

Godney Parish Council

Freedom of Information Act Guidance for Parish Councils – Re-adopted 11th May 2017

The Freedom of Information Act 2000 (FOI Act) received Royal Assent on 30 September 2000 but its implementation was phased in, with the duty on public authorities to adopt publication schemes being introduced first, followed by the individual right to access provisions which came into force on 1 January 2005. This note is intended to summarise the main provisions of the Act and to indicate where further guidance may be found.

The Basics of the Freedom of Information Act:

- Section 1 of the Act gives a general right of access to information held by public authorities. Public authorities include all local authorities, including Parish Councils. The right applies to all information, obtained from any source. The right of access includes both the right to be told whether the information exists, as well as the right to receive it.
- Since the right of access applies to all information which is “held” by the authority, the Act is effectively retrospective. There is no exemption for old records. However, the Act does not require authorities to hold onto information for longer than is necessary, or is otherwise required by law, simply because it might be the subject of a request sometime in the future.
- A request for information (unless for environmental information – see below) needs to be in writing, although an e-mail request is sufficient. The request must give enough details about the information to enable the authority to identify it and basic contact details must be provided so that a reply can be sent. The Information Commissioner takes the view that this need not be a postal address and that an e-mail address is sufficient. There is a duty on authorities to advise and assist applicants, which would normally require the authority to give some help to an applicant to better identify the information they request.
- The right of access to information is subject to a range of exemptions and these are listed in Appendix 1 (page 80). Some of the exemptions are “absolute”. Once an authority decides that an absolute exemption applies to information requested it does not have to release it under the FOI Act, although discretionary release is still possible. In the case of all other exemptions, once it is decided that one or more of them applies, the authority must still release the information unless it judges that the public interest in withholding the information is greater than the interest in disclosure (the “public interest test”).
- Two statutory Codes of Practice, one covering aspects of compliance, and the other covering the management of records, have been produced and authorities have to comply with these Codes. Both of these documents can be downloaded from the Information Commissioner’s web site (www.informationcommissioner.gov.uk).
- The Act includes provisions for enforcement and appeal. The Information Commissioner has a substantial role to promote the Act to the public, to set standards of good practice which authorities must follow, and the power to over-rule an authority’s judgment that the balance of the public interest lies in favour of refusing to disclose information, and to impose his own view. There is also an

appeal process for a dissatisfied applicant to the Information Commissioner, and from the Commissioner to a new Information Tribunal.

- Generally requests must be dealt with within 20 working days from the receipt of the request, but if it is necessary to apply a public interest test, this time limit does not apply and the authority should respond within a reasonable period.
- If a request is refused, the refusal notice should give the reasons for refusing the request and advise the applicant as to their rights of appeal – both internally by way of a complaint and, following that, by way of an appeal to the Information Commissioner.

Publication Schemes

Every public authority must prepare and publish a “publication scheme” which sets out the classes of information which the authority publishes or intends to publish, how that information may be obtained, and any charge that is made for it. An authority’s Publication Scheme must be approved by the Information Commissioner. Individual schemes that were originally approved by the Commissioner were replaced, from 1 January 2009, by a new model publication scheme which the Commissioner has produced for all public authorities.

The new scheme simply needs to be adopted by councils without the requirement for approval by the Commissioner. The scheme must be supported by a guide to the specific information that the authority holds and which is contained within any of the models scheme’s seven classes. However, the Commissioner has also produced a model template guide to information specifically for parish councils to use when they adopt the new model scheme.

Both the model scheme and the parish council model guide to information can be downloaded from the Information Commissioner’s website, along with associated guidance on completing these documents.

Councils should commit to reviewing and updating their information guide and its contents on a regular basis

Wookey Parish Council Standing Orders

29 Freedom of Information Act 2000

- a All requests for information held by the Council shall be processed in accordance with the Council's policy in respect of handling requests under the Freedom of Information Act 2000.
- b Correspondence from, and notices served by, the Information

Commissioner shall be referred by the Proper Officer to the chairman of the council. The council shall have the power to do anything to facilitate compliance with the Freedom of Information Act 2000 including exercising the powers of the Proper Officer in respect of Freedom of Information requests set out under standing order 3(b)(x) above.

Chairman.....
11th May 2017