



Teignmouth Town Council Document 4 Information Policy

Date presented for adoption:	1st November 2016
Agreed and Adopted:	1st November 2016
Review date	1st November 2017

Information Policy Teignmouth Town Council

1. Introduction

- 1.1 There are various pieces of legislation about holding, accessing and processing information and data.
- 1.2 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.
- 1.3 Personal information falls under the Data Protection Act 1998.
- 1.4 All other information falls under the Freedom of Information Act 2000.
- 1.5 Environmental information falls under the Environmental Information Regulations 2004.
- 1.6 The Privacy and Electronic Communications Regulations 2003 govern electronic marketing.
- 1.7 This policy details how Teignmouth Town Council interprets the law and complies with regulations. It gives a general overview of the legal requirements imposed on the council, defines how the council will make information accessible and advises how it will protect, store and dispose of information.
- 1.8 Teignmouth Town Council supports the objectives of openness, accountability and transparency in the public sector.
- 1.9 Under the Freedom of Information Act 2000, each public authority must adopt and maintain a Publication Scheme. This is a method of making information available to the public. The scheme details the information the council will routinely make available, see appendix A.

2. Information Accessibility.

- 2.1 There are three ways to obtain any information held:

2.1.1 The council's website

This includes meeting agendas, minutes and the council's governance and financial operating policies and procedures

2.1.2 Inspecting of documents at the council's offices

Contact the Town Clerk to view documents. Some documents may take some time to locate, so it may be necessary to make an appointment. Normal working hours are Monday to Friday, 9am to 4.30pm.

2.1.3 Submit a written or email request

- 2.2 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.
- 2.3 Teignmouth 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.
- 2.4 If an information request is subject to a charge, the information will not be released until that fee is paid.

3. **Freedom of Information Act 2000**

- 3.1 The Freedom of Information Act 2000 deals with access to official information; regulations deal with environmental information.
- 3.2 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.
- 3.3 The Act is fully retrospective and applies to all information, not just information filed since the Act came into force.

4. **Environmental Information Regulations 2004**

- 4.1 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. It may well be that the town council does not hold any information in relation to EIR 2004 but the town clerk will be able to advise to which higher tier authority an application can be made.
- 4.2 Environmental information is divided into the following six main areas:
 - 4.2.1 The state of the elements of the environment, such as air, water, soil, land, fauna (including human beings)
 - 4.2.2 Emissions and discharges, noise, energy, radiation, waste and other such substances
 - 4.2.3 Measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment
 - 4.2.4 Reports, cost-benefit and economic analyses
 - 4.2.5 The state of human health and safety, contamination of the food chain
 - 4.2.6 Cultural sites and built structures (to the extent they may be affected by the state of the elements of the environment)

5. Right to Know

- 5.1 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.
- 5.2 The Act allows access to recorded information such as emails, meeting agendas and minutes, research or reports held by the council.
- 5.3 The Freedom of Information Act 2000 gives applicants two statutory rights: to be told whether or not the public authority holds information; and if it does, to have that information communicated to them.

6. Exemptions

- 6.1 Some information is exempt from disclosure.
- 6.2 There are 23 exemptions in the FOIA, some of which are absolute and some qualified. There are 12 exceptions from disclosure in the EIR, all of which are qualified.
- 6.3 Where information falls under an absolute exemption, the harm to the public interest that would result from its disclosure is already established, e.g. personal information, or if disclosure would result in an actionable breach of confidence.
- 6.4 There are five exemptions that are likely to apply to information held by the Town Council:
 - 6.4.1 Information that is readily accessible to the applicant by other means
 - 6.4.2 Information that constitutes Court records
 - 6.4.3 Information that is defined as personal data under the Data Protection Act 1998
 - 6.4.4 Information that has been provided in confidence
 - 6.4.5 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.

7. 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.

8. Handling of Requests

- 8.1 The 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.

- 8.2 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.
- 8.3 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.
- 8.4 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.

9. Fees

- 9.1 The FOIA only allows the council to charge for answering Freedom of Information requests when costs exceed £450.
- 9.2 In these cases the council can decide to:
 - 9.2.1 refuse the request; or
 - 9.2.2 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
 - 9.2.3 comply with the request free of charge
- 9.3 The request for information will not be answered until the fee has been received.
- 9.4 If the 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.
- 9.5 The council will charge 10p per A4 sheet and 15p per A3 sheet (b&w 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 20p per A4 sheet. Staff costs will be charged at £25 per hour.

10. Appeal Process

- 10.1 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.
- 10.2 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.

- 10.3 Finally, if either the applicant or the council disagrees with the ICO's decision, an appeal can be lodged within 28 days to the independent Information Tribunal.
- 10.4 The Information Tribunal may uphold the ICO's decision notice, amend it, e.g. 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.

11. Data Protection

- 11.1 Teignmouth Town Council is also bound by the Data Protection Act 1998.
- 11.2 The Data Protection Act 1998 establishes a framework of rights and duties which are designed to safeguard personal data.
- 11.3 The Data Protection Act 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.
- 11.4 Personal data may be held electronically or in paper records.
- 11.5 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 reference guide comprising of a series of questions which, when worked through in order, is 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.
 - 11.5.1 Can a living individual be 'identified' from the data or from other information in your possession, or likely to come into your possession?
 - 11.5.2 Does the data 'relate to' the identifiable living individual, whether in personal or family life, business or profession?
 - 11.5.3 Is the data 'obviously about' a particular individual?
 - 11.5.4 Is the data 'linked to' an individual so that it provides particular information about that individual?
 - 11.5.5 Is the data used, or is it to be used, to inform or influence actions or decisions affecting an identifiable individual?
 - 11.5.6 Does the data have any biographical significance in relation to the individual?
 - 11.5.7 Does the data focus or concentrate on the individual rather than on some other person, object, transaction or event?
 - 11.5.8 Does the data impact or have the potential to impact on an individual, whether in a personal, family, business or professional capacity?

- 11.6 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.
- 11.7 The Data Protection Act is underpinned by a set of eight principles:
- 11.7.1 Personal data shall be processed fairly and lawfully.
 - 11.7.2 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.
 - 11.7.3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
 - 11.7.4 Personal data shall be accurate and, where necessary, kept up to date.
 - 11.7.5 Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
 - 11.7.6 Personal data shall be processed in accordance with the rights of data subjects under this Act.
 - 11.7.7 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.
 - 11.7.8 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.
- 11.8 The council will ensure it handles personal data and complies with the spirit of these principles.
- 11.9 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.
- 11.10 The town council is registered with the Information Commissioner's Office that it processes personal data. Failure to notify the ICO is a criminal offence. The main purpose of notification and registration with the ICO is for transparency and openness.
- 11.11 The Data Protection Act contains a number of exemptions from the rights and duties in the Act, and personal data must be processed in accordance with the Act unless one of the exemptions applies.
- 11.12 Should an individual or organisation feel they are being denied access to personal

information that they are entitled to by the town council, or feel their information has not been handled according to the eight principles, they can contact the ICO.

- 11.13 Complaints are usually dealt with informally, but if this is not possible, enforcement action can be taken.

12. Privacy and Electronic Communications Regulations 2003

- 12.1 The Privacy and Electronic Communications Regulations apply to unsolicited electronic marketing messages sent by telephone, fax, email or text. Teignmouth Town Council has no intention to use any form of marketing or unsolicited calls or e-mails. Should the town council in the future set up e-newsletters, such electronic communications will only be sent with the subscribers permissions.

13. General Responsibility

- 13.1 All town council members and officers 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.
- 13.2 The council will issue procedural guidelines to complement this policy setting out how a request for information should be dealt with.
- 13.3 It is, however, the responsibility of the person who receives the information request to ensure that it is responded to according. Additional advice and support in this regard is available from the town clerk.

14. Additional Information

- 14.1 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.
- 14.2 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: mail@ico.gov.uk

15. Document Management Policy

- 15.1 This policy applies to all documents produced by the council and all documents received in its offices. Its objective is to aid sensible, timely management and disposal of all filing, paperwork, records and documentation.
- 15.2 It is important that records are carefully retained and systematically filed as they are required for inspection by a number of agencies, e.g. internal audit, external audit, HMRC.

15.3 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.

Record	Minimum Retention Period	Comments
Financial		
Bank reconciliations records	6 years	
Bank Statements	6 years	
Tenders – unsuccessful quotations	3 years	
Tenders successful quotations	Contract period + 2 years	From final payment
Contract documents	Contract period + 2 years	From final payment
Paying in books	6 years	
Petty cash Imprest records	6 years	
BACS details	6 years	
Creditor cheque lists	6 years	
Overs and shorts records – petty cash	6 years	
Sundry debtors accounts	6 years	
Sundry debtors records	6 years	
VAT returns and records	6 years	
Write off schedules	6 years	
Year-end financial - Quickbooks	6 years	
Returned cheque records	6 years	
Sundry creditor accounts	6 years	
Sundry creditors records	6 years	
Internal ledger transfers	6 years	
Asset register	Indefinite	
Invoices (including card payment slips and receipts)	6 years	
Mortgage Deeds and Bonds certificates	Indefinite	
Leasing payments	6 years	
Manual cheque payment records	6 years	
Deed of covenants (if applicable)	12 years	After final payment (if applicable)
Bonds/Mortgages Register (if applicable)	Indefinite	
Replacement cheque books	3 years	
Returned cheque books	6 years	
Quickbooks/ Final Company Account working papers.	6 years	
Delivery notes	3 years	

Finance ledger	Indefinite	
Receipt books	6 years	
Petty cash receipts	6 years	
Postal remittance book	6 years	
Stop cheque lists	6 years	
Budget Working papers	6 years	
Grant applications and record of payment	6 years	
Paid invoices	6 years	
Orders	3 years	
Insurance		
Insurance claims and correspondence	6 years	
Insurance registers	Indefinite	
Insurance schedules	Indefinite	
Insurance valuations	6 years	Unless re-valued
Insurance policies (other than public liability insurance)	3 years	After discontinuation
Public liability insurance policies and premiums paid	21 years	
Staff & Councillors		
Superannuation correspondence	Indefinitely	Peninsula Pension
Superannuation records	6 years	Peninsula Pensions
Tax & NI details	6 years	Teignbridge District Council also as external payroll providers (as from 1/4/16)
Timesheets	Last completed audit year	Audit and Working time regulations
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
Flexi time records	3 years	
Sickness records	3 years	
Staff records	6 years	
Overtime claims	3 years	
Overtime records	6 years	
P45 forms	3 years	
Starter forms	6 years	
Leavers forms	6 years	
Mayoral expenses/allowance claim forms	6 years	
Members attendance registers	Indefinite	
Receipts/Invoices Mayoral	6 years	
Payroll	6 years	External provider as from 1/4/16 – Teignbridge District Council

Maternity/Paternity pay records	3 years	External provider as from 1/4/16 – Teignbridge District Council
Personnel Files	Indefinite	
Annual leave records		
Application forms (unsuccessful applicants)	6 months from appointee duties	
Taxable benefit details	6 years	External provider as from 1/4/16 – Teignbridge District Council HMRC requirements
Council Administration		
Correspondence Files	6 years	
Council meeting minutes	Indefinite	
Correspondence with successful contractors	Contract period + 2years	From final payment
Council Reports (formally written reports)	Indefinite	No specific guidance given
CCTV recordings	31 days	
Planning		
Planning applications	6 months	Copies are held at Teignbridge district Council.
Planning meeting minutes	Indefinite	Copies are held at Teignmouth Town Council

General documentation, not listed above, may be kept for reference

- 15.5 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.
- 15.6 Documents produced by and readily available from other sources will be destroyed when they are outdated or superseded.
- 15.7 Planning applications will be destroyed automatically after one 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.
- 15.8 Within six months of a member of staff leaving Teignmouth Town Council employment, the individual's 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.

15.9 Storage of Documents

- 15.9.1 Documentation readily in use or where easy and regular access is required will be stored at the town council's offices.
- 15.9.2 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.
- 15.9.3 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 museum, as appropriate.
- 15.9.4 If need be, documents will be stored in secure conditions either at the town council's offices, with the council's solicitor or at an offsite storage facility.
- 15.9.5 Certain specific documentation such as meeting minutes will be offered to the county archives at Devon County Council

15.10 Destruction of Documents

- 15.10.1 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 disposed of in the confidential document shredding locked bin for disposal by Devon Contract Waste.
- 15.10.2 All general documentation and paper waste will be recycled.