

Steypning Parish Council

Telephone: 01903 812042



The Steypning Centre, Fletcher's Croft, Steypning,
West Sussex, BN44 3XZ

www.steyningpc.gov.uk

www.thesteyningcentre.co.uk

Freedom of Information & Environmental Information Regulations Requests Policy



Parish Clerk: John Fullbrook
Deputy Clerk: Hazel Roxby

Email: clerk@steyningpc.gov.uk
Email: hazel@steyningpc.gov.uk

1.0 Background

Under the Freedom of Information Act, individuals have the right to access information held by the Council. The Council must also advise and assist the individual in making their request.

The Freedom of Information Act 2000 (FOIA) was passed on 30th November 2000. It gives a general right of access to all types of recorded information held by public authorities. It sets out exemptions from that right and places a number of obligations on public authorities.

The Act came into force in January 2005 and anyone wishing to exercise the right has to make a written request to the local authority. If such a request is made the Council is under obligation to inform the person whether or not the requested information exists and to supply access to the information, unless it is subject to an exemption.

Section 39 of the Freedom of Information Act exempts environmental information from being dealt with under the Freedom of Information Act and provides it should be dealt with under the Environmental Information Regulations [EIR], which also came into force on 1st January 2005.

Environmental Information is defined in the EIR as information falling into one of the six categories below:

1. the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
2. factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in 1.
3. measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the state of the elements and factors mentioned above, and as well as measures or activities designed to protect those elements.
4. reports on the implementation of environmental legislation.
5. cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to above.
6. the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures in as much as they are or may be affected by the state of the elements of the environment or, through those elements by any of the factors or measures referred to above.

2.0 Procedure

The FOIA requires that all requests must be made in writing (by letter or email) whereas the EIR also allow requests for environment information to be made verbally. Requests must clearly indicate what information is being required and state the name of the applicant and contact details for correspondence. Applicants do not have to state the purpose of their request.

- 2.1 Any individual making an enquiry under the FOIA should be advised that all requests for information must:
- be made in writing, including email.
 - include a name and address for the response to be sent to.
 - state clearly the information required.
- 2.2 Any individual making an enquiry, written or verbal, under the EIR should be advised that all requests for information must:
- include a name and address for the response to be sent to.
 - state clearly the information required.
- 2.3 On receipt of a request for information under the FOIA or EIR, an acknowledgement should be sent out within three working days advising whether the information is subject to the Act or not and how the Council will be responding to the request.

Where the request is deemed to be contentious the Responsible Officer may convene an FOI panel to assist him with the compilation of the response

Where the information is subject to the Act or Regulations, it should be dealt with accordingly and a response given to the enquirer within 20 working days. The Act or Regulations allow the Council to extend this deadline if further clarification of the request is needed but must advise the individual accordingly.

Where the information is not subject to the Act, it should be dealt with in line with the Council's complaints procedure.

- 2.4 Most requests for information will be free of charge. However, the Council reserves the right to charge the enquirer for photocopies or postage.

The individual may request that the information be given to them in a particular form and the Council may take into account the cost of providing the information in this form before complying with the request.

If the Council believes that it will cost more than £450 to find the information and prepare it for release, then the request can be refused. However, in all such cases the Council will ask the enquirer to narrow down the request by being more specific.

- 2.5 The FOIA and EIR do not place restrictions on how the individual may use the information, but does not transfer copyright in any information sent to the enquirer. The Council should advise the enquirer in writing if any of the information is copyrighted.
- 2.6 Under Section 36 of the Freedom of Information Act 2000 the Clerk together with the Chairman/Chairman of the relevant committee will make decisions about the disclosure of information that is believed to prejudice the conduct of public affairs. In the absence of the Clerk, this will be performed by the Deputy Clerk together with the Chairman / Chairman of the relevant committee.
- 2.7 If the Council refuses a request or withholds some of the information that has been requested, the enquirer will be advised of the reasons for the refusal. (see Section 3.0 Exemptions).
- 2.8 Under Section 16 of the FOIA and Section 9 of the EIR, the Clerk has a duty to provide advice and assistance to applicants. The Council will provide advice and assistance so far as it would be reasonable to expect it to do so to anybody who proposes to make or have made an Information Request.
- 2.9 Where the cost of compliance in providing the information to a number of related requests, whether from the same or different individuals, exceeds the "appropriate limit" the Council will not be obliged to comply with the request. However, the Council may, on a discretionary basis, be prepared to offer assistance as to what could be disclosed in a more cost effective manner. It will be a matter for the Council to determine whether the various requests are related and form part of an organised campaign.
- 2.10 If the Council receives an Information Request for information that it does not hold, but is aware that another public authority holds this information, the Council will provide assistance to the applicant and transfer their request to the public authority known to hold the requested information. If the Council holds any part of the information that has been requested by the applicant it will treat that part of the request as an official Information Request and process it accordingly.

3.0 Exemptions

- 3.1 In certain instances, the Council will withhold information if it considers an information disclosure would be subject to one or more of the exemptions included in the FOIA and EIR, e.g.
- Regulation 12(3) Personal Information
 - Regulation 12(4) – exemptions based on the type of information:
 - Regulation 12(4)(a) – the Council does not hold the information
 - Regulation 12(4)(b) – the request for information is manifestly unreasonable
 - Regulation 12(4)(c) – the request is too general
 - Regulation 12(4)(d) – the request relates to information which is unfinished or in the course of being completed
 - Regulation 12(4)(e) – the request involves the disclosure of internal communications.

- Regulation 12(5) – exceptions based on the content of the information requested
 - Regulation 12(5)(a) – international relations, defence, national security and public safety.
 - Regulation 12(5)(b) – the course of justice, the ability of a person to obtain a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.
 - Regulation 12(5)(c) – Intellectual property rights.
 - Regulation 12(5)(e) – the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
 - Regulation 12(5)(f) – the interests of the supplier of the information
 - Regulation 12(5)(g) – Protection of the environment
- Regulation 12(6) and (7) – Neither confirm nor deny
- Regulation 12(9) – Emissions

- 3.2 The Council will always explain its reasons for applying an exemption to the applicant within 20 days.
- 3.3 The Council will not classify information as exempt unless there are reasons for doing so. Where documents contain exempt information, the remaining information contained within the requested document will be available under the FOIA and EIR.
- 3.4 Qualified exemptions will only be applied if the Council believes it is not in the public interest to disclose the information having considered the Public Interest Test.

4.0 Public Interest Test

- 4.1 The Public Interest Test (PIT) will apply to all qualified exemptions under the FOIA. The PIT requires that information should be withheld under an exemption if, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

5.0 Appeals

- 5.1 If the Council refuses a request for information, the individual has the right to appeal the decision and should, in the first instance, request an internal review of the decision in writing within 5 working days of notification of the refusal.
- 5.2 The Council does have the right to refuse to review the decision.

- 5.3 The review should be conducted by a panel of three Councillors who were not connected with the initial decision having been appointed by Full Council. The Chairman or Vice Chairman will Chair the review. The individual should be advised of the outcome of the review within 15 working days.
- 5.4 If the individual is unhappy with the outcome of the review, or the Council has refused to undertake a review, the individual has the right to appeal directly to the independent Information Commissioner. The Commissioner has the power to investigate the way the Council handled the request and the response given by the Council. If the Commissioner agrees that the Council has wrongly withheld information, the Council can be ordered to disclose it.

The Information Commissioner can be contacted as follows:

Information Commissioner's Office Helpline:

08456 30 60 60 or 01625 54 57 45 Fax: 01625 524510

By post: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

By email: If your enquiry is about a new or existing notification under the Data Protection Act, please email notification@ico.gsi.gov.uk

To Be Agreed by Steyning Parish Council
On 15th October 2018

STEYNING PARISH COUNCIL

DISPENSATIONS SCHEME

1 Applicability

The following arrangements for seeking dispensations from prohibitions on participation apply from 1 July 2012. The statutory basis for the rules is to be found in the Localism Act 2011 sections 33 and 31(1) and (4).

The authority may on a written request made to the proper officer by a member or co-opted member of the authority grant a dispensation (a) relieving the member or co-opted member from either or both of the restrictions in section 31(4) of the Localism Act in cases described in the dispensation and/or (b) relieving the member or co-opted member from the restrictions in Paragraph 12 of the Code of Member's Conduct in cases described in the dispensation.

2 Legal Criteria

2.1 If a member or co-opted member of the authority (a) is present at a meeting of the authority, or of any committee, sub-committee, joint committee of the authority (b) has a disclosable pecuniary interest and/or a prejudicial interest in any matter to be considered, or being considered at the meeting, and (c) is aware that the condition in paragraph (b) is met the member or co-opted member may not participate in the matter.

2.2 These rules apply:

2.2.1 to either or both of the prohibitions from participation set out in the Localism Act 2011 section 31(4) concerning the matter in which a member or co-opted member has a disclosable pecuniary interest; and

2.2.2 to prohibitions from participation concerning a matter in which a member or co-opted member has a prejudicial interest.

Section 31(4) of the Localism Act 2011 provides in relation to disclosable pecuniary interests:

“(4) The member or co-opted member may not -

(a) participate, or participate further, in any discussion of the matter at the meeting, or

(b) participate in any vote, or further vote, taken on the matter at the meeting but this is subject to section 33”

Paragraph 12 (1) of the Code of Member's Conduct provides in relation to prejudicial interests:

“(1) Where you have a prejudicial interest in any business of your authority:

(a) you must withdraw from the room or chamber where a meeting considering the business is being held (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence; (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your authority.”

2.3 A dispensation can only be granted if after having had regard to all relevant circumstances the authority:

2.3.1 considers that without the dispensation the number of persons prohibited by section 31(4) from participation in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or

2.3.2 considers that without the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business, or]

2.3.3 considers that granting the dispensation is in the interests of persons living in the authority's area, or

2.3.4 considers that it is otherwise appropriate to grant a dispensation.

3 Maximum period

A dispensation will specify the period for which it has effect and the period specified may not last for more than 4 years from the date of the giving of the dispensation.

4 How to apply for a dispensation

If a member wishes to seek dispensation to enable him or her to participate in the consideration of a matter from which he or she would be excluded by the provisions of section 31(4) of the Localism Act 2011 or the Code, he or she should write to or email the Clerk a request for a dispensation explaining why it is desirable for a dispensation to be granted. At least fourteen days' notice must be given before the dispensation is required to enable the appropriate committee together with all necessary consultations to be undertaken.

5 Records

The authority will record the existence, duration and nature of any dispensation and the record is to be kept with the register of members' interests and a copy provided to the authority's monitoring officer.

6 The authority's Finance & Community Committee's consideration of an application for dispensation

The following is a summary of what might be regarded as good practice in considering an application for a dispensation:

- 6.1 Dispensations should be granted only in exceptional circumstances.
- 6.2 Dispensations cannot be granted other than in the circumstances set out in the Localism Act 2011 Section 33(2) set out in paragraph 2.3 above.
- 6.3 A dispensation cannot authorise a member to act unlawfully.
- 6.5 Any dispensation that has already been granted will be ignored when applying the legal criteria in paragraph 2.
- 6.6 The interest of the member seeking the dispensation will be balanced against the potential effect of the outcome of the vote if the member is unable to participate.
- 6.7 A dispensation may be granted to enable a member to speak only or to speak and vote.
- 6.8 A dispensation should not be granted where the dispensation would conflict with the general principles which underlie the Code of Members' Conduct:
 - 6.8.1 **Selflessness**—members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
 - 6.8.2 **Integrity**—members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
 - 6.8.3 **Objectivity**—members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
 - 6.8.4 **Accountability**—members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

- 6.8.5 **Openness** — members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.
- 6.8.6 **Honesty** – Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour.
- 6.8.7 **Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.
- 6.9 A dispensation should not be granted where the nature of the member's interest would damage public confidence in the conduct of the authority's business were the dispensation to be granted.
- 6.10 If a dispensation is granted it should usually be for one specific item of business at one meeting of the authority.
- 6.11 Consideration must take account of any legal requirement or statutory guidance issued by the Department for Communities and Local Government.
- 6.12 Section 31(4) of the Localism Act 2011 does not apply in relation to anything done for the purposes of deciding whether to grant a dispensation under this section.

7 Help

Further assistance can be obtained from the Clerk at clerk@steyningpc.gov.uk

To Be Agreed by Full Council 15.10.18