

## CHAPTER 3.3 - FREEDOM OF INFORMATION POLICY

### 3.3.1 Freedom of Information Act 2000

Wokingham Borough Council notes that the Freedom of Information Act 2000 has now come fully into force. The Council considers that used in a responsible manner the rights to gain access to information conferred by the Act will enable constructive discussions to take place between the Council and its stakeholders. The Council welcomes this, although it also takes note of the provisions of the Act designed to safeguard sensitive information and to discourage vexatious or plainly unreasonable requests for information.

### 3.3.2 Requests

The Council expects its Officers and others working on its behalf to respond to requests for information within the applicable statutory time limit and otherwise to ensure that the Council complies with the Act's requirements. It expects its Officers to advise and assist all persons wishing to make Freedom of Information requests, in both the letter and the spirit of the Act and the Codes of Practice which have been issued in accordance with the provisions of the Act.

#### 3.3.2.1

Officers and others working on the Council's behalf should therefore deal with requests for information on the basis that the requester has a right to the information held by the Council unless it is clear that a statutory exemption applies and, where appropriate, that the public interest in withholding information outweighs that in disclosing the information.

### 3.3.3 Procedure

The Council has decided that the formal responsibility for dealing with requests on its behalf is delegated to the Director responsible for the service to which the request for information relates. The Council has also introduced a procedure whereby Customer ~~Services Team and Localities~~ will co-ordinate the Council's response to any request which involves more than one Council service, as well as co-ordinating the Freedom of Information system within Wokingham Borough Council, generally.

### 3.3.4 Complaints

The Council has made available its complaints procedure for cases where there is a dispute between the requester and the Council, or where the Council has failed to respond to a request within the applicable statutory time period. The internal review is undertaken by Shared Legal Solutions. This complies with the obligation in the Act to resolve disputes locally wherever possible, before resort is made to the Information Commissioner.

### 3.3.5 Software

The Council has invested in software to enable members of the public to obtain information via its website, thus helping to free Officers' time to enable them to concentrate on their other responsibilities. The software also enables the progress of individual Freedom of Information requests to be tracked. The Council expects its Officers to make maximum possible use of this software.

### 3.3.6 Document Retention and Management

The Council recognises the importance of efficient and effective information management in enabling the Council to properly carry out its responsibilities. ~~The Council's archivist has compiled detailed guidance on document retention and management and she is available to give specific advice to Officers where necessary. The Council is also developing~~

~~policies and procedures for the proper management and security of information held electronically.~~

### **3.3.7 Approved Publication Scheme**

As required by the Act, the Council has published an approved publication scheme. The Council intends to ensure that, from time to time, the scheme is revised ~~and re-submitted for the Information Commissioner's approval~~, to ensure that the maximum amount of information can be made available in the most efficient manner by use of the scheme rather than by way of responses to individual requests for information.

### **3.3.8 Charges**

Whilst the Council recognises the need to comply with its obligations under the Act, it also notes that the cost of replying to complex requests or with a large number of moderately complicated requests, may be considerable. In cases which exceed 18 hours work (approximately £450) the Council may offer the applicant the choice of paying for the work to be carried out or resubmitting the request so that it falls within the appropriate time limit. ~~It has therefore been decided that requesters will be charged the maximum amount permissible under the Act, in the case of searches costing more than £20 each to deal with. The Council would expect its Officers to charge aggregated fees in cases where requests are artificially divided and in other cases permitted under the Act.~~

### **3.3.9 Vexatious Requests**

In the small number of cases where requests for information are made vexatiously, as contemplated by the Act, the Council will support its Officers and others working on its behalf if they exercise the right to refuse to deal with any request which is vexatious within the meaning of the Act.

### **3.3.10 Environmental Information Regulations 2004**

When the Council receives an Environmental Information Regulations 2004 request it will handle it in the same way as detailed above for Freedom of Information Requests.

The Council recognises that there are different exemptions between the two pieces of legislation and will issue a refusal notice accordingly to the relevant legislation.

## CHAPTER 3.4 - DATA PROTECTION POLICY

### 3.4.1 Data Protection Act

The Council supports the objectives of the Data Protection Act (DPA) and General Data Protection Regulations (GDPR) in ensuring that manual and electronic data held by the Council relating to individuals is properly managed.

### 3.4.2 Personal Data

The Council intends to ensure continual compliance with its obligations under the Act and GDPR. It expects that personal data will not be processed or disclosed other than in accordance with the data protection principles set out and explained in Schedules 1-4 of the Act, and that subject access requests (whereby individuals who are the subject of data held by the Council may request disclosure to them of such data) will be responded to within the statutory response time of a month-40 days.

### 3.4.3 Data Protection Officer

The Council therefore expects that its Officers will co-operate with the Council's Data Protection Officer to ensure that this is done.

### 3.4.4 Requests

It is the responsibility of Officers Directors to notify the Data Protection Officer's team when a subject access request, is submitted -the scope of which only affects their service-. The Director (or delegated officer) should respond to the request, taking account of advice given by the Data Protection Officer or their team, particularly as to whether or not personal data should be disclosed, or whether, by reason of the nature of the data and the terms of the Act, disclosure must be refused. Responsibility of the Director (or delegated officer) also includes responsibility for seeking consent of any third party when necessary which may be identified in the data. In the event that such consent is refused, the Director (or delegated officer) would be responsible for determining, with advice from the Data Protection Officer or their team, whether or not disclosure should nevertheless be made on grounds of reasonableness, as contemplated by the Act.

#### 3.4.4.1

The Council expects that cases where a subject access request is unrestricted, meaning that any data held in any part of the Council's organisation is within the scope of the search, the Director (or delegated officer) whose Service ~~receives~~ the request relates to will immediately forward it to the Data Protection Officer's team. The Council expects that all Officers will thereafter co-operate with the Data Protection Officer and their team in supplying ~~him-them~~ with any data held by them, so that a decision may be made as to whether or not the data must be disclosed or must wholly or partly be withheld.

### 3.4.5 Tender or Contract Documentation

The Council also expects that Officers preparing tender or contract documentation will ensure that, before the contract in question has been entered into, terms will have been incorporated ensuring compliance with, in particular the ~~seventh~~ sixth data protection principle (which requires appropriate technical and organisational measures to be taken against unauthorised or unlawful processing, or accidental loss or destruction of, personal data).

### **3.4.6 Charges**

~~The Council expects that all persons making subject access requests will be charged the maximum fee prescribed under Section 7 of the Act.~~

### **3.4.7-6 Information Sharing Protocols**

The Council notes that from time to time particular Council Services handling information, usually of a sensitive nature, have concluded information sharing protocols. The Council welcomes such protocols that are compliant with the requirements of the Act and that have been concluded following appropriate advice from the Data Protection Officer ~~and / or the Head of Governance and Improvement Services (as appropriate).~~