



# THE COUNCIL



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## Freedom of Information and Environmental Information Policy

### 1. Introduction

The Freedom of Information Policy ensures that Shipdham Parish Council ("the Council") acts in compliance to the Freedom of Information Act 2000 (FOIA). This Policy also covers the Environmental Information Regulations 2004 (EIR).

### 2. Purpose

The aim of this Policy is to;

- improve public confidence in Council operations;
- Improve decision making to promote accountability;
- Improve compliance to regulation;
- promote the FOIA, in terms of accuracy and objectivity; and
- Improve information management.

### 3. Legislation Summary

The FOIA provides public access to information held by the Council. It does this in two ways:

- the Council is obliged to publish certain information about their activities; and
- members of the public are entitled to request information from the Council.

The Act covers any recorded information held by a public authority. The Act does not, however, give people access to their own personal data - these requests should be made under the Data Protection Act. Any information that the Council holds in relation to the environment should be processed in alignment with the Environmental Information Regulations 2004.

The Council has continued to demonstrate its commitment to all aspects of the FOIA and will continue to promote its values and ensure that the Council is compliant with legislation.

### 4. Requests for Information

Anyone may make a request for information held by public authorities under the FOIA. For the request to be valid, it must be:

- in writing;
- state the name of the applicant and an address for correspondence; and
- describe the information requested.

If a request is received that is not for information held by the Council, for example why a decision was made, or a question or complaint about how the Council carried out an action, the Requester will be advised that their request is not valid and an alternative route for satisfying their request will be suggested.

## **5. Fees**

Wherever possible, the Council endeavours to provide information free of charge. However, the Council are entitled to charge for information under Section 9 of the FOIA and the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Hard copies of documents may be charged at 15p per sheet (black and white copy) or 20p per sheet (colour copy) plus postage, if required. This charge will only be levied when the total cost of producing the information exceeds £2.50.

The Council will issue a Fees Notice to the Requester prior to the information being produced, and this must be paid before the information will be released. If no payment is received within 3 months of the Fees Notice being issued, we will close the request for information.

## **6. Timeline for Compliance**

The Council aims to comply with requests for information as quickly as possible. Section 10 of the FOIA states that a public authority must respond to a request promptly and, in any event, no later than the twentieth working day following the date of receipt. Working day means any day other than Saturday, Sunday, bank holiday, or other notified closure of the Council office. The time for compliance is subject to change if:

- the Council seeks clarification under Section 1(3) of the FOIA, in which case the 20 working days starts once the Council has clarification of the request;
- there is a need for an extension to consider the Public Interest Test under Section 10(3) of the FOIA; or
- a fees notice is issued under Section 9, in which case the 20 days starts from receipt of the fee.

## **7. Appropriate Limit**

Under Section 12 of the FOIA, the Council does not have to comply with requests where the cost of compliance exceeds the appropriate limit. Section 12 applies if the following factors would cost the Council more than £450 or 18 hours of officer time:

- determine whether the information is held;
- locating the information;
- retrieving the information; and
- extracting the information, redacting confidential or sensitive details where applicable.

Under Section 13 of the FOIA and the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 the Council is able to charge for the cost of disbursements.

## **8. Vexatious or Repeated Requests**

Under Section 14, the Council will not comply with vexatious requests where there is a strong likelihood that such requests are being made to intentionally cause disproportionate or unjustified levels of disruption, irritation or distress.

The Council will not comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request.

Please refer to our Policy for Dealing with Unreasonably Persistent Complaints, Unacceptable Parishioner Behaviour, and Vexatious Requests for further guidance.

## **9. Advice and Assistance**

In compliance with Section 16 of the FOIA, the Council will provide advice and assistance in response to all requests for information as far as reasonably practicable.

## **10. Publication Scheme**

Every public authority has a duty to adopt and maintain a Publication Scheme in order to facilitate pro-active release of information. The Council has adopted the model Publication Scheme produced by the Information Commissioner and they are available on our website: <https://www.shipdham.org/wp-content/uploads/SPC-Freedom-of-Information-Publication-Scheme-2024.pdf> and <https://www.shipdham.org/wp-content/uploads/SPC-Freedom-of-Information-Publication-Scheme-Core-Classes-2024.pdf> .

## **11. Codes of Practice**

The FOIA is supported by two codes of practice:

- Access Code (Section 45) - Detailing good practice within Freedom of Information.
- Lord Chancellors Code (Section 46) - Detailing good practice within record management.

The Council will ensure that wherever possible the codes of practice will be applied.

## **12. Refusals**

In some cases, the Council may refuse requests for information under Section 17 of the FOIA. The Council may issue a refusal notice for the following reasons;

- information is not held, or
- an exemption applies (see Part II of the FOIA).

In some cases the Council may not hold the information requested - it may be that it is held by another party. If possible, the Council shall provide the requester with information to redirect the request. However, for Data Protection reasons the Council will not transfer the requester's request.

### **13. Exemptions**

There may be certain circumstances under which the Council is not obliged to release information. The Council may decide to apply exemptions under Part II of the FOIA. The exemption, if relied upon, will be explained thoroughly in the Council's refusal notice under section 17.

A list of the exemptions to the FOIA can be found on the Information Commissioner's website <https://www.legislation.gov.uk/ukpga/2000/36/part/II> .

Some exemptions are 'absolute', which means that the exemption applies to any information falling within a defined type. Other exemptions are 'qualified' and require a public interest test to be applied. The Council will ensure that the public interest test is carried out for each of the qualified exemptions. If an exemption is applied it will be authorised by either the Chairman or Vice Chairman.

### **14. Internal Review**

If a requester is unhappy with a decision that the Council has made it may request an internal review, as detailed in the Section 45 code of practice. The Council's internal review comprises of a single stage of an independent review by an appointed Councillor. The Councillor will review the original request, the information held and available, and the original response provided to the requester.

The result will be either that the original response is upheld or, if the justification is deemed inappropriate, the request will be considered valid and the information requested provided. A record of the review, including the Councillor appointed and the outcome, will be maintained by the Clerk. The Council has 20 working days to complete the review and respond to the requester.

### **15. Data Protection**

A request for information may relate to personal data of the requester or third parties. The Council may refuse the request if to disclose information in relation to third parties would be an actionable breach of confidence or would breach one or more of the data protection principles.

In cases where the request relates to personal data of the requester, the authority will refuse under Section 40(1) and shall ask for the request to be submitted as a Data Subject Access request under the Data Protection Act, Section 7. This process is detailed within the Council's Data Protection Policy.

### **16. Re-use of Public Sector Information Regulations 2005**

The regulations implement an EU directive that encourages the re-use of public information for purposes other than its original purpose. The regulations do not oblige the Council to make their information available for re-use unless there is a statutory obligation to do so.

The regulations apply to any recorded information (Freedom of Information), including whole or part of documents. Requests for re-use should be in writing and the Council will aim to respond within 20 working days.

## **17. Environmental Information Regulation 2004**

The Environmental Information Regulations 2004 (EIR) came into force on 1 January 2005 and give members of the public the right of access to environmental information held by public authorities, which includes the Council. The Council will class a request for information as an EIR request if it falls within the description stated in the regulations under Part 1 Regulation 2.

The Council is not obliged to disclose all information requested if an exception applies under Part 3 Regulation 12. The Council will carry out a public interest test for any exception that is applied.

## **18. Information Commissioner**

The Council will consult with the Information Commissioner when required. The Council will refer to Commission guidance and ensure that it is compliant with any good practice that the Commissioner promotes. The Commissioner will investigate complaints in relation to Freedom of Information and Environmental Information Regulations request.

## **19. Training**

The Council will ensure that staff and members involved in any activity related to an FOIA request or EIR request have appropriate experience and/or training to ensure they are fully informed of their obligation under the FOIA.