

# ALVELEY AND ROMSLEY PARISH COUNCIL

## FREEDOM OF INFORMATION POLICY

### 1. INTRODUCTION

The Freedom of Information Act 2000 (FoIA) gives a general right of access by any individual or corporate body to all types of recorded information held by public bodies, including parish councils.

Individuals also have the right to have access to personal information held on themselves, which is held electronically and in most paper forms under the Data Protection Act 1998 (DPA). This is known as the 'subject access right'.

These acts allow access to all types of information held whether personal, or non-personal. This may include information about third parties but account must be taken of the provisions of the DPA before releasing any such personal information.

This is a guide on how to handle all requests for information to the Parish Council.

### 2. GENERAL RIGHTS OF ACCESS

When making a request for information the applicant will not be required to make a reference to the FoIA. However, the request must be made in written form (e.g. letter or email) and must be dated and include sufficient information to identify the person making the request and contact details so that a response may be made. A request by telephone will not be sufficient. The request must be detailed enough for the Council to identify the information required.

Information can take several forms. Not only minutes, letters, contractual documents etc. but also emails, file notes, tapes etc.

The Act is fully retrospective. Any information held by the Council as at 1<sup>st</sup> January 2005 (when the Act came into force) can be requested.

It will not be necessary to comply with 'vexatious' or 'repeated' requests where a response has been sent recently to an identical or substantially similar request from the same person. However, the Parish Council will be under a duty to provide advice and assistance to anyone making a request. For example, where a person makes a request for information that the Council does not hold but is aware who does; then the Council should give details to the applicant.

All Councillors, as well as the Clerk, may receive requests for information that should be treated as coming within this policy. In all cases, such requests should be passed to the Clerk without delay, either directly or by referral of the person making the request.

All requests under the FOIA must be recorded in a file for that purpose.

### 3. RESPONDING TO REQUESTS

All information not covered by an exemption (see below) must ordinarily be released to the applicant within 20 working days of receipt of the request. The 20 days starts on the first working day after receipt of the request. However, if the request is refused on the grounds of cost or exemption the applicant must also be informed of the refusal within the 20-day period.

Where possible the information must also be provided to the applicant in the manner in which they have specified.

Where a request received is unclear or problematical, the Council will establish direct contact with the applicant and find out what they really want.

A charge may be made for dealing with requests. If the time taken to deal with the request is less than 18 hours' staff time then the request is free. If the request would be estimated to take longer than 18 hours' staff time then the Council can refuse the request, answer and waive the fee, or answer and charge at £25.00 per hour up to a maximum of £450.00.

Requests by the same individual or group received within 60 days and pertaining to the same or similar information can be grouped together for the calculation of fees.

Any material expenses such as photocopying and postage can be charged at cost regardless of the time spent on the request. There will be a minimum charge of £5.00 if expenses are incurred.

The applicant will be issued with a fee notice and pay the costs within three months. The Council does not have to supply the information until the fee is paid. If the fee is not paid within three months the application will be considered to have lapsed and a new application will have to be submitted.

If it is believed an exemption applies, and it is necessary to consider the balance of the 'public interest test' before deciding whether or not to release the information, then an additional 40 days is allowed in which to respond in full. An estimate must be given to the applicant of the date by which a decision will be made within the original 20-day period.

If it is decided that an exemption applies and that the information is therefore withheld the applicant must be informed of the decision – including the reason for refusal – within 20 days of the decision.

If the applicant wishes to inspect the information in person it is recognised that, as the Clerk's home is also the Parish Council's Office, this gives rise to issues of privacy and security. In these circumstances the Council will make alternative arrangements, which are 'reasonable' in nature to enable inspection. For example, this may include ensuring another person is present at the Clerk's home or bringing the required information to the Council's meeting place at a time prior to the meeting.

Before responding to a request for information the Clerk will consult the Chairman, or in their absence the Vice Chairman, of the Council. This will be particularly important if any requests are, for example, likely to involve a significant amount of time, are of a significant nature, require sensitivity or if they may be subject to an exemption.

#### 4. EXEMPTIONS

There are a number of exemptions known as 'Absolute Exemptions' and 'Qualified Exemptions' respectively. When information falls within the scope of an absolute exemption there is obligation to disclose it to the applicant. In the case of qualified exemptions, the Council will have to apply a 'public interest' test on a case by case basis. The balance will lie in favour of disclosure if that information may only be withheld if the public interest in withholding is greater than the public interest in releasing it.

(see Appendix at end)

#### 5. REFUSING A REQUEST

The existence of the exemptions can sometimes lead to the situation where part of a document is disclosed and part is withheld. In other cases, text within a document may be obscured (redacted). Any information is treated as an exemption.

Where disclosure is refused it is necessary to specify the exemption relied on and state why the exemption applies.

Where disclosure is refused based on vexatious or repeated requests the applicant must be informed of this and the reason why.

When notifying an applicant that their request has been refused; the Council should also inform them of the Council's complaints procedure, and the right of appeal to the Information Commissioner.

If the Council no longer holds the information that is the subject of the request the applicant can be informed accordingly.

This Policy was adopted on: 5<sup>th</sup> May 2012

This Policy was renewed on: 5<sup>th</sup> July 21016

K. R. Stanton

Chairman of the Council

## APPENDIX

### LIST OF EXEMPTIONS TO PROVISION OF INFORMATION (FoIA 1998)

Sect of Act	ABSOLUTE EXEMPTION
21	Information accessible to the applicant by other means
23	Information supplied by, or relating to, bodies dealing with security matters
32	Court records, and so on
34	Parliamentary privilege
36	Prejudice to effective conduct of public affairs (only applies to information held by Houses of Parliament)
40	Personal information (either covered by subject access under DPA 1998 or the request concerns a third party and would breach one of the Data Protection Principles)
41	Information provided in confidence
44	Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court
	QUALIFIED EXEMPTION (where the public interest test applies)
22	Information intended for future publication
24	National security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not arise)
26	Defence
27	International relations
28	Relations within the UK (the UK parliament, the Scottish parliament, the Welsh Assembly and the Northern Ireland Assembly)
29	The economy
30	Investigations and proceedings conducted by public authorities
31	Law enforcement
33	Audit functions (e.g. those carried out by one local authorities for another)
35	Formulation of government policy, and so on
36	Prejudice to effective conduct of public affairs (except Houses of Parliament)
37	Communications with Her Majesty, etc. and honours
38	Health and safety
39	Environmental information (also covered by Environmental Information Regulations 2004)
40	Personal information (check whether it breaches DPA 1998 Data Protection Principles for third party access or personal access)
42	Legal professional privilege
43	Commercial interests (disclosure may be possible under the Audit Act 1988)