



BISHOPSTEIGNTON PARISH COUNCIL

FREEDOM OF INFORMATION POLICY (P.021)

The Freedom of Information Act 2000 provides public access to information held by public authorities such as Bishopsteignton Parish Council (BPC).

It does this in two ways:

- BPC are obliged to publish certain information about its activities; and
- members of the public are entitled to request information from BPC.

Access to official information can improve public confidence and trust in a public authority and it should be seen as being open and transparent.

BPC, like all public authorities, spend money collected from taxpayers living within the parish boundary, and it makes decisions that can affect the lives of parishioners. Access to information helps the public make the council accountable for its actions and allows public debate to be better informed and more productive.

The Act covers information that is held on behalf of BPC even if it is not held on the council's own premises. Similarly, although individual councillors are not public authorities, they do sometimes hold information about the council business on behalf of BPC.

The Act does not cover information that is in someone's head. When a member of the public asks for information, BPC can only, and must, provide information already held in recorded form. The authority, (BPC) is not required to create a new record of this information. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

The Act does not give people access to their own personal data (information about themselves) such as their health records or credit reference file. If a member of the public wants to see information that BPC hold about them, they should make a data protection subject access request; *please refer to BPC policy: Subject Access Request (P.005)*.

The Act does not cover information held solely on behalf of another person, body or organisation. Employees' private information is not covered, even if it is on a work computer or email account.

Who can make a freedom of information request?

Anyone can make a freedom of information request – they do not have to be UK citizens, or resident in the parish, or even the UK. Freedom of information requests can also be made by organisations, for example a newspaper, a campaign group, or a company.

Requesters should direct their requests for information to the public authority they think will hold the information. The public authority that receives the request is responsible for responding.

An applicant (requester) does not need to give a reason for wanting the information. If there is valid reason to withhold any part of the information requested BPC must justify its refusal to provide the information.

- All requests for information will be treated equally, except under some circumstances relating to vexatious requests and personal data.
- All requesters will be treated equally, whether they are journalists, local residents, public authority employees, or foreign researchers.
- Because all requesters shall be treated equally, BPC will only disclose information under the Act that would be disclosed to any other requester. BPC should consider any information it releases under the Act as if it were being released to the world at large.

This does not prevent BPC from voluntarily giving information to certain people outside the provisions of the Act.

What are the Councils obligations under the Freedom of Information Act?

BPC, as a local council, have two main obligations under the Act. It must:

- publish certain information proactively.
- respond to requests for information.

As far as is practically possible BPC will adhere to the following codes of practice:

- **Request Handling - Section 45 Code of Practice** - gives recommendations for public authorities about the handling of requests; covering situations where advice & assistance should be given to the requester; recommends a complaints procedure to have in place; and various considerations that may affect your relationships with other public bodies or third parties.
- **Record Management - Section 46 Code of Practice** - covers good records management practice and the obligations of a public authority under the Public Records Acts to maintain their records in an ordered and managed way, so that they can readily retrieve information when it is needed.
- **Advice & Assistance - Section 16 code of Practice** - give recommendations with regard to providing a requester/applicant with reasonable advice and assistance. This includes advice and assistance to members of the public before they have made their request.

These codes of practice are not directly legally binding but failure to follow them is likely to lead to breaches of the Act.

How does the Freedom of Information Act affect data protection?

The UK General Data Protection Regulation (the UK GDPR) and the Data Protection Act 2018 (DPA 2018) exist to protect people's right to privacy, whereas the Freedom of Information Act is about getting rid of unnecessary secrecy. Both Acts give rules for handling information about people. They include the right for people to access their personal data. The Freedom of Information Act and the DPA 2018 come under the heading of information rights and are regulated by the Information Commissioners Office (ICO).

When a request is received which is for information that includes someone else's personal data, this will need carefully assessment to ensure a balance of transparency and openness under the Freedom of Information Act against the data subject's right to privacy under the data protection legislation is

met. BPC will decide whether the information can be released without infringing the UK GDPR data protection principles.

When a request might be refused?

When a request is made for information held by BPC it does not mean the council are always obliged to provide the information. In some cases, there will be a good reason why BPC should not make public some or all the information requested.

BPC can refuse an entire request under the following circumstances:

- **Cost & Time:** It would cost too much or take too much staff time to deal with the request. They should not be allowed to cause a drain on your time, energy and finances to the extent that they negatively affect your normal public functions.
- **Vexatious:** A minority of requesters may sometimes abuse their rights under the Freedom of Information Act, which can threaten to undermine the credibility of the freedom of information system and divert resources away from more deserving requests and other public business. the Act permits the council to consider the context and history of a request, including the identity of the requester and the councils previous contact with them. The decision to refuse a request often follows a long series of requests and correspondence.
- **Repetitive:** The request repeats a previous request from the same person. BPC can refuse to comply with a request if it is identical or substantially similar to one previously complied with from the same requester.
- **Personal:** If the information requested includes the personal data of someone other than the applicant, such as a member of staff.

Refusal of a request for information.

When it is deemed appropriate to refuse a request for information BPC must do so in writing promptly or within 20 working days of receiving it.

The refusal notice will:

- explain what provision of the Act is being used to refuse the request and why.
- give details of an internal review (complaints) procedure BPC offer.
- explain the requester’s right to complain to the ICO, including contact details for this.

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