

# Freedom of Information

**The Freedom of Information Act 2000 (FoIA) and Environmental Information Regulations 2004 (EIR) came into force on 1 January 2005 providing a general right of access to all recorded information held by the GLA, subject to certain exemptions provided by the legislation.**

FoIA places two key obligations on public authorities. The first is to maintain a [publication scheme](#) which is a directory of information we routinely and proactively make available to the public. If you wish to add anything to the publication scheme please contact the [Information Governance Team](#).

The second duty is to respond to individual requests for information not contained within the publication scheme.

Compliance with the FoIA is the responsibility of everyone employed by the GLA and induction training can be arranged through the Learning and Development team. In addition the following guides have been designed to assist you in understanding the requirements of the FoIA, your responsibilities and best practice tips when handling requests for information.

# FOI guidance for GLA staff

**As a public authority, the GLA is legally obliged to provide information in response to requests. This page explains our obligations and standard procedures under the Freedom of Information (FOI) Act 2000 and Environmental Information Regulations (EIR) 2004**

## A short film about FOI

If you're new to the world of FOI and EIR, this short (13-minute) film provides a humorous introduction to the main responsibilities of public authorities under the FOI Act and EIR.

<https://www.youtube.com/watch?v=Tdff6UPzvDQ>

## Recognising an FOI and EIR request

For a request to be valid under the FOI Act, it must:

- be in writing (eg letter, email, fax, tweet);
- include a contact name and address (which can be an email address); and
- describe the information that is being requested (this must be information that already exists, in a recorded form).

A request does not need to cite FOI for it to be a valid request, nor does a request for non-recorded information (eg a question requiring an answer to be created or a request for comment) constitute an FOI request just because it says it is being made under the FOI Act - it is down to the GLA to decide which legislation, if any, the request falls under.

As a general principle the FOI Act is applicant and motive blind. In other words, it does not matter who the requester is, where they are from, or why they want the information (and the GLA is not entitled to ask).

If the information being requested is environmental in nature it should be dealt with under the EIR, rather than the FOI Act.

## Definition of environmental information

The EIR broadly defines environmental information as being information in any format, on matters that have an impact on the state of the environment. More specifically, information on:

- the state of the elements (eg air, water, soil, landscape, biological diversity) and their interaction;
- factors affecting or likely to affect those elements (eg waste emissions and discharges, noise, energy, radiation, etc);
- measures affecting, or designed to protect, those elements and factors (eg policies, plans and activities);
- reports, cost benefit and economic analyses; and

- the state of human health and safety, conditions of human life, cultural sites and built structures.

In addition to the more obvious environmental information held by the GLA (on air quality, energy and waste, for example), information relating to housing, planning, construction and transport projects is also likely to constitute environmental information as defined in the EIR.

### Differences from the FOI Act

Environmental information requests can generally be handled in the same way as FOI requests and should also be responded to within 20 working days. There are some key differences between FOI and EIR requests, however:

- Requests under the EIR can be made verbally, not just in writing.
- A wider range of bodies is covered by the EIR (some private sector companies performing public functions, for example).
- Exemptions from disclosure in the EIR (called 'exceptions') include ones for withholding 'internal communications' and 'draft or incomplete information', which are not available under the FOI Act. However, all EIR exceptions are subject to a public interest test.
- There is no equivalent £450 FOI cost limit to refuse requests under the EIR, although unreasonably excessive requests could be caught by the 'manifestly unreasonable' exception in the EIR.

### Processing a request

All requests received by the GLA must be passed to the Public Liaison Unit (PLU) so that they can be logged on WriteON, allocated to the most appropriate GLA officer to manage, and tracked through to completion by the Information Governance team. Because the GLA has 20 working days to respond once a request has been received, it is important that requests are passed to PLU immediately to ensure there is as much time as possible to conduct a search for information and finalise a response.

You have a duty under both the FOI Act and the EIR to provide advice and assistance to people who have made, or propose to make, information requests to the GLA. If you are allocated a request to deal with, you should check whether the applicant has described the information they want in enough detail to enable you to locate and retrieve the relevant information. If the request is unclear you should respond to the requester asking for clarification (the 20 working day timeframe does not commence until sufficient clarification has been received).

Where a request asks for information that is held in more than one directorate, it will be allocated to the Information Governance team to manage and coordinate. Directorates will still be responsible for providing information held within their areas.

**Remember, FOI requests require prioritisation: they must, by law, be responded to within 20 working days.**

### Refusing a request on cost/time grounds

Under the FOI Act, a request can be refused if it would cost more than £450 to:

- determine whether the GLA holds the information;
- locate the information or a document that contains the information;
- retrieve the information or a document that contains the information; and
- review and extract relevant information from the document containing it (ie separating it from information not within the scope of the request)

For the purposes of estimating the cost of complying with a request, staff time is calculated at £25 per hour. This means that where it would take more than **18 hours** of staff time to carry out the tasks above, the GLA can refuse the request.

Some activities we cannot take into account when calculating the cost include:

- considering whether information is exempt under the FOI Act;
- corresponding with the applicant;
- logging or forwarding the request; and
- redacting (deleting) information that is exempt from disclosure.

Where two or more requests are received for related information from the same person, or from a group of people acting as part of a campaign, the requests can be aggregated for the purpose of considering whether the cost limit applies.

Whilst there is no equivalent cost limit in the EIR, a request for information which could have been refused on cost grounds under the FOI Act were it not environmental information, could potentially be refused as 'manifestly unreasonable' under regulation 12(4)(b) of the EIR.

If you think a request you have been allocated can be refused on cost grounds, please contact the Information Governance team for advice. You will need to provide an estimate of the time it would take to locate, retrieve and extract the requested information.

## Applying exemptions to withhold information

If you think some of the information being requested is sensitive and should be withheld, you can ask the Information Governance team for an exemption from disclosure. The Information Governance team will assess whether there is a suitable exemption under the FOI Act or EIR that can be applied. If an exemption is engaged, the Information Governance team will draft an Exemption Certificate outlining the reasons why the exemption applies and including any necessary public interest test arguments. The Certificate will need to be approved by your senior manager.

Examples of the type of information that can be exempt from disclosure by the GLA:

- Personal data (eg individual HR data, information about members of the public, personal, names and salaries of non-senior staff).
- Commercially sensitive information where disclosure would harm somebody's commercial interests (eg a company's pricing structure, trade secrets, an organisation's unique working methods).
- Information which will be published at a future date (eg a draft report, performance statistics).

- Information which has been provided to the GLA under a non-disclosure agreement or subject to a contractual confidentiality clause, or with a reasonable expectation of confidence (not just documents labelled 'confidential').
- Legal advice or information relating to ongoing or proposed litigation.
- Information where disclosure would harm the health and safety of any individual or the general public.
- Information which is reasonably accessible by other means (eg information which is proactively made available by another body, even if there is a fee to obtain it).
- Information where disclosure would inhibit the free and frank provision of advice/exchange of views. The purpose of this is to make sure that a 'private thinking space' exists for potentially controversial discussion and debate about future policy development.
- Draft or incomplete **environmental** information.
- Internal communications about **environmental** information.

## Dealing with vexatious and repeat requests

You may refuse a request for information where:

- the request is 'vexatious' (or 'manifestly unreasonable' for environmental information requests); or
- the request is a repeated request - one which is identical or substantially similar to a previous request from the same person (with which the GLA has complied) may be refused unless a reasonable interval has elapsed between it and the previous response.

For vexatious requests, the key question is whether the request (taking into account its surrounding context and history) is likely to cause distress, disruption or irritation without any proper or justified cause. It is the request itself, not the identity of the requester or the consequences of disclosure, that is relevant.

A vexatious request will usually meet several of the following criteria:

- It can be reasonably seen as obsessive.
- It has the effect of harassing the GLA or causing distress to staff.
- It would impose a significant burden in terms of expense and distraction.
- It is designed to cause disruption or annoyance.
- It does not have any serious purpose or value.

This is not intended to be a formulaic test, and not all of these factors need be present.

**Please contact the Information Governance team for advice before refusing a request on these grounds.**

## Complaints

### Internal reviews

If somebody is unhappy with the response that they receive to a request under the FOI Act or EIR, they have the right to make a complaint to the GLA and have an internal review of the handling of their request. Any expression of dissatisfaction relating to the GLA's response should be treated as a complaint and forwarded to the Information Governance team.

The Information Governance team will conduct an internal review in accordance with the GLA's Information Access and Re-use Requests Complaints and Internal Review Procedure.

### Appeals to the Information Commissioner

If the complainant is not content with the outcome of the internal review they can contact the [Information Commissioner](#) to appeal. The Information Commissioner will investigate the facts behind the complaint and may then issue a decision notice, which is published on their website. This is the Commissioner's view on whether or not the GLA has complied with the FOI Act or EIR and can include legally-binding steps for the GLA to follow (eg ordering the disclosure of information by a specified deadline).

Both complainants and the GLA can appeal against the Information Commissioner's decision to an independent First-tier Tribunal (Information Rights).

# Freedom of Information: 10 top tips

Top 10 good practice tips from the Information Governance team to help you handle FOI requests.

1. **Clarify vague and complicated requests.** Before starting work on a request, check that the request itself is clear and that you know what information is being asked for. Ambiguous or vague requests should be clarified with the applicant and the 20 working days does not begin until sufficient clarification has been received.
2. **Estimate how long will it take.** Before commencing any detailed searches, take a moment to think about how long the request is likely to take to deal with. If it is likely to take in excess of 18 hours of staff time, you can refuse the request and get the applicant to narrow it down. This should be done within the first five working days and not on the 20th working day!
3. **Prioritise the response.** Responding to FOI requests within 20 working days is a legal obligation. Being "busy", "short-staffed" or having "more important things to do" are not valid reasons for late responses. FOI response timeliness is monitored by the Information Governance team and reported to senior managers on a quarterly basis. Missed deadlines are broken down by GLA directorate and team to ensure accountability.
4. **Identify sensitivities at the beginning.** Try and identify early on whether there is likely to be information that will need to be exempt from disclosure. If there is, contact the Information Governance team as soon as possible so they can help you consider what can and cannot be disclosed and prepare a suitable exemption certificate in good time.
5. **Keep the requester informed.** Whether clarifying a request, helping them specify the information they want, or keeping them informed of progress when there are delays, communicating directly with the requester can help resolve problems swiftly and reduce the likelihood of complaints.
6. **Give more if it helps.** Set the context of any information being disclosed with some background details, explain complicated data or supply additional information where it is useful. This will avoid the information being misconstrued and can help provide a more balanced view.
7. **Know what you hold and where you hold it.** Ensure your team manages its information and records in accordance with the GLA's [Records Management Policy](#) and best practice guidelines. This will enable you to easily locate and retrieve requested information (not to mention help you do your day-to-day job more efficiently!). Poor records management is not an excuse for non-compliance with the FOIA.
8. **Don't be a hoarder.** Only keep hold of information that you have to, in line with the GLA [retention schedule](#). Remember, if you don't hold information, you don't need to supply it or create it for the purposes of an FOI request.
9. **Be proactive.** If work you are carrying out is in the wider public interest, think about publishing it on the GLA website or making it available via the GLA's [publication scheme](#). This will save you time dealing with multiple requests for the same information.
10. **Check with the experts.** Look at the [Information Governance](#) pages on the Intranet for guidance on FOI, data protection and information and records management, or you can contact the team at any time for advice and assistance.

## Guidance note on official GLA information held in private email accounts

The Information Commissioner published new guidance at the end of 2011 clarifying the legal status under the Freedom of Information (FOI) Act of information relating to the business of a public authority held in private email accounts in particular, but also other media formats (such as mobile phone text messages).

### Overview

The FOI Act applies to official information held in private email accounts (and other media formats) when held on behalf of the GLA.

- This has always been the case – the Act covers all recorded information in any form. The Information Commissioner's guidance clarifies, rather than changes, the situation.
- Such information may be exempt and will not necessarily have to be disclosed.
- It may be necessary to request relevant individuals to search private email accounts in particular cases. The occasions when this will be necessary are expected to be rare.
- Adherence to good records management practice should assist in managing risks associated with the use of private email accounts for GLA business purposes.

Information held in non-work personal email accounts (eg Gmail, Hotmail and Yahoo) may be subject to the FOI Act if it relates to the official business of the GLA. If the information amounts to GLA business it is likely to be considered as held on behalf of the GLA in accordance with section 3(2)(b) of the FOI Act.

Political work and other information that does not relate to the business of the GLA is not subject to the FOI Act.

Where the GLA receives a valid FOI request for information that is held on an individual's personal email account, it will need to ask that individual to search their account for any relevant information.

If the information is held and was generated in the course of conducting GLA business, it is likely to be within the scope of the request.

Where individuals have been asked to search private email accounts for requested information, there should be a record of the action taken. The GLA will then be able to demonstrate, if required, that appropriate searches have been made in relation to a particular request. The Information Commissioner may need to see this in the event of a complaint arising from the handling of the request.



## **Concealment and deletion**

Deleting or concealing information with the intention of preventing its disclosure following receipt of a request is a criminal offence under section 77 of the FOI Act. For example, where information that is covered by a request is knowingly treated as not held because it is held in a private email account, this may count as concealment intended to prevent the disclosure of information, with the person concealing the information being liable to prosecution.

## **Records Management**

In order to avoid the complications of requesting searches of private email accounts, and other private media, information on GLA-related business should be recorded on the GLA's systems in so far as reasonably practicable.

It is accepted that, in certain circumstances, it may be necessary to use private email for GLA business. In such cases, a GLA email address should be copied in to ensure the completeness of the GLA's records. This will make it easier for the GLA to determine whether information is held and to locate and retrieve it in response to FOI requests. If the information is contained within the GLA's systems it can also be subject to consistently applied retention and destruction policies.

Where appropriate (eg communications where an ongoing discussion is required or sensitive/confidential issues are to be discussed) face-to-face or telephone conversations should be considered rather than email or text.

## **Changes to the Freedom of Information Act from 1 September 2013: Providing datasets in a re-usable format**

Section 102 of the Protection of Freedoms Act 2012 adds new provisions to the Freedom of Information Act (FOIA) which require public authorities to make certain datasets available for re-use in response to FOI requests. These new requirements make it a legal requirement to implement aspects of the government's Transparency and Open Data agenda, which have until now largely developed on the basis of policy and good practice.

### **Definition of a dataset**

A dataset<sup>1</sup> is defined as a collection of factual information in electronic form to do with the services and functions of the GLA that is neither the product of analysis or interpretation, nor an official statistic and has not been materially altered.

A dataset will therefore consist of raw data and not data that the GLA has collected and then added value to. Obvious examples include monthly expenditure data which is currently published by the GLA, but it may also cover a wide range of performance related information that is not yet published.

### **Releasing datasets**

When releasing any dataset under the FOIA the GLA must, as far as reasonably practicable, provide it in an electronic form which is re-usable (ie in machine-readable formats such as CSV or Excel rather than in non-readable formats such as PDF or image files).

In deciding whether it would be practicable to provide the dataset in a re-usable format, the GLA can take account of all the relevant circumstances, which may include the time and the cost involved in converting the dataset from a proprietary to a re-usable format.

### **Licensing datasets for re-use**

The GLA only needs to licence re-use where the dataset, or part of it, is a relevant copyright work and the GLA is the sole owner of the copyright. A relevant copyright work includes a work which is subject to copyright or a database subject to a database right.

If a third party owns the copyright or database right in the dataset, the GLA is not obliged to licence its re-use. However, it must still provide the dataset in a re-usable form and explain that it is not licensing re-use, and provide details of the rights owner (if known).

Where third party owners of copyright or database rights are likely to have concerns regarding the release and potential unauthorised re-use of datasets, the GLA should consider whether any

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<sup>1</sup> FOIA section 11(5): "Information comprising a collection of information held in electronic form where all or most of the information in the collection –

- (a) Has been obtained or recorded for the purpose of providing a public authority with information in connection with the provision of a service by the authority or the carrying out of any other function of the authority,
- (b) Is factual information which –
  - (i) Is not the product of analysis or interpretation other than calculation, and
  - (ii) Is not an official statistic (within the meaning given by section 6(1) of the Statistics and Registration Service Act 2007), and
- (c) Remains presented in a way that (except for the purpose of forming part of the collection) has not been organised, adapted or otherwise materially altered since it was obtained or recorded."

of the exemptions under the FOIA (eg section 43 – prejudice to commercial interests or section 41 – information provided in confidence) could apply to the disclosure of the information.

When licensing re-use of a dataset, the GLA must use one of the following licences:

1. **UK Open Government Licence (OGL):** A non-transactional open licence which enables re-use with virtually no restrictions. It is applicable when re-use, including for commercial purposes, is at no cost to the user. It only requires the GLA to link to the OGL which is hosted on The National Archives (TNA) website:  
<http://www.nationalarchives.gov.uk/doc/open-government-licence>.
2. **Non-commercial Government Licence (NGL):** Developed to cover circumstances where information may only be used for non-commercial purposes. As with the OGL, the GLA can link to the NGL on TNA website:  
<http://www.nationalarchives.gov.uk/doc/non-commercial-government-licence/>.
3. **Charged Licence:** Where the GLA charges a fee for the re-use of a dataset, it must do so in accordance with the Charged Licence:  
<http://www.nationalarchives.gov.uk/information-management/government-licensing/charged-licence.htm>.

Where charging a re-use fee under the Charged Licence, the fee must be calculated in accordance with the following requirements:

- The total licence fee should not exceed the cost of collection, production, reproduction and dissemination of the dataset and a reasonable return on investment; and
- The licence fee should be determined as far as is reasonably practicable in accordance with the GLA's standard accounting principles, and on the basis of a reasonable estimate of the demand for the dataset over the appropriate accounting period.

## Enforcement

The new provisions will be enforced by the Information Commissioner as with other provisions under the FOIA. This means that a person requesting a dataset can make a complaint to the Commissioner if they consider that the GLA has not complied with its obligations to make it available for re-use under the FOIA. This could lead to a decision notice requiring the GLA to comply with the request.

## Personal data contained in datasets

Where datasets contain personal data, the GLA will need to balance its obligations under the FOIA with its obligations to protect personal data under the Data Protection Act 1998 (DPA). Consideration should be given to applying the section 40 exemption (personal data) under the FOIA in order to redact personal information that is exempt before making datasets available.

It is also important for the GLA to ensure that, when redacting personal data from datasets, the personal data is fully removed and not just masked or hidden from view. This is a particular risk in Excel documents<sup>2</sup>.

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<sup>2</sup> Islington Council was recently fined £70,000 in relation to a breach of the DPA which was caused when tenant information was inadvertently disclosed in response to an FOI request. The breach occurred when source data that contained personal information was not removed from the pivot tables in a spreadsheet which was then published on a website.

# Information Governance guidance for the Mayor and London Assembly Members

**The official status of information held by the Mayor and Assembly Members can be confusing. Some information will constitute information held by the GLA, some will be personal and some may belong to a political party. Each has different implications under information access legislation such as the Freedom of Information Act and the Data Protection Act, and for the GLA's records management practices in general.**

## **Guidance**

- Freedom of Information and London Assembly Members
- Data protection and London Assembly Members
- Managing records - guidance for London Assembly Members
- FOI and information held in private email accounts

A statement of the GLA's position regarding records held by the Mayor (and Deputy Mayors) and Assembly Members, and the related legal requirements, has been incorporated as part of the GLA Records Management Policy.

## **Elections guidance**

- Records and information issues for a departing Mayor (and Mayoral appointees)
- Records and information issues for Members who may be leaving the London Assembly

# Freedom of Information and London Assembly Members

## What is a Freedom of Information request?

The Freedom of Information Act (FOIA) requires public bodies to disclose any recorded information they hold, other than exempt information, within 20 working days of a written request by anyone.

For a request to be valid it must:

- be in writing (including email);
- describe the information that is required (the FOIA covers requests for *information*, not documents); and
- provide a name and contact address (including email address).

The requester does not need to specify that their request for information is under the FOIA – it is down to the GLA to recognise that it should be dealt with as such.

The GLA is not entitled to know why the requester wants the information and the FOIA is ‘applicant blind’ – ie the identity of the requester should be irrelevant to the response (although there are occasional exceptions, for example when personal data or commercially sensitive information has been requested and disclosure could be made to the individual or company that the information is about, but nobody else).

## What Member information is subject to the FOIA?

Information relating directly to an Assembly Members’ activities in carrying out the GLA’s (or a functional body’s) functions by virtue of their role as an Assembly Member (eg on any committee) are GLA records and therefore subject to the FOIA.

Other examples of Member-related information that will be subject to the FOIA include

- Information relating to Assembly Members and Groups (eg Member expenses, accounts) – though requests for this type of data would most likely be dealt with by the relevant unit within the GLA (eg Finance Unit).
- Press releases and publications prepared by GLA staff about Member or group work on the Assembly.

## What Member information is NOT subject to the FOIA?

Assembly Members’ information concerning constituency business or their activities as part of a political group are considered Members’ own information (see the GLA protocol on Members’ recordkeeping) and are not held by the GLA for the purposes of the FOIA. This is likely to include:

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- Constituency casework
- Minutes of political group meetings
- Information relating to Members' roles as elected representatives, or politicians, rather than as Assembly Members

### **How will FOI requests be dealt with?**

Any request made to any Assembly Member or staff of their political group will be forwarded to the designated Group FOI Coordinator and will be logged and progressed using the Group's correspondence monitoring system. If it relates solely to their group, the Coordinator will ensure that a response is prepared. If it relates to one or more other political groups and/or the Secretariat, the Coordinator will pass it to the Secretariat Coordinator, who will ensure that a coordinated response is prepared. If it relates more widely to the GLA, for example, to the Mayor, or to one or more other GLA directorates, the Coordinator will pass it to the Public Liaison Unit for action.

### **How will the GLA deal with requests for Member information falling outside of the FOI Act?**

If a request for information is received by the GLA which is considered likely to relate to information held by an Assembly Member in a personal, political or constituency capacity, the GLA will pass the request on and inform the correspondent that this had been done, explaining that the request fell outside the bounds of FOI legislation. It would then be up to the Assembly Member concerned to decide how best to respond.

### **What else do Assembly Members and staff have to do?**

To show compliance with the FOI Act, requests for information should be logged and retained. Responses to requests, and explanations where a request for information has been refused, will also need to be retained as an audit trail for the purposes of conducting an internal review should a complaint be made.

## **Data Protection and London Assembly Members**

### **Data Protection Act 1998**

The Data Protection Act (DPA) 1998 regulates any processing (collecting, holding, using, destroying etc) of personal data that relates to living individuals.

Any person who determines the purposes for which and the manner in which any personal data are, or are to be, processed are 'data controllers' under the DPA and must notify the Information Commissioner's Office (ICO) about the personal data it processes. A description of the processing activities is placed on a public register of notifications on the ICO website ([http://www.ico.gov.uk/what\\_we\\_cover/register\\_of\\_data\\_controllers.aspx](http://www.ico.gov.uk/what_we_cover/register_of_data_controllers.aspx)).

Anyone who processes personal data must also comply with eight data protection principles which together provide a framework for DPA compliance.

### **Notification with the Information Commissioner**

In considering whether they need to notify the ICO, Assembly Members must first decide in what capacity they are processing personal data.

#### **1. As members of the GLA**

Personal data collected by virtue of membership of the GLA, using the resources of the GLA and relating directly to its functions and powers, is covered by the GLA's notification. In this case it is the GLA rather than the Assembly Member that determines what personal data is used for and how it is processed. Likewise personal data processed by virtue of a position on the board of a GLA functional body which the Member has been nominated to, will be covered by either the GLA's registration or that of the functional body. For example, if an Assembly Member considers committee reports, briefings and copies of approvals relating to planning applications as part of their preparation for the planning housing committee, they are carrying out the GLA's functions and do not need to notify the ICO in their own right.

#### **2. As a representative of the residents of their constituency**

When Assembly Members represent residents of their constituency, or in the case of London-wide Members, the residents of Greater London they will have to notify in their own right (eg if they use personal data to take forward complaints made by local residents). The GLA recommends that all Assembly Members register with the ICO as individuals so that they may legitimately collect and process personal data for the purposes of conducting constituency business. A standard form for notification by elected members has been created by the ICO to simplify the procedure.

#### **3. As a representative of a political party**

When acting on behalf of a political party, Members are entitled to rely upon the notification made by the party.

When individuals campaign on behalf of a political party to be the elected member for a particular ward, they can rely on the party's notification if the party determines how and why the personal data is processed for the purpose of their individual campaigns.

Individuals that are not part of any political party, but campaign to be an independent elected member for a particular ward, need to have their own notification, in respect of their campaigning activity.

### **Use of personal data**

When considering whether or not to use personal data for any particular purpose, Assembly Members should take into account the context in which that information was collected to decide whether their use of the information will be fair and lawful (the first data protection principle).

Assembly Members must not use personal data collected by the GLA for political or representational purposes unless both the GLA and the individuals concerned agree. For example, Members could not use a list of individuals the GLA collected for the purposes of informing them about future events for party political purposes such as mail shots or canvassing, without their consent.

Assembly Members should ensure that the distinct types of personal data they deal with are kept wholly separate, for example in 'constituency' files and 'GLA' files, as a failure to do so may inadvertently place the member in breach of the requirements under the DPA.

### **The data protection principles**

Assembly Members, like all GLA staff, should follow the eight principles in Schedule 1 of the DPA which state that personal data must:

1. Be processed fairly and lawfully
2. Be held only for specified purposes
3. Be adequate, relevant and not excessive
4. Be accurate and up to date
5. Be kept for no longer than necessary
6. Be processed in accordance with the rights of data subjects
7. Be protected by appropriate security measures
8. Not be transferred outside the European Economic Area

For guidance on the data protection principles, see the *Data Protection* page on the GLA Intranet.

### **Individuals' rights and access to information**

Individuals have a number of rights under the DPA including the right to prevent handling which causes damage and distress, the right to correct inaccurate information, the right to prevent processing for direct marketing, and the right to access information about themselves (via a 'subject access request').

Through a subject access request, individuals have a right to ask:



- whether you are processing their personal data
- for a description of their personal data and the purpose it is held
- for a description of who might see their personal data
- for a copy of the information

Requests must be made in writing indicating what information is sought and must be responded to within 40 calendar days.

Subject access requests for personal data held in relation to GLA business are processed by the GLA's Data Protection Officer in Technology Group in the first instance. Assembly Members should contact the Senior Legal Adviser to the London Assembly for advice on dealing with subject access requests for personal data they hold in relation to their constituency work.

### **Information security**

For guidance on keeping personal data secure, see the *Information and Records Management* page on the GLA Intranet.

### **Offences**

The DPA contains a number of criminal offences including:

- When someone is required to notify and does not do so. For example, an Assembly Member who holds electronic records of constituents' details for casework purposes, would commit an offence if they had not notified this use of personal data.
- Making unauthorised disclosures of personal data. For example, an Assembly Member who disclosed personal data held by the GLA to their party for electioneering purposes without the GLA's consent.
- Procuring unauthorised disclosures of personal data. For example, an Assembly Member who obtained a copy of personal data apparently for GLA purposes, but in reality for their own personal use (or the use of their party) is likely to have committed an offence.

### **Assembly Members not standing or not returned after an election**

Assembly Members who are not standing for re-election should begin to review their records as soon as possible having decided not to stand. They should consider what personal data they hold, how it was collected and for what purpose it is, was or should be used. Personal data which is no longer required for the purpose for which it was collected should be securely destroyed in accordance with the second, fifth and seventh data protection principles.

Former Assembly Members who are not returned after an election should review their records. They will continue to be the data controller for all personal data that they hold as a result of constituency work and they must therefore be sure that anything they do with this information is in line with the expectations of the individuals concerned. Their notification to the ICO should also be reviewed.

Personal data which Assembly Members have in their possession as a result of their GLA work may be returned to the Secretariat if it is work in progress or if it relates to past activity and the Assembly Member believes that Secretariat do not have a copy of it.

### **The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002**

The legislation allows elected representatives who have registered with the Information Commissioner to process personal and sensitive personal data, with the consent of the data subject, from the date of their election until, in the event that they lose their seats or stand down, two days after the date on which an alternative candidate is returned or the last result is declared in an ordinary election process. After this point their registration as elected members will lapse and any further processing of personal data will be a criminal offence. Elected representatives are permitted to designate staff to process information on their behalf. The processing must relate to their duties as an Assembly Member, in response to a request from the individual concerned and be necessary for dealing with it.

They may ask other data collectors and processors to consider disclosing information to them **without** the express consent of data subjects where it is reasonable for them to do so in order to be able to deal with the complaint or matter to hand. The other collectors or processors are not obliged to disclose the information but commit no offence if they do so, provided the Member's registration is still current.

# Information Governance Induction course

## Course aim

For delegates to understand the GLA's statutory obligations under the Freedom of Information Act, Environmental Information Regulations and Data Protection Act; know how to handle requests for information and be aware of their responsibilities in accordance with the GLA's Records Management Policy.

## Session content

- Freedom of Information in the current climate and how it affects your work
- Requests for information: legal requirements, GLA processes, where to go for guidance and assistance
- Data Protection Act: personal data and the data protection principles
- Information and records management: how to comply with the Records Management Policy and manage information in a fast, efficient and secure way.

## Duration

1.5 hours (10-11:30am)

## Dates and booking:

Thursday 26<sup>th</sup> May  
Tuesday 19<sup>th</sup> July  
Wednesday 7<sup>th</sup> September  
Thursday 3<sup>rd</sup> November

Book on through Employee Self Service in the HR system - see '**How to book a course using the HR system**' for more information.

## Facilitator

GLA Information Governance Manager

**Please note this course was previously run under the title 'Freedom of Information Induction'.**