draft policies will be placed on the Council intranet for wider consultation, in advance of Full Council considering the policy statements for adoption.

**8. Chief Finance Officer Statement**

Not required.

**9. What risks are there and is there anything we can do to reduce them?**

There is a greater risk in not improving our practices in this area.

**10. Power to make the Decision**

Local Government Act 1972.  
Freedom of Information Act 2000  
Data Protection Act 1998