

Local Council Information and Information Law

There are a number of laws for parish councils which refer to the keeping and sharing of information. There are general information laws such as the **Freedom of Information Act 2000** and the **Data Protection Act 1998** but also laws within Local Government Acts and procedures, with which a local council must comply.

Rights of Inspection

Under the Local Government Act (LGA) 1972, section 228, the minutes of proceedings of a parish council must be open to the inspection of any local government elector for the area of the council and any such elector may make a copy of or extract from the minutes. Similarly an elector for the area may inspect or make a copy of, or extract from, an order for the payment of money made by the local authority.

The same applies to the accounts of a local authority. In addition to this general availability, the local council has responsibilities following its audit. *When the yearly audit of a local council's accounts has taken place, a local council must put up a notice to say that the audit has been completed and that the accounts are available for inspection by local electors. This notice must be displayed in a conspicuous place for at least fourteen days. The completed annual return which displays the external auditor's certificate and signed opinion must be published or displayed alongside the notice.

Anyone wishing to inspect documents should request to do so at a reasonable time. Where there is no council office and where local council documents are kept at the home of the clerk to the council, it should be borne in mind that this inspection may have to take place at some agreed public location such as a village hall.

Minute books and receipt and payment accounts belonging to a council must be kept indefinitely, although they may be archived. Minimum retention periods for other council documents vary depending on what they are. The Limitation Act 1980 is one act which details retention periods for things such as quotations and tenders, paid invoices, VAT records and petty cash books and this period is six years.

Where a council is responsible for burial grounds, registers, plans certificates and interment or memorial applications should be kept indefinitely.

Looking Further

*More information on the audit responsibilities of councils can be found in guidance sheet 11 on local council finance.

Data Protection Act 1998

If an organisation handles personal information (or **data**) about individuals, it has legal obligations to protect that information under the Data Protection Act 1998. For the purposes of this guidance sheet, further reference to this act will be "DPA".

The DPA requires those organisations processing personal data to register with the **Information Commissioner's Office** (ICO) unless they are exempt. The ICO is the independent authority established to "*uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals*".

Some organisations are exempt from registering with the ICO. There is an online tool available on the website which tests the need to register and it is recommended that local councils take this test. In most (but not necessarily all) cases, local councils will be **data controllers processing personal data**.

The DPA applies to the "processing" of data and the ICO defines processing as:

"Obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including –

(a) organisation, adaptation or alteration of the information or data,

(b) retrieval, consultation or use of the information or data,

(c) disclosure of the information or data by transmission, dissemination or otherwise making available, or

(d) alignment, combination, blocking, erasure or destruction of the information or data".

No personal data should be shared with another party, unless the data subject has given his/her consent or unless there is by law a duty to do so.

Individuals have the right to access information being held about them and may make a **subject access request** to the data controller for copies of both paper and computer records and related information. Organisations may charge for this and there are some exemptions. There is a 40-day deadline for organisations to deal with requests.

The ICO provides template letters for requesting information on its website and can offer assistance if there is difficulty accessing information.

Mostly local councils will be holding personal data such as people's names and addresses but it also includes things like personnel records, information about contracts and tenders (which could be self-employed individuals' home details), details of complaints and the contents of correspondence.

When it comes to local councils it is likely that you will already know if they hold your personal data. This will include details of the electoral roll, details of any correspondence you may have had with them and things like planning applications.

Freedom of Information Act 2000

When it comes to information held by local councils, perhaps more relevant is the Freedom of Information Act 2000. For the purposes of this guidance sheet, further reference to this act will be "FOI Act" and reference to Freedom of Information will be "FOI".

The FOI Act enables the public to access information held by local authorities, including local councils. This is done in two ways:

Local authorities must publish certain information about their activities and members of the public are entitled to request information.

The FOI Act requires all local councils to have a publication scheme (based on a model from the Information Commissioner's Office). This publication scheme sets out the local council's commitment to make certain types of information routinely available, such as policies and procedures, minutes of meetings, annual reports and financial information. The scheme will be accompanied by a list of charges (where relevant and appropriate) and a guide to how information detailed in the scheme can be accessed

If a member of the public wishes to access information not included in the scheme they would contact the local council asking for this information. In general terms the local council is obliged to tell the applicant if they have the information requested and if so, provide it. There are of course exemptions and the Data Protection Act to consider when doing this. The FOI Act allows a local council 20 working days to respond to a request.

If you are requesting information from a local council it is helpful to be as detailed as possible in asking for information held by them. Specific requests will lead to specific information. There may also be restrictions and exemptions so being specific will make it clearer for the council to know what they can and cannot provide.

The FOI Act only covers the information held by the council. If they do not have it in their possession, they cannot provide it.

There are circumstances where a request may be refused. They are:

- It would cost too much or take too much staff time to deal with the request
- The request is vexatious
- The request repeats a previous request from the same person

With regards to the first bullet point above, there is a cost limit of £450 for local authorities. If the request is going to cost more than this limit they may charge:

- the cost of compliance (the costs allowed in calculating whether the appropriate limit is exceeded); plus
- the communication costs
- £25 an hour for staff time taken for printing, copying or sending the information.

But they must get written consent from the applicant that they will pay the extra costs.

Part II of the FOI Act, sections 21 to 44 sets out the exemptions. These include things such as information which is already reasonably accessible or intended for future publication. In addition things like security, law enforcement, investigations and defence are covered.

Information which relates to personal data is exempt under the DPA and some requires the information holder to judge whether information is prejudiced or confidential for some other reason. The exemptions and full and detailed explanations of key parts of the act can be found on the ICO website.

Looking Further

The ICO website can be found at <http://www.ico.gov.uk/>