



Freedom of Information Policy

Great Yarmouth Borough Council
Version 1.0 – September 2004

1.0 Introduction

The Freedom of Information Act 2000 (FOIA) “provides an over-arching right of access to all information held by a local authority, over and above existing statutes relating to specific service areas where authorities hold a large range of information”.

Individuals already have the right of access to information under the Data Protection Act 1998. Great Yarmouth Borough Council’s Data Protection Policy maintains the confidentiality of personal data held or processed either electronically or manually to increase access given to individuals to information relating to them. The FOIA extends this right to allow public access to all types of recorded information held by public authorities. The FOIA allows access to information regardless of when that information was created or how long it has been held, and also sets out exemptions from that right and places a number of obligations on public authorities. The FOIA comes into force on 1 January 2005.

In summary, the FOIA requires Great Yarmouth Borough Council to produce and maintain a Publication Scheme and to comply with requests for information (unless exempt from disclosure) as from 1 January 2005.

This policy should be read in conjunction with the Council’s ICT Strategy, Data Protection Policy and Records Retention Policy.

2.0 Aim

The aim of this policy is to:

- provide a framework that ensures that the Council complies with the FOIA;
- promote transparency of decision making by the Council;
- improve and enhance the democratic process; and
- build public trust and confidence.

This policy will be available to all internal and external stakeholders and will be on the Council’s website www.great-yarmouth.gov.uk.

3.0 Scope

Records can be defined as “information that is written on paper or stored on computer so that it can be used in the future”. Records covered by this policy include all records (irrespective of the medium on or in which the information is carried) which belong to or are in the custody of the Council or any of its officers and members. This policy will apply to all Great Yarmouth Borough Council officers, members, contractors, partners, consultants and service providers who have access to the Council's records. Failure of a contractor/partner/consultant/service provider to comply could lead to legal action and the cancellation of a contract.

4.0 Objectives

Great Yarmouth Borough Council will ensure that:

- there is someone with specific responsibility for Freedom of Information (FOI) in the organisation;
- everyone managing and handling FOI requests are appropriately trained and supervised;
- anyone wanting to make enquiries about FOI requests, whether a member of staff or a member of the public, knows what to do;
- queries about handling FOI requests are promptly and courteously dealt with, and
- methods of handling FOI requests are regularly assessed and evaluated.

5.0 Policy Statement

Great Yarmouth Borough Council will increase the access given to individuals to information to promote openness and transparency of decision making by the Council.

6.0 Publication Scheme

As required by the FOIA, Great Yarmouth Borough Council has adopted and maintains a Publication Scheme as a guide to the information that it holds which is publicly available. Any individual or organisation who requests it will be informed whether the Council holds the information and, subject to exceptions, be supplied with it. The Publication Scheme, which is available on the Council's website at www.great-yarmouth.gov.uk, will be reviewed on a regular basis.

7.0 Codes of Practice

The Act has created two codes of practice:

- *Access Code (Section 45)* – This deals with how to handle requests for information including the level of advice and assistance expected; transferring requests from one public authority to another; and consulting with third parties who may be affected by the release of information.

- *Records Management (Section 46)* – Public authorities must have good records management procedures in place to comply with its obligations under the FOIA.

8.0 Information Held

Great Yarmouth Borough Council holds information as long as necessary to enable it to perform its functions. Every effort is made to ensure that the information is accurate and up-to-date and that inaccuracies are corrected quickly.

9.0 Provision of Advice and Assistance

All Great Yarmouth Borough Council officers and members will provide advice and assistance in response to FOI requests in so far as they reasonably can. Advice and assistance includes publishing procedures for applicants to understand how the Council deals with requests for information and advice about their rights of access under the FOIA.

10.0 Requests for Information

Any request for recorded information held by Great Yarmouth Borough Council in any format will be treated as a request under the FOIA, unless another statutory access right applies (eg Data Protection Act 1998). Requests will be accepted from any individual or organisation. Applicants will not be required to cite the Act when requesting information.

All requests must be submitted in writing and must state the name and address of the person applying for the information. Correspondence, including e-mails and/or facsimiles, that provide all the necessary details to process an application will be accepted as valid requests, although the Council will provide a paper and electronic (on-line) application form. Applicants do not have to explain the purpose of their request, although it may be necessary to obtain further information from them during the course of responding to their request.

All officers will follow the agreed procedures published and monitored by the FOI Officer.

11.0 Provision of Information

Where information is not subject to exemptions, Great Yarmouth Borough Council will:

- provide information to any individual who requests it in the format specified by the applicant*, eg paper copy, electronic copy, viewing in situ and/or summary information.
- comply with requests for access to information as quickly as possible, **within 20 working days of receipt of the request (or payment of fee, if applicable).**

**Should the Council deem it unreasonable to supply information in the format requested by the applicant as a result of practical or cost implications, then the applicant will be informed of the reasons for this decision. The Council will, however, still supply the information by any other reasonable means.*

Due to the Public Interest Test (section 14.0 refers), it may not be possible to deal with requests within 20 working days. In these circumstances, the Council will give a realistic estimate of when a decision will be made as to whether the information will be provided. If it becomes apparent that the decision will not be made within the estimated time given, the Council will inform the applicant of any delay as soon as possible. The reasons for the delay will also be given. The FOI Officer will monitor all instances where estimates are exceeded.

12.0 Transfer of Requests

Where a request for information is received and Great Yarmouth Borough Council does not hold all or any of the information requested, the Council will deal with the areas it is responsible for and advise the applicant that the other information is held by another authority and will provide the relevant contact details.

13.0 Fees and Charges

Wherever possible, Great Yarmouth Borough Council will provide information free of charge. Charges may be levied for certain information or publications listed in its Publication Scheme. Where this is the case, the applicable charge will be listed against the relevant item and will be payable prior to the information being supplied.

Fees may be incurred for requests for information that fall outside the Publication Scheme to cover the costs of locating, retrieving and communicating the information to the applicant (e.g. photocopy and postage).

A fees notice will be sent to the applicant, which must be paid within three months. If the fee is not paid within this time limit, it will be assumed that the applicant no longer wants the information.

The Council will advise the applicant as soon as possible if their request for information exceeds the maximum defined in the FOIA Fee Regulations. In these circumstances, the applicant will be offered the opportunity to either amend their request so that as much of the information that they had originally requested can be provided within the fee limit, or pay the full cost over the maximum stipulated where this is practical and manageable.

14.0 Exemptions

There are certain circumstances under which Great Yarmouth Borough Council is not obliged to release information. The Council will endeavour to apply exemptions to requests for information fairly, objectively and consistently and will not use exemptions as a means of obstructing access.

Exemptions may apply to only some of the information requested by an applicant. In such cases, Great Yarmouth Borough Council will release as much information as it can by blocking the information deemed to be exempt. The Council is not obliged to confirm or deny the existence of information, or to advise in respect of exemptions applied, where to do so would in itself disclose exempt information.

A list of the 23 exemptions to the FOIA can be found on the Information Commissioner's website at www.informationcommissioner.gov.uk.

There will be occasions when the Council will need to balance access rights to information against a person's (or persons') right to privacy, third parties' rights to confidentiality and what may or may not be in the public interest.

- *Personal information* – Where information requested under the FOIA contains personal material about anyone other than the applicant, the principles of the Data Protection Act 1998 must be applied.
- *Information provided in confidence* – This exemption applies to information provided in confidence to the Council by external persons/organisations, including other public authorities. Great Yarmouth Borough Council will not automatically presume a duty of confidence and may seek the views of third parties with regard to the disclosure of requested information.
- *Public Interest Test* – Information will only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

15.0 Refusals

Requests for information will not be processed where the information:

- does not exist in a recorded format;
- is intended for future publication;
- is already contained within Great Yarmouth Borough Council's Publication Scheme;
- is already available via an existing charged service, eg public register;
- is subject to existing legislation where statutory access rights apply either to the Council or any other public authority.

Great Yarmouth Borough Council will provide written notice to applicants of refusals and/or part refusals of requests for information. The notice will include details of any exemptions that have been applied. In cases where the public interest test has been applied resulting in non-disclosure, the reasons for refusal will be given.

The notice will also include details of the procedure if the applicant wishes to appeal against the decision.

16.0 Vexatious and Repeat Requests

Great Yarmouth Borough Council will not comply with vexatious requests where there is a strong likelihood that such requests are being made to intentionally cause harassment, divert resources and/or disrupt the proper workings of the Council.

The Council will not comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request. A written notice stating when a request is deemed vexatious or a repeat will be sent to the applicant.

17.0 Training

Staff and Members will receive appropriate training to ensure they are fully informed of their obligations under the FOIA and are aware of their personal liabilities. Further specific training will be given to staff with extra responsibilities for administering and/or monitoring the FOIA.

18.0 Responsibilities

Overall responsibility for the efficient administration of the Act lies with the 'Data Protection Officer', who will:

- assess the understanding of the obligations of Great Yarmouth Borough Council under the FOIA;
- be aware of the authority's current compliance status;
- identify and monitor problem areas and risks and recommend solutions;
- promote clear and effective procedures and offer guidance to staff on FOI issues;
- be responsible for the provision of cascade FOI training for staff and members;
- develop best practice guidelines;
- carry out compliance checks to ensure adherence with the FOIA throughout the authority.

Day to day responsibility for administration and compliance with this policy is delegated to Data Protection Officer, who will:

- monitor compliance with this policy, the FOIA and associated procedures;
- implement security requirements and access rights to documents and records;
- coordinate and monitor FOI requests, in liaison with the FOI Officer;
- coordinate the proactive development of the Publication Scheme, in liaison with the FOI Officer, the Communications Officer and the web authors.

The Data Protection Officer will provide advice and guidance in respect of compliance with the FOIA. This will include:

- overseeing and coordinating responses to FOIA requests;
- monitoring and tracking requests to ensure that deadlines for responses are met;
- providing advice and guidance about third party duty of confidentiality, exemptions and public interest test issues (in consultation with the Data Protection Officer);
- coordinate training for officers and members in respect of compliance with this policy and the FOIA; and
- develop and implement policy, procedures and guidance.
- assume responsibility for managing the content/entries in the Publication Scheme.

'Access to Information Representatives' will be identified in all departments and will, together with the *'Data Protection Officer'*, be responsible for ensuring that this policy is implemented.

All staff and members must comply with this policy and are responsible for ensuring that:

- all information they hold, whether electronically or manually, is kept secure; and
- personal information is not disclosed deliberately or accidentally either orally or in writing to any unauthorised third party.

19.0 Complaints

Great Yarmouth Borough Council's 'Comments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about requests for access to information under the FOIA. If the complainant is still unhappy, they will be informed of their right to complain to the Information Commissioner, who will decide whether the request has been handled properly.

20.0 Policy Review

This policy will be managed and reviewed annually. Reviews will be subject to scrutiny and, from time to time, updates and re-issues will be circulated. However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.