

Staff Manual on the Freedom of Information Act 2000

The [Freedom of Information Act 2000](#) is intended to promote a culture of openness and accountability amongst public authorities by providing people with the right to access the information held by them. It is expected that these rights will facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do, and how they go about spending public money on behalf of the public. The more there is a culture of openness, the better decision-making will be. If decisions have to be publicly explained, they will be better taken. Real informed accountability improves standards. Compliance with the Act is overseen by the [Information Commissioner](#) whose website contains a lot more information.

The Act creates two principal obligations for public authorities, from which other obligations stem:

1. Each public authority must publish and maintain a **Publication Scheme**. This sets out what information is already available, how the information can be obtained and whether there is any charge for it. Authorities are expected to update and extend their publication schemes regularly.
2. From 1st January 2005 each public authority must comply with requests for any information that it holds (unless an exemption from disclosure applies.) The authority will normally have a maximum of twenty working days in which to supply the information requested.

Information Policy

- To make information available to all those who need or request it, in the format that is most convenient to them
- To publicise the information already available through to the Council's [Publication Scheme](#) [to be a link when approved]
- To make access to the Publication Scheme as easy as possible, particularly through the Council's website
- To presume that information is available unless a Cabinet member, committee or senior officer can demonstrate a legitimate reason for withholding it
- To restrict the scope of information withheld from the public, by interpreting exemptions restrictively, and separating exempt from non-exempt material

Charging Policy

View online via the Rother website	Free of charge
Email	Free of charge, unless otherwise specified
Publications produced by the Council for sale	Price as stated in the Publication Scheme
Printed versions of online material	Charge may be made to cover cost of printing

Frequently Asked Questions

1) Who can use the Freedom of Information Act?

Anyone is entitled to make a request for information under the Freedom of Information Act- citizens, journalists, businesses, staff, elected members, foreigners. No one is obliged to give any reason for their request.

2) What sort of information can be requested?

Anyone can apply for access to any information recorded in any form held by any public authority. They have the right to seek access to actual documents and records held by the authority.

3) What do I do if I get a request?

If it's something you already deal with in your normal course of business, do so. If the request is in writing and states it is a "freedom of Information" request, notify your Service's Records Manager. If the request (whether or not it actually quotes the Act) is for information that you do not normally provide or have misgivings about providing, treat it as a freedom of information request and notify your Service's Records Manager.

4) What happens if it is not clear what information is wanted?

If there is a reasonable need for further information in order to identify and locate the information requested, the Council has to tell the applicant what information it requires to do so.

However, all public authorities have a duty under the Act to provide advice and assistance, where reasonable, to applicants in framing their requests.

5) How can the applicant obtain information about themselves?

Personal information relating to the applicant is exempt from the Freedom of Information Act. The right to know whether this information is held, and if so have access to it, is covered by the Data Protection Act 1998. Personal information relating to a third party is also exempt from the Freedom of Information Act if its disclosure would contravene the [data protection principles](#) in the Data Protection Act 1998 or if the person to whom it relates would not have a right of access to it under the Data Protection Act. Neither Act requires an applicant to specify which Act to use to obtain information.

6) How does a person make a request for information?

Requests for information must be in writing (including fax or e-mail but not telephone) , and clear enough to enable the authority to identify and locate the information requested. (If further clarification is needed in order to identify and locate the information, then the authority must tell the person what information it requires in order to do so.) An application form has been prepared in order to assist Applicants, but its use is not mandatory.

7) How much does a freedom of information request cost?

The fee regulations under the Act have not yet been issued by the Government, but it is anticipated that if the cost to the Council of complying with the request will be under £450 (about 2½ day's work for one person or equivalent) there will be no fee. Above that level there may be a small fee.

The Act does not affect the power of authorities to charge for information available through its Publication Scheme.

8) How long do we have to supply the information?

The Act makes clear that all requests must be complied with promptly, but there is a **deadline** of 20 working days.

9) Why would a request be refused?

Requests for information must be clear enough to enable the authority to identify and locate the information requested. The authority is not required to supply information it does not hold.

Certain types of information may be **exempt** from disclosure (see below), although usually the authority must explain why it is in the public interest to withhold it in this particularly case.

We need not supply information where the cost of extracting it would exceed £450 unless the fee is paid , nor where requests are vexatious* or repeated.

10)What if the information is confidential?

Stamping "confidential" on documents, reports or contracts has no effect under the Freedom of Information Act. A document is only confidential if the Council could be sued for damages in a court of law if it were disclosed. Comments on planning applications are not "confidential".

11)What must the Council do if it refuses a request?

If the Council decides not to disclose some information in response to a request, the applicant is entitled to know why. The Council must tell the applicant in writing why it is not disclosing the

* 'Vexatious' in relation to legal actions means "instituted without sufficient grounds, for the purpose of causing trouble or annoyance". A request made for genuine reasons is not vexatious just because it causes us trouble.

information sought. The authority must say which exemption is being relied upon, and explain why it is in the public interest to apply it to the information in question.

12)How does an applicant appeal against a refusal?

In the first instance the person should appeal against the decision under the Council's complaints procedure. The Council is obliged to give details of its complaints procedure when it notifies the applicant of its refusal. If the complaints procedure is exhausted then the applicant may ask the Information Commissioner to investigate and adjudicate on the matter.

13)Are there any exemptions?

The general right of a person to request information from a public authority is subject to 23 exemptions. Nine exemptions are directly relevant to information held by local authorities and are set out below. If the exemption is only "conditional" it is necessary to balance the public interests of disclosing the information against the public interests of withholding it – "the public interest test". If the exemption is absolute there is no need to carry out such a balancing exercise and there is no need to confirm or deny whether the information is held. Do not decide yourself whether an exemption applies; if you think it may you should consult your Service's Records Manager. There is a formal procedure for refusing a request and the applicant may appeal to the Information Commissioner.

List of Exemptions relevant to local government by section number in the FOI Act

- [Section 21](#): Information Accessible By Other Means. Absolute: Information is not available under the FOI if it is readily available from another source or is published or made available under the Council's Publication Scheme.
- [Section 22](#): Information Intended For Future Publication. Conditional: If the information will be published or made available by the Council at some future date, it does not have to be made available in advance of that date.
- [Section 23](#): Information Supplied by, or Related to, Bodies Dealing with Security Matters
- [Section 24](#): National Security
- [Section 30](#): Investigations And Proceedings Conducted By Public Authorities. Conditional: Information obtained in connection with investigation of criminal offences or relating to criminal proceedings is exempt from disclosure.
- [Section 31](#): Law Enforcement. Conditional: Investigations into whether there has been improper conduct; whether there are breaches of the law; where statutory action should be taken e.g. the service of a statutory notice and in respect of the exercise by a public body of statutory functions concerning the health, safety and welfare of persons at work
- [Section 36](#): Prejudice to Effective Conduct of Public Affairs (Certified by Qualified Person)
- [Section 38](#): Health And Safety
- [Section 39](#): Environmental Information. The Environmental Information Regulations 2004 implement an European Directive and establish a specific regime to enable individuals to access environmental information, including exemptions from that right of access. The disclosure of environmental information must be considered under the Environmental Information Regulations, not Freedom of Information Act 2000.
- [Section 40](#): Personal Information. Conditional: Applies to the disclosure of personal data if it would be contrary to the Data Protection Act.
- [Section 41](#): Information Provided In Confidence. Absolute: Applies only to disclosure of information which would constitute an actionable breach of confidence.

- [Section 42](#): Legal Professional Privilege. Conditional: Legal advice and communication between a lawyer and client concerning legal proceedings.
- [Section 43](#): Commercial Interests.
- [Section 44](#): Prohibitions On Disclosure. Conditional: Trade secrets and information which would prejudice the commercial interests of any person including the authority.

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