

# SHRIVENHAM PARISH COUNCIL

## FREEDOM OF INFORMATION POLICY

<u>Date</u>	<u>Version</u>	<u>Reviewed By</u>	<u>Date Adopted</u>	<u>Next Review</u>
August 2024	V1	R Sheldon	2/10/24	August 26

### 1. Introduction

The Freedom of Information Act 2000 (“FOIA”) is an Act of Parliament that sets out a public “right to know” in relation to public bodies, including Non-Departmental Public Bodies (“NDPBs”). The FOIA also sets out certain exemptions to those rights.

The purpose of the Freedom of Information Policy (hereinafter referred to as “Policy”) is to outline Shrivenham Parish Council’s (SPC’s) approach to its FOIA obligations to create a climate of openness and dialogue with its stakeholders and customers.

This Policy is applicable to all SPC staff and any members of the public who request information under the FOIA.

### 2. Managing requests

SPC is included in the definition of a public authority for the purposes of the FOIA.

SPC is required to respond to requests for information. Information is defined in the FOIA as meaning “information recorded in any form.” This is interpreted as including paper records, e-mails, information stored on computer, voicemail messages, handwritten notes or any other form of recorded information. Information, which is known to staff, however not recorded, is not covered by the FOIA.

All official information which is recorded is covered by the FOIA, irrespective of classification or format.

The Clerk is responsible for the processing and monitoring of FOI requests.

The dedicated routes for FOI requests are:

- by email to: [clerk@shrivenham.org](mailto:clerk@shrivenham.org) or
- by post to: The Clerk, Shrivenham Parish Council, The Memorial Hall, Highworth Road, Shrivenham, SN6 8BL

SPC staff who receive written requests for information under the FOIA (including any requests which do not specifically mention the FOIA) must forward these immediately to the Clerk. Where an oral request is made, the requester should be advised to put their request in writing.

The FOIA imposes strict time limits for dealing with a request for information. The Clerk will issue a response within 20 working days from the date upon which the written request is received unless clarification of the request has been sought from the requester or an extension to the statutory timescales is sought under section 10(3) of the FOIA.

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### 3. Other regimes

The FOIA covers rights of access to and requests for non-personal data. Data protection legislation (including the General Data Protection Regulation) covers the rights individuals have in respect of their personal data, including rights of access. Personal information is exempt under section 40 of the FOIA and the processing of personal data will continue to be regulated by applicable data protection legislation. Any application for access to personal information of which the requester is the subject will be classed as a request under data protection legislation and treated accordingly. The requester will be advised to this effect.

The Environmental Information Regulations (“EIRs”) deal specifically with information relating to any decisions, activities and policy formulation that may have an impact on the environment. Environmental information is exempt information under section 39 of the FOIA. Requests for environmental information will be handled in an analogous manner to requests for information made under the FOIA. However, it should be noted that the EIRs do not specify that requests must be in writing. This means that telephone requests on environmental matters will also be valid (although in practice it is advisable to make a written record of any verbal requests received).

### 4. The SPC FOI Publication Scheme

Under the FOIA, all public authorities are obliged to adopt and maintain a Publication Scheme specifying:

- the classes of information that they publish or intend to publish; and
- how the information is or will be published.

SPC’s FOI Publication Scheme can be found on <https://www.shrivenham.org/parish-council/governance-policies-procedures/>

or alternatively, a copy can be requested by contacting SPC by either the email or postal address stated above.

The FOI Publication Scheme lists SPC business-related information that SPC considers should be publicly available.

SPC will periodically review the FOI Publication Scheme and make amendments and updates where appropriate.

### 5. Fees

Where possible, SPC will not charge requesters a fee for complying with requests however it reserves the right to do so. If SPC determines that a fee will be charged for complying with the request, a fee notice will be issued to the applicant in accordance with section 9 of the FOIA.

### 6. Provision of information

SPC will seek to provide the requested information, subject to the application of any statutory exemption under the FOIA.

In responding to requests for information, SPC will have regard to any preferences expressed by the requester as to the form of communication. Where it is not reasonably practicable to

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comply with any preference expressed, SPC will notify the requester of the reasons for this determination.

### **7. Advice and assistance**

SPC has a duty, so far as it is reasonable to do so, to give advice and assistance to anyone who has made a request or is considering making one.

### **8. Procedure for making a request**

Requesters are required to put a request in writing – in the form of a letter or email, supplying their name and address and an address for correspondence and describing the specific information they are seeking. Requests need not refer to/quote FOI legislation (but it may be helpful to do so). Requesters should address their requests to the Clerk.

The Clerk may contact the requester to clarify the terms/scope of the request and to give advice and assistance as needed.

### **9. Exemptions**

Where information is held by SPC, the information will not be withheld unless:

- an exemption to disclosure under Part II of the FOIA applies;
- it would cost too much to comply with the request;
- the request is considered vexatious; and/ or
- the request is repeated.

The exemptions to disclosure set out in the FOIA include non-disclosure in matters of a sensitive commercial nature or where disclosure would prejudice the effective conduct of public affairs.

Some of the FOIA exemptions are absolute exemptions, for example, if the information is personal data. If an absolute exemption applies, then SPC does not need to release the information. The remaining exemptions are qualified exemptions that require SPC to apply the public interest test in deciding whether to release the information. In considering the public interest, SPC will take into account:

- whether the public interest in maintaining the exclusion of the duty to confirm or deny that information is held outweighs the public interest in disclosing whether SPC holds the information; and/or
- whether the public interest in withholding information outweighs the public interest in releasing it.

Where the public interest test is relevant, SPC will apply it separately to each piece of potentially exempt information.

Where a document cannot be released in its entirety, SPC will endeavour to release what it is able to, in as intelligible a format as possible.

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Where information is not held, SPC will seek to provide appropriate advice and assistance to the requester.

### **10. Consultation with Third Parties**

SPC may consult with a third party if:

- the views of that third party may assist SPC to determine whether an exemption under the FOIA applies to the information requested; and/or
- where the views of the third party may assist SPC to determine where the public interest lies under section 2 of the FOIA.

### **11. Refusal of requests**

Where SPC refuses a request, it will give the requester a notice setting out the reasons for the refusal.

When any written request is refused, SPC will notify the requester of the internal review process and their right under section 50 of the FOIA to apply to the Information Commissioner for a Decision Notice.

SPC reserves the right to refuse to respond to a request for information if it exceeds the value of £450 to process in terms of staff time and disbursements. The £450 is calculated to be 18 hours of staff time based on an hourly rate of £25 per hour, which is provided for by Regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

### **12. Internal review process**

If a requester is unhappy with:

- the way in which his/her request has been handled;
- is dissatisfied with the decision made regarding disclosure or non- disclosure of information; and/or
- is of the opinion that SPC is not compliant with its Publication Scheme,

they are able to request an internal review. All responses issued by the Clerk will provide the requester with details on how to request such an internal review.

The Chair of the Council has overall responsibility for the internal review procedure. The Chair will therefore remain independent of the Clerk. The Chair will be the internal reviewer unless they are unable to undertake the review due to circumstances such as, however not limited to, absence, illness or prior involvement. In the event that the Chair is unable to undertake the review, an alternative internal reviewer will be appointed, and the requester duly notified.

The internal reviewer will review the manner in which the request was dealt with and is empowered to either uphold or overturn the original decision.

SPC will only consider requests for an internal review which are made within 2 months of the date of the response to the requester.

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The requester will be notified as to the outcome within a reasonable timescale. SPC aims to deal with internal reviews within 20 working days of receipt thereof. If it becomes clear at any stage of the internal review that SPC will not be able to meet this target, the requester will be notified.

#### **13. The Information Commissioner**

The Information Commissioner's Office ("ICO") is the UK's independent authority set up to promote access to official information. If the requester remains dissatisfied with the decision made as a result of the internal review procedure, they can, under section 50 of the FOIA, complain to the Information Commissioner by writing to the ICO at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF ([www.ico.org.uk](http://www.ico.org.uk)) to apply for a decision as to whether the request has been dealt with in accordance with the requirements of Part 1 of the FOIA.

A Decision Notice will be served if the Information Commissioner decides that SPC has failed to:

- communicate information;
- confirm or deny where required to do so by section 1(1) of the FOIA;
- comply with requirements of section 11 of the FOIA (which refers to the manner of communication in response to a request for information); or
- comply with any of the requirements of section 17 of the FOIA (which refers to the refusal of a request for information).

The Decision Notice will specify the steps, which must be taken by SPC to comply with the FOIA and the timescale for compliance.

The Information Commissioner can serve an Information Notice on SPC requiring the provision of specified information to him/her (unless legal professional privilege applies).

If the Information Commissioner is satisfied that SPC has failed to comply with any of the requirements under Part 1 of the FOIA, he/she may serve an Enforcement Notice on SPC, requiring SPC to take particular steps within a specified time to comply with those requirements.

All public authorities may appeal to the First-Tier Tribunal (Information Rights) against Decision Notices and Information and Enforcement Notices.

#### **14. Reasonable adjustments and alternative formats**

SPC is committed to equal opportunities and our aim is to make this Policy easy to use and accessible to all. We will take reasonable steps to accommodate any reasonable adjustments require to:

- enable access to this Policy;
- provide responses to requests in other formats; or
- provide such assistance as may reasonably be required.

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Should a copy of this Policy be required in an alternative format, such as audio CD or large print, please get in touch using the contact details set out in section 2 above.

#### **15. Review**

This Policy is subject to review bi-annually, or in response to any relevant changes.