Olney Town Council

Freedom of Information Policy

Adopted: 12th May 2025 Minute Reference OTC25/05/6i

Olney Town Council Information Policy

Olney Town Council is subject to the Data Protection Act 2018, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. It complies with the requirements of this legislation.

Many requests for information can be dealt with in the ordinary course of business and do not need to be processed under the above legislation. If the information can be provided immediately, or can be made available routinely, then we will do this. Please check our website, or noticeboard, first to see if the information is available before making any request. It is also worth looking at the Information Commissioner's website at www.ico.org.uk which has guidance for the public on making requests.

The contact details for making a request are – The Clerk, Olney Town Council, The Olney Centre, High Street, Olney MK46 4EF or email: townclerk@olneytowncouncil.gov.uk

Data Protection Act 2018

We will acknowledge receipt of a request for personal information as soon as possible. We will provide a written response as soon as possible and, in any event, within one month of receipt of the request. The time period starts from the day after the request is received to the corresponding calendar date in the next month. If the following month is shorter it is the last day of the following month. If a corresponding day is a weekend or public holiday it is the next working day.

This period can be extended by a further two months for complex or numerous requests.

You have the right to be

- told whether any personal data is being processed – so, if we hold no personal data about you, we must still respond to you to let you know this;
- given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people; and
- given details of the source of the data (if known).

Under the terms of the Data Protection Act 2018, we will provide you with a statement, or copies of data, as long as:

- it is "personal data" as defined in the Data Protection Act 2018;
- it is not exempt from disclosure (see below);
- we have been able to verify your identity; and
- you have not repeatedly requested the information in a short space of time*.

*The Data Protection Act 2018 allows some discretion when dealing with requests that are made at unreasonable intervals. It says we are not obliged to comply with an identical or similar request to one we have already dealt with, unless a reasonable interval has elapsed between the first request and any subsequent ones. Although there is no statutory definition of a reasonable interval as it depends on factors such as how often the data is updated, we will generally consider a reasonable interval to be within the last three months. A search of previous requests will be made to ensure that this is not a similar request to one made previously. Legal advice will usually be sought if a request is to be refused. The Data Protection Act 2018 also provides for refusing on the basis of 'manifestly unfounded or excessive' requests (section 53). The question is whether supplying a copy of the requested information in permanent form would result in so much work or expense as to outweigh the requester's right of access to their personal data.

Exemptions

Possible exemptions include (this list is not exhaustive):

- References given (not received)
- Publicly available information
- Management information (such as restructuring or possible redundancies)
- Negotiations with the requestor
- Legal advice and proceedings
- Third party data

Freedom of Information Act 2000 ("FOI")

Timescales and ways of making requests

We will respond to an FOI request in 20 working days counting the first working day after the request is received as the first working day. An FOI request can be made by anyone, from anywhere, for any purpose. It must be in writing and there must be a return address to send the information to. We will confirm or deny whether we hold the information within the 20 days. If we do not hold the information we will explain why not. We will let you know if we need longer than 20 days to apply the public interest test and we will tell you at that point what exemptions we are looking at and how long we think we need. If we do need more time to apply the public interest test this will be up to a maximum of a further 20 working days so the total time will be a maximum of 40 working days.

Refusal

We may refuse a request if we consider that:

- it is vexatious (designed to cause disruption or annoyance rather than having a serious purpose, see below)
- to comply would exceed the statutory cost limit (£450 with staff time charged at £25 an hour which is the statutory rate). If we believe it will exceed the cost limit, we will issue a refusal notice and invite the applicant, if possible, to revise the request to make it less expensive.
- it falls within an exemption under the legislation (see below)

Charging

We can charge for photocopying and disbursements and can request these fees in advance by issuing a fees notice within twenty working days of receipt of the request. When the fees notice is issued the time limit for responding stops. If we do not receive the fee within three months we are not obliged to comply with the request.

Clarification

We can seek clarification about what is being requested. The time limit for responding stops whilst we wait for a response to our request for clarification.

Exemptions

The most common exemptions are:

- Section 21 – information reasonably accessible to the applicant by other means. There is a duty to confirm or deny whether we hold it and to tell the requestor where they can find it. This is an absolute exemption which means the public interest test does not need to be applied, (see below).
- Section 22 – information intended for future publication. This means it is in draft, still being worked on but when completed, or approved, it will be published. The public interest test must be applied here.
- Section 31 – prejudicial to law enforcement (preventing crime, collecting tax)
- Section 36 – prejudicial to the effective conduct of public affairs
- Section 40 – personal data
- Section 42 – legal professional privilege
- Section 43 - commercial sensitivity

All except section 21 are qualified exemptions requiring the application of the **public interest test.** This means weighing up whether the public interest is best served by disclosing the information, or not disclosing it.

Environmental Information Regulations 2004 ("EIR")

Environmental information broadly relates to:

- Air, atmosphere, water, soil, land, landscape, plants, animals, biological diversity and genetically modified organisms
- Emissions, discharges, noise, energy, radiation, waste, recycling, and pollution
- Measures and activities such as policies, plans and agreements
- Reports, cost benefit analysis and economic analysis
- The state of human health and safety, contamination of the food chain
- Cultural sites and built structures (the effect of the environment on the human world)
- Planning and development, building control, construction and renovation, floods and flooding issues, land use, traffic, parking, location of mobile phone masts and demolition of buildings.

It covers documents, photos or maps. There is no distinction between formal approved documents, and anything else. The duty is to make the information **available.** This is not the same as the duty to disclose under FOI.

There are 20 working days to respond to the request. Unlike FOI there is no extension to the time limit for consideration of the public interest test. A further 20 days is permitted though if the request is complex, or there is a large amount of information involved. There is no right to charge for inspection. Cost recovery is permitted provided the reasonable charges are published in advance.

Exceptions

There are exceptions to the requirement to disclose, these exceptions are subject to the public interest test like FOI. The exceptions are,

- personal data
- information not held when the request was made
- the request is manifestly unreasonable (similar to "vexatious" under FOI but with "manifestly unreasonable" used instead. The courts have treated both in the same way)
- the request is too general
- information is in draft or is unfinished
- information is an internal communication
- disclosure would adversely affect the course of justice or commercial confidentiality.

There is a lot of guidance, and case law, on the use of both FOI exemptions and EIR exceptions which can be found on the Information Commissioner's website at www.ico.org.uk.

Publication Schemes

This is a scheme available via the website, setting out the classes of information that will be made routinely available and any charges. This includes policies and procedures, minutes of meetings, annual reports and financial information. This information is easily and quickly available.

Vexatious Requests

Whilst Olney Town Council wishes to be open and transparent and to provide as much information as possible about the work it does there are occasions when it might be necessary to decide that a request is "vexatious" within the meaning of the legislation. There have been a number of legal cases which have helped to set out what is meant, legally, by "vexatious" and which have confirmed that parish councils have limited resources and that their obligations under the legislation must be proportionate to those resources.

Public authorities do not have to comply with vexatious requests. There is no requirement to carry out a public interest test or to confirm or deny whether the requested information is held.

The key question is whether the request is likely to cause **a disproportionate or unjustified level of disruption, irritation or distress.** There is no exhaustive list of circumstances. Every case is unique and judged within the context and history of the specific situation.

"Vexatious" Indicators

- Abusive or aggressive language
- Burden on the authority
- Personal grudges
- Unreasonable persistence
- Unfounded accusations
- Intransigence

- Frequent/overlapping requests
- Deliberate intention to cause annoyance
- Scattergun approach
- No obvious intent to obtain information
- Futile requests

Process we will follow to determine if a request is vexatious

The town clerk deals with all requests for information on behalf of the Town Council. If a request is considered to be potentially vexatious the clerk will prepare a summary setting out the context and history to the request. This summary will be reviewed by the Town Council.

The review

The following will be considered:

- The purpose and value of the request
- Whether the purpose and value justify the impact on the public authority
- The context and history so, for example, if there has been a long and frequent series of requests the most recent request, though not obviously vexatious in itself, will contribute to the aggregated burden.
- Have there been numerous follow-up enquiries no matter what is supplied? This will be balanced against how clear our responses have been, has contradictory or inconsistent information been supplied or is a legitimate grievance being pursued?
- Whether there are alternatives to the vexatious route. If it is too expensive then section 12 (costs in excess of £450) will be used. The Information Commissioner permits the total costs for all requests from one person (or several acting in concert) to be aggregated during a period of sixty days so long as they are requests for similar information.
- Is this a round robin, a “fishing” expedition or part of an orchestrated campaign?

None of these make it vexatious but are factors.

Final Warning

If, having considered all of the above, the Town Council thinks there is a case for treating the request as vexatious then consideration will be given to a “final warning”. This is a letter, or email, to the person making the request explaining the impact the request(s) are having and asking that their behaviour be moderated. This “final” warning will not be appropriate in all cases but, if it is possible that the person making the request has not appreciated the impact of what they are doing, then it may assist.

Advice and Assistance

In addition, the Town Council may want to ask the person making the request whether advice and assistance would help in clarifying what exactly they wish the organisation to provide. Again, this may not be appropriate in every circumstance but will be considered.

Report to the Town Council

The history of the matter will go forward as part of a report to the Town Council setting out the evidence and reasoning behind the recommendation to propose that the request be treated as vexatious.

The decision to declare a request vexatious will be taken by the Town Council. This decision should be taken within 20 working days of receipt of the request but as the Town Council meets monthly this time limit should be achievable in normal circumstances. In a small council it is not possible for there to be an internal review process once the Town Council has reached the decision that the request is vexatious.

Under section 14(1) of the Freedom of Information Act the refusal notice will set out our internal review procedure (if one is available) and the right of appeal to the Information Commissioner's Office. However, under section 17(6) if the authority has issued a previous refusal notice for a vexatious request (and it would be unreasonable to provide another one) it is not necessary to do so. This will be done where the complainant has already been warned that further requests on the same, or similar topics, will not receive any response.

Please note that if a request is found to be vexatious and further requests are received on the same topic no response will be provided.

Review of Policy

This information policy is part of the Council's governance structure and will be reviewed as necessary when legislation (or legal cases) means it needs to be updated.