

# FROME TOWN COUNCIL

## Chapter 14

### Information Policy

5 Palmer Street  
Frome  
BA11 1DS

01373 465757

[info@frometowncouncil.gov.uk](mailto:info@frometowncouncil.gov.uk)  
[www.frometowncouncil.gov.uk](http://www.frometowncouncil.gov.uk)

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A copy of this document is also available in different formats such as large print, Braille, audio or in a different language, please contact the office if this is required.

## **1. The Information Policy**

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 falls under the Data Protection Act 1998.

All other information falls 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.

This policy details how Frome 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 Frome Town Council, define how the Town Council will make information accessible and advise how it will protect, store and dispose of information.

## **2. Introduction**

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

The Council welcomed the full introduction of the Freedom of Information Act 2000 and is committed to a proactive approach regarding access to information.

Under the Act each public authority 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 and can be found at Chapter 15 of the Council Constitution.

## **3. Publication Scheme**

There are three ways to obtain any information held:

- The Council's website – [www.frometowncouncil.gov.uk](http://www.frometowncouncil.gov.uk)  
This includes meeting agendas, minutes and the Council Constitution.
- Inspection of documents at the Town Council offices

If you wish to view certain documents, you should contact the Town Clerk. 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, 9.00am to 4.30pm.

- 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. Frome 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 any relevant fee has been paid) unless an exemption applies.

#### **4. Freedom of Information Act**

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

#### **5. Environmental Information Regulations 2004**

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

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 Frome Town Council.

The Freedom of Information Act 2000 gives applicants two statutory rights. First, to be told whether or not the public authority holds information; and if so, second 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. Handling of Requests

Frome Town Council must normally supply the information requested in the format requested within 20 working days of receipt of a written request; confirm whether or not it holds the information; advise whether a fee will be charged and provide the information (after any relevant fee has been paid) unless an exemption applies.

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; similar to a previous request; or, the cost of compliance exceeds an appropriate limit. 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 an applicant is unhappy with a refusal to disclose information, they can request a formal review of the decision by a person not directly involved with the refusal. If the review concurs with the decision not to disclose the information the applicant can complain to the ICO. The ICO will

investigate the case and either uphold the Council's use of an exemption or decide that the information must be disclosed.

## **10. Fees**

The FOIA only allows the Town Council to charge for answering Freedom of Information requests when costs exceed £450.

In these cases the Council can decide to:

- refuse the request; or
- comply with the request and charge for allowable costs as prescribed in the Regulations (a fee notice will be sent to the applicant requesting the appropriate fee); or
- comply with the request free of charge

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.

The Council will charge 10p per A4 sheet and 20p per A3 sheet (black only) for photocopying and printing documents, plus recover the actual cost of postage or any other transmission costs from the applicant. Colour copies will be charged at 15p per A4 sheet and 25p per A4 sheet. Hourly staff costs are £25.

## **11. 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. The 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 Frome 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.

## **12. Data Protection**

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

The Data Protection Act (DPA) 1998 establishes a framework of rights and duties which are designed to safeguard personal data.

The DPA aims to balance 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.

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.

The DPA it is underpinned by a set of eight 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.

The Council will ensure it handles personal data and complies with the spirit of these principles.

The Act states that anyone who processes personal information must comply with the eight principles and that the 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.

Frome 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. 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 Frome 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.

### **13. Privacy and Electronic Communications Regulations**

The Privacy and Electronic Communications Regulations apply to unsolicited electronic marketing messages sent by telephone, fax, email or text.

If Frome Town Council wants to make automated telephone calls or send faxes to individuals they must have the subscriber's consent and their identity must be clearly included in calls or faxes.

If they wish, subscribers (individuals or businesses) can opt out of direct marketing phone calls both to a land line and a mobile number. People on the Telephone Preference Service register will not receive these types of calls unless they give their permission.

Individual and corporate subscribers can also register their objection to receiving unsolicited direct marketing faxes by registering their number with the Fax Preference Service.

Unsolicited marketing material by electronic mail (this includes texts, picture messages and emails) will only be sent if the person has chosen to receive them, unless the email address was obtained as a result of a commercial relationship. The Council will always give the individual the opportunity to stop receiving the emails.

Spam is the use of electronic messaging systems (including most broadcast media, digital delivery systems) to send unsolicited bulk messages indiscriminately. The most widely recognised form of spam is e-mail spam, also known as unsolicited bulk email (UBE), junk mail or unsolicited commercial email (UCE).

The ICO is working with its European counterparts and the US to try to reduce spam, but currently there is no legislation to cover spam sent to business addresses. Frome Town Council has processes and software in place to protect the email server as far as reasonably possible from spam.

#### **14. General Responsibility**

All Frome Town Council staff and Councillors 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.

The Town Council will issue procedural guidelines to complement this policy setting out step-by-step how a request for information should be dealt with. In addition staff training will be provided and be available on an on-going basis.

It is however the responsibility of the person who receives the information request to ensure that it is responded to according to the Act. Additional advice and support in this regard is available from the Town Clerk.

#### **15. 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](http://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: [casework@ico.org.uk](mailto:casework@ico.org.uk)

#### **16. Document Management Policy**

This policy applies to all documents produced by the Town Council and all documents received in the Town Council's offices. 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 table below. Where the period is shown as a number of years, this is in addition to the current year.

<b>Record</b>	<b>Minimum retention period</b>	<b>Comments</b>
Annual Leave Records	3 years	
Application Forms (unsuccessful Applicants)	6 months from appointee starting duties	
Audit Till Rolls	3 years	
BACS Amendments and Error Reports	6 years	
BACS Details	6 years	
Bank Reconciliation Records	6 years	
Bank Statements and Advices	6 years	
Bond Certificates – Copy	6 years	After redemption
Bonds/ Mortgages Register	Indefinitely	
Budget Working Papers	6 years	
Capital Registers	Indefinitely	
Car Allowance Claims	3 years	
Car Allowance Records	6 years	
Car Lease Records	2 years	From end of lease
Car Loan Records	6 years	From end of loan
Cash Books	6 years	
Consolidated Loans Pool Registers	Indefinitely	
Consolidated Loans Pool Working Papers	6 years	
Collection and Deposit Books	6 years	
Computer Input Forms	2 years	
Contract Documents	Contract period + 2 years	From final payment
Contract Payment Certificates	Contract period + 2 years	From final payment
Controlled Stationery Records	Indefinitely	
Copy Orders	3 years	
Copy Renewal/ Endorsement Memos	Indefinitely	
Correspondence Files	6 years	
Correspondence with Successful Contractors	Contract period + 2 years	From final payment

Council Meeting Minutes	Indefinitely	Can be transferred to SCC Archives
Creditor Cheque Lists	6 years	
Deduction Tabs	6 years	
Deeds of Covenant	12 years	After final payment
Delivery Notes	3 years	
Expenses Claims (mileage, subsistence)	6 years	HMRC requirements
Employers Liability Insurance	40 years	Management and Statute of Limitations
Final Account Working Papers	6 years	
Finance Ledgers	Indefinitely	
Flexi-time Records	3 years	
Grant Claims / Returns	6 years	
Half Yearly Interest Schedules	Indefinitely	
Health and Safety Inspection Records	21 years	
Insurance Claims and Correspondence	6 years	
Insurance Policies (other than Liability Insurance)	3 years	After discontinuation
Insurance Registers	Indefinitely	
Insurance Schedules	Indefinitely	
Insurance Valuations	6 years	Unless re-valued
Internal Ledger Transfers	6 years	
Inventory of Furniture & Equipment	Indefinitely	
Investment Certificates	6 years	After holding
Invoices (including credit card payment slips)	6 years	
Journal Entries	6 years	
Leasing Payments	6 years	
Leasing Registers	Indefinitely	
Leaver Forms	6 years	
Liability Insurance	Indefinitely	
Loans Transfer Registers	Indefinitely	
Manual Cheque Payment Records	6 years	
Maternity Pay Records	3 years	
Members Allowance Claim Forms	6 years	
Members Attendance Registers	Indefinitely	
Micro-fiche Records	Indefinitely	
Mortgage Deeds & Bond Certs. (repaid)	6 years	From cancellation
New Starter Forms	6 years	
Notification of Coding	3 years	After end of tax year
Orders	3 years	
Other Payroll Tabs	6 years	
Overs and Shorts Records	6 years	
Overtime Claims	3 years	
Overtime Records	6 years	
P45 Forms	3 years	
Paid Invoices	6 years	

Pay Slips – copies	7 years	
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Paying-In Books	6 years	
Payroll Cheque Lists	6 years	
Payroll Control Account Reconciliations	6 years	
Payroll Control Total Tabs	6 years	
Payroll Deduction Tabs	6 years	
Permanent Amendments	6 years	
Personnel Files	Indefinitely	
Petty Cash Imprest Records	6 years	
Petty Cash Receipts	6 years	
Postal Remittance Books	6 years	
Public Liability Insurance	21 Years	
Private Health Care Records	6 years	HMRC requirements
PWLB Year End Statements	6 years	
Receipt Books	6 years	
Renewal/ Endorsement Memos - Copy	Indefinitely	
Replacement Cheque Records	3 years	
Returned Cheque Records	6 years	
Securicor Records	6 years	
Shorts and Overs Records	6 years	
Sickness Records	3 years	
Staff Records	6 years	
Stock Transfer Forms	6 years	
Stop Cheque Lists	6 years	
Summaries of Accumulated Totals	6 years	
Sundry Debtor Accounts	6 years	From date paid or written off
Sundry Debtor Records	3 years	
Superannuation Correspondence	Indefinitely	
Superannuation Records	6 years	Main records held with SCC
Tax and NI Details	6 years	
Taxable Benefit Details	6 years	HMRC requirements
Temporary Loans Records	3 years	After repayment
Temporary Variations	3 years	
Tenders - Unsuccessful Quotations	3 years	
Tenders - Successful Quotations	Contract period + 2 years	From final payment
Till Rolls (Receipting Machine)	3 years	
Timesheets	Last completed audit year	Audit and Working Time regulations
Unpresented Cheque Listings	6 years	
VAT Returns and Records	6 years	
Write Off Schedules	Indefinitely	
Year-end Financial Tabs	Indefinitely	
Year-end Payroll Tabs	12 years	

General Documentation, not listed above, may be kept for reference purposes however will be destroyed after 5 years.

Any documents relating to Town Council owned land and property will be retained indefinitely by the Town Council or by the Council's solicitor 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.

Development Control and Planning applications will be destroyed automatically after 1 year. If however a particular application forms part of a planning history for a specific site or Town Council owned property, then the application will be kept indefinitely or until such times as the site is developed.

Within 6 months of a member of staff leaving Frome Town Council employment, the individuals personnel file will be reviewed, any superannuation or salary documentation will be extracted and the remaining documentation will be destroyed. 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's offices.

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.

Older paperwork and documentation will be archived either at the Town Council's offices or off site. Any documents of an historical nature will be offered to the County Records Office or the Frome Museum, as appropriate.

If need be, documents will be stored in secure conditions either at the Town Office's offices, with the Council's solicitor or at an offsite storage facility.

Certain specific documentation such as meeting minutes will be offered to the County Archives at Somerset County Council in Taunton.

#### **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 either be shredded at the Town Council offices or sent for destruction by a recognised contractor specialising in the disposal of confidential waste.

All general documentation and paper waste will be recycled.