

CULLOMPTON TOWN COUNCIL



INFORMATION & INFORMATION SECURITY POLICY

Adopted 23rd March 2012
Revised April 2015

1. THE INFORMATION POLICY

This policy details how Cullompton Town Council interprets the law and complies with the regulations laid down. It aims to give a general overview of the legal requirements imposed on Cullompton Town Council, define how the Town Council makes information accessible and advise how it will protect, store and dispose of information.

There are various pieces of legislation about holding, accessing and processing information and data.

The Information Commissioner's Office (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. They rule on eligible complaints, give guidance to individuals and organisations, and take appropriate action when the law is broken. The ICO enforces and oversees the Data Protection Act, the Freedom of Information Act, the Environmental Information Regulations, and the Privacy and Electronic Communications Regulations.

- Personal Information fall under the Data Protection Act 1998.
- All other information fall under the Freedom of Information Act 2000.
- Environmental information falls under the Environmental Information Regulations 2004.
- The Privacy and Electronic Communications Regulations 2003 govern electronic marketing.

2. INTRODUCTION

Cullompton Town Council supports the objectives of increasing openness, accountability and transparency in the public sector.

It is committed to a proactive approach regarding access to information. It is responsible for a wide range of local functions that affect the everyday lives of residents. Information held by the Town Council is therefore of great relevance and interest to the public.

Under the the Freedom of Information Act 2000 all public authorities must adopt and maintain a Publication Scheme. This is a proactive method of making information available to the public. The scheme details the information the Council will routinely make available. It divides the information available in different classes and states what information is included in each class, along with details of its format, the charges applicable and how to request the information.

Cullompton Town Council adopted a revised scheme in line with guidance from the Information Commissioner in July 2009. This Publication Scheme, including a list of the information regularly made available on the council's website www.cullomptontowncouncil.gov.uk.

The Local Government Transparency Code 2014 requires the Council to publish certain 'data' on its website. This is due to the Government's desire to place more power into citizens' hands to increase democratic accountability and make it easier for local people to contribute to the local decision making process and help shape public services. The published 'data' will comply with the Data Protection Act 1998.

3. PUBLICATION SCHEME

As mentioned, Cullompton Town Council has adopted the Model Publication Scheme. There are three ways to obtain information held:

- The Council's website www.cullomptontowncouncil.gov.uk
This includes meeting agendas, minutes and
- Inspection of documents at the Town Council office.
If you wish to view certain documents, you should contact the Town Clerk, either via telephone, by email or in writing. Some documents may require some time to locate, so it may be necessary to make an appointment. Please note normal working hours are Monday to Friday 9.30am-1.30pm.
- Request for information to be sent in the post, the next few paragraphs clarify this further.

Information held by the Town Council which does not fall within the Publication Scheme may be requested in writing and will be considered in line with the provisions of the Freedom of Information Act 2000. The request for information must include a name, address for correspondence, and a description of the information required.

Cullompton Town Council will respond within 20 working days of receipt of a written request and confirm whether or not it holds the information; advise whether a fee will be charged and provide the information (after relevant fee has been paid) unless an exemption applies.

4. FREEDOM OF INFORMATION

The Freedom of Information Act came into force at the beginning of 2005. It deals with access to official information, while parallel regulations deal with environmental information.

The Act provides individuals or organisations with the right to request information held by a public authority. They can do this by letter or email. The Council must tell the applicant whether it holds the information, and must normally supply it within 20 working days, in the form requested.

However, the Town Council does not have to confirm or deny the existence of the information or provide it if an exemption applies, the request is vexatious or similar to a previous request, or if the cost of compliance exceeds an appropriate limit.

If an applicant is unhappy with a refusal to disclose information, they can complain to the ICO, after first exhausting any internal review procedure. The ICO will investigate the case and either uphold the Council's use of an exemption or decide that the information must be disclosed.

The Act is fully retrospective and applies to all information, not just information filed since the Act came into force.

There are also two other 'access to information' regimes:

- Environmental Information Regulations 2004
- Data Protection Act 1998

The above regulations are explained in more detail later in the policy.

5. ENVIRONMENTAL INFORMATION REGULATIONS 2004

These regulations give members of the public the right to access environmental information held by public authorities. The request can be made by letter, email, telephone or in person.

The regulations apply to most public authorities, but they can also apply to any organisation or person carrying out a public administration function, and any organisation or person under the control of a public authority who has environmental responsibilities. This can include some private companies or public private partnerships, for example companies involved in energy, water, waste and transport.

Environmental information is divided into the following six main areas:

- (i) The state of the elements of the environment, such as air, water, soil, land, fauna (including human beings)
- (ii) Emissions and discharges, noise, energy, radiation, waste and other such substances
- (iii) Measures and activities such as policies, plans and agreements affecting or likely to affect the state of the elements of the environment

- (iv) Reports, cost benefit and economic analyses
- (v) The state of human health and safety, contamination of the food chain
- (vi) Cultural sites and built structures (to the extent they may be affected by the state of the elements of the environment)

6. THE RIGHT TO KNOW

The right under the Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIR) to request information held by public authorities, known as the right to know, came into force from January 2005.

The Act allows access to recorded information such as emails, meeting agendas and minutes, research or reports etc. held by Cullompton Town Council.

The Freedom of Information Act 2000 confers basically two statutory rights on applicants:

Firstly to be told whether or not the public authority holds information: and if so, secondly to have that information communicated to them.

7. EXEMPTIONS

Some information could be exempt from disclosure.

There are 23 exemptions in the FOIA, some of which are **absolute** and some **qualified**, and 12 exceptions from disclosure in the EIR, all of which are qualified.

Where information falls under an **absolute exemption**, the harm to the public interest that would result from its disclosure is already established, for example, in relation to personal information, or if disclosure would result in an actionable breach of confidence.

There are five exemptions that are likely to apply to information held by the Town Council:

- Information that is readily accessible to the applicant by other means
- Information that constitutes Court records
- Information that is defined as personal data under the Data Protection Act 1998
- Information that has been provided in confidence
- Information prohibited from disclosure by law

If a public authority believes that the information is covered by a **qualified exemption** it must apply the public interest test.

8. PUBLIC INTEREST TEST

The public interest test favours disclosure where a qualified exemption or an exception applies. In such cases, the information may be withheld only if the Council considers that the public interest in withholding the information is greater than the public interest in disclosing it.

9. REQUESTS FOR INFORMATION

Requests for information should be made as specific as possible. If the request is too broad the Council will ask for clarification which could mean it takes longer to get the information. As full a description as possible must be provided of the information required along with a name and address or email address. The request for information must also be clear about the format by which the information should be supplied e.g. by email or as paper copies.

10. HANDLING OF REQUESTS

Any request for information will be treated by the Council as a formal request for information and dealt with accordingly. Under the EIR, verbal requests must be treated as formal requests for information.

Cullompton Town Council will respond promptly to requests within 20 working days although under the FOIA, the Council has longer to consider whether the disclosure of normally exempt information would be in the public interest, under guidance from the the Information Commissioner's Office.

There is no extension to the time limit for considering the public interest test under Environmental Information Regulations, except where the request is complex and voluminous. When considering the public interest test, the Council will do so 'within a reasonable time'. Applicants will be kept informed of progress.

11. FEES

The FOIA only allows the Town Council to charge for answering Freedom of Interest requests in the following circumstances:

Disbursement costs such as printing, photocopying and postage; and when estimated staff costs involved in locating and or compiling the information exceed £450.

Under these circumstances, the Council can refuse the request on the grounds of cost, or charge the applicant £25 per hour, plus disbursements for the estimated work.

Where the costs are estimated to exceed £450, based on an hourly charge-out rate of £25, the Council can decide to:

- refuse the request; or
- comply with the request and charge for allowable costs as prescribed in the regulations; or
- comply with the request free of charge

If the estimated cost of a request is more than £450, and it is decided to release the information and make a charge for the information then a fee notice will be sent to the applicant requesting the appropriate fee. The request for information will not be answered until the fee has been received. If the actual cost of completing the request is more than the estimate then the Council will incur the additional cost. However where the cost is less than the estimated cost then the difference will be refunded to the applicant.

For disbursement costs, the Council will charge 5p per sheet for photocopying and printing documents in black & white, plus recover the actual cost of postage or any other transmission costs from the applicant. Colour copies will be charged at 20p per sheet.

12. REFUSAL TO DISCLOSE INFORMATION

If the Town Council decides not to disclose the information requested it will give reasons for its decision, explain how the exemption or exception applies and explain the arguments under the public interest test.

If someone is unhappy with the Council's response or decision not to disclose information under a Freedom of Information request then they can appeal to the Information Commissioner's Office (ICO).

At the current time the Town Council does not have an appeal process of its own in place.

13. APPEAL PROCESS

The role of the Information Commissioner's Office (ICO) is to enforce and promote the FOIA and the EIR. It has responsibility for ensuring that information is disclosed promptly and that exemptions from disclosure are applied lawfully.

Cases can be referred to the ICO if, for example, there has been excessive delay or if the application of an exemption or a refusal made on public interest grounds is disputed. ICO may serve a decision notice on the Council either confirming the decision or directing it to disclose information within a certain timescale. Non-compliance with a decision notice may constitute contempt of court.

Finally if either the applicant or Cullompton Town Council disagrees with the ICO's decision, an appeal can be lodged within 28 days to the independent Information Tribunal.

The Information Tribunal may uphold the ICO's decision notice, amend it (for example change the time frame for release of information) or overturn it. Non-compliance with the Information Tribunal's notice may also constitute contempt of court.

14. DATA PROTECTION

Cullompton Town Council is also bound by the Data Protection Act 1998.

The Data Protection Act 1998 establishes a framework of rights and duties which are designed to safeguard personal data. This framework balances the legitimate needs of organisations to collect and use personal data for business and other purposes against the right of individuals to respect for the privacy of their personal details.

As with the Freedom of Information law, Data Protection legislation is also complex and, in places, hard to understand. However, it is underpinned by a set of eight straightforward, common-sense principles. The Council will ensure it handles personal data and complies with the spirit of these principles.

The Act works in two ways. Firstly, it states that anyone who processes personal information must comply with the eight principles and the second area covered by the Act provides individuals with important rights, including the right to find out what personal information is held on computer and most paper records.

Cullompton Town Council is registered with the Information Commissioner's Office that it processes personal data. Failure to notify is a criminal offence. The main purpose of notification and registration with the ICO is for transparency and openness. It is a basic principle of data protection that the public should know (or be able to find out) who is processing personal data, plus other details about the processing such as why it is being carried out.

The Data Protection Act contains a number of exemptions from the rights and duties in the Act. Personal data must be processed in accordance with the Act unless one of the exemptions applies.

Should an individual or organisation feel they are being denied access to personal information that they are entitled to by Cullompton Town Council, or feel their information has not been handled according to the eight principles, they can contact the ICO for help.

Complaints are usually dealt with informally, but if this is not possible, enforcement action can be taken.

15. THE DATA PROTECTION PRINCIPLES

1. Personal data shall be processed fairly and lawfully.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

16. WHAT IS PERSONAL DATA?

Personal data may be held electronically in computerised records or manually in hard copy within filing systems.

There is a fine line between determining what is personal data and what is not. Therefore to help decide whether filed information falls within the scope of the Act, below is a quick reference guide comprising of a series of questions which, when worked through in order, are intended to help determine whether the data held is personal data. If the answers to the questions are yes then the data is personal data for the purposes of the DPA.

1. Can a living individual be 'identified' from the data or from other information in your possession, or likely to come into your possession?
2. Does the data 'relate' to the identifiable living individual, whether in personal or family life, business or profession?
3. Is the data 'obviously about' a particular individual?
4. Is the data 'linked to' an individual so that it provides particular information about that individual?
5. Is the data used, or is it to be used, to inform or influence actions or decisions affecting an identifiable individual?
6. Does the data have any biographical significance in relation to the individual?
7. Does the data focus or concentrate on the individual rather than on some other person, object, transaction or event?
8. Does the data impact or have the potential to impact on an individual, whether in a personal, family, business or professional capacity?

It should be borne in mind that even if the information is not considered personal data, it may however be information of a sensitive nature such as data about an employee's religious beliefs, medical background, sexual orientation, criminal records etc.

17. GENERAL RESPONSIBILITY

All Cullompton Town Council Officers and Members have a duty to comply with the Freedom of Information Act 2000, the Data Protection Act 1998, the Environmental Information Regulations 2004 and the Privacy and Electronic Communications Regulations 2003.

It is however the responsibility of the person who receives the information request to ensure that it is responded to according to the Act.

18. ADDITIONAL INFORMATION

Additional guidance on the Freedom of Information Act, Environmental Information Regulations and the Data Protection Act are available on the ICO's website:

www.ico.gov.uk . Alternatively the ICO can be contacted by post, telephone or email;

Information Commissioner's Office
Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
Helpline telephone number: 01625 545745
Email: mail@ico.gov.uk

19. INFORMATION SECURITY

The Council's approach to risks involved, assessment criteria and the provision of appropriate measures are based on the following principles:

- **Confidentiality:** Protecting sensitive information from unauthorised access or disclosure
- **Integrity:** Safeguarding the accuracy and completeness of information and processes
- **Availability:** Ensuring that information is available to authorised people when needed
- **Suitability:** All systems are suitable for the required tasks

The principle of confidentiality will be upheld throughout the Council and be reflected in its protocols and system procedures.

Our information and IT systems and networks that support it are important business assets. Their confidentiality, integrity and availability are essential in maintaining our respected organisational image, efficiency and legal compliance.

- (a) **Informing the client:** The Council has a duty under the Data Protection Act 1998 to inform clients of the kind of purpose for which information about them is collected and the organisations to which information may need to be passed. In order to ensure a consistent approach the Council will include a statement on the use of information e.g. your personal data will only be used for the purpose for which it has been provided and will not be passed to a third party.
- (b) **Physical Security:**
- Adequate and practical access controls will be provided in all areas in which personal and business data is stored or used.
 - Staff will be expected, within their level of authority, to minimise the risk of theft or vandalism of the data and equipment through common-sense precautions.
 - The physical environment in which data and equipment is stored will be suitable and fit for purpose to ensure the safety of the data and equipment e.g. appropriate fire precautions
 - The Council will comply with Health & Safety and Fire Safety legislation and policies when implementing security controls.

(c) Logical Security

- All computerised information and systems will be regularly backed-up.
- All computerised information systems will be password controlled and passwords will be prompted for change at regular intervals.
- Only officially purchased and approved software will be loaded onto the Council's computers to lessen the risk of virus infection.

(d) Disposal and movement of equipment and media

- Any media or IT equipment disposed of by the Council will not contain any data or code that could allow an individual to be identified from it.
- An inventory of all Council computer equipment will be maintained.

(e) Internet: The Council believes that the use of the internet is beneficial to staff and will adopt a reasonable approach to its use. However, it will be a disciplinary offence to use the internet to download, view or access inappropriate material or websites. For information about email security please refer to the council's email policy.

(f) Staff responsibilities: The Council will make every reasonable effort to ensure that staff are aware of their responsibilities for the security of information. However, each member of staff is responsible to ensure that the security policy is adhered to and report any breaches of security.

20. DOCUMENT MANAGEMENT POLICY

This policy applies to all documents produced by the Town Council and all documents received in the Town Council's office. Its objective is to aid sensible, timely management and disposal of all filing, paperwork, records and documentation.

It is important that records are carefully retained and systematically filed as they are required for inspection by a number of agencies such as Internal Audit, External Audit, Department of Social Security, HMRC etc.

a) Retention and Disposal of Documents

The requirements for the retention of specific records are laid down in the Accounts and Audit Regulations for Local Authorities. The advised periods and reasons for the retention of records are detailed on the attached below. Where the period is shown as a number of years, this is in addition to the current year.

Any documents relating to Town Council owned land and property will be retained indefinitely by the Town Council to give a complete picture of refurbishments, disposals or acquisitions.

Documents produced by and readily available from other sources will be destroyed when they are outdated or superseded.

Any documents of an historical nature can be offered to the County Records Office for safe keeping.

As details of planning applications are now available electronically, paper copies of applications will be destroyed once they have been considered by the relevant committee.

If there is likely to be a claim made against the Town Council under employment or other relevant legislation, the Personnel file will be archived until such times as any claim has been dealt with or legal advice states that it may be destroyed.

b) Storage of Documents

Documentation readily in use or where easy and regular access is required will be stored at the Town Council office.

Officers are encouraged to scan documentation where and when appropriate so that it is stored electronically for future reference. The IT systems are automatically backed up on a regular basis to ensure the safe keeping of electronic documents.

Certain specific documentation such as meeting minutes can be sent to the County Archives in Exeter.

c) Destruction of Documents

All confidential or sensitive documents and any documents containing personal information covered by the Data Protection Act that are earmarked for disposal, will be shredded at the Town Council office.

RECORD MANAGEMENT POLICY

Document	Minimum Retention Period	Hard copy/electronically	Reason
Finance			
Bank paying-in books and cheque book stubs	Last completed audit year	Hard copy	Audit
Bank statements, including deposit/savings accounts	Last completed audit year	Hard copy	Audit
Borrowing	Preserve indefinite	Hard copy	Audit Management
Insurance policies	While valid	Hard copy	Management
Employers Liability Certificate	40 years	Hard copy	Article 4 of the Employers' Liability (Compulsory

			Insurance) Regulations 1998 (SI.2753)
Paid invoices	6 years	Hard copy	VAT
Petty cash, postage & telephone books	6 years	Hard copy	Tax, VAT, Statute of Limitations
Quotations and tenders	6 years	Hard copy	Statute of Limitations
Receipt & Payment accounts	Indefinite	Electronic	Archive
Receipt books of all kinds	6 years	Hard copy	VAT
Scales of fees & charges	6 years	Electronic	Management
Time-sheets	Last completed audit year	Hard copy	Audit
Title deeds, leases, agreements, contracts	Indefinite	Hard copy	Audit, Management
VAT records	6 years	Hard copy	VAT
Wages books	12 years	Electronic	Superannuation
Burials			
Applications for interment	Indefinite		Archives
Applications for right to erect memorials	Indefinite		Archives
Copy of certificates of grant of exclusive right of burial	Indefinite		Archives
Disposal certificates	Indefinite		Archives
Register of burials	Indefinite		Archives
Register of memorials	Indefinite		Archives
Register of purchased graves	Indefinite		Archives
Register/plan of grave spaces	Indefinite		Archives
Administration			
Minutes	Indefinite		Archive
Byelaws & orders	Indefinite		Archive
Written correspondence	6 Years		
Councillors' Declarations of acceptance of Office	Indefinite		Archive
Councillors' Register of Interest	Destroy 1 year after member leaves council		
Employees records	No longer than it is necessary for the purpose it is held.	Hard copy	
Health & Safety Records	Indefinite		Challenge
Leases, licenses &	Preserve indefinite		Archive

agreements			
Quotations & tenders for works	Destroy after 20 years		Statute of Limitation
Scales of fees and charges	Destroy after 5 years		Management
Title Deeds	Preserve Indefinite		Archive