

Frome Town Council Constitution

Chapter 15 - Information Policy

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1. The Information Policy

This policy details how FTC will abide by the following legislation:

The Freedom of Information Act 2000.

The Privacy and Electronic Communications Regulations 2003 .

The Environmental Information Regulations 2004.

2. Freedom of Information Act 2000

The Freedom of Information Act (FOIA) deals with access to official information. Individuals or organisations have the right to request information held by FTC. It gives applicants two statutory rights. First, to be told whether or not FTC holds the requested information; and second, and if FTC does, to have that information sent to them. The Act is fully retrospective and applies to all information, not just information filed since the Act came into force.

Some information could be exempt from disclosure. There are 23 exemptions in the FOIA, some of which are **absolute** and some **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 FTC:

- 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 FTC believes that the information is covered by a **qualified exemption** it will apply the public interest test. This favours disclosure where a qualified exemption or an exception applies. In such cases, the information may be withheld only if FTC considers that the public interest in withholding the information is greater than the public interest in disclosing it.

FTC will 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.

The FOIA allows FTC to charge for answering Freedom of Information requests when costs exceed £450. In these cases we can decide to:- refuse the request; or comply with the request and charge for allowable costs as prescribed in the legislation; or comply with the request free of charge. The request for information will not be answered until the fee has been received.

FTC 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 FTC 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 appeal. The ICO will investigate the case and either uphold FTC's use of an exemption or decide that the information must be disclosed.

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 FTC 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 FTC disagrees with the ICO's decision, an appeal can be lodged within 28 days to the independent Information Tribunal.

3. Environmental Information Regulations 2004

These regulations give the public the right to access environmental information held by public authorities. 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)

As of July 2018, none of this information is held by FTC.

6. Privacy and Electronic Communications Regulations

The PECR apply to unsolicited electronic marketing messages sent by telephone, fax, email or text.

If FTC wants to make automated telephone calls or send faxes to individuals they must have the subscriber's consent. 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. FTC has processes and software in place to protect the email server as far as reasonably possible from spam.

7. 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.

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