

REPORT TO: Cabinet

MEETING DATE: 13 September 2012

BY: Executive Director (Support Services)

SUBJECT: Summary of Contracts Awarded by East Lothian Council,
1 June – 29 August 2012

1

1 PURPOSE

- 1.1 To advise Members of all contracts awarded by the Council from 1 June – 29 August 2012 with a value of over £150,000.

2 RECOMMENDATIONS

- 2.1 To note the award of contracts with a value of over £150,000 from 1 June – 29 August 2012, as listed in Appendix 1 to this report.

3 BACKGROUND

- 3.1 Details of all contracts awarded by the Council are lodged in the Members' Library Service. Appendix 1 to this report contains details of all contracts with a value of £150,000 and above which have been awarded since the last meeting of the Cabinet.
- 3.2 Members are asked to note that reports relating to contracts can be accessed via the following link to the Members' Library Service on the Council's eGov system:

http://www.eastlothian.gov.uk/site/scripts/meetings_committees.php?headerID=102

4 POLICY IMPLICATIONS

- 4.1 None

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial – None.

6.2 Personnel - None

6.3 Other – None

7 BACKGROUND PAPERS

7.1 None

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Democratic Services Manager
CONTACT INFO	lgillingwater@eastlothian.gov.uk x7225
DATE	29 August 2012



**SUMMARY OF CONTRACTS AWARDED WITH A VALUE OF £150,000 AND ABOVE
FOR THE PERIOD 1 JUNE – 29 AUGUST 2012**

Originator	Report Title/Project Summary	Contract Awarded To	Contract Value	Members' Library Bulletin & Reference
Executive Director (Services for Communities)	Proposed Upgrade of 31 Houses at Pinkie Braes, Musselburgh – Phase 1	Messrs Mears Group (Paisley)	£449,644.44	192/12 (July 2012 Bulletin)
Executive Director (Services for Communities)	Proposed Redevelopment of Meadowmill Sports, Centre, Prestonpans	Messrs Clark Contracts Ltd (Paisley)	£726,972.27	198/12 (July 2012 Bulletin)
Executive Director (Services for Communities)	A199 East Linton Bypass Railway Bridge – Maintenance Painting Contract: Repainting Contract	GABRE UK Ltd	£665,837.36 (£210,837 from ELC and £455,000 from Scottish Gov)	203/12 (August 2012 Bulletin)

29 August 2012

REPORT TO: Cabinet
MEETING DATE: 11 September 2012
BY: Executive Director (Support Services)
SUBJECT: Financial Review 2012/13 - Quarter 1

2

1 PURPOSE

- 1.1 To advise members of the Cabinet of the financial position at the end of the 1st quarter of the financial year 2012/13.

2 RECOMMENDATIONS

2.1 Members are recommended to;

- Note the financial performance of services at the end of June 2012;
- Note the changes to financial risk assessments made at Section 3.6 noting also my reminder to all Executive Directors that all spending pressures must be managed within approved departmental budgets;
- Approve the 2012/13 budget adjustments outlined at Section 3.14
- Note my intention to report back to Cabinet or Council in October with regard to my review of the capital programme.

3 BACKGROUND

Budget Summary

- 3.1 At its meeting of 14 February 2012 the Council approved a budget for the 2012/13 financial year and an outline budget for two subsequent years.
- 3.2 The 2012/13 budget can be summarised as follows;
- Government general revenue grant confirmed as £170.8 million – an increase of 0.27% over the previous year.

- Increased expenditure totalling £222.9 million – an increase of 0.25% compared to the previous year’s budget.
- Planned use of reserves totalling just over £4.0 million and a transfer from the Housing Revenue Account of just under £1.0 million.
- A gross General Services capital budget of £37.3 million and an HRA capital budget of £32M.

Reserves Position

3.3 At the 28th August Council meeting the Head of Council Resources reported on the results of the 2011/12 financial year. In summary, the Council ended the year with the General Services reserves it had expected. These are fully committed and total £14.745 million with details provided below in Table 1.

Table 1	General Services Reserves at 31 March 2012 (£m)
Required to support current and future budgets	6.357
Civil Emergency	2.000
Property Renewals	0.932
Cost Reduction Fund	3.733
DSM Earmarked Reserves	0.573
MELDAP/DAAT Earmarked Reserves	0.082
Insurance Fund	0.973
Capital Receipts Reserve	0.095
Total	14.745

General Services Summary for Quarter One

3.4 A summary of the financial position across each of the Business Groups at the end of June 2012 is appended at Appendix 1a. The overall picture at the end of June is an under-spend when compared to budget of £687,000. This has been achieved mostly by under-spends within Support Services Groups and a slightly better than anticipated performance in relation to Council Tax income. By the end of the year we would expect council tax income will be £100,000 more than the budgeted amount.

3.5 However, the relatively positive picture at the end of June masks a number of significant underlying spending issues that suggest a deterioration in the Council's medium term financial prospects. In particular;

- Even at this early stage of the financial year it is highly likely that the Children's Wellbeing Service will significantly overspend their budget. The current prediction is that this budget will overspend by £850,000 reflecting a continuation of overspending evident in 2011/12, further cost pressures especially relating to external placement costs and delays in implementing planned 2012/13 Efficient Workforce Management savings. In the 2011/12 financial year these pressures were contained within the whole budget for Services for People. However, given the predicted size of the 2012/13 over-spend within Children's Wellbeing, and the likelihood that the September school census will now show an increasing roll, it will be necessary for cost reduction measures to be identified to contain spend within the approved Directorate budget.
- Across some Groups the progress made towards the required 2012/13 efficiency savings has been slower than planned. In particular, Facility Services, Cultural Services and Primary Schools – as well as the Children's Wellbeing Group noted above - have experienced delays in implementing Efficient Workforce Management changes and are unlikely to make the efficiency savings required of them for the 2012/13 financial year. The situation within Facility Management also creates some concern that this Group may not make the statutory break-even position required of a trading operation.
- Community Partnerships were over-spent in 2011/12 and it is likely that there will be an over-spend in the current financial year.
- New cost revenue pressures are emerging such as the additional, unbudgeted costs in operating the new Dunbar Community Facility, some 'one-off' costs involved in the transition to a new Wide Area Network for schools and increased costs relating to maternity costs within secondary schools.
- There have been delays in identifying and planning for some of the savings required in future financial years. This includes the 'Thematic Corporate Savings' required in 2014/15 but also a number of efficiency measures which are planned to deliver savings from April 2013.
- From discussion with the Scottish Government and COSLA it is becoming clear that 2013/14 and future Revenue Support Grant settlement will be 'top sliced' to fund certain central government commitments. These include the introduction of a replacement for the Council Tax Benefit scheme and Change Funds for Health

and Early Years. These adjustments have the potential to reduce the grant figures that East Lothian has previously assumed when setting its 2012-15 budget.

- 3.6 As a result of these pressures, seven business groups are now rated as a high financial risk – an increase from five at the end of the financial year. These increased risk ratings have been made to reflect the likely 2012/13 year-end position of each of the Groups – which in part have been informed by the financial position at the end of June.
- 3.7 Our current estimate is that the Council is at risk of an overspend in 2012/13 and without remedial action, may require to use reserves equal to or greater than the £4.0 million planned when the budget was set in February. However, given that we are still early in the financial year, this estimate comes with a relatively high degree of uncertainty.

Housing Revenue Account

- 3.8 As a result of the 2011/12 financial year-end the Housing Revenue Account currently sits with reserve balances totalling £6.7 million.
- 3.9 Progress with the 2012/13 budget has been much as expected. At the end of June 2012 the main revenue budgets were £177,000 under spent.
- 3.10 Spending on the Affordable Housing projects over the same period totalled £4.1million. The Modernisation Programme spent £2.5 million over the same period. This represents 21% of the annual total HRA capital budget.

General Services Capital Budgets

- 3.11 The original budget approved by Council on 14 February, planned for a gross capital spend of £37.3 million.
- 3.12 Gross spending up to the end of June 2012 has totalled £7.9 million – which represents 21% of the budgeted amount for 2012/13.
- 3.13 As reported to Council in my 2011/12 Year-end Review Report and in conjunction with the Corporate Asset Group, I am currently carrying out a major review of the capital programmes. This review will consider the combined impacts of 2011/12 project variations, both overspending and slippage, will also take into account a reassessment of all major capital investment proposals and will consider extending the planning horizon. I would anticipate that this will significantly reduce the likely capital spending for 2012-13 and subsequent years and as previously promised I will bring back a further report in this respect to the Cabinet or Council meeting in October

Budget Adjustments

- 3.14 In-year adjustments to the approved budget between the various Business Groups are required every financial year. The following adjustments have been carried out in the first three months of the

2012/13 financial year to reflect changes in Council and Scottish Government policy and changes in organisational responsibility:

- £197,000 has been added to the Adult Social Care Group to reflect the receipt of additional Revenue Support Grant from the Scottish Government for Telecare (£67,000) and Self-Directed Support (£130,000)
- £13,000 has been added to the Transport & Waste Group in line with additional Revenue Support Grant for the administration/operation of the Blue Badge scheme;
- £93,000 has been added to the Services for People budgets to reflect the receipt of additional Revenue Support Grant from the Scottish Government for an Early Years Change Fund (£25,000) and for the introduction of Curriculum for Excellence (£68,000)
- Inter Group transfers have been carried out relating to the Carbon Reduction Commitment (£53,000), the Anti-Social Behaviour budget (£122,000) and the opening of the John Gray Centre (£35,000) to reflect either changed funding and managerial arrangements.
- Various adjustments have been carried out to correctly account and budget for the new chief officer arrangements.

4 POLICY IMPLICATIONS

4.1 None.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This Report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial – as described above

6.2 Personnel - none

6.3 Other – none

7 BACKGROUND PAPERS

7.1 Council 14 February 2012 – All papers

- 7.2 Members Library July 2012 – Draft Statement of Accounts
- 7.3 Audit & Governance Committee 17 July 2012 – All papers
- 7.4 Council 28 August 2012 – Item 06 – 2011/12 Year-End Financial Review

AUTHOR'S NAME	Jim Lamond
DESIGNATION	Head of Council Resources
CONTACT INFO	jlamond@eastlothian.gov.uk
DATE	30 August 2012

REVENUE BUDGET PERFORMANCE at 30 June 2012

	Budget for the year £000	Actual to 30/06/12 £000	Budget for the period £000	(Surplus) / Deficit for period £000	(Surplus) / Deficit %	Financial Risk Assessment	Change since last assessment
Services for People							
Children's Wellbeing	11,074	2,986	2,411	575	23.8%	High	No change
Pre-school Education & Childcare	5,534	3,842	3,870	(28)	(0.7%)	Low	No change
Additional Support for Learning	7,890	4,122	4,095	27	0.7%	Medium	No change
Schools - Primary	30,610	3,988	4,000	(12)	(0.3%)	Low	No change
Schools - Secondary	36,241	7,138	7,150	(12)	(0.2%)	Medium	No change
Schools Support Services	3,173	769	768	1	0.1%	High	Increase
Adult Wellbeing	45,384	8,064	7,799	265	3.4%	High	Increase
	139,906	30,909	30,093	816	2.7%		
Services for Communities							
Community Housing	3,372	1,349	1,527	(178)	(11.7%)	Low	No change
Housing Revenue Account	0	(2,577)	(2,400)	(177)	7.4%	Low	No change
Planning & Environmental Services	1,465	810	800	10	1.3%	Low	No change
Property Services	1,658	642	709	(67)	(9.4%)	Low	No change
Facility Support	3,061	(1,048)	(1,242)	194	(15.6%)	High	No change
Landscape & Countryside Mgt	5,732	1,130	1,150	(20)	(1.7%)	Medium	No change
Transport & Waste Services	13,142	1,422	1,873	(451)	(24.1%)	High	No change
	28,430	1,728	2,417	(689)	(28.5%)		

Support Services

Community Partnerships	(2,061)	245	245	0	0.0%	High	No change
Cultural Services	4,153	894	839	55	6.6%	High	No change
Community Development	3,538	602	625	(23)	(3.7%)	Medium	Increase
Healthy Living	4,366	526	529	(3)	(0.6%)	Medium	Increase
Economic Development	1,020	236	339	(103)	(30.4%)	Low	No change
Customer Services	1,448	518	589	(71)	(12.1%)	Low	No change
Financial Services	2,183	598	800	(202)	0.0%	Low	No change
Revenues & Benefits	936	77	140	(63)	(45.0%)	Low	No change
IT Services	1,845	616	665	(49)	0.0%	Low	No change
Law & Licensing	519	148	167	(19)	(11.4%)	Low	No change
Human Resources	1,620	367	398	(31)	0.0%	Low	No change
Policy/Governance/Internal Audit	3,508	664	665	(1)	0.0%	Low	No change
	23,075	5,491	6,001	(510)	(8.5%)		
Total All Departments	191,411	38,128	38,511	(383)	(1.0%)		
Corporate Management							
Revenue Support Grant (inc. NNDR)	(171,070)	(9,785)	(9,785)	0	0.0%	Low	No change
Asset Management	17,149	(352)	(355)	3	(0.8%)	Low	No change
Council Tax	(46,259)	(41,796)	(41,416)	(380)	0.9%	Low	No change
Joint Board Requisitions	10,561	2,639	2,639	0	0.0%	Low	No change
Other	3,715	5,317	5,244	73	1.4%	Low	No change
HRA Transfer	(247)	(247)	(247)	0	0.0%	Low	No change
Use of Reserves	(5,260)	0	0	0	0.0%	Low	No change
	(191,411)	(44,224)	(43,920)	(304)	0.7%		
Total All Council	0	(6,096)	(5,409)	(687)			

Financial Risk	Factors	Implications
High	<ul style="list-style-type: none"> - The Business Group has been assessed as likely to overspend in the financial year - There has been a history of overspending within Units / Groups - There are new or revised funding arrangement and / or legislature changes with financial significance - Trading Accounts are in deficit for the year. -Grant schemes, on which the Council is reliant are either unconfirmed or have not been confirmed -The service is demand led and the Council has restricted control over the level and form of service - New Services are planned 	<ul style="list-style-type: none"> -Cabinet & Members Library reports with financial implications are not passed under delegated powers -Directors / Heads of Service will be asked to prepare a financial recovery plan -The Head of Council Resources may take enforcement action to ensure effective budgetary control
Medium	<ul style="list-style-type: none"> - There is significant potential that Business Group could overspend in the financial year - There have been previous incidences of some overspending within Units / Groups - There are new or revised funding arrangement and / or legislature changes with financial significance - Trading Accounts are having difficulty meeting financial targets -Grant schemes, on which the Council is reliant are either unconfirmed or have not been confirmed 	<ul style="list-style-type: none"> -Members library reports are only passed when financial implications are addressed -Directors / Heads of Service will be asked to identify actions necessary to ensure expenditure is within budget by the year-end.
Low	<ul style="list-style-type: none"> -Finances are generally under control for the current financial year -Stable legislature, trading and funding environment -The service is supply led - i.e. the Council can decide the level and form of service -Finances in previous financial years have been controlled -Grant schemes are stable and not anticipated to change significantly 	<ul style="list-style-type: none"> -Members library reports are approved promptly under delegated powers

REPORT TO: Cabinet
MEETING DATE: 11 September 2012
BY: Executive Director (Support Services)
SUBJECT: Data Protection Policy

3

1 PURPOSE

- 1.1 To seek approval from Cabinet of the proposed Data Protection Policy.

2 RECOMMENDATIONS

- 2.1 That Cabinet approves the Data Protection Policy and adopt it as a Council Policy.

3 BACKGROUND

- 3.1 The Data Protection Act 1998 imposes certain obligations on East Lothian Council as to how it handles the personal information that it has about individuals and how it deals with requests from individuals who want to gain access to any personal information that the Council holds about them. East Lothian Council is registered as a Data Processor with the Information Commissioner.
- 3.2 It is good practice and important for reasons of transparency and openness that the Council should have a Data Protection Policy in place.
- 3.3 The Information Commissioner in his published guidance places particular emphasis on the importance of Data Processors such as the Council having policies in place as to how personal information will be handled and how it proposes to fulfil its obligations under the Act.
- 3.4 The Data Protection Policy has been subject to Council Management Team consideration and approval as well as workforce and Trades Unions Consultation. The Policy on Data Protection is not a collective agreement with the Trades Unions. The draft was commented on and approved by a senior official from the Information Commissioner's Office.

4 POLICY IMPLICATIONS

- 4.1 The Policy will provide clarity and consistency of approach for staff, clients and members of the public

5. EQUALITIES IMPACT ASSESSMENT

- 5.1 An EQIA has been undertaken and no negative impacts have been identified.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None.
6.2 Personnel – None
6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 Data Protection Policy
7.2 Data Protection Act 1998
7.3 The Information Commissioners Guidance

AUTHOR'S NAME	Dr Renate Gertz
DESIGNATION	Data Protection, Freedom of Information & Surveillance Law Compliance Officer
CONTACT INFO	rgertz@eastlothian.gov.uk ext. 7993
DATE	29 August 2012

EAST LOTHIAN COUNCIL

Data Protection Policy

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East Lothian Council
Data Protection Policy

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1. Introduction

- 1.1 This document sets out East Lothian Council's policy regarding data protection. The Council is fully committed to compliance with the requirements of the Data Protection Act 1998 (the DPA) and will follow procedures that aim to ensure that all employees, elected members, contractors, agents, consultants, partners of the Council who have access to any personal data held by or on behalf of the Council, are fully aware of and comply with their duties and responsibilities under the DPA.
- 1.2 The DPA came into force in 2000. Under the DPA, there are two general rights relating to personal data: the right of access and the right to have personal data processed. East Lothian Council needs to collect and use certain types of information about people with whom it deals in order to operate. These include current, past and present employees, suppliers, members of the public and others with whom it communicates.

2. Statement of Intent

- 2.1 East Lothian Council regards the lawful and correct treatment of personal data as very important to successful operations, and to maintaining confidence between those with whom it deals, both internally and externally.
- 2.2 East Lothian Council recognises the importance of ensuring that the Council treats personal data lawfully and correctly and the Council fully endorses and adheres to the principles of data protection detailed in the DPA. Any employee found to be breaching the terms and conditions of this policy may be subject to disciplinary procedures.

3. Definitions

- 3.1 Personal data: Data which relate to a living individual who can be identified from those data or any other data likely to come into the possession of the data controller. This includes any expressions of opinion and any indications of the intentions of the data controller, or any other person, in respect of the individual.

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- 3.2 Data controller: Legal person or persons who decide the purpose for which personal data are to be processed. In this instance the Council is the data controller for all personal data it processes.
- 3.3 Data Processor: A person (other than an employee of the data controller) who processes personal data on behalf of a data controller.
- 3.4 Data subject: An individual about whom the Council holds personal data.
- 3.5 Principles: There are 8 data protection principles in accordance with which personal data must be processed. See Appendix 1 for the list in full.

4. Notification

- 4.1 Data Controllers are required to notify the Information Commissioner of the processing that they undertake.
- 4.2 The Council will maintain its register entry and annually review its processing to ensure that its register entry is accurate and up to date.

5. The Data Protection Principles

Specifically, the Principles require that personal information-

- shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions are met;
- shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes;
- shall be adequate, relevant, and not excessive in relation to the purpose or purposes for which they are processed;
- shall be accurate and, where necessary, kept up to date;
- shall not be kept for longer than is necessary for that purpose or those purposes;
- shall be processed in accordance with the rights of the data subjects under the Act;
- appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to personal data;
- shall not be transferred to a country outside the European Economic Area unless that country or territory ensures an adequate level of

protection for the rights and freedoms of data in relation to the processing of data.

6. Compliance with the Principles

East Lothian Council will, through appropriate application of criteria and controls

- ensure the fair collection and use of information;
- meet its legal obligations to specify the purposes for which information is used; including specific requirements that must be met to ensure fair and lawful sharing of personal data both internally and externally;
- collect and process appropriate information only to the extent that is needed to fulfill operational needs or to comply with any legal requirement;
- ensure the accuracy of information used;
- implement procedures to restrict the length of time information is held;
- ensure that people about whom information is held, are able to fully exercise their rights under the Act, including the right to be informed that processing is undertaken, the right of access to their personal information, the right to prevent processing in certain circumstances and the right to correct, rectify, block or erase information which is regarded as inaccurate information;
- ensure compliance with the East Lothian Council IT Policies/ Information Security Policies to safeguard personal data;
- ensure that information is not transferred abroad without suitable safeguards.

7. Information Handling and Collection (1st and 2nd Principles)

- 7.1 East Lothian Council will process all personal data for the purpose of providing an effective delivery of service in accordance with the aims, responsibilities and obligations of the Council.
- 7.2 All personal data will be processed in accordance with the Council's notification to the Information Commissioner.
- 7.3 The Council will, when collecting personal data, as far as it is practicable inform data subjects of the purposes for which the Council will use their personal data.
- 7.4 Personal data will only be collected where there is a specific purpose for doing so. It will not be used for any other purpose except where allowed by the DPA or required by law.

8. Records Management (3rd, 4th and 5th Principles)

- 8.1 The Council will implement procedures to ensure that all personal data it holds are accurate in respect of matters of fact and, where necessary, kept up to date.
- 8.2 Opinions of officers of the Council that are recorded will be carefully and professionally expressed.
- 8.3 The Council will not hold personal data for longer than is reasonably required. The Council will comply with its retention schedule.
- 8.4 Further information about retention schedules can be found in East Lothian Council's Records Management Policy.

9. Individual Rights (6th Principle)

- 9.1 The DPA gives individuals a general right of access to their personal data. This is called the subject access right. A data controller has 40 calendar days to respond to any subject access request made in writing. East Lothian Council will deal with all subject access requests accordingly. Upon receiving a request, departments will forward it on to the Data Protection/FOI Team. Subsequently, when asked, the department will scan the relevant data and email the resulting PDF files to the Data Protection/FOI Team who will do the necessary redacting before releasing the information to the data subject.

10. Security (7th Principle)

- 10.1 East Lothian Council will ensure that there is someone with specific responsibility for data security. Currently, the IT Security Officer has this responsibility.
- 10.2 All officers of the Council are responsible for ensuring that personal data are held securely at all times.
- 10.3 Access to all Council systems is password protected and only authorised personnel have access.
- 10.4 Personal data will be safely and responsibly destroyed when they are no longer required.
- 10.5 All officers of the Council and individuals undertaking work for the Council will adhere to the Council's IT security policies and procedures.

11. Data Export (8th Principle)

- 11.1 East Lothian Council will adhere to the 8th Principle and ensure that no personal data are transferred outside the EEA.
- 11.2 ELC will not use external data storage providers that cannot guarantee that data will not leave the EEA.

12. Disclosures

- 12.1 East Lothian Council reserves the right to disclose information under certain circumstances where allowed by law.
- 12.2 When a request for disclosure is made, the Council will consider each request individually and where a disclosure is justified, the Council will only disclose the minimum data required.
- 12.3 In order to improve service delivery and to meet its responsibilities, the Council may enter into data sharing agreements with other organisations where data sharing is allowed by law. Where this is the case, the Council will ensure that a Data Sharing Protocol with that organisation is in place which ensures the data sharing is in compliance with the law and this policy.

13. Elected Members and Data Protection

- 13.1 Where Elected Members work on behalf of the Council, this policy applies to them. Should any breach of the DPA occur, it will be the Council's responsibility.
- 13.2 Where Elected Members work for their constituents, they are data controllers in their own right and must register with the Information Commissioner. Should any breach of the DPA occur, it will be the Elected Member's responsibility.

14. Complaints, Enforcement and Dealing with Breaches

- 14.1 All complaints regarding data protection should be made through the Council's feedback procedure.

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- 14.2 The maximum fine for data protection breaches is £500,000. Therefore, the Data Protection & Freedom of Information Compliance Officer should immediately be informed of any suspected internal breaches of the DPA.
- 14.3 All Council staff, contractors and elected members will cooperate fully with any investigation into an alleged breach of the DPA undertaken by the Data Protection & Freedom of Information Compliance Officer or the Information Commissioner.
- 14.4 The Data Protection & Freedom of Information Compliance Officer will apply a fair and consistent approach to the recording and management of all data protection breaches, including notification of breaches to affected individuals where necessary. In each case, this will include a risk assessment of the consequences of the breach, conducted in line with the relevant guidance from the Information Commissioner's Office and up to date case law. Precedent within the Council will also be taken into account.

15. Managing Data Protection

East Lothian Council will ensure that-

- the Data Protection & Freedom of Information Compliance Officer will provide advice on all aspects of this policy to all officers processing personal data within Council;
- everyone managing and handling personal data understands that they are responsible for following good data protection practice;
- everyone managing and handling personal data is appropriately trained to do so and has the opportunity to attend training sessions;
- everyone managing and handling personal data is appropriately supervised;
- queries about managing and handling personal data are promptly and courteously dealt with;
- methods of managing and handling personal data are regularly assessed and evaluated
- performance of managing and handling personal data is regularly assessed and evaluated.

16. Review of Policy

This policy will be reviewed every three years from the date of approval.

17. Contact Information

East Lothian Council's Data Protection & Freedom of Information Compliance Officer can be contacted at:

Data Protection and Freedom of Information Compliance Officer
Law & Licensing
John Muir House
Haddington
foi@eastlothian.gov.uk
Tel. 01620 82 7993

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APPENDIX 1

The Data Protection Principles

- 1 Personal data shall be processed fairly and lawfully
- 2 Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- 3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- 4 Personal data shall be accurate and, where necessary, kept up to date.
- 5 Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- 6 Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act.
- 7 Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- 8 Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

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APPENDIX 2

The Rights of Individuals

The DPA gives rights to individuals in respect of personal data held about them by others. These rights are:

1. Right of subject access
2. Right to prevent processing likely to cause damage or distress
3. Right to prevent direct marketing
4. Right in relation to automated decision-making
5. Right to take action for compensation if an individual suffers damage by any contravention of the DPA by the data controller
6. Right to take action to rectify, block, erase or destroy inaccurate data

Please contact the Data Protection & Freedom of Information Compliance Officer for more information on an individual's rights under the DPA.

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APPENDIX 3

Criminal Offences under the DPA

1. Processing without notification
2. Failure to notify the Information Commissioner of changes to the notification register entry
3. Failure to comply with an Enforcement or Information Notice served by the Information Commissioner
4. Knowingly and recklessly making a false statement in compliance with an Information Notice
5. Unlawful obtaining, disclosing or procuring the disclosure of personal data
6. Unlawful selling of personal data
7. Enforced subject access.

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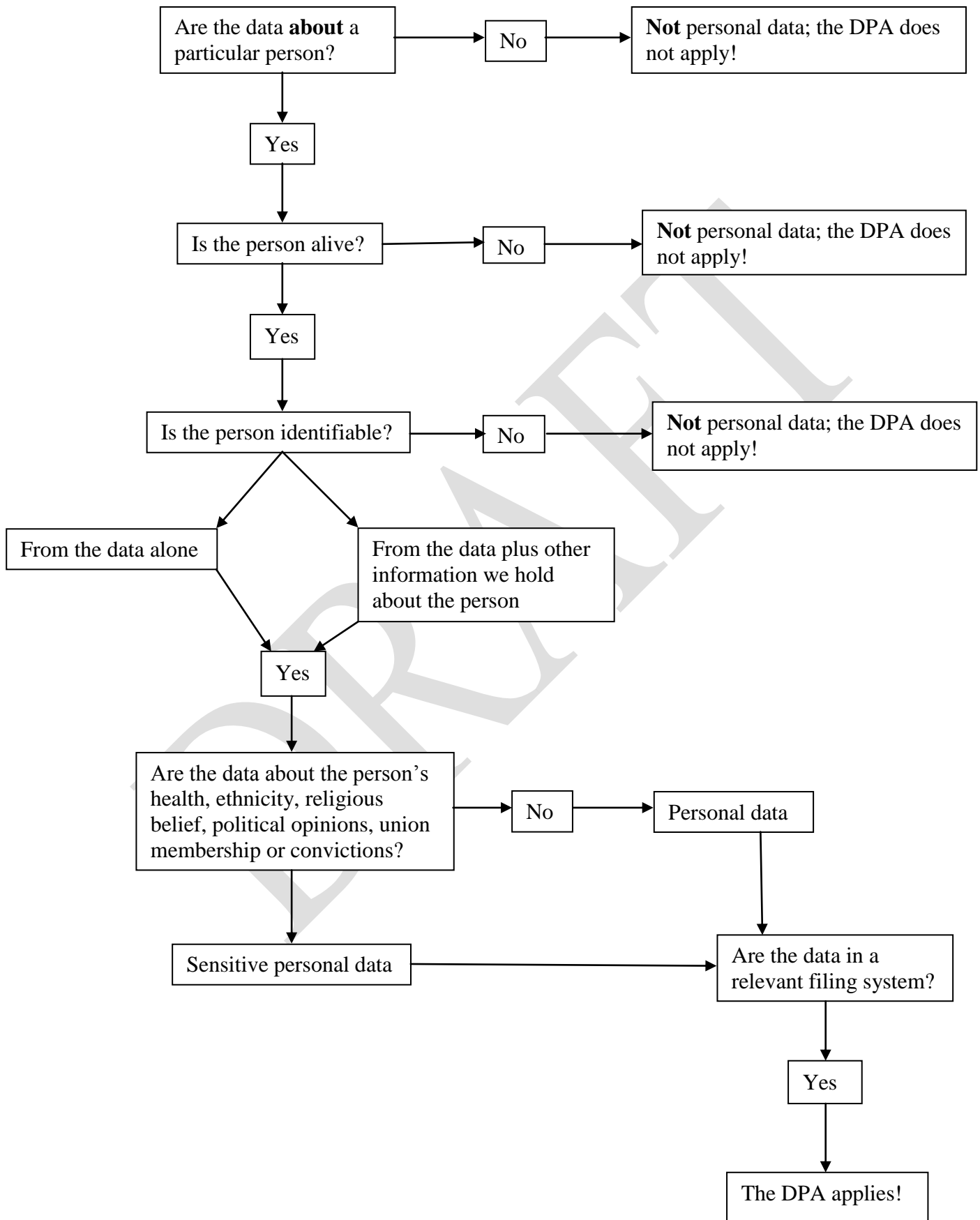
APPENDIX 4

Data Protection Procedures

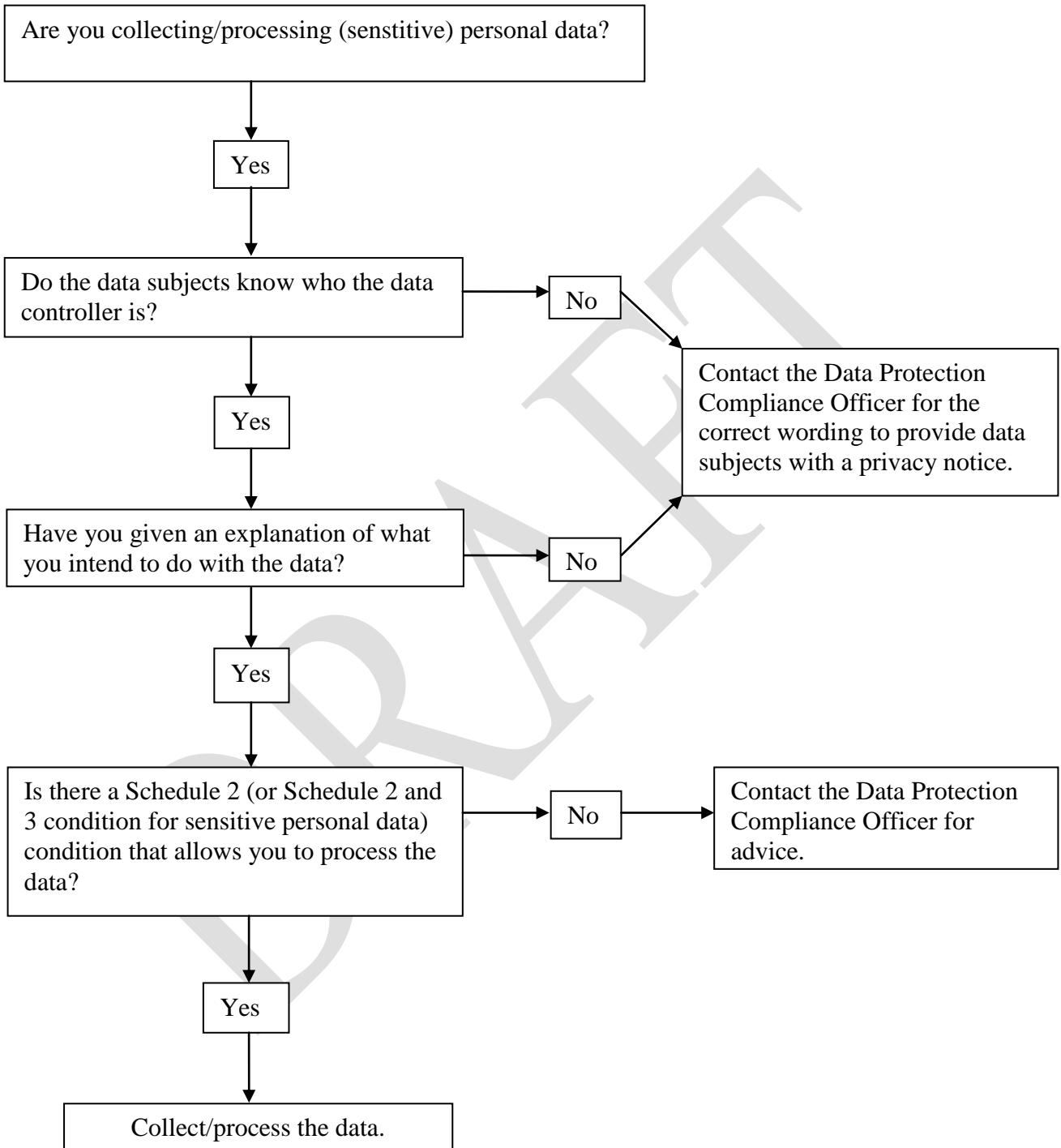
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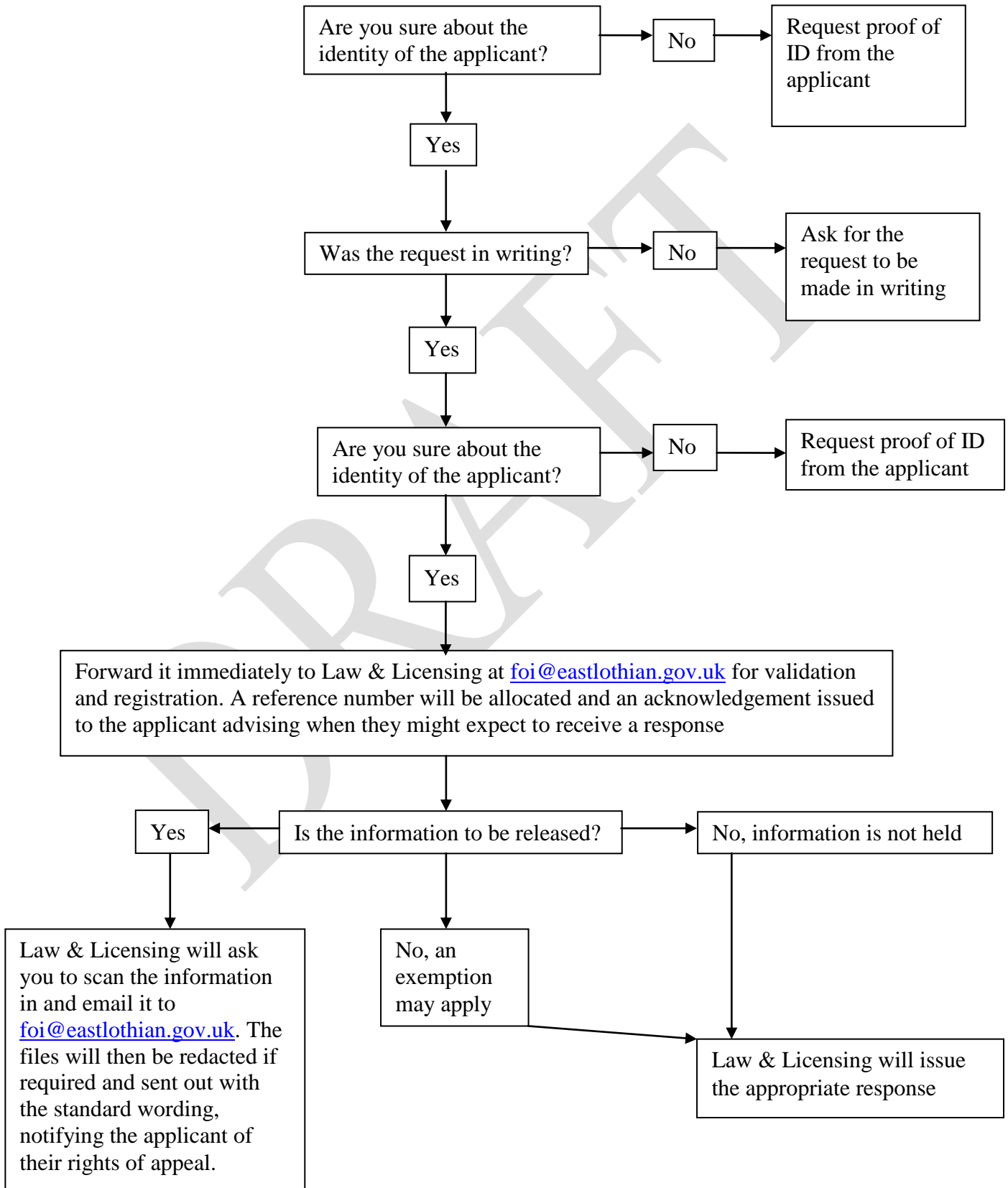
Is it personal/sensitive personal data?



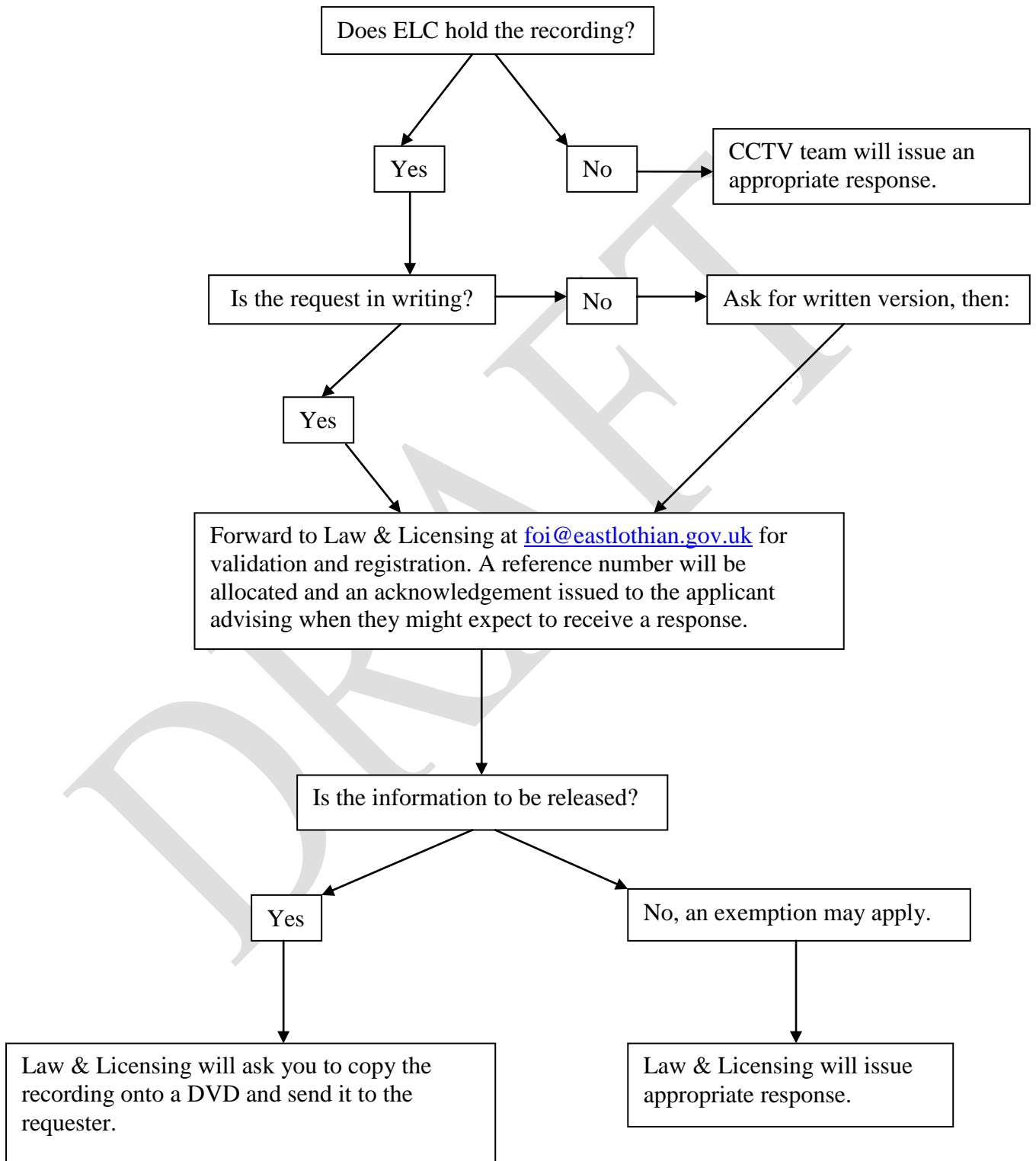
Collecting/processing (sensitive) personal data



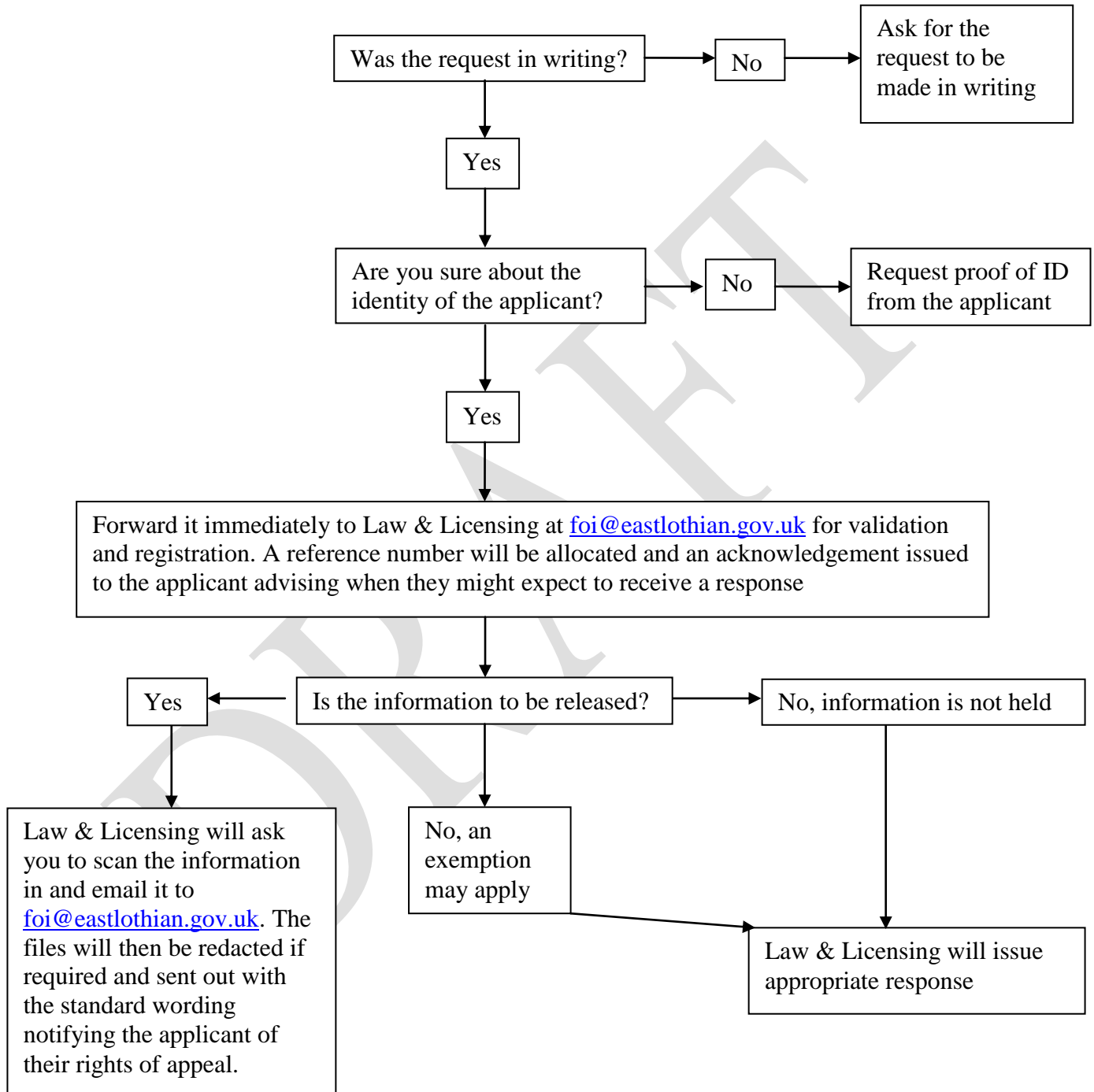
Subject Access Request (SAR)



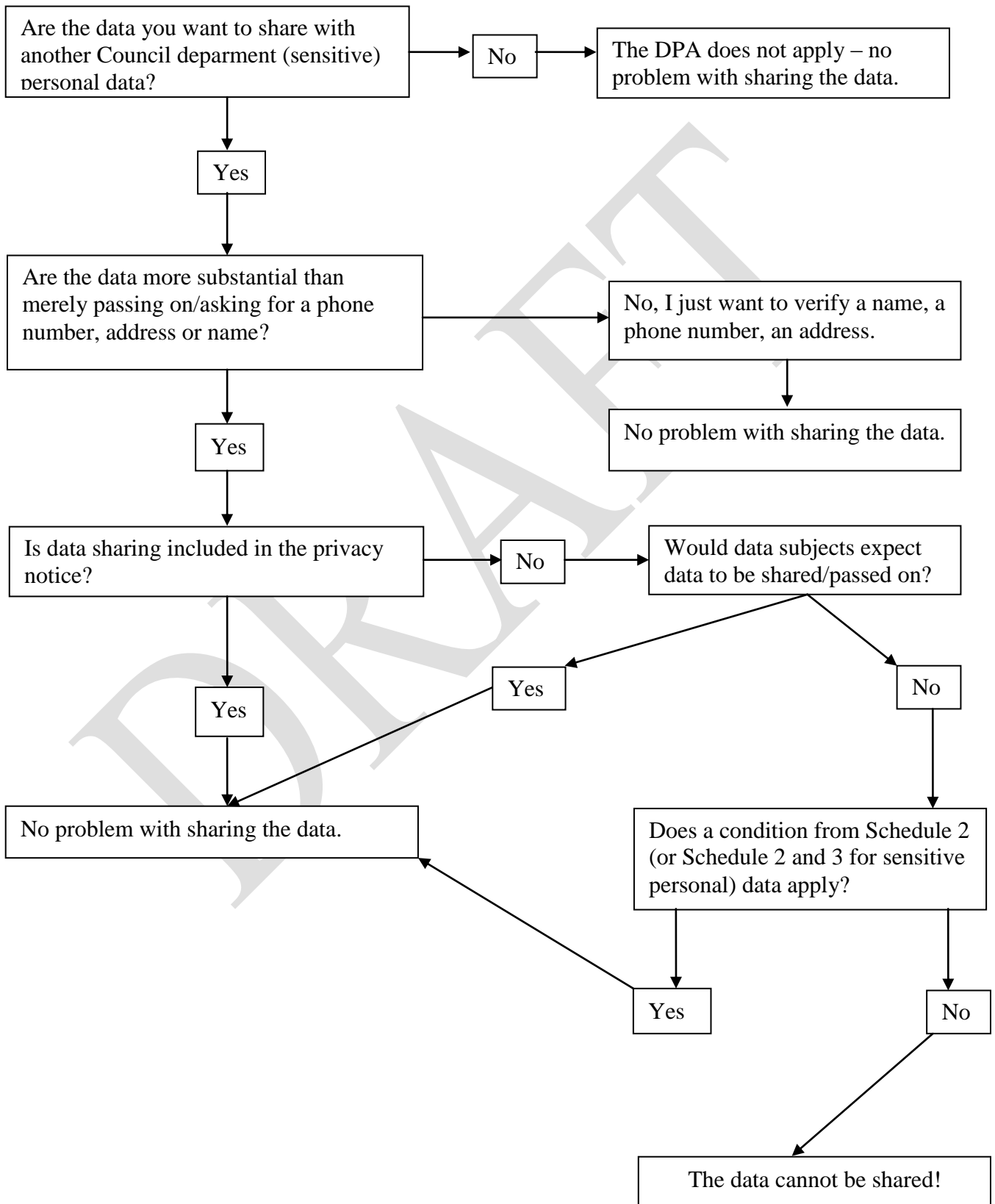
CCTV – Request for recording



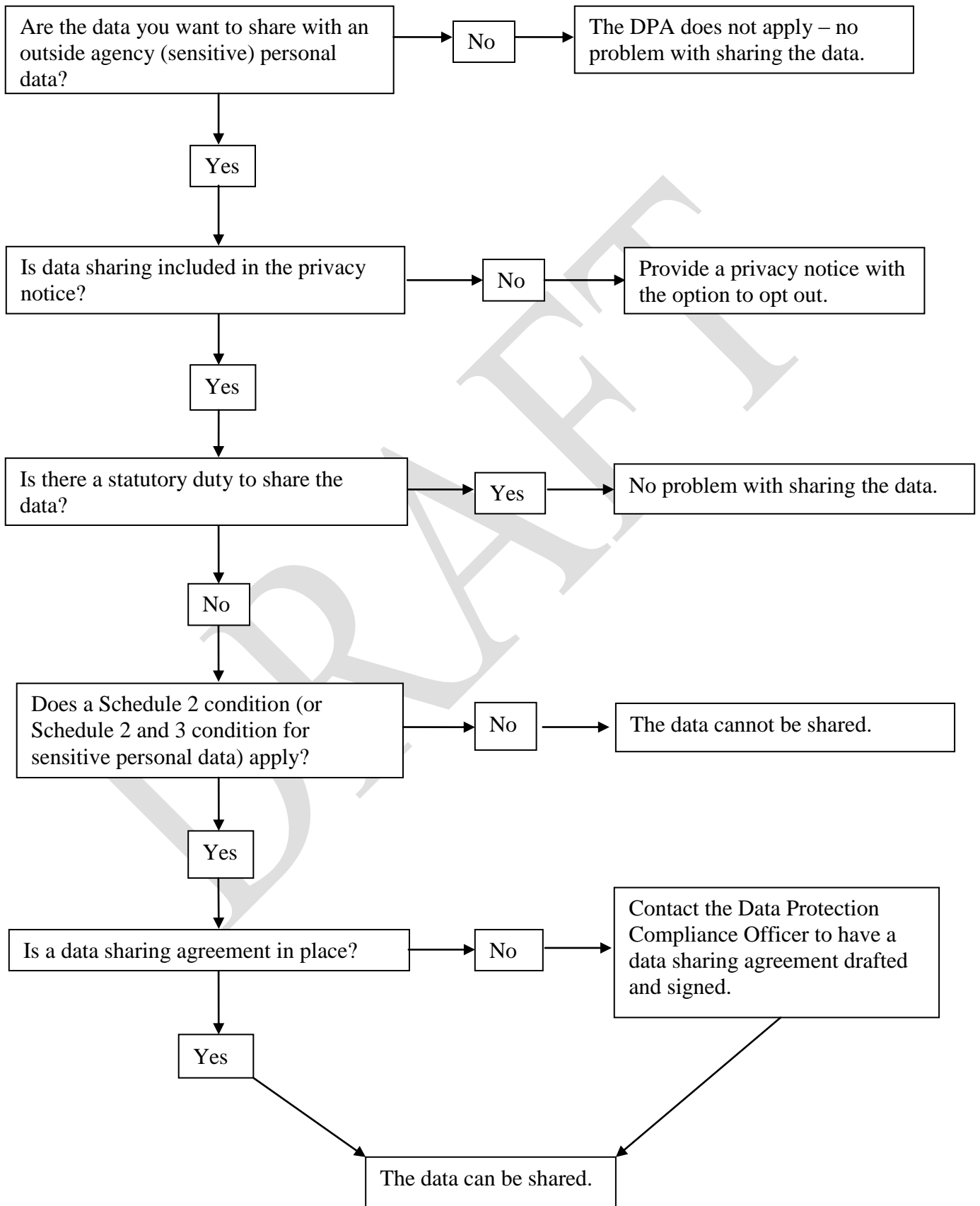
Application for record amendment



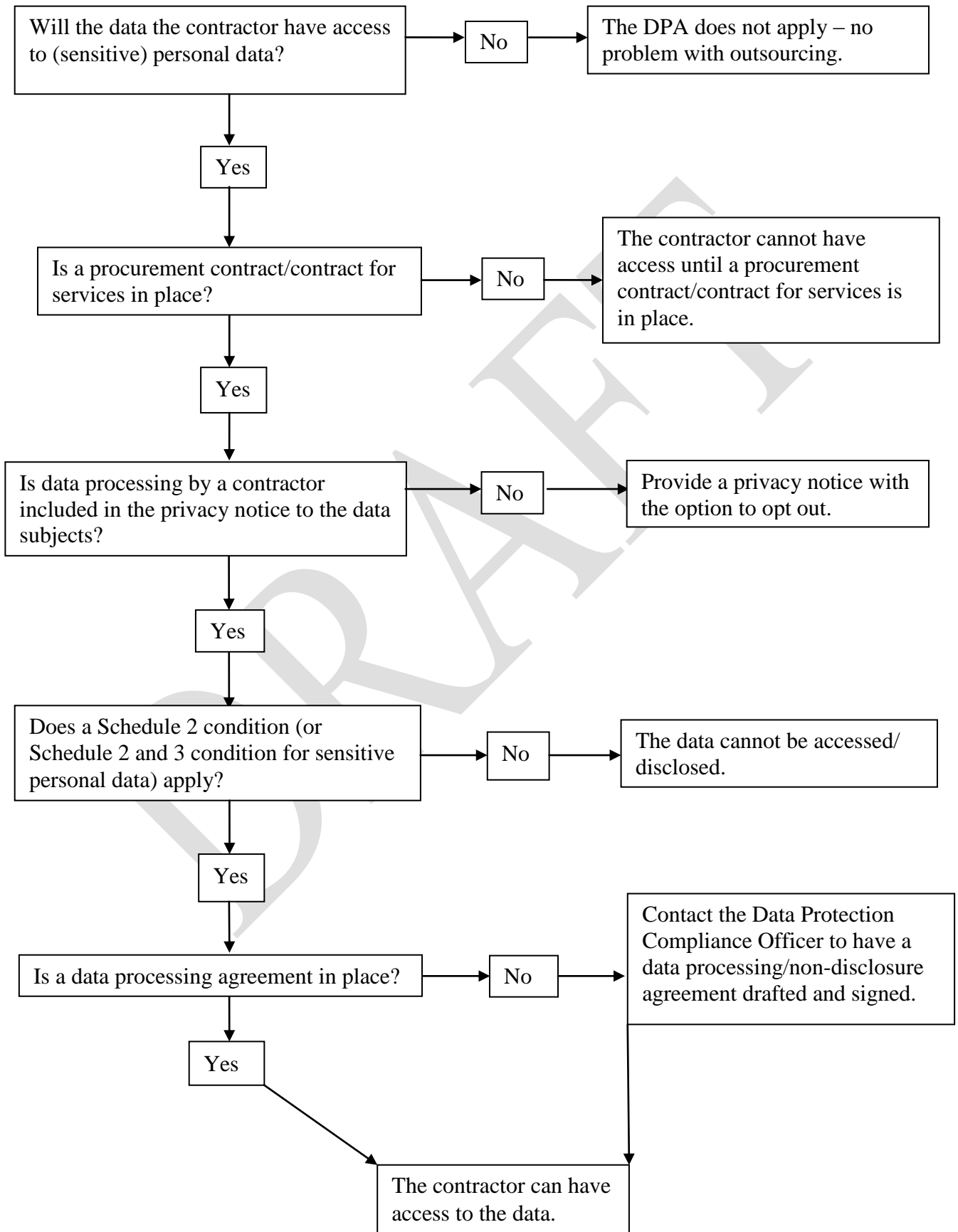
Council-internal data sharing



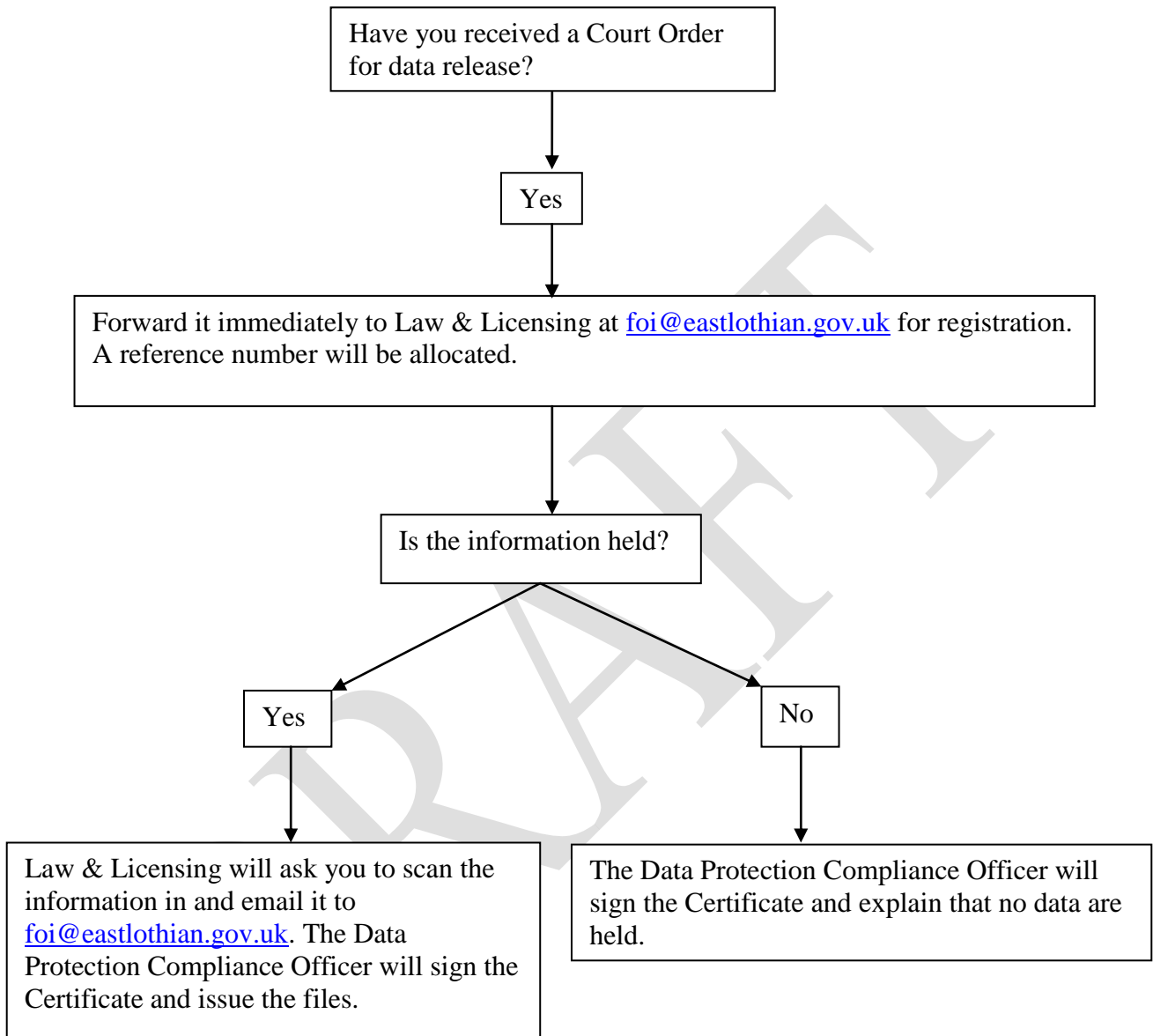
Council-external data sharing



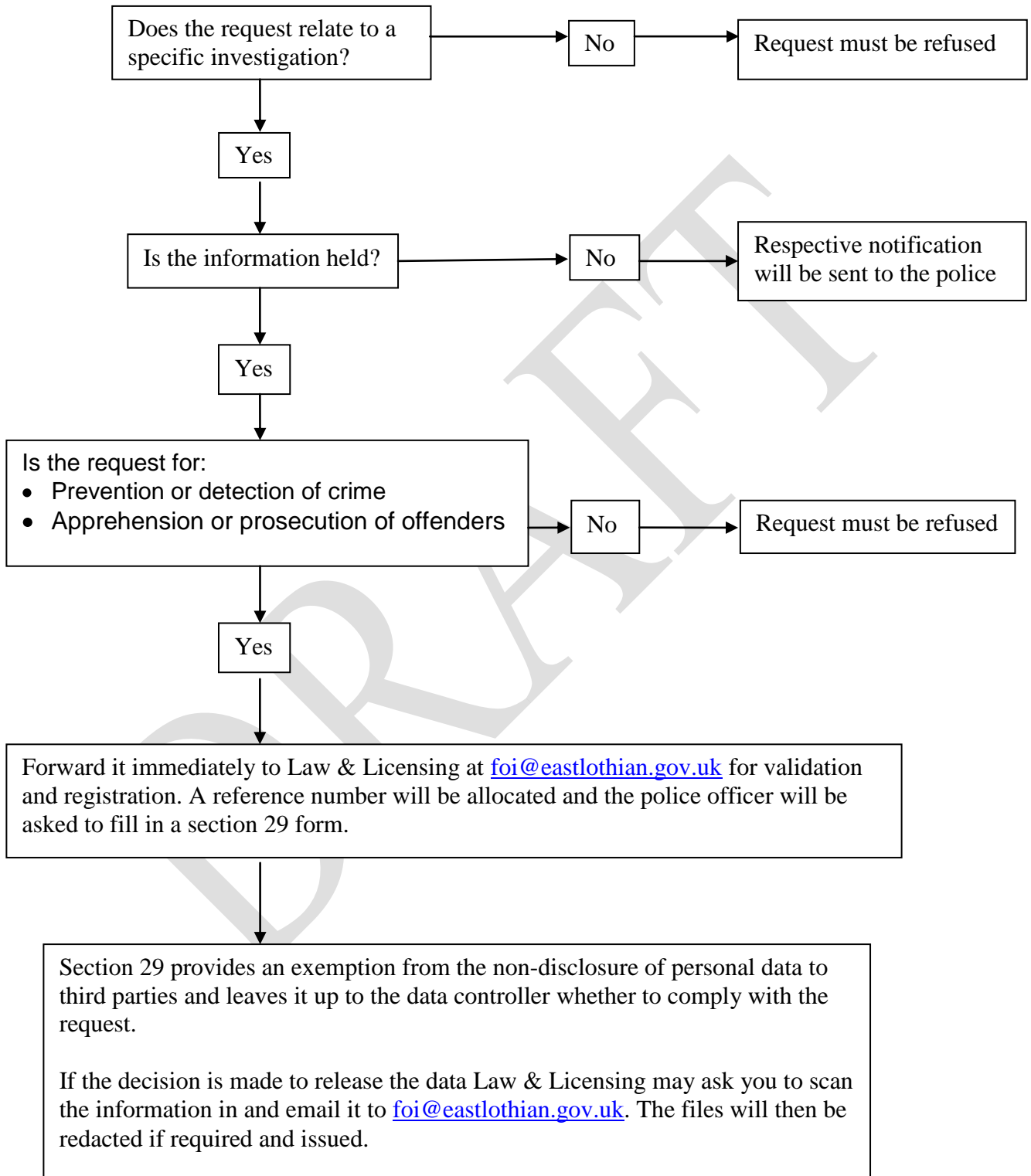
Outsourcing



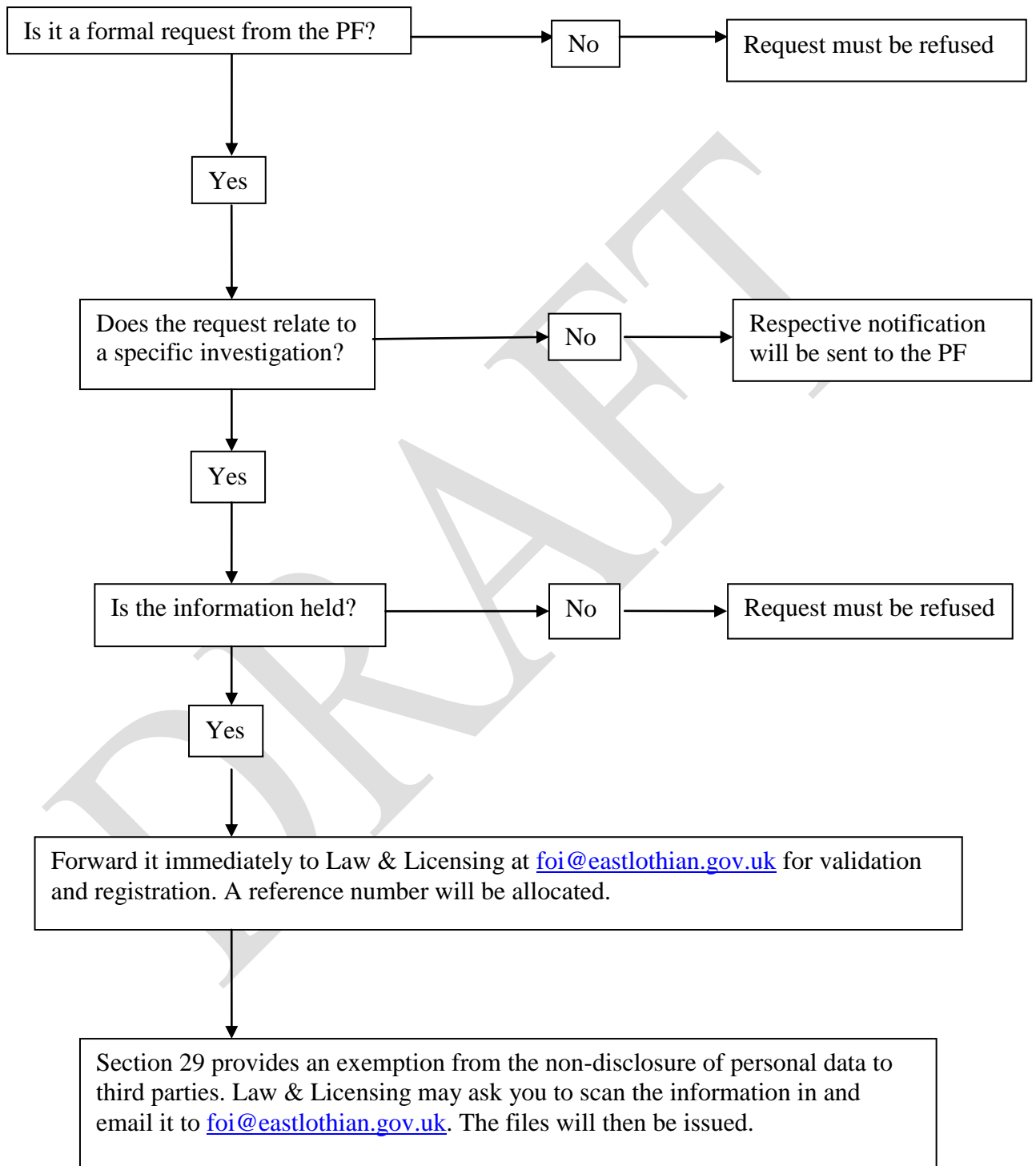
Court Order for data release



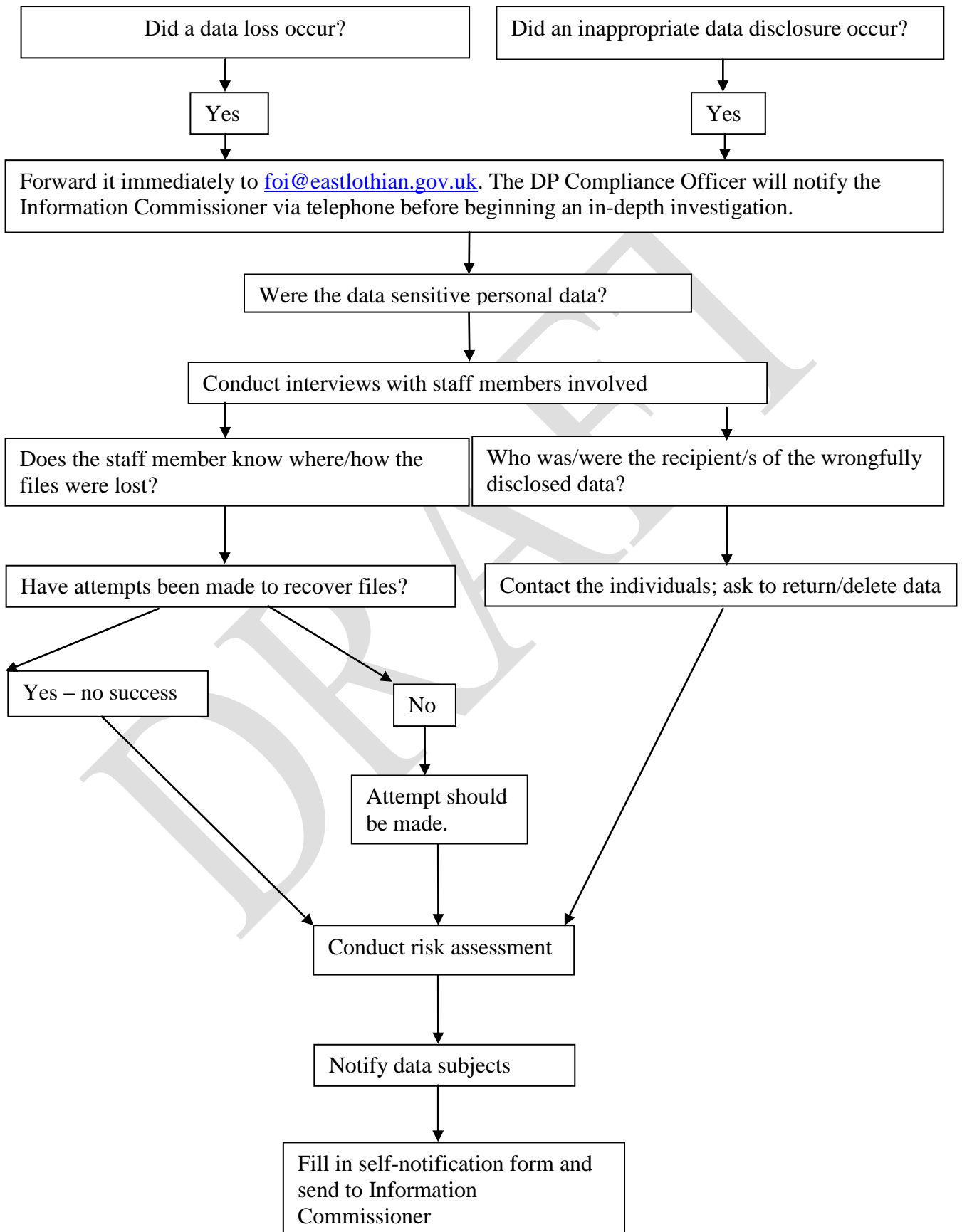
Police request for personal data



Request from the Procurator Fiscal



Data Protection Breach



REPORT TO: Cabinet
MEETING DATE: 11 September 2012
BY: Executive Director (Support Services)
SUBJECT: Freedom of Information Policy

4

1 PURPOSE

- 1.1 To seek approval from Cabinet for the Freedom of Information Policy.

2 RECOMMENDATIONS

- 2.1 That Cabinet approve the Freedom of Information Policy and adopt it as a Council Policy.

3 BACKGROUND

- 3.1 The Freedom of Information (Scotland) Act 2002 came into force on 1 January 2005. The Act allows anyone to obtain information from Scottish councils and other public authorities. This is a legal right, which aims to ensure that everyone gets information to which they are entitled. This legal right of access includes all types of 'recorded' information of any date held by East Lothian Council. From 2005, any person making a request for information must be provided with it, subject to certain conditions.
- 3.2 In 2011, East Lothian Council received nearly 1000 freedom of information requests. It is good practice and important for reasons of transparency and openness that the council should have a Freedom of Information Policy in place. It will make it clear to those making requests for information how those requests will be handled.
- 3.4 The Freedom of Information Policy has been subject to Council Management Team consideration and approval as well as workforce and Trades Unions Consultation. The Freedom of Information Policy is not a collective agreement with the Trades Unions. The draft was commented

on and approved by the Head of Policy at the Scottish Information Commissioner's Office.

4 POLICY IMPLICATIONS

- 4.1 The Policy will provide clarity and consistency of approach for staff and members of the public.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 An EQIA has been undertaken and no negative impacts have been identified.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None.
6.2 Personnel – None
6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 Freedom of Information Policy
7.2 Freedom of Information (Scotland) Act 2002

AUTHOR'S NAME	Dr Renate Gertz
DESIGNATION	Data Protection & Freedom of Information Compliance Officer
CONTACT INFO	rgertz@eastlothian.gov.uk ext. 7993
DATE	22 August 2012

EAST LoTHIAN COUNCIL

**Freedom of Information
and
Environmental Information Regulation
Policy**

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East Lothian Council
Freedom of Information Policy



East Lothian
Council

East Lothian Council
Freedom of Information Policy

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East Lothian Council
Freedom of Information Policy

1. Introduction

- 1.1 This document sets out East Lothian Council's policy regarding Freedom of Information and the Environmental Information Regulations. As the Council's use of personal data is also affected by the Freedom of Information (Scotland) Act (FOISA), this policy should be read in conjunction with the policy on Data Protection.
- 1.2 FOISA came into force in 2005 and created significant new rights of access to information held by Scottish public authorities. Under the Act, there are two general rights relating to information: the right to be told whether or not the information requested is held; and the right to be given that information within 20 days, unless an exemption applies.
- 1.3 Each public authority has the duty to adopt and maintain a publication scheme that details the classes of information it will regularly publish. This publication scheme must be approved by the Scottish Information Commissioner, who has wide powers to enforce the rights contained within FOISA. East Lothian Council's publication scheme can be found on the Council's website: <http://www.eastlothian.gov.uk/site/scripts/downloads.php?categoryID=704>

2. Statement of Intent

- 2.1 East Lothian Council is committed to transparency about the way in which it operates and makes decisions and will favour disclosure of information whenever possible.
- 2.2 The Council will ensure that the public will have a general right of access to the information it holds, subject to certain conditions and exemptions.
- 2.3 The Council will adopt and maintain a publication scheme, approved by the Scottish Information Commissioner, which relates to the publication of information by the Council.
- 2.4 The Council will ensure that training (including refresher training) is provided to officers who may be required to provide information, and that these officers are familiar with the requirements of FOISA. The Council will ensure that all relevant staff attend briefing sessions on FOISA.

East Lothian Council
Freedom of Information Policy

- 2.5 This policy document applies only to information covered by FOISA and EIR and will be updated/amended as necessary.

3. Statutory Access Regimes

- 3.1 Access to information is principally governed by FOISA, the Environmental Information (Scotland) Regulations 2004 (EIR) and the Data Protection Act 1998 (DPA). All three provide rights of access to information with limited exceptions. In effect, the three pieces of legislation work together, the EIR enabling access to environmental information, DPA enabling access to one's own personal data and FOISA enabling access to all other information.
- 3.2 Any written request for information should initially be treated as a FOISA request. Section 39 of FOISA then exempts environmental information from being dealt with under FOISA and necessitates compliance under EIR.
- 3.3 East Lothian Council has produced a publication scheme as required by FOISA, and had it approved by the Scottish Information Commissioner in 2009. The scheme sets out the classes of information already available to the public, details of how the information can be obtained, its location and whether there is a charge for providing the information. All information available through the publication scheme is exempt from FOISA. The scheme is regularly reviewed so that any new classes of information to be made available to the public are included.
- 3.4 Anyone can make a request for information to the Council under FOISA, regardless of their nationality, location or motive. Any information held by the Council is eligible for release. However, a limited number of exemptions (see Appendix A) may be applied to protect some of the information held. FOISA requires that all requests must be in writing (which includes faxes and emails), must state clearly what information is required and must provide the name of the person making the request with an address for correspondence (an email address suffices). The EIR differ insofar as a verbal request is sufficient.
- 3.5 All FOISA and EIR requests received by any Council employee (including school staff) will be sent to the Data Protection and Freedom of Information Officer and will be logged and monitored on the database in the Law & Licensing department.

East Lothian Council
Freedom of Information Policy

- 3.6 On receipt of any request for information, the Council will as soon as possible, but within no more than 2 working days, acknowledge receipt of the request. Replies to the request will be sent out as soon as possible, but no later than within the legal timeframe. The reply to the request should either
- Provide the information that has been requested, or
 - Confirm or deny whether the Council holds the information.
- 3.7 If the information is held by the Council but not provided, the reply will explain why not, quoting a statutory exemption, the reasoning behind it and, where applicable, why the public interest in non-disclosure outweighs the public interest in disclosure. If confirming or denying will itself provide information which is exempt, then the Council does not have to confirm or deny that it holds the information.
- 3.8 If the request does not provide sufficient information for the Council to locate the information, the Council can ask for further details. The Council is under a statutory duty to advise and assist the applicant and therefore will provide reasonable assistance to enable the request to be properly made.
- 3.9 If the information requested is not contained within the publication scheme, the Council may only charge a fee as laid down in the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 (Appendix B)

4. Advice and Assistance

- 4.1 Under Section 15 of FOISA and under the provisions of the EIR, East Lothian Council has the duty to provide advice and assistance to applicants so far as it would be reasonable to expect the Council to do so.
- 4.2 East Lothian Council's procedure for dealing with requests is available on ELNet. A guide to making requests is available on http://www.eastlothian.gov.uk/info/704/data_protection_and_freedom_of_information/261/a_guide_to_the_freedom_of_information_scotland_act_2002. Advice and assistance by telephone can be obtained by contacting the Data Protection and Freedom of Information Officer.

5. Making Requests for Information

- 5.1 The public has a general right of access to any recorded information, however it is held. This includes electronic records, paper records, and audio or video recordings. There is no formal application procedure – applicants do not have to state that they make their request under FOISA. The only requirement is that the request is in writing, provides the applicant's name and is capable of being used for subsequent reference. If a person is unable to articulate their request in writing, East Lothian Council will provide advice to help them make their request. This does not apply to EIR, where no such requirement exists.
- 5.2 Under Section 14 FOISA, East Lothian Council is not obliged to comply with requests which are substantially similar to a request received from the same person where a reasonable interval has not elapsed between the previous and current request. Nor is it obliged to comply with requests that are vexatious.
- 5.3 If it is estimated that the cost of compliance would exceed the limit of £600 as set out in the Fees Regulations, the Council is not obliged to comply with the request. However, the Council will consider on a discretionary basis what information could be provided within the appropriate limit.

6. Prompt Replies to Requests

- 6.1 FOISA and EIR require East Lothian Council to comply with all requests for information promptly, but no later than on the 20th working day after receipt of the request. The Council does not expect every request to take 20 working days and will, wherever possible, provide the information at the earliest opportunity.
- 6.2 For environmental information, should the information requested be particularly extensive and/or should there be a need to consult third parties, the Council may need more than 20 working days. In this case, the Council will have a further 20 working days maximum to comply. The Data Protection & Freedom of Information Officer will notify the applicant in writing and provide an estimate of a date by which it expects to have gathered the information.

7. Charging Fees

- 7.1 The Council may only charge a fee to applicants in accordance with the Fees Regulations made under sections 9, 12 and 13 of FOISA (see Appendix B). No fee may be charged unless the cost of compliance exceeds £600. The Council may however charge photocopying and postage costs. If these costs are high, for example because of the volume of information requested, the Council may meet its obligations under FOISA by permitting the applicant to inspect the material or by providing a summary of the information requested. The Council will, however, take into account the applicants preferred method of access to the information and will, where practical, attempt to provide the information in the way requested.
- 7.2 Under EIR a charge can be made provided that it does not exceed the actual costs of supplying the information. Thus the Council will ensure that charges are based only on the actual costs of retrieval and production of the information and will calculate and advise the applicant of any fee before the request is met. Any fees will be based on the officer time spent in retrieving the information, plus any expenses in providing the information, such as photocopying.

8. Transferring requests for information to another public authority

- 8.1 If the Council receives a request for information which it does not hold, but which it knows is held by another public authority, the Council will provide as much assistance as possible to the applicant in transferring their request to the other authority. This may be by simply directing them to the appropriate public authority or, for environmental information, by transferring the request directly to the other authority, informing the applicant if this is to be done.
- 8.2 If the Council holds part of the information that has been requested it will treat that part of the request as an FOIA request and process it accordingly. At the earliest opportunity the Council will inform the applicant of the information it does not hold and provide reasonable assistance to enable them to locate it elsewhere.

9. Refusal of a Request

- 9.1 If East Lothian Council relies on an exemption or does not hold the requested information, the applicant will be notified as soon as possible with the appropriate explanations. Appendix A lists the exemptions most commonly applied to information held by the Council. In cases where an explanation would result in disclosure of information which in itself would be exempt, no explanations will be given.
- 9.2 For qualified exemptions, East Lothian Council will explain the public interest considerations, which lead to the decision not to disclose the requested information, in the refusal letter.
- 9.2 In cases where only parts of a document are covered by an exemption, East Lothian Council may redact the exempt parts in order to ensure that exempt information is not disclosed.

10. Elected Members and Freedom of Information

- 10.1 Where Elected Members work on behalf of the Council, this policy applies to them.
- 13.2 Where Elected Members work for their constituents, they are not considered part of the Council. As such, they are not public authorities under FOISA and any FOI request they receive must be considered invalid.

11. Reviews

- 11.1 If an applicant is unhappy with the way in which his/her request has been handled or is dissatisfied with the decision made regarding disclosure or non-disclosure of the information, or is of the opinion that ELC is not compliant with its publication scheme, s/he is entitled to ask for an internal review. The request for a review must be made no later than 40 working days following the expiry of the period for responding to the request for information.
- 11.2 The review must be carried out within 20 working days from the day of receipt by individuals who had no input into the original decision.
- 11.3 Where a request for review is received, then immediately upon receipt this should be passed to the appropriate Chief Officer together with a copy of the original request and the correspondence to the applicant.

East Lothian Council
Freedom of Information Policy

- 11.4 For more complex cases, a panel of senior officers may be appointed to carry out the review.
- 11.5 Where the determination of the review is that the information previously withheld should be disclosed, then the information must be provided no later than 20 working days from receipt of the request for review.
- 11.6 Where the determination of the review upholds the original decision, it should be notified to the applicant for review within 20 working days of the receipt of the request for review. This notification will contain particulars about the right to appeal to the Scottish Information Commissioner for a decision.
- 11.7 If the Scottish Information Commissioner issues a decision in favour of the Council, the applicant then has the right to appeal to the Court of Session. Likewise, if the decision is in favour of the applicant, the Council has the right to appeal to the Court of Session.

12. Review of Policy

- 12.1 This policy will be reviewed every three years from the date of approval.

APPENDIX A

EXEMPTIONS UNDER FOISA

Whilst the Freedom of Information Act provides for the right of access to information held, it also affords a number of exemptions from this right in order to permit public authorities to withhold some or all of the information requested where a justifiable reason exists.

The exemptions fall into two categories:

- those that are absolute exemptions where the Council may withhold the information without considering any public interest arguments, and
- those that are qualified i.e. that, although an exemption may apply to the information it will nevertheless have to be disclosed unless the public interest in withholding the information is greater than the public interest in releasing it.

In respect of the absolute exemptions, the Council does not have to confirm or deny that it holds the information if to do so would in itself provide exempt information.

Absolute Exemptions

The absolute exemptions that are most likely to apply to the Council are:

- Information which is reasonably accessible by another means, i.e. through the Council's Publication Scheme or via existing access regimes (Section 25)
- Personal information relating to the person making the request. Such requests will continue to be dealt with under the Data Protection Act 1998 (Section 38)
- Personal information about a third party where disclosure of that information would contravene the data protection principles contained in the Data Protection Act 1998 (Section 38)
- Information provided in confidence – this exemption only applies to information where disclosure would result in an actionable breach of confidence (Section 36)
- Information that is prohibited from disclosure by law (Section 26)

East Lothian Council
Freedom of Information Policy

Qualified Exemptions

The qualified exemptions most likely to apply to the Council are:

- Information intended for future publication (Section 27)
- Investigations/proceedings conducted by public authorities (Section 34)
- Law enforcement (Section 35)
- Prejudice to the effective conduct of public affairs (Section 30)
- Health & Safety (Section 39)
- Environmental Information (Section 39)
- Legal professional privilege (Section 36)
- Commercial interest (Section 33)

A full list of the exemptions under the Act is available from the Scottish Information Commissioner's website at <http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Briefings.asp#exemptions>

For further guidance on the application of exemptions and the public interest test please contact the Data Protection and FOI Team at foi@eastlothian.gov.uk.

APPENDIX B

The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004

Citation and commencement

1. - (1) These Regulations may be cited as the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004.

(2) These Regulations shall come into force on 1st January 2005.

Interpretation

2. In these Regulations-

"the Act" means the Freedom of Information (Scotland) Act 2002;
"prescribed amount" means the amount prescribed in regulation 5; and
"projected costs" has the meaning set out in regulation 3.

Projected costs

3. - (1) In these Regulations, "projected costs" in relation to a request for information means the total costs, whether direct or indirect, which a Scottish public authority reasonably estimates in accordance with this regulation that it is likely to incur in locating, retrieving and providing such information in accordance with the Act.

(2) In estimating projected costs-

(a) no account shall be taken of costs incurred in determining-

(i) whether the authority holds the information specified in the request; or

(ii) whether the person seeking the information is entitled to receive the requested information or, if not so entitled, should nevertheless be provided with it or should be refused it; and

(b) any estimate of the cost of staff time in locating, retrieving or providing the information shall not exceed £15 per hour per member of staff.

Fee payable

4. - (1) For the purposes of section 9(1) of the Act (fees), the fee which a Scottish public authority may charge is to be determined in accordance with paragraphs (2) to (4).

(2) Where the projected costs do not exceed £100, no fee shall be

East Lothian Council
Freedom of Information Policy

payable.

(3) Where the projected costs exceed £100 but do not exceed the prescribed amount, the fee shall not exceed 10% of the difference between the projected costs and £100.

(4) The fees notice shall set out the manner in which the fee has been calculated.

Excessive cost - prescribed amount

5. The amount prescribed for the purposes of section 12(1) of the Act (excessive cost of compliance) is £600.

Aggregation of costs

6. Where two or more requests for information are made to a Scottish public authority by different persons, the authority need not comply with either or any of those requests where-

(a) the information sought in the requests covers the same subject matter or overlaps to a significant extent;

(b) the authority estimates that the total cost of complying with both or all of the requests would exceed the prescribed amount;

(c) the authority considers that it would be reasonable to make the information available to the public at large and elects to do so;

(d) within 20 working days of receipt by it of the first of the requests the authority notifies each of the persons making the requests that the information is to be made available in accordance with paragraph (e); and

(e) the authority makes the information available to the public at large within the period specified in paragraph (d).

REPORT TO: Cabinet

MEETING DATE: 11 September 2012

BY: Executive Director (Support Services)

SUBJECT: East Lothian Council's Response to the Scottish Government's Consultation on the Proposed Community Empowerment and Renewal Bill

5

1 PURPOSE

- 1.1 To present the basis for the response from the Council to the Scottish Government's consultation on the Proposed Community Empowerment and Renewal Bill.

2 RECOMMENDATIONS

- 2.1 Cabinet endorses the general comments in paragraphs 3.3-3.12 as the basis for the Council's detailed response to the Scottish Government's consultation on the Proposed Community Empowerment and Renewal Bill which will be submitted by the Chief Executive following approval by the Council Leader.

3 BACKGROUND

- 3.1 The Scottish Government published a consultation paper on the Proposed Community Empowerment and Renewal Bill on 6th June 2012. The original deadline for responses to the consultation paper was 29th August 2012 but this was extended to 29th September 2012.
- 3.2 This is the first stage of the process and there is no draft legislation at this stage. The paper includes over 40 questions and over 20 sub-questions. The consultation paper is far reaching and covers a wide range of issues which are largely unconnected, including:
- Strengthening community participation with an 'overarching duty to engage'; extending the powers of Community Councils; tenants right to manage; community service delivery; and, participatory budgeting

- Unlocking enterprising community development through the community right to buy; community asset transfer; Common Good; asset management; and, allotments
 - Renewing our communities with leases and temporary uses of unused or underused assets; changing powers in relation to dangerous and defective buildings and compulsory purchase; and the power to enforce sale or lease of empty property.
- 3.3 The consultation paper gives the impression of the government having a series of initial ideas without a coherent thread. It can be criticised for taking a centralising approach to perceived problems. It proposes the introduction of a range of new duties on local government and powers and rights to ‘communities’ and ‘community groups’ which could place major pressures on local authorities at a time when they are facing other substantial changes and pressures.
- 3.4 Many of the questions are poorly formulated and appear to give little recognition to what is already good practice and common practice in local government. Many questions seek a straightforward ‘Yes’ or ‘No’ response to complex issues which do not lend themselves to this approach.
- 3.5 East Lothian Council has been, and remains committed to exploring and supporting options for devolving powers down to citizens and community organisations; for example, devolving the management of Community Centres to local management committees, providing Community Councils with Local Priority Scheme funds and exploring the option of Community Partnership Schools. Community engagement is one of the cross cutting themes of the Single Outcome Agreement and the Council recently adopted a strategy to strengthen and enhance consultation and engagement with citizens and community organisations. The Council Plan 2012-2017 includes a commitment to establish Local Area Partnerships to give local communities, Community Councils and local groups more say in local services and to devolve decision making and budgets.
- 3.6 The Council is supportive of the principle of extending ‘community empowerment’ and taking measures to support and bring about sustainable community renewal. However, the Council is not convinced of the merit of the proposals contained in the consultation paper.
- 3.7 The consultation paper proposes that local authorities should be given a range of new duties, including to:
- engage with communities
 - follow the National Standards for Community Engagement
 - publish and communicate a community engagement plan
 - have a named accountable officer, responsible for community participation

- make their asset registers and asset management plans available to the public
 - have an officer to co-ordinate engagement and strategy on community asset transfer and management.
- 3.8 The Council already engages with communities, endorses and attempts to follow the National Standards for Community Engagement, has a consultation and engagement plan and is developing an asset register and asset management plan. However, the imposition of new duties would be unwelcome and potentially restrictive.
- 3.9 The consultation paper promotes the concept of community empowerment by posing a series of questions suggesting that communities, community groups and/ or Community Councils should be given a wide range of new powers, including:
- a role in delivering public services
 - making it easier for tenants and community groups to manage housing services in their area
 - the right to challenge service provision
 - the right to request to manage certain areas of spending within their local area
 - the power to request the public sector transfer unused or underused assets
 - the right to use or manage unused and underused public sector assets
 - the right to request a local authority use a compulsory purchase order on their behalf.
- 3.10 Citizens and community groups already have the right to request that their local authority improves services, considers different forms of service delivery, transfer the management or ownership of assets. Local authorities already have the power to work with local groups and the third sector in the way that is suggested in the consultation paper.
- 3.11 However, the implication of the questions as framed in the consultation paper is that communities would have the right to have their requests granted and that local authorities would have little or no discretion over these matters. There are major implications in relation to resources and finance that do not appear to have been given any consideration. For example, whilst the Council might support the use of compulsory purchase orders to bring vacant properties back into use much more detail would need to be provided on how 'communities' would be involved in this process. There could be significant financial implications relating to the compulsory purchase and subsequent renovation of derelict property and then significant revenue costs associated with using

the property for community use. Local authorities should retain the discretion to judge requests from communities for changes in service delivery, asset transfer etc on their merits and against competing demands for resources. It should also be noted that on occasions there can be competing and contradictory view or demands from communities.

- 3.12 East Lothian Council is supportive of community management and ownership of assets and is committed to working with the enterprising third sector and encouraging the development of social enterprises to provide services such as home care. The Council also supports the concept of participatory budgeting and devolving decision making and budgets. Whilst not being supportive of all the proposals in the consultation paper the Council welcomes the further consideration being given to how local authorities can support community empowerment and renewal. The Council would be willing to take part in helping to develop these concepts and ideas in a constructive dialogue with the Government and East Lothian's communities and enterprising third sector.

4 POLICY IMPLICATIONS

- 4.1 This report provides the Council's response to a Consultation paper on ideas and proposals that might be contained in a future Community Empowerment and Renewal Bill. It has no direct policy implications.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - none
6.2 Personnel - none
6.3 Other - none

7 BACKGROUND PAPERS

- 7.1 A Consultation on the Proposed Community Empowerment and Renewal Bill; Scottish Government, June 2012
<http://www.scotland.gov.uk/Publications/2012/06/7786>

AUTHOR'S NAME	Paolo Vestri
DESIGNATION	Corporate Policy Manager
CONTACT INFO	pvestri@eastlothian.gov.uk Tel: 01620 827320
DATE	30 August 2012

REPORT TO: Cabinet

MEETING DATE: 11 September 2012

BY: Executive Director (Services for People)

SUBJECT: Response to the Scottish Government Consultation on Integration of Health and Social Care

6

1 PURPOSE

- 1.1 To seek approval for the Council's response to the Scottish Government consultation on the integration of health and social care.

2 RECOMMENDATIONS

- 2.1 Members are asked to;
- i) Note the contents of this report
 - ii) Approve the response for submission to the Scottish Government (attached)
 - iii) Request that the Chief Executive begins detailed planning towards the establishment of a single Health and Social Care Partnership in East Lothian taking account of guidelines and legislation as available.

3 BACKGROUND

- 3.1 The Scottish Government signalled its intention to integrate health and social care services in late 2011. In May 2012, the Scottish Government published its consultation paper seeking views on its proposals to bring forward legislation to integrate health and social care services. Responses to consultation are required to be with the Scottish Government by 11 September 2012.
- 3.2 The Scottish Government plans to introduce legislation to create Health and Social Care Partnerships (HSCPs). The purpose of HSCPs is to bring together a range of existing NHS and local authority services within

a formal partnership to focus their combined resources on supporting more people to be supported in their own homes and communities than is currently the case, thereby shifting the balance of care and improving service outcomes.

3.3 There will be a focus on locality planning bringing together not only professional health and social care staff working in local communities , but also partners from local voluntary and community organisations and independent sector care providers.

3.4 In summary, the consultation proposes;

- The integration of all services focusing initially on services for older people
- A broad approach to partnership emphasising the role of the voluntary and independent sectors
- Integrated budgets that encompass all spend on health and social care for older people and some acute care, where money loses its identity
- A senior Joint Accountable Officer reporting to Chief Executives of both the Council and the Health Board
- Two options for governance; either a separate body corporate, or where this is delegated to a host partner
- Integration measures included as part of Single Outcome Agreements and publication of local performance data
- Locality service planning led by professional staff groupings with devolved decision making and budgetary responsibilities
- The abolition of Community Health Partnerships
- One Partnership Committee per Council area. Equal health and council representation with a minimum of three elected members and three NHS non executive directors
- NHS Board Chair and Council Leader to oversee effectiveness of partnership and review meetings to monitor effectiveness by NHS Chairs and Council Leaders.

3.5 Since publication of the consultation paper there have been extensive discussions involving Council officers and our partners in the statutory, voluntary and community sectors to inform our response to the

consultation. This has included discussion with Midlothian Council, NHS Lothian, our local joint planning groups and staff. We have also taken note of the responses of key professional bodies including the Society of Local Authority Chief Executives (SOLACE) and the Association of Directors of Social Work (ADSW) in preparing our response.

- 3.6 The proposed response is presented in two parts; Part One provides the Council's overall commentary on the establishment of Health and Social Care Partnerships within the broader context of public sector reform. Part Two is the detailed response to the consultation questions which has been prepared jointly with East Lothian Community Health Partnership.
- 3.7 The Council has worked closely with its partners in East and Midlothian Community Health Partnership and Midlothian Council in preparing our responses to the consultation exercise. Through the course of these discussions it is now considered that our preferred model is for the establishment of single Health and Social Care Partnerships in both East Lothian and Midlothian with strong connections to the Community Planning Partnerships and Single Outcome Agreements.
- 3.8 As partners, we believe this offers the best solution to the delivery of local services and improved outcomes. Equally however, we recognise the value in further partnership approaches where it can be shown this will continue to improve service delivery in local communities, building upon services that currently exist in East and Midlothian.

4 POLICY IMPLICATIONS

- 4.1 The establishment of Health and Social Care Partnerships is designed to improve outcomes for service users by shifting the balance of care and encouraging greater use of preventative services. The local partnership will therefore support delivery of East Lothian's Older People's Strategy, the Council Plan and Single Outcome Agreement.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Integration of Adult Health and Social Care in Scotland: Consultation on Proposals, the Scottish Government (May 2012).
<http://www.scotland.gov.uk/Publications/2012/05/6469>

AUTHOR'S NAME	David Heaney
DESIGNATION	Senior Manager (Strategy & Policy)
CONTACT INFO	dheaney@eastlothian.gov.uk
DATE	29 August 2012

REPORT TO: Cabinet
MEETING DATE: 11 September 2012
BY: Executive Director (Support Services)
SUBJECT: East Lothian Armed Forces Community Covenant

7

1 PURPOSE

- 1.1 To inform Cabinet of the proposal for East Lothian Council to sign the East Lothian Armed Forces Community Covenant.

2 RECOMMENDATIONS

- 2.1 Cabinet approves the proposal for East Lothian Council to sign the East Lothian Armed Forces Community Covenant (Appendix 1).

3 BACKGROUND

- 3.1 The Council has been approached by the armed forces to take the lead in producing and signing an Armed Forces Community Covenant.
- 3.2 A Community Covenant is a voluntary statement of mutual support between a civilian community and its local Armed Forces Community. It is intended to complement the Armed Forces Covenant, which outlines the moral obligation between the Nation, the Government and the Armed Forces, at the local level. The aim of the Community Covenant is to encourage local communities to support the Service community in their area and nurture understanding and awareness amongst the public of issues affecting the Armed Forces community. The Armed Forces community includes Serving Personnel from all branches of the armed forces and their families, ex-service personnel (veterans) and their families.
- 3.3 The aims of the Armed Forces Community Covenant are to:
- Encourage local communities to support the Armed Force community in their area

- Nurture public understanding and awareness amongst the public of issues affecting the Armed Forces community
 - Recognise and remember the sacrifices faced by the Armed Forces community
 - Encourage activities which help to integrate the Armed Force community into local life
 - Encourage the Armed Forces community to help and support the wider community, whether through participation in events and joint projects, or other forms of engagement.
- 3.4 Local authorities and the Armed Forces community are encouraged to work together to establish a Community Covenant for their area. Community Covenants may look different for each area as the nature of support will be determined by need and capacity.
- 3.5 The Community Covenant is supported by the Community Covenant Grant Scheme which has been established to financially support projects at a local level which strengthen ties or the mutual understanding between members of the Armed Forces community and the wider community in which they live. Once the Community Covenant has been signed bids can be submitted for Community Grant Funds. Applications for the funds can be submitted by any part of the community, including voluntary organisations, charities or public bodies. Bids are assessed by a Ministry of Defence and HM Treasury panel but will require endorsement from the leading parties of the Community Covenant.
- 3.6 Several Scottish local authorities or Community Partnerships have already agreed Community Covenants including, Midlothian, West Lothian and Edinburgh. These Community Covenants all follow the same template which has been used as the basis of the draft East Lothian Community Covenant (see Appendix 1).
- 3.7 A meeting involving representatives of the Council, the Armed Forces community, and several Community Planning partners including the Association of Community Councils and Voluntary Action East Lothian met recently to discuss a draft Community Covenant. The meeting agreed:
- To recommend that the Community Covenant should be an East Lothian Community Planning Partnership document
 - The draft Community Covenant should be endorsed and submitted for approval to Community Planning partners including East Lothian Council
 - Partners should be asked to endorse the draft Community Covenant in order to allow a formal signing ceremony to be held as soon as can be arranged, possibly early October

- Following the signing of the Covenant the partners should reconvene to develop an Action Plan that will support the achievement of the objectives outlines in the Covenant.

3.8 The draft Community Covenant has been sent to the Community Partnership Board and to the individual partners who are being asked to endorse and sign the Covenant.

4 POLICY IMPLICATIONS

4.1 Signing the Armed Forces Community Covenant will complement the national Armed Forces Covenant signed by the UK Government and endorsed and supported by the Scottish Government and will lay the basis for mutual support between the East Lothian civilian community and its local Armed Forces Community.

4.2 The objectives outlined in the Community Covenant are in line with the outcomes and principles of the Single Outcome Agreement.

5 EQUALITIES IMPACT ASSESSMENT

5.1 An Equalities Impact Assessment will be carried out of the Action Plan that is to be developed to support the achievement of the objectives agreed in the Community Covenant.

6 RESOURCE IMPLICATIONS

6.1 Financial – there are no direct financial implications associated with signing the Armed Forces Community Covenant. The Council and its partners will be able to apply for grant funding from the Community Covenant Grant Scheme for projects which aim to provide services for and/ or strengthen ties with the armed forces community.

6.2 Personnel - none

6.3 Other – none

7 BACKGROUND PAPERS

7.1 Appendix 1: Draft East Lothian Armed Forces Community Covenant

AUTHOR'S NAME	Paolo Vestri	
DESIGNATION	Corporate Policy Manager	
CONTACT INFO	pvestri@eastlothian.gov.uk	01620 827320
DATE	30 August 2012	

APPENDIX 1:

THE EAST LoTHIAN ARMED FORCES COMMUNITY COVENANT Between East Lothian Council, NHS Lothian, Armed Forces Charities, Job Centre Plus, Local Communities, The Business and Commercial Sector, the Enterprising Third Sector and The Armed Forces Community in East Lothian

We, the undersigned, agreed to take all reasonable measures to honour this Armed Forces Community Covenant:

{List of signatories to be added}

SECTION 1: PARTICIPANTS

1.1 This Armed Forces Community Covenant is made between:

The serving and former members of the Armed Forces and their families working and residing in EAST LoTHIAN

And

East Lothian Community Planning Partnership constituent partners

And

Other members of the civilian community

SECTION 2: PRINCIPLES OF THE ARMED FORCES COMMUNITY COVENANT

2.1 The Armed Forces Community Covenant is a voluntary statement of mutual support between a civilian community and its local Armed Forces Community. It is intended to complement the Armed Forces Covenant (see addendum), which outlines the moral obligation between the Nation, the Government and the Armed Forces, at the local level.

2.2 The purpose of this Community Covenant is to encourage support for the Armed Forces Community working and residing in East Lothian and to recognise and remember the sacrifices made by members of this Armed Forces Community, particularly those who have given the most. This includes serving and ex-Service personnel and their families in East Lothian.

2.3 For East Lothian Community Planning Partnership and its constituent partner organisations, the Community Covenant presents an opportunity to bring their knowledge, experience and expertise to bear on the provision of help and advice to members of the Armed Forces Community. It also presents an opportunity to build upon existing good work on other initiatives such as the Welfare Pathway.

2.4 For the Armed Forces community, the Community Covenant encourages the integration of Service life into civilian life and encourages members of the Armed Forces community to help their local community. Also it encourages formed units to support activity and provide suitable representation within their local communities, within their capabilities and availability.

SECTION 3: OBJECTIVES AND GENERAL INTENTIONS

Aims of the Community Covenant

3.1 The Armed Forces Community Covenant complements the principles of the Armed Forces Covenant which defines the enduring, general principles that should govern the relationship between the Nation, the Government and the Armed Forces community.

3.2 It aims to ensure that Service personnel, their families and ex-Service personnel are not, in any way, disadvantaged in the provision of the usual entitlements and support from statutory services due to the transient nature of their military employment.

3.3 It aims to encourage all parties within a community to offer support to the local Armed Forces community and make it easier for Service personnel, families and veterans to access the help and support available from the MOD, from statutory providers and from the Enterprising Third Sector within their community. The Covenant aims to strengthen the links and partnership working between these organisations at the local level.

3.4 The scheme is intended to be a two-way arrangement and the Armed Forces community are encouraged to do as much as they can to support their community and promote activity which integrates the Service community into civilian life, providing visibility and understanding of the military within the local community.

SECTION 4: OUTCOMES

4.1 As part of this Covenant all parties are encouraged to work together to deliver six key objectives in support of Service personnel, their families and ex-Service personnel in East Lothian.

4.2 Agreed measures in support of these objectives will be detailed in the Community Covenant Action Plan and reviewed quarterly by the Community Covenant signatories.

Objective 1: Children, Young People and their Families

Work in partnership to build and develop further work, services and relationships to improve outcomes for children and young people of serving families / veterans in the communities of East Lothian.

Objective 2: Health and Wellbeing

Work in partnership to build and further develop work, services and relationships focused on health and wellbeing, including access to health services, focus on mental health and wellbeing and building a sense of belonging for families locally.

Objective 3: Housing

Develop clear direction and guidance within the Local Authority and the Armed Forces as to what levels of service provision can be expected and what is required of the military community to enable them.

Objective 4: Community Partnerships – working together

Create opportunities for Armed Forces representatives to become part of the Community Planning Partnership structures and to help them to contribute to their local communities.

Objective 5: Support to Veterans and their Families

Consider and support the needs of Service personnel during and after their transition to becoming a veteran.

Objective 6: Employability

Identify measures to support ex and transiting Service personnel and their families to achieve positive employability destinations and outcomes.

THE ARMED FORCES COVENANT

An Enduring Covenant Between

The People of the United Kingdom

Her Majesty's Government

– and –

All those who serve or have served in the

Armed Forces of the Crown

and their Families

The first duty of Government is the defence of the realm. Our Armed Forces fulfil that responsibility on behalf of the Government, sacrificing some civilian freedoms, facing danger and, sometimes, suffering serious injury or death as a result of their duty. Families also play a vital role in supporting the operational effectiveness of our Armed Forces. In return, the whole nation has a moral obligation to the members of the Naval Service, the Army and the Royal Air Force, together with their families. They deserve our respect and support, and fair treatment.

Those who serve in the Armed Forces, whether Regular or Reserve, those who have served in the past, and their families, should face no disadvantage compared to other citizens in the provision of public and commercial services. Special consideration is appropriate in some cases, especially for those who have given most such as the injured and the bereaved.

This obligation involves the whole of society: it includes voluntary and charitable bodies, private organisations, and the actions of individuals in supporting the Armed Forces. Recognising those who have performed military duty unites the country and demonstrates the value of their contribution. This has no greater expression than in upholding this Covenant.



**MINUTES OF THE MEETING OF THE
LICENSING SUB COMMITTEE OF THE CABINET**

**THURSDAY 14 JUNE, 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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Committee Members Present:

Councillor J McNeil (Chair)
Councillor J Williamson
Councillor D Grant
Councillor J Caldwell
Councillor J McMillan

Council Officials Present:

Mr I Forrest, Legal Adviser
Ms M Winter, Licensing Administration Assistant
Ms G Herkes Support Services Assistant

Others Present

Insp I MacKay
PC H Bowsher, Lothian & Borders Police
Mr G D Brooks, Co-Chair of East Lothian Taxi and Private Hire Association

Clerk:

Mrs F Stewart

Apologies:

Councillor F McAllister

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Licensing Sub-Committee unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

1. Applications for Grant of Taxi/Private Hire Car Driver's Licence

The Sub-Committee considered three applications for grant of a licence; one was granted, one continued and one refused.

2. Application for Renewal of Taxi/Private Hire Driver's Licence

The Sub-Committee considered four applications for renewal of a licence and all four were agreed.

3. Notification of Offence

The Sub-Committee considered one notification of offence and agreed to take no further action.

4. Notification of Complaint

One notification of complaint had been received and the Sub-Committee agreed to continue this matter until their September meeting.

5. Applications for Grant of a Licence to Act as a Street Trader

Two applications had been received and the Sub-Committee agreed to continue both applications to their September meeting.

PUBLIC REPORT

6. TAXI FARE REVIEW

The East Lothian Taxi and Private Hire Association had submitted proposals for an increase to fares for the period 2012-13. The Licensing Office had also provided current comparable tariffs for East Lothian Council, Scottish Borders Council, Edinburgh City Council, and West Lothian Council.

Mr George Brooks, Co-Chair of East Lothian Taxi and Private Hire Association, was present. He presented apologies from his co-chair Mr Colin Paxton who was unable to attend the meeting due to ill health.

Mr Brooks stated that an increase to taxi fares was imperative due to the increase in overheads, drivers' salaries and fuel. The increase was also necessary to keep pace with inflation.

The Legal Adviser explained that the Licensing Office would require the approval of Members to begin the process of public consultation on the proposed increase in taxi fares. As part of the consultation, an advertisement would be placed in local newspapers illustrating the proposed new tariffs. A report would then be brought to the September meeting of the Sub-Committee which would indicate if any objections to the increase had been received.

Mr Brooks proposed that the increase last for 2 years, if approved. However, it was pointed out that the Civic Government (Scotland) Act 1982 states that the tariffs had to be set for a maximum of 18 months.

Members discussed the proposal in detail and, in particular, debated whether fares should be reviewed annually or every 18 months, consulting Mr Brooks and the Council's legal adviser.

Decision

The Sub-Committee agreed to authorise the Council to proceed with the consultation process on a 15% increase to taxi fares in East Lothian and to review taxi fares on an annual basis.

