HELLESDON PARISH COUNCIL

Freedom of Information Policy

1. Introduction

Hellesdon Parish Council is committed to the Freedom of Information Act 2000 (FOI), to the principles of accountability and to the general right of access to information held by the Parish Council, subject to the exemptions contained within the relevant legislation.
The FOI Act was introduced to promote greater openness and accountability across the public sector.
The Information Commissioner's Office (ICO) is responsible for regulating and enforcing the Act. The ICO is an independent authority which has legal powers to ensure Parish Councils comply with the Act.
This policy outlines the Parish Council's responsibilities to the Act and provides a framework for managing requests.

2. Background

The FOI Act provides the public with a statutory right of access to recorded information held by the Parish Council, subject to certain exemptions, within 20 working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act. Section 19 of the Act also obliges the Parish Council to make information pro-actively available in the form of an approved 'publication scheme'.
In addition, individuals currently have a statutory right of access to their own personal data under the Data Protection Act. Individuals access rights to personal data are extended by the FOI Act through amendments to the access provisions of the Data Protection Act.
The Environmental Information Regulation (EIR) provides a statutory right of access to 'environmental information', as defined in these regulations. The EIR are also fully retrospective.
The Information Commissioner enforces these three information regimes. Each regime contains certain categories of exempt information, where information can be withheld. Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this policy, the 'public' is defined as any individual or organisation anywhere in the world and an 'information request' refers to any request for recorded information made under the FOI ACT, EIR or DPA.

3. Scope

This policy applies to all recorded information held by the Parish Council that relates to the business of the Parish Council. This includes:

- Information created and held by the Parish Council

- Information created by the Parish Council and held by another organisation on the Parish Council's behalf
- Information held by the Parish Council provided by third parties, where this relates to a function or business of the Parish Council (such as contractual information) and;
- Information held by the Parish Council relating to the functions or business of the Parish Council.

This policy informs recipients of Parish Council services, members of the public and external parties to the processes the Parish Council has established for complying with the FOI Act. This policy operationally applies to all employees of the Parish Council, contractors, agents and temporary staff working for or on behalf of the Parish Council.
This policy does not cover personal written communications (such as personal emails sent by staff). The Parish Council's Data Protection Policy establishes the standards regarding the use of 'personal data' (as defined in the DPA and General Data Protection Regulation). These requests are exempt from the FOI under section 40 and shall be processed in accordance with the Data Protection Act 2018 (DPA).

4. Roles and Responsibilities

Overall responsibility for ensuring that the Parish Council meets the statutory requirements of the FOI Act, EIR and DPA lies with the full council. They have delegated the day-to-day responsibility of implementation to the Clerk and Responsible Officer.
The Clerk and Responsible Officer is required to ensure that the Parish Council has in place adequate guidance on FOI and effective measures to comply with this policy.
All employees are responsible for ensuring that any request for information they receive is dealt with in line with the requirements of the FOI Act and in compliance with this policy and the prevailing procedures. All staff and councillors must recognise that all recorded information may be provided to the public, and that the law requires that there will be full and unconditional disclosure to every case unless an exemption applies.
The Clerk and Responsible Officer has responsibility for ensuring compliance with the FOI Act, EIR and DPA.
All requests for information should be sent to:
clerk@hellesdon-pc.gov.uk or;

For the attention of the Clerk
Hellesdon Parish Council
Diamond Jubilee Lodge
Woodview Road
Hellesdon
NR6 5QB

Third parties who are users of information supplied by the Parish Council will be required to confirm that they will abide by the requirements of the FOI ACT and indemnify the Parish

Council against any prosecutions, claims, proceedings, actions or payment of compensation or damages, without limitation.
The Parish Council will ensure that:

- Everyone managing, and handling information understands that they are responsible for following good information management practice;
- Staff who handle information are appropriately trained;
- Methods of handling information are regularly assessed and evaluated;
- Any disclosure of data will be in compliance with approved procedures;
- All necessary steps will be taken to ensure that data is kept secure at all times against unauthorised or unlawful loss or disclosure;
- All contractors who are users of information supplied by the Parish Council will be required to confirm that they will comply with the requirements of the Act with regard to information supplied by the Parish Council; and
- The Parish Council will take account of any guidance which is issued by the Information Commissioner to promote good practice.

5. Principles

The following principles shall apply:

- The Act covers any recorded information held by the Parish Council (staff and councillors). Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.
- People shall have a right to know about the activities of the Parish Council, unless there is a good reason for them not to.
- An applicant (requester) shall not be required to provide a reason for requesting information. The Parish Council shall however justify refusing a request.
- The Parish Council shall treat all requests for information equally, except under some circumstances relating to vexatious requests and personal data.

6. Requesting information under the Freedom of Information Act

Any written request for information shall be regarded as a request for recorded information under the FOI Act unless:

- It forms a request for personal data relating to the individual requesting the information. This shall be dealt with under the General Data Protection Regulation (GDPR), and consequently shall be processed in line with the Parish Councils Subject Access Request Policy.
- If an individual is asking for 'environmental information', the request shall be considered under the Environmental Information Regulation 2004.
- A freedom of information request shall only be accepted if made in writing, (online forms, letters, emails and social media).

- Requests for information shall be met within 20 working days of receipt. If more information is needed the 20 days will not start until this information has been received.
- A request for information shall not be refused because the recorded information is out of date, incomplete or inaccurate.
- The Parish Council shall not make any changes or deletions to records as a result of a request.

7. Refusing a Request

The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories; absolute and non-absolute. The Parish Council will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, the Parish Council can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where the Parish Council decides that the public interest is best served by withholding the information. Certain exemptions also contain a "prejudice test", which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

The Parish Council will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption.

The Parish Council will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a "public interest" exemption is being considered, the Parish Council will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption the Parish Council will consider whether the release of the information would:

- Promote further understanding of current issues of public debate
- Promote the accountability of decisions taken by the Parish Council and the spending and allocation of public money
- Bring to light matters of public safety
- Allows the public to understand and challenge decisions made by the Parish Council
- Be otherwise in the public interest

Where information is withheld under an exemption in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision the Parish Council and the right of appeal to the Information Commissioner's Office.

The Parish Council will also refuse to supply information under the FOI Act, where the request is considered “vexatious” or “repeated” and under the EIR, where the request is considered ‘manifestly unreasonable’.

8. Third Party Information

The release of third-party information will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the DPA and/or GDPR. Both the EIR and FOI Act permit information to be withheld when its release would breach the provisions of the DPA and/or GDPR.

When the requested information relates to a living individual’s personal data as defined in the DPA/GDPR, its disclosure could breach. Therefore, the release of third-party personal information relating to living individuals will be considered in accordance with the data protection principles and, in particular, the “third party” provisions of the DPA/GDPR.

The Parish Council will endeavour to inform individuals and organisations submitting information that the information might be released following an information request and, where appropriate, will provide the supplier of the information opportunity to request confidentiality or supply reasons as to why the information should be treated confidentially.

9. Information held within contracts with the parish council

Any contractual information, or information obtained from organisations during the tendering process, held by the Parish Council are subject to the provisions of the FOI Act and EIR. Whenever the Parish Council enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation. A standard form of wording will be included in contracts to cover the impact of FOI ACT and EIR in relation to the provision of information held in contracts.

The Parish Council can withhold contractual information where its disclosure under either the FOI Act or EIR could be treated as actionable breach of confidence. Where the Parish Council intends to include non-disclosure provisions in a contract, it will agree with the contractor a schedule of the contract that clearly states which information should not be disclosed.

The Parish Council will only agree to enter into confidentiality clauses where the information is confidential in nature and that it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FOI Act may be relevant, relating to commercial interests. This exemption is subject to a “public interest” test. Whenever the Parish Council has to consider the release of such information, it will contact the relevant

organisation to obtain its opinions on the release of the information and any exemptions they may think relevant. However, the Parish Council will make the final decision relating to the disclosure of the information.

The Parish Council can also withhold information contained in contracts where any of the other exemptions listed in the FOI Act or EIR are appropriate. All future contracts should contain a clause obliging contractors to co-operate fully and in a timely manner where assistance is requested in responding to an FOI Act or EIR request.

10. How information will be published

The Parish Council will reply directly to the requester of information.

The Parish Council's information will be published on the Parish Council's website via a publication scheme. It is the responsibility of the Clerk and Responsible Officer to ensure that the information covered by this scheme is routinely available.

In exceptional circumstances some information may be available only by viewing in person. An appointment to view the information will be arranged within a reasonable timescale.

The Parish Council shall make a disclosure log available on the Parish Council website that sets out responses to previous FOI requests.

11. Charges

The Parish Council will make no initial charges for making an FOI request. We are entitled to make a charge for photocopying or other direct costs, but will endeavour to keep this to a minimum by making everything available electronically.

If a charge is to be made, confirmation of the payment due will be given before the information is provided. Payment may be requested prior to provision of the information.

If we estimate that the cost of the request will be in excess of £450 (2.5 days work) to retrieve the information, we are entitled to refuse your request.

12. Request for a review

The Parish Council shall carry out a review of a request whenever the requestor expresses dissatisfaction with the outcome. This request should be made within 20 working days of receipt to the Parish Council's response and the requester should set out what they are not satisfied with. The Parish Council shall conduct a review within 20 working days.

If the requester is not happy with the outcome of the review, they have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113
www.ico.org.uk