

Aldenham Parish Council



Freedom of Information Policy (including publication scheme)

October 2022

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Introduction

Aldenham Parish Council (APC) understands that the freedom of information and transparency are the pillars upon which open governance operates. APC is committed to supporting the effective operation of the Freedom of Information Act through its actions and publication scheme outlined in this policy. APC recognises that it has, as a public authority, functions and responsibilities under Part 1 (Access to information held by public authorities) of the Freedom of Information Act 2000.

To this effect it has adopted elements of the codes of practice published by the cabinet office and guidance will also be sought from the Information Commissioners Office. APC have appointed the Council Manager as its Data Protection Officer.

1. Right of Access

1.1 The Freedom of Information (FOI) Act 2000 ('the Act') gives a right of access to information. Any person who makes a request to a public authority for information is entitled:

- To be informed in writing by a public authority whether it holds information meeting the description set out in the request; and
- To have information the public authority holds relating to the request communicated to them.

These rights apply unless an exemption in Part II of the Act applies, or the request can be refused under sections 12 or 14, as set out in the legislation.

1.2 Section 84 of the Act defines the 'information' a public authority can be asked to provide under the Act. It makes clear that it means recorded information held in any form, electronic or paper.

1.3 Public authorities are not required to create new information in order to comply with a request for information under the Act. They only need to consider information already in existence at the time a request is received.

1.4 A request to a public authority for recorded information will be treated as a request under the Act, other than:

- information given out as part of routine business, for example, standard responses to general enquiries;
- a request for environmental information; or
- the requester's own personal data.

1.5 A request for environmental information only will be dealt with under the Environmental Information Regulations 2004, and a request for a person's own personal data will be dealt with under the subject access provisions of the Data Protection Act 2018.

1.6 Disclosing existing documents will often be the most straightforward way of providing information. However, in other cases it may be appropriate to extract the relevant

information for disclosure and put in a single document rather than redact the existing document that contains it.

1.7 Where a request is made under the Act but does not in fact meet the above description of being a request for recorded information. APC will provide an applicant with an explanation of why their request will not be treated under the Act, and to respond to their correspondence through other channels as appropriate. It is open to the applicant to appeal the handling of their correspondence to the Information Commissioner's Office.

1.8 APC will need to consider whether the requested information is 'held' for the purposes of the Act.

This includes:

- information held by APC at the time of the request;
- information stored in off-site servers or cloud storage;

1.9 Information is deemed to be 'held' by APC if it is retained for the purposes of APC's business. Purely personal, political, constituency, or trade union information, for example, will not be 'held' for the purposes of the Act and so will not be relevant for the purposes of the request.

1.10 Information created after a request is received is not within the scope of the application and is therefore not "held" for the purposes of the Act. A search for information which has been deleted from APC's records before a request is received, and is only held in electronic back up files, will be regarded as not being held.

1.11 APC will search for requested information in order to communicate to the applicant whether the information they are seeking is held or not held by them. These searches will be conducted in a reasonable and intelligent way based on an understanding of how APC manages its records.

Section 77 (Offence of altering records etc. with intent to prevent disclosure)

1.12 APC will ensure that its staff are aware that under section 77 of the Act it is a criminal offence to alter, deface, block, erase, destroy or conceal any information held by the public authority with the intention of preventing disclosure following a request under the Act for the information.

Valid requests

1.13 Section 8 of the FOI Act 2000 sets out the criteria for what constitutes a valid request under the Act:

- requires that a request for information must be made in writing. This can either be in hard copy or electronically;
- requires that a request for information must state the name of the applicant and an address for correspondence. Applicants must provide their real name and not use a pseudonym. Both email and postal addresses are acceptable;
- requires that a request for information must also adequately describe the information sought.

1.14 APC do not have to comply with requests that do not meet the requirements set out in section 8, and will write to the applicant and explain this if this is the case.

1.15 A request submitted through social media will be valid where it meets the requirements of section 8 by providing an applicant's name and address for correspondence and a clear request for information. Addresses for correspondence can take the form of an email address or a unique name or identifier on a social media platform (for example a Twitter handle), as well as postal addresses. Requests must be addressed directly to APC which includes elected officials and appointed representatives, when acting in their formal capacity.

1.16 APC can charge for the cost of providing information requested under the Act (see publication scheme). However, if this is likely then a fee notice stating the amount to be paid, including how this has been calculated, will be issued to the applicant within 20 working days of receiving the request. Once the fee is received, APC will process the request promptly and inform the applicant of the revised 20 working day response deadline.

Means of communication

1.17 If an applicant states a preference for receiving information in a specific format (e.g. hard or electronic format) APC will aim to meet this preference as far as is reasonably practicable.

2. Advice and assistance

2.1 APC will provide reasonable advice and assistance to applicants requesting information. A contact form is on the website as well as contact details for the Council Manager (Data Protection Officer) as well as councillors.

2.2 Where APC receives any request for information in writing it will let the applicant know that this is how the request is being handled. Where a person seeks to make a request orally they should be advised to put their application in writing in accordance with section 8(1)(a) of the Act. If a person is unable to frame their request in writing, for example, owing to a disability, APC will endeavour to make sure that assistance is given to enable them to make a request for information.

2.3 There may also be occasions when a request is not clear enough to adequately describe the information sought by the applicant in such a way that APC can conduct a search for it. In these cases, APC will ask for more detail to enable them to identify the information sought. If this is the case, the 20 working day response period will not start until a satisfactory reply constituting a valid request is received. If no response is received (within two months), the request will be considered closed by APC.

2.4 Where it is estimated the cost of answering a request would exceed the "cost limit" beyond which APC is not required to answer a request (and APC is not prepared to answer it), APC will endeavour to provide applicants with advice and assistance to help them reframe or refocus their request with a view to bringing it within the costs limit.

2.5 There will be occasions when APC is not able to comply with a request (or to comply with it in full) because it does not hold the information requested. If APC thinks that this information is held by another public authority it will advise the applicant accordingly and provide contact details where possible.

3. Time limits for responding to requests

3.1 The statutory deadline for APC to respond to requests for information is 20 working days following the date of receipt of the request. The date on which a request is received is the day on which it arrives or, if this is not a working day, the first working day following its arrival. Non-working days include weekends and public holidays anywhere in the UK.

3.2 APC would have to ask for an extension where for example the information is especially complex or voluminous, or where APC may need to consult third parties. Where this is the case APC will write to the applicant to inform them that this is the case, stating which exemption(s) it is relying on, and why, and ideally provide the applicant with a new deadline for when they should receive their response.

Internal reviews

There may be occasions where an applicant raises a concern regarding the information received from the Data Protection Officer with regards to the request they have made.

The following is how APC will handle such a dispute.

4.1 If the applicant raises a dispute regarding the information they have received (this must be received within 40 days of the last correspondence on the matter), they will be directed to ask for an “internal review” of the original decision. When received APC will first need to distinguish between a request for an internal review, which seeks to challenge either the outcome or the process of the handling of the initial response, and a general complaint, which will be handled as general correspondence.

4.2 Once decided APC will notify applicants the details of the review procedure including their right to complain to the Information Commissioner under section 50 if they are still dissatisfied following the outcome of the APC internal review.

4.3 Requests for an internal review must be made within 40 working days from the date APC issued an initial response to a request.

4.4 Requests for internal review will be acknowledged and the applicant informed of the target date for responding, normally within 20 working days of receipt.

4.5 The internal review procedure will be a fair and thorough review of procedures and decisions taken in relation to the Act. This includes decisions taken about where the public interest lies if a qualified exemption has been used. It might also include applying a different or additional exemption(s).

4.6 The internal review will be undertaken by a councillor (nominated by the Chairman) whose skills are sufficient to undertake such a task. The Councillor will in all cases re-evaluate the handling of the request by the Data Protection Officer, and pay particular attention to concerns raised by the applicant.

4.7 The applicant will be informed of the outcome of their internal review and a record kept of all such reviews including the final decision made.

4.8 If the outcome of an internal review is a decision that information previously withheld should now be disclosed, the information will, wherever possible, be provided at the same time as the applicant is informed of the outcome of the review. If this is not possible, the applicant should be informed how soon the information will be provided.

4.9 In responding to a request for an internal review, the applicant should again be informed of their right to apply to the Information Commissioner for a review of whether APC

5. Vexatious requests

5.1 Under section 14(1) of the Act APC is not obliged to provide a substantive response to a request if the request is vexatious. The Act does not define what makes a vexatious request, though there are a number of Tribunal cases which have offered clarity and guidance on this issue. The Information Commissioner's Office's guidance for dealing with vexatious requests gives details of these.

5.2 APC may consider each case on its own merits. However, there will be times when a request is so unreasonable or objectionable that it is clear it is a vexatious request. For example, an abusive or offensive request that causes an unjustifiable level of distress or where threats are, or have been, made against staff.

5.3 In other circumstances it may be less immediately obvious that a request should be considered as vexatious. APC may consider a request vexatious where the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Factors might therefore want to consider include:

- the burden it places on APC and its staff;
- the likely motives for the request;
- the potential value or purpose of the request;
- any harassment or distress to staff.

5.4 APC will ask itself the following questions when considering whether a request is vexatious:

- What is the burden imposed on APC by the request?
- Is there a personal grudge behind the request?
- Is the requester unreasonably persisting in seeking information in relation to issues already addressed by APC?
- Does the request have any serious purpose or value?
- what other requests have been made by the same requester to APC;
- the number and subject matter of the requests if there are multiple requests; and
- previous dealings with the requester.

Having looked at the wider context, it is then important to assess whether the evidence supports or weakens the vexatious argument.

5.5 The following are examples that the Codes of Practice states that public authorities may want to use when considering whether a request is vexatious:

- When an applicant has engaged in a large volume of sustained correspondence over a number of years in abusive or confrontational language.
- Contact with a public authority that can be classified as long, detailed and overlapping. For example, a scenario when a requester has written to a series of officers on the same matters, repeating requests before a public authority has had the opportunity to answer an initial request and where responding to this correspondence would be a significant distraction from the public authority's main functions.
- Where a public authority considers that there is a deliberate 'campaign' by a number of requesters to purposefully disrupt the public authority's activities and functions via a high volume of requests on the same or similar topics.

These examples should not limit public authorities from using section 14 in other circumstances, as the reasons why a request might be considered vexatious will depend on the specific factors in each case. The website of the Information Commissioner’s Office publishes examples of case law on this issue which may also be helpful to public authorities when considering whether a request is vexatious.

5.6. Having considered the above, the Data Protection Officer will discuss their opinion with the Chairman of the Council and Chairman of the Finance & General Purposes for a joint decision. If APC considers that the application is vexatious it will provide a refusal notice to the applicant. This should be issued within 20 working days and explain that the public authority considers section 14 to be engaged. This will include details of the internal review procedures and the right to appeal to the Information Commissioner.

Publication Scheme

Information available from Aldenham Parish Council under the model publication scheme

Information to be published	How the information can be obtained	Cost for hard copy
<p>Class1 - Who we are and what we do</p> <p>This will be current information only</p>	<p>(Organisational information, structures, locations and contacts)</p>	
Who’s who on the Council and its Committees	Hard Copy/AR/Website	10p per sheet
Contact details for Parish Council Manager and Council members (named contacts where possible with telephone number and email address	Hard Copy/AR/Website	10p per sheet
<p>Class 2 – What we spend and how we spend it</p> <p>Current and previous financial year as a minimum</p>	<p>(Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit)</p>	
Annual return form and report by auditor	Hard Copy/Website	10p per sheet
Finalised budget	Hard Copy/Website	10p per sheet
Precept	Hard Copy/Website (FC minutes)	10p per sheet

Borrowing Approval letter	n/a	
Financial Standing Orders and Regulations	Hard Copy/Website	10p per sheet
Grants given and received	Hard Copy/Website	10p per sheet
List of current contracts awarded and value of contract	Hard Copy	10p per sheet
Members' allowances and expenses	n/a as members voted not to claim allowances other than travel to anything other than council meetings	
Class 3 – What our priorities are and how we are doing	(Strategies and plans, performance indicators, audits, inspections and reviews)	
Parish Plan (current and previous year as a minimum)	N/A	
Radlett Neighbourhood Plan	Hard Copy/Website (link currently until adopted)	10p per sheet
Annual Report to Parish Meeting (current and previous year as a minimum)	Hard Copy/AR/Website	Current year free 10p per sheet any previous year
Local charters drawn up in accordance with DCLG guidelines	N/A	
Class 4 – How we make decisions	Decision making processes and records of decisions)	
Timetable of meetings (Council, any committee/sub-committee meetings and parish meetings)	Hard Copy/AR/Website	10p per sheet
Agendas of meetings (as above)	Hard Copy/Website	Free at meetings
Minutes of meetings (as above) – nb this will exclude information that is properly regarded as private to the meeting.	Hard Copy/Website	10p per sheet
Reports presented to council meetings - nb this will exclude information that is properly regarded as private to the meeting.	Hard Copy	10p per sheet
Responses to consultation papers	Hard Copy	10p per sheet
Responses to planning applications	Hard Copy/Website	10p per sheet
Bye-laws	Hard Copy	10p per sheet
Class 5 – Our policies and procedures	Current written protocols, policies and procedures for	

	delivering our services and responsibilities)	
<p>Policies and procedures for the conduct of council business:</p> <p>Procedural standing orders Committee and sub-committee terms of reference Delegated authority in respect of officers Code of Conduct Policy statements</p>	Hard Copy/Website	10p per sheet
<p>Policies and procedures for the provision of services and about the employment of staff:</p> <p>Internal policies relating to the delivery of services Equality and diversity policy Health and safety policy Recruitment policies (including current vacancies) Policies and procedures for handling requests for information Complaints procedures (including those covering requests for information and operating the publication scheme)</p>	Hard Copy/some on website	10p per sheet
Information security policy	Hard Copy	10p per sheet
Records management policies (records retention, destruction and archive)	Hard copy	10p per sheet
Data protection policies	Hard Copy	10p per sheet
Schedule of charges)for the publication of information)	Hard Copy/Website	Free
Class 6 – Lists and Registers	Currently maintained lists and registers only	
Any publicly available register or list (if any are held this should be publicised; in most circumstances existing access provisions will suffice)	Hard Copy	Free
Assets Register	Hard Copy	Free
Register of members' interests	HertsmereBC	
Disclosure log (indicating the information that has been provided in response to requests; recommended as good practice, but may not be held by parish councils)	Hard Copy	10p per sheet
Register of gifts and hospitality	Hard Copy	10p per sheet

Class 7 – The services we offer	Information about the services we offer, including leaflets, guidance and newsletters produced for the public and businesses	
Allotments Policy & Charges	Hard Copy/Website	10p per sheet
Burial grounds and closed churchyards	N/A	
Community centres and village halls	N/A	
Parks, playing fields and recreational facilities	Hard Copy—inspection if applicable	10p per sheet
Seating, litter bins, clocks, memorials and lighting	Hard Copy	10p per sheet
Bus shelters	HertsmereBC	
Public conveniences	HertsmereBC	
Agency agreements	Hard Copy	10p per sheet
A summary of services for which the council is entitled to recover a fee, together with those fees (e.g. burial fees)	Hard Copy	10p per sheet
Disbursement cost	Photocopying @10p per sheet black and white Photocopying @25p per sheet colour. Postage & Packing	Actual cost 10p per sheet

Contact details:

**Peter Evans, Council Manager,
First Floor, The Radlett Centre
1 Aldenham Avenue**

Radlett, WD7 8HL T-01923856433, E-Mail – manager@aldenham-pc.gov.uk