

# SPENNYMOOR TOWN COUNCIL



## FREEDOM OF INFORMATION POLICY

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| <b>Author of Policy:</b>                     | Town Clerk                     |
| <b>Date Effective From:</b>                  | 24 November 2020               |
| <b>Policy Review:<br/>When &amp; By Whom</b> | 21 October 2020 Annual Meeting |
| <b>Next Review:</b>                          | September 2022                 |
| <b>Version Control:</b>                      | V4                             |

In accordance with the Freedom of Information Act 2000, this document will be posted on the Council's Website [www.spennymoor-tc.gov.uk](http://www.spennymoor-tc.gov.uk) and copies of this document will be available for inspection on deposit in the Council Offices, Town Hall, Spennymoor. Costs are as per the model publication scheme.

# 1. Introduction

The Freedom of Information Act 2000 (the Act) provides the public with a general legal entitlement to view all recorded information held by the Town Council subject to certain exemptions. The public will have rights to view:

- all the information in the Council's Publication Scheme
- to request all recorded information held by the Council, regardless of when it was created, by whom, or the form in which it is now held.

We want to show that we are an 'open' organisation committed to delivering the best possible public services. Openness helps the public to trust us and to have confidence in our ability to deliver services to them.

Failure to comply with this policy could have serious consequences for the Council, in the release of inappropriate material or the withholding illegally of information and the attendant adverse publicity and possible legal censure.

The implementation and enforcement of this policy in association with the terms and conditions of employment is intended to protect the employee, colleagues, members of the public and the Council.

## 2. Aims and Scope of the Policy

This policy applies to all the recorded information that the Town Council holds that is information created, received and maintained by Members and Officers in the course of their work.

This policy is intended to ensure everyone is aware of their responsibility under the Freedom of Information Act.

## 3. Guidelines

Non adherence or disregard to any points below will be seen as a breach of this policy and the disciplinary procedure will be invoked which could result in your dismissal.

Spennymoor Town Council will:

1. Comply with the Freedom of Information Act (FOI) 2000.
2. Maintain a comprehensive Model Publication Scheme that provides information which is readily accessible without the need for a formal FOI request.
3. Acknowledge receipt of Freedom of Information requests within 24 hours of receipt
4. Ensure that straightforward written requests always receive a response within the 20 working days deadline. However, if necessary, this timescale will be extended to give full consideration to a Public Interest Test.

If the deadline is not expected to be met, the applicant will be advised of the reasons for the delay and the anticipated reply date. The officer handling the request will also inform the Chairman of the Policy and Resource Committee of this occurrence.

5. Continue to protect the personal data entrusted to it, by disclosing that information only in accordance with the provisions of the Data Protection Act 2018.
6. Keep on file a copy of the request and response, and publish both the request and response on the Town Council's website, including where possible the total resource cost to the Council in dealing with the request. Any personal data will be omitted in line with the Data Protection Act 2018 and General Data Protection Regulations 2018.
7. Be aware of the definition of "complex requests" and the escalation procedure and in particular that they should not refuse requests for information in whole or in part.
8. Apply the exemptions provided in the FOI Act and, where qualified exemptions exist, disclose the information unless the balance of public interest lies in withholding it.
9. We will pro-actively publish and make information readily available in accordance with the Publication Scheme.
10. We will review complaints about the release or otherwise of information by referring them to the Town Clerk and remind requestors that they can appeal such decisions to the Information Commissioner.

11. Ensure that all permanent and contract staff and elected Members are aware of their obligations under FOI and will include FOI education in the induction of all new staff.
12. Charge for information requests in line with the FOI Fees Regulations or other applicable regulations, including the Data Protection Act 2018 and General Data Protection Regulations 2018.
13. We will apply the “appropriate limit” in the regulations. Where the cost of complying with the request exceeds this we will issue a refusal notice inviting the requestor to refine their request.

## 4. Responsibilities

The Council has a responsibility to make its recorded information available in accordance with the Act.

All Staff and Members:

1. Must ensure that all such data is handled properly and confidentially at all times, irrespective of whether it is held on paper or by electronic means.
2. Should familiarise themselves with this policy and the Freedom of Information Act guidance which is available on the web.
3. Comply with all the conditions set out within the Act.
4. Ensure that Data Protection is not breached.

The Town Clerk:

1. The Town Clerk is responsible for ensuring that all staff are aware of the Freedom of Information Act and that they adhere to the guidelines within.

## 5. Internal Reviews

Under the Act, there is no obligation for an authority to provide a complaints process, also known as an internal review. However, it is good practice (under the section 45 code of practice) and most public authorities choose to do so.

The Town Council considers it a positive and helpful procedure demonstrating the transparency of the Council when dealing with FOI requests.

An Internal Review should:

1. Ensure the procedure is triggered whenever a requester expresses dissatisfaction with the outcome;
2. Make sure it is a straightforward, single-stage process;
3. Make a fresh decision based on all the available evidence that is relevant to the date of the request, not just a review of the first decision;
4. Ensure the review is done by someone who did not deal with the request, where possible, and preferably by a more senior member of staff or elected Member; and
5. Ensure the review takes no longer than 20 working days in most cases, or 40 in exceptional circumstances.

Freedom of Information requests are dealt with by officers and are assigned based on the topic issue. In practice, they will be generally responded to by the Facilities Manager with the support where necessary of other officers in relation to the retrieval and collation of information.

## Review Process:

The Town Clerk/Members should be provided with all paperwork (emails, documents, etc) associated with the original request, the response(s) made and the request for the Internal Review, including the reasons provided.

The review should endeavour to be dealt with, concluded and responded to within 20 working days following the date of receipt.

The hierarchy to be adopted is as follows:

|  |                    |   |
|--|--------------------|---|
| <b>Officer dealing with the original request</b> | Facilities Manager | Town Clerk  |
| <b>Internal Review conducted by</b>              | Town Clerk         | Panel of Members from the Council's Special Committee |

In the event of an Internal Review conducted by a panel of Members of the Special Committee, such a panel shall include 3 Members of the Council, including at least 1 Member from each political group of the Council where availability permits.

Once the Internal Review has been completed a report should be produced and held on the Freedom of Information file, outlining the background, process undertaken and conclusion. No reference must be made to the applicant in any report produced which could breach data protection regulations.

The response to the applicant on the findings of the Internal Review should be made by the Officer dealing with the request, or the Chairman of the Special Committee.

## **6. Personal Information**

The Council has a responsibility to ensure that data subjects have appropriate access, upon written request, to details regarding personal information relating to them.

# Guidance for submitting a Request for Access to Information

## Note 1 - What is Freedom of Information?

The Freedom of Information Act 2000 (FOI) came into force on 30 November 2000. FOI gives you the right of access to information held by Spennymoor Town Council (the Council) although the Council may refuse access to the information if that information falls within any of the exemptions under the FOI. The exemptions protect against the disclosure of information that would, for example, harm commercial interests, information provided in confidence, personal information and other important interests.

## Note 2 – What can I ask for?

Your right to ask for information only relates to information held by the Council at the time you make your request. 'Information' may be in any form e.g. a paper document, computerised records, printouts, maps, plans, microfilm, microfiche, audio-visual material, etc. FOI provides a right to 'information' rather than to records or documents. Although you are not required to specify any particular document, you must describe the information you are requesting in as much detail as possible. The Council publishes a wide range of information. You may first wish to check the Council's Publication Scheme to find out whether the information you are requesting has already been published or if there are plans to do so. A copy of the Scheme is available online.

## Note 3 – Do I need to give a reason to see information?

No. You do not have to give a reason as to why you want to see any information. The Council must give you an explanation if you are not given what you ask for.

## Note 4 – Can I ask for personal information about myself?

No. A request for personal information about yourself must be made under the Data Protection Act 2018/General Data Protection Regulations 2018 and not FOI.

## Note 5 – Can I ask for personal information about a third party?

Yes. Personal Information relating to a third party will be dealt with under FOI. However, before you are given access to personal information relating to a third party, you may be asked to provide proof of the third party's consent to the disclosure.

## Note 6 – How do I make a request for information?

Requests/applications must be in legible form i.e. in writing and capable of being used for subsequent reference. Try to provide as much information as possible to enable the Council to identify and locate the information which you are seeking or requesting.

Please address your request to:  
Freedom of Information  
Spennymoor Town Council  
Town Hall, High Street  
Spennymoor  
County Durham  
DL16 6DG  
Email: [info@spennymoor-tc.gov.uk](mailto:info@spennymoor-tc.gov.uk)

## Note 7 – How do I make a request for information if I am suffering from a disability, am ill or illiterate?

If you are unable to put your request in writing perhaps as a result of illiteracy, disability or illness, you may wish to ask another person or agency (such as the Citizens Advice Bureau) to help you or to make the request on your behalf. The Council has a legal duty to provide you with reasonable advice and assistance. This may include:

1. Accepting an oral request where you are unable to read, print and/or write due to your disability;



2. Enabling you to inspect or have the information you are requesting explained to you;
3. Providing guidance in other languages;
4. Taking a note of your request over the telephone and then send the note to you for confirmation;
5. Providing this leaflet in Braille or audio tape. Requests for further assistance must be addressed to the Town Clerk at the address detailed in Note 6 above.

## **Note 8 – Are there limits to the information I can ask for?**

Yes. Confidentiality is sometimes necessary to ensure the effectiveness of the Council's decision-making and to protect commercial interests, information provided in confidence, personal information and other important interests. For these reasons, some categories of Council information are not covered by the commitment to provide information. Nevertheless, it is the Council's aim to ensure that information should be made available unless it is clearly not in the public interest to do so. All requests for information will be considered on their merits.

## **Note 9 – How do I describe the information I am asking for?**

If at all possible, describe the information as fully as you can to enable the Council to identify and locate it. If you are requesting personal information, please state precisely in whose name the information is held.

You will not normally be given access to the personal information of another person unless you have obtained the written consent of that person (refer to 5 above).

Where you provide insufficient information to enable the Council to identify or locate the information you are asking for or where your request is ambiguous, the Council will as far as practicable provide you with assistance to enable you to describe more clearly the information you are requesting.

The aim of this assistance will be to clarify the nature of the information sought and not to determine your aims or motivation for asking for the information. Where information is likely to be refused on cost grounds, the Council will give you an indication of what information could be provided within the costs ceiling (refer to Note 11 below).

## **Note 10 – What happens if the Council does not hold the information?**

The Council may not hold the information you are asking for because the information may have been destroyed in accordance with the Council's data retention policies or the information may be held by another public body.

In such cases, you will be told that the Council does not hold the information. Where the Council believes that the information is held by another public body and that it would be appropriate to transfer your request to that other body, you will be asked whether you have any objections to the Council making the transfer.

The public body will be asked whether it consents to your application being transferred to it. Your application will only be transferred with your consent and with the consent of the other public body.

## **Note 11 – Can the council charge a fee?**

In certain circumstances the Council can charge a fee. Charges may apply in respect of photocopying, postage, video, tape, disk, computer runs or in any case where obtaining the requested information would incur cost upon the Council.

Prior to any charges being made applicable to your request, the Council will contact you to inform you of such charges, and obtain your consent to progress your request.

## **Note 12 – How do I receive the information I have asked for?**

You are entitled to say how you wish the information to be communicated to you. This may be by letter, in the form of a digest or summary of the information or by inspection of the information at the Council's Offices on a date and at a time to be mutually agreed between you and the officer dealing with your request.

## **Note 13 – When must the Council provide me with the information I have asked for?**

The Council will respond promptly to your request for information and in any event not later than on the 20th working day of the date of receipt of your application. If it is likely to take longer, the Council will let you know.

## **Note 14 – Can the Council refuse my request for information?**

In certain circumstances the Council can refuse your request for information. Vexatious and repeated requests and/or applications made with the aim of frustrating the operations of the Council may be refused.

The Council may refuse to accede to a request for information where the Council estimates that the costs of complying with the request would exceed the costs ceiling set by the Council (refer to Note 11 above).

The Council may also refuse to accede to a request for information where the information is considered to be exempted under FOI (refer to Note 8 above). You will be given an explanation of the reasons for refusing your request for information.

## **Note 15 – Can I appeal against the Council's decision to refuse my request for information?**

Yes. If you are not satisfied with the decision i.e. your request has been refused or where you consider that your request has not been properly handled, you may ask for an 'internal review' of the decision.

Your request for an internal review must be submitted within 4 weeks of the date of the decision to:

Freedom of Information – Internal Reviews  
Spennymoor Town Council  
Town Hall, High Street  
Spennymoor  
County Durham  
DL16 6DG  
Email: [info@spennymoor-tc.gov.uk](mailto:info@spennymoor-tc.gov.uk)

If you are not satisfied with the decision on 'internal review', or where the Council has failed to respond to you within the time specified or within the time agreed between you and the Council you may apply to the Information Commissioner for an independent review at the following address:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone: (01625) 545700  
Website: [www.dataprotection.gov.uk/dpr/foi.nsf](http://www.dataprotection.gov.uk/dpr/foi.nsf)

## Note 16 – Who do I contact for further information or assistance on Freedom of Information?

The Freedom of Information Act 2000 is available from any Government Publications Sales Office and from the Information Commissioner's Web site [www.dataprotection.gov.uk/dpr/foi.nsf](http://www.dataprotection.gov.uk/dpr/foi.nsf).

Monitoring of requests received by the Council is a necessary element of an established programme for recording and analysing the types of information requested and the Council's overall performance in handling requests.

Wherever possible, the Council will keep information used for requests monitoring in an anonymised form so that it cannot be linked to any particular individual. All or part of the statistical information provided may be disclosed or supplied to relevant committees of the Council and to external organisations or bodies such as the Audit Commission/Information Commissioner for statistical information purposes.

The data collected for monitoring purposes is aggregated, kept apart from general personal records and subject to strictly controlled procedures.