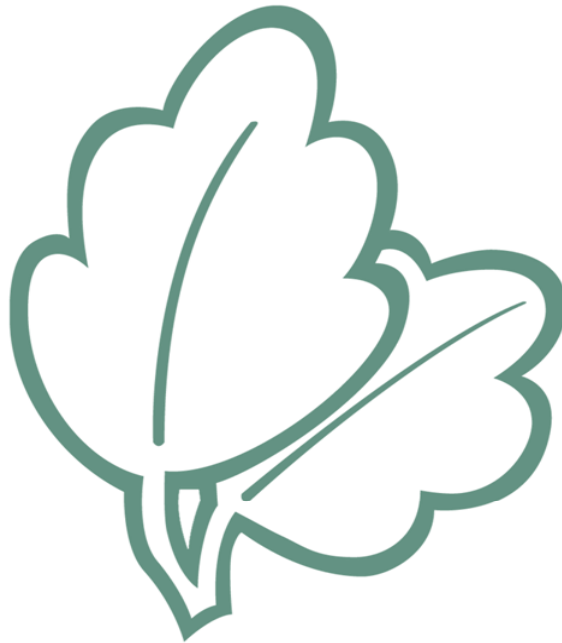


# **Re-Use of Public Sector Information Policy**



**April 2007**

## Version Control Sheet

<i>Title:</i>	<b>Re-Use of Public Sector Information Policy (PSI)</b>
<i>Purpose:</i>	<b>To ensure compliance with the Re-Use of PSI Regulations 2005.</b>
<i>Owner:</i>	<b>Information Manager <a href="mailto:lhenley@thurrock.gov.uk">lhenley@thurrock.gov.uk</a> 01375 652500</b>
<i>Approved by:</i>	<b>CMT/Cabinet delete as appropriate</b>
<i>Date:</i>	<b>18 April 2007</b>
<i>Version Number:</i>	<b>1.0</b>
<i>Status:</i>	<b>Final</b>
<i>Review Frequency:</i>	<b>Every 2 years</b>
<i>Next review date:</i>	<b>18 April 2009</b>

## Document History

This document will be held within the Information Management Team.

Approvals - This document requires the following approvals.

<b>Title</b>	<b>Date Approved</b>	<b>Version</b>
Information Manager	12/02/07	1.0
Director of Corporate Development	12/02/07	1.0
Head of E- Government	12/02/07	1.0
Head of Audit Services	12/02/07	1.0
Head of Legal Services	12/02/07	1.0
Corporate Management Team		1.0
Cabinet		1.0
People Information Network	12/02/07	1.0
Union	12/02/07	1.0
Vertex Programme Team	12/02/07	1.0
Corporate Diversity	12/02/07	1.0

### Summary of Changes made from draft version:

More references were made in the policy to the link between FOI Act and Re-Use.

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## 1 Introduction

- 1.1 Thurrock, like other public bodies, has a duty to comply with the Freedom of Information Act 2000, and substantial information is given out to applicants in accordance with the Act. However, the FOIA 2000 does not give an automatic right to re-use the information.
- 1.2 The Re-use of Public Sector Information Regulations 2005 (Governed by the Office of Public Sector Information (OPSI)) came into force on 1<sup>st</sup> July 2005. The regulations set out a regime and encourage the re-use of public sector information for which the public authorities listed in the regulations hold certain kinds of copyright.
- 1.3 These regulations provide that a public sector body, such as the Council, has discretion whether to permit the “re-use” of a document pursuant to a request. “Re-use” means the use by a person of a document for a purpose other than the initial purpose for which the document was produced.
- 1.4 The regulations set out the basis on which the Council should act when deciding whether and how to comply with a re-use request. This policy sets out the approach of the Council with regards to dealing with re-use requests for which the Council holds the copyright or other relevant intellectual property rights (other associated rights set out in various copyright acts).

## 2 The Request

- 2.1 An application to re-use information for which the Council holds the copyright must:
    - (a) be in writing;
    - (b) state the name of the person making the request;
    - (c) give an address for correspondence;
    - (d) specify the document requested; and
    - (e) state the purpose for which the document is to be re-used.
  - 2.2 The application should be made to the Information Manager, 4<sup>th</sup> Floor, Civic Offices, New Road, Grays, Essex RM17 6SL, or sent via e-mail [information.mattexx@xxxxxxxx.xxx.xx](mailto:information.mattexx@xxxxxxxx.xxx.xx)
  - 2.3 The Council is not obliged under the regulations to make public sector information available for re-use. However, if the Council decides to do so this has to be done in accordance with the Regulations.
  - 2.4 The Regulations provide for:
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- (a) 20 working day period (beginning from the first working day after the request is received) for the Council to respond to a request for re-use, although this period may be extended where the information requested is extensive or complex;
- (b) a licence fee if re-use is not to be free;
- (c) a licence must not restrict competition;
- (d) the Council must make available to the public any conditions and any standard charges for re-use;
- (e) information for re-use must be made available by the Council electronically where possible and appropriate; and
- (f) the Council must not discriminate between different applicants making requests for re-use for comparable purposes.

2.5 Nothing in the Regulations affects rights of access under other legislation, such as the Freedom of Information Act (FOI), Environmental Information Regulations (EIR) or the Local Government Acts.

### **3 Copyright**

- 3.1 The Regulations do not affect the Council's copyright.
- 3.2 The supply of documents (for example under the FOIA) does not give any person a right to re-use them in a way that would infringe that copyright (for example, by making copies, publishing and issuing copies to the public or to any other person).
- 3.3 Brief extracts of any of the material may be reproduced without the Council's permission, under the fair dealing provisions of the Copyright, Designs and Patents Act 1988 (sections 29 and 30) for the purposes of research for non-commercial purposes, private study, criticism, review and news reporting, subject to an acknowledgement of the Council as copyright owner. Wider re-use however requires Council permission.
- 3.4 The Council may choose to allow re-use under licence, imposing conditions on the re-use of the information to ensure it is not used in a manner inconsistent with its copyright; and may also decide to charge a re-use fee.

### **4 Exemptions**

- 4.1 There are some exemptions to these regulations and these cover:
    - Documents held by libraries, archives and educational or research establishments
    - Documents exempt from disclosure under Freedom of Information or Data Protection legislation
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- Documents where the copyright or intellectual property rights are owned or controlled by a person or organisation other than the public sector body
  - Documents held by public service broadcasters
- 4.2 Once the Council agrees to make categories of information available for re-use, the grounds for refusing to provide any of the specific information of that type are limited to the following:
- (a) the activity of supplying the document is one which falls outside its public task;
  - (b) the document contains content in which relevant intellectual property rights are owned by a third party; and
  - (c) the content of the document is exempt from access by virtue of the FOIA.

## **5 Refusal**

- 5.1 It may be decided that the re-use application be refused, in which case the Information Manager will give written notification of refusal.
- 5.2 The notification shall contain:
- (a) a statement of why the request is not being complied with;
  - (b) a statement that the applicant may appeal against the refusal;
- 5.3 If the refusal is because the regulations do not apply given that a third party owns relevant intellectual property rights in the document then the notification shall contain the name of the person who owns the relevant intellectual property rights or from whom the public sector body obtained the document.

## **6 Compliance**

- 6.1 If, following discussions between the Information Manager and the relevant service area, it is decided that the re-use request will be complied with then the applicant will receive in writing a statement that will include the following information:
- (a) the format of documents to be produced;
  - (b) any conditions which the Council may impose on re-use;
  - (c) the charge which the Council shall impose whether by reference to a standard charge or an indication of the factors that the Council will take into account in calculating the charge
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- 6.2 Where possible and appropriate the response to the request will be carried out by electronic means. There is no requirement that the Council will carry out any of the following:
- (a) create or adapt a document in order to comply with a request for re-use;
  - (b) provide an extract from a document where to do so would involve disproportionate effort;
  - (c) continue to produce a certain type of document for the purposes of re-use by another person
- 6.3 If conditions are imposed they should not unnecessarily restrict:
- (a) the way in which a document can be re-used; or
  - (b) competition
- 6.4 Generally the Council will not enter into an exclusive arrangement with an applicant, though it may do so, in the terms provided by the regulations, if it is in the public interest to do so.

## **7 Charging**

- 7.1 The Council will charge in line with the provisions set out within the regulations. The total income for the charge for re-use will not exceed the sum of the cost of collection, production, reproduction and dissemination of documents and a reasonable return on investment. It is envisaged that the charge will include some or all of the following elements:
- (a) the original cost of producing the data;
  - (b) an intellectual property valuation;
  - (c) officer time in complying with the re-use request;
  - (d) costs of arranging any re-use license;
  - (e) disbursements;
  - (f) profit element
- 7.2 Charges will be subject to regular reviews.

## **8 Re-Use Licences**

- 8.1 Any applicant who asks for permission to re-use information for which the Council holds the copyright who has their request agreed in principle will be informed of the conditions and other licence terms. The Council will issue licences, which include the conditions for re-use, on a case-by-case basis.
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- 8.2 Where permission for re-use is granted, the Council will add the information type to an Information Asset List. The list will therefore provide a source of reference to applicants as to the type of information which has been approved for re-use. We will also link this asset list to the Council's Freedom of Information Publication Scheme.

## **9 Complaints**

- 9.1 An applicant may complain to the Council about how their request for re-use has been dealt with, eg about any licence fee charged.
- 9.2 The complaints procedure under the regulations works in the same way as the complaints procedure under the FOIA, except that the Office for Public Sector Information (OPSI) is the ultimate authority to which to complain. An applicant can complain to OPSI only after a complaint has been considered by the Council (as the authority to which your request for re-use of information was made) and if the response to the complaint is not considered satisfactory by the person who requested the information.
- 9.3 Any subsequent complaint to OPSI must:
- (a) be in writing;
  - (b) state the nature of the complaint;
  - (c) include a copy of the written notification from the Council of its response to the complaint; and
  - (d) be lodged with OPSI before the end of 28 working days commencing with the date of receipt of the Council's response.
- 9.4 The contact details for OPSI are:

The Standards Division  
OPSI  
Admiralty Arch  
North Side  
The Mall  
London  
SW1A 2WH

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