

FREEDOM OF INFORMATION ACT 2000

The Freedom of Information (FOI) Act entitles anybody to ask the Council, for any recorded information that they keep. The FOI works alongside the Data Protection Act. Hart District Council wants 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.

The Freedom of Information Act (FOI) was passed on the 30th November 2000. Local Authorities became fully subject to the Act on 1st January 2005. The Act provides a general right of access to all recorded information held by public authorities without significant formality or inquiry into the motives of the applicant and at subsidised cost. Authorities should already have a Publication Scheme in place, which has been approved by the Information Commissioner.

Rights granted under the Act provide that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and if that is the case, to have that information communicated to them.

Under the Act the definition of 'information' means information recorded in any form and is fully retrospective. It includes personal and non-personal information.

Under the FOI Act it is a criminal offence to alter, deface, erase, destroy or conceal any record held by the Authority, with the intention of preventing the disclosure of all, or part, of the information to which the applicant would have been entitled.

Applications for information may come from individuals, legal entities such as a company, pressure group or the media. Applicants do not have to mention any Acts nor do they have to give a reason for their application but they do have to describe the information they require to enable the Authority to comply with their request. Applications for information must be in writing; this could include E-mails or Fax.

Initial enquires may be received orally either by telephone or personal visit. The method of application should be explained to applicants making a request orally.

The application must contain the name of the applicant and an address for correspondence and describe the information requested. The application may be sent electronically but it must be in a legible form and it must be capable of being used for subsequent reference. The applicant may have some difficulty in describing the information they require or producing a written application. In such cases the Authority has a duty to offer reasonable advice and assistance to the applicant to help them describe the information more clearly.

The Authority should if necessary write the application down for the applicant and then send them a copy to sign and return. Once this is done the application can be processed.

The Authority is required to reply promptly to any requests for information and in any event no later than 20 working days from the receipt of the application. When a fee is involved, the applicant will be sent a payment notice and the 20 days is not affected e.g. if 5 days have been spent gathering the information when the invoice is sent out

Hart District Council will:

- Comply with the Freedom of Information Act 2000
- Maintain a comprehensive 'Publication Scheme' that provides information which is readily accessible without the need for a formal FOI request
- Hart will seek to satisfy all FOI requests promptly and within 20 working days. 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
- Continue to protect the personal data entrusted to it, by disclosing that information only in accordance with the provisions of the Data protection Act 1998
- Publish procedures and assistance will be given to applicants in order that they can obtain the requested information
- Work with its partners and contractors to ensure that it can meet the FOI obligations, including the disclosure of any information that they hold on the council's behalf
- 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
- Consult with third parties before disclosing information that could affect their rights and interests. However as in accordance with the Act the final decision on disclosure rests with the Council
- Record all FOI requests and responses and will monitor its performance in handling requests and complaints
- Ensure that all permanent and contracted staff and elected members are aware of their obligations under the FOI and will include FOI education in the induction of all new staff
- Exemptions to the and third party duty of confidentiality can be complex and quite difficult to understand. You should not make any decisions about the application of exemptions without reference to the Data Protection Officer and Legal services

EXEMPTIONS TO ACCESS TO PERSONAL INFORMATION UNDER THE DATA PROTECTION ACT 1998

There are a number of exemptions to the right of access to personal information under section 7 of the DPA, but they have limited application and will be very rare for all personal information to be withheld from the applicant. Withholding information should be the exception rather than the rule and the purpose of the section 7 provision of the Act is to promote trust by encouraging openness and honesty between agencies and the customer/clients

In addition to the exemptions under the DPA, personal information may have to be withheld in order to protect **THIRD PARTY DUTY OF CONFIDENTIALITY**

The FOI Act should not unduly affect CCTV Operations. CCTV staff's current dealings with and passage of information between partners will continue. However any request for information from applicants outside these partnerships or unusual requests for information from partners should not be dealt with by CCTV operators but must be passed to the CCTV Coordinator.

The Exemption:

The following exemption applies to the right of access to personal information:

- Information processed for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty, or of any imposition of a similar nature, the disclosure of which to the data subject would be likely to prejudice any of these matters (includes Council Tax) (Section 29(1))