

# MONMOUTH TOWN COUNCIL

## FREEDOM OF INFORMATION ACT 2000 POLICY

### Version 4

The Freedom of Information (FOI) Act was passed in 2000 and replaced the Open Government Code of Practice that has been in place since 1994. The Act gives the public a general right of access to almost all types of recorded information held by public authorities. The Act came into full effect on 01 January 2005.

The Act places a statutory obligation on all public bodies to publish details of all recorded information they hold and to allow the general public to have access to this information on request, except where an exemption applies e.g. personal or other confidential data (see Appendix B for full list).

Monmouth Town Council recognises the importance of the Act and will ensure that appropriate systems are in place to publicise what recorded information is kept and how this information can be accessed on request by the general public.

### The FOI Act

#### 1. The main features of the FOI Act are:

- 1.1. A general right of access to information held by public authorities.
- 1.2. Sets out exemptions from the duty to provide information.
- 1.3. Place a requirement on public authorities to exercise discretion; they may have to determine not only whether an exemption applies but also the extent to which it may apply (some exemptions are conditional and depend on where the balance of 'public interests lie').

- 1.4. Make arrangements in respect of costs and fees (see Appendix C).
  - 1.5. Places a duty on public authorities to adopt publication schemes.
  - 1.6. Public authorities must make arrangements for enforcement and appeal.
  - 1.7. Places a duty to provide advice and assistance to people who wish to make, or have made requests for information, and Outlines Codes of Practice.
2. The FOI legislation is wholly retrospective and applies to all information held by public authorities regardless of its date. It does not oblige public authorities to retain information which is no longer useful to the authority.
  3. The FOI Act is overseen by the Information Commissioner who has the ability to monitor organisational compliance, issue undertakings, serve information and enforcement notices and, if needed, initiate court proceedings to ensure compliance.
  4. In the context of FOI, 'information' is defined as each item of material held by Monmouth Town Council in paper or electronic form. This includes but is not limited to, all draft documents, agendas, minutes, emails, diaries, handwritten notes and all other recorded information.
  5. The Council has responsibility for ensuring that information is stored and handled appropriately.
- 6. The Council will:**
- 6.1. Publish the required information on the website and through the Publication Scheme as attached in Appendix A.
  - 6.2. Respond to valid requests for information within 20 working days (This is extended to 40 working days for EIR, (Environmental Information Regulations), if it is bulky and complex. Other further information time is allowed up to 20 working days applying the public interest test but still requires a response within 20 working days).
- If the information requested by the applicant incurs a charge or a fee and the applicant has paid this, the period from when the applicant received the fees notice to when they paid the fee is

disregarded for the purposes of calculating the twentieth working day following receipt.

Monmouth Town Council may choose to apply an exemption to any information, to refuse a request if it is vexatious or repeated, (see Appendix B), or exceeds the appropriate limit for costs of compliance. A formal refusal notice must be issued within twenty working days informing the applicant of this decision.

7. Release all information in response to requests for information except where an exemption/exception legitimately applies (see Appendix B).

7.1. When an applicant, on making their request for information, expresses a preference for communication by any one or more of the following means:

7.1.1.1. • The provision to the applicant of a copy of the information in permanent form or in another form deemed to be acceptable by the applicant

7.1.1.2. • The provision to the applicant of a reasonable opportunity to inspect the record containing the information, and

7.1.1.3. • The provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant

7.1.1.4. Monmouth Town Council, so far as is reasonably practicable, will give effect to that preference.

7.1.1.5. In determining whether it is reasonably practicable to communicate information by a particular means, Monmouth Town Council will consider all the circumstances, including the cost of doing so. If it is determined that it is not reasonably practicable to comply with any preference expressed by the applicant in making their request, the applicant will be notified of the reasons for its determination and will provide the information by such means as which it deems reasonable in the circumstances.

8. Charge fees in line with the guidance and include these charges in the Publication Scheme

9. Handle requests for information professionally and in accordance with the Codes of Practice issued under section 45 of the FOIA and Regulation 16 of the EIR (Environmental Information Regulations), providing advice and assistance to applicants.
10. Manage its records in an organised and efficient way.
11. Hold an internal review should an applicant be dissatisfied with the way the request was handled and the applicant requests one.
12. What is a valid request?As defined in Section 8 of the FOI Act, to meet all the requirements of a valid FOI request, a request must:
  - 12.1.0. Be in writing
  - 12.1.1. State the name of the applicant and a valid address for correspondence (email address is valid)
  - 12.1.2. Describe the information requested
  - 12.1.3. Be received in a legible form
  - 12.1.4. Be capable of being used for subsequent reference.

### 13. Refusal of Requests

1. The duty to confirm or deny whether information is or is not held does not arise if:
  - 1.1. An exemption applies under section 2 of the Act
  - 1.2. A fees notice has been issued and the fee has not been paid
  - 1.3. An estimate demonstrates that the cost of compliance will exceed the appropriate limit
  - 1.4. It can be demonstrated that the request is repeated or vexatious

Upon refusal of a request for information, the applicant will be informed of the reasons for this decision within twenty working days, and at the same time, will be informed of the procedures for making a complaint about the discharge of the duties of Monmouth Town Council and their rights in relation to FOI.

14. If Monmouth Town Council is reliant upon an exemption under part 2 of the Act, relating to the duty to confirm or deny, a notice will be

issued within twenty working days, which will state that fact and specify the exemption being applied and why it applies.

## 15. Redaction of Information

Redaction is a process which is carried out to make information unreadable or to remove exempt information from a document. This is achieved by blocking out individual words, sentences or paragraphs or by removing whole pages or sections of information prior to the release of the document. However, if so much information is deemed to be exempt and the document becomes illegible the entire document will be withheld.

When responding under FOI Monmouth Town Council will ensure it states what exemption each part of redacted information has been redacted under.

## 16. Vexatious/Repeat requests

Should an applicant make a 'vexatious' or 'repeated' request for identical or substantially similar information, Monmouth Town Council will inform the applicant in writing that it will not fulfil the request. When responding in this manner Monmouth Town Council will offer assistance to the individual, by indicating why they consider the request is vexatious or repeated. Monmouth Town Council will also indicate what recourse the applicant has if they are unhappy with this position.

## 17. The Role of the Information Commissioner

The Information Commissioner Office (ICO) is an independent public authority which upholds Information Rights in the UK. Applicants who are not satisfied with the outcome of their FOI request may ask the ICO to review how Monmouth Town Council has performed in response to the complainant's request.

# **APPENDIX A FREEDOM OF INFORMATION ACT PUBLICATION SCHEME**

Who we are and what we do:

<b>Information</b>	<b>How the information can be obtained</b>
Who's who on the Council and its Committees	Website and hard copy/email/email contact - clerk
Contact details for Town Clerk and Council members (named contacts where possible with telephone number and email address (if used))	Website and hard copy/email/email contact - clerk
Location of main Council office and accessibility details	Website and hard copy/email/email
Staffing structure	Hard copy/email/email Contact - clerk
<p>What we spend and how we spend it:</p>	
Annual Return Form and report by the Auditor	Hard copy/email/email and website
Precept	Hard copy/email
Financial Regulations	Hard copy/email
Standing Orders	Hard copy/email and website
Grants given and received	Hard copy/email
List of current contracts and awarded value of the contract	Hard copy/email

Members allowances and expenses	Website and hard copy/email

Annual report	Website and hard copy/email

How we make decisions:

Timetable of meetings (Council and any committee/sub-committee meetings and town meetings)	Hard copy/email and website
Agendas of meetings	Hard copy/email Noticeboard Shire Hall, (not available during COVID), and website
Reports presented to Council meetings – N. B this will exclude information that is properly regarded as private to the business of Council	Hard copy/email Contact the clerk
Responses to consultation papers	Hard copy/email Contact the clerk
Responses to planning applications	Hard copy/email website planning minutes

Our Policies and Procedures:

Policies and procedures for the conduct of council business:	Hard copy/email contact clerk
Procedural Standing Orders	Website Hard copy/email contact clerk
Committee and sub-committee terms	Hard copy/email contact clerk

of reference	
Delegated authority in respect of officers	Hard copy/email contact clerk
Code of conduct adopted 2016	Website
Pay policy statement	Website
Policies and procedures for the provision of services and about the employment of staff	Hard copy/email contact clerk
Internal instructions to staff and policies relating to the delivery of services	Hard copy/email contact clerk
Health and safety policy	Hard copy/email contact clerk
Equality and diversity policy	Hard copy/email contact clerk
Recruitment policies (including current vacancies)	Website when applicable
Policies and procedures for handling requests for information	Hard copy/email contact clerk
Complaints Policy and procedures (including those covering requests for information and operating the publication scheme)	Hard copy/email contact clerk
Information security policy (GDPR Policy)	Hard copy/email contact clerk
Records management policies (records retention, destruction and archives)	Website
Risk Management Policy	Website
Data Protection policy	Hard copy/email contact clerk
Schedule of charges for the publication scheme	Hard copy/email

#### Our Lists and Registers:

Asset register	Hard copy/email contact clerk
Register of members interests	Hard copy/email contact clerk
Register of gifts and hospitality	Hard copy/email contact clerk



The Services we offer:

Recreation facility: Drybridge Play area & Town Field	Contact the clerk
Benches various	Contact the clerk
Litter and dog waste bins	Contact the clerk
Lighting at Williamsfield lane	Contact the clerk
Public conveniences Agincourt Street and Blestium Street	Contact the Clerk
Christmas lights, trees and floral displays	Contact the Clerk
Community Grants	Contact the Clerk
Christmas celebration and other events	Contact the Clerk
Defibrillator	Contact the Clerk
Newsletter	Contact the Clerk
Grants and Community involvement in events	Contact the Clerk
Commemorative Rowan and Oak tree	Contact the Clerk
	END OF SCHEME

## APPENDIX B

### - Exempt Information under Part 2 of the Act

There are two types of class exemption identified within the Freedom of Information Act 2000:

Absolute – which do not require a test of prejudice or the balance of public interest to be in favour of non-disclosure

Qualified – by the public interest test, which require the public body to decide whether it is in the balance or public interest to not disclose information.

With the exception of section 21 (information available by other means) exemptions apply not only to the communication of information, but also to the duty to confirm or deny, if that itself would disclose information that is reasonable to withhold.

### Absolute Exemptions:

Section 21 - Information accessible to the applicant by other means Information which is already in the public domain, such as that which is published in the Publication Scheme.

Section 23 - Information supplied by, or relating to, bodies dealing with security matters This applies only to information supplied by or relating to security bodies.

Section 32 - Court Records Information that is only held as part of the documentation for a court, tribunal case or a statutory inquiry.

Section 34 - Parliamentary Privilege Where disclosure would infringe the privileges of either House of Parliament.

Section 40 - Personal Information which is personal to the person making the request.

Section 41 - Information provided in confidence An 'actionable' breach of confidence where disclosure would constitute a breach of confidence which would lead to legal action being taken.

Section 44 - Legal Prohibitions on Disclosure Where disclosure of information is prohibited by any other law or regulation, or if it would be a contempt of court.

### Qualified Exemptions:

Section 22 - Information intended for future publication  
Where publication was planned at the time the request was made, for example, an annual report, or the results of an investigation.

Applicants will be advised when the information will be published and how it can be obtained.

Section 24 - National Security Information that is not covered by Section 23 under the Absolute Exemption category above, but

exemption is needed to safeguard national security. This requires a certificate signed by a Minister of the Crown.

Section 26 - Defence Information likely to prejudice national defence or the activities of our armed forces, or those of allies.

Section 27 - International Relations Information likely to prejudice the United Kingdom's international relations or interests, for example, information obtained in confidence from another State or international court.

Section 28 - Relations within the United Kingdom Information likely to prejudice relations between the United Kingdom Government, Wales, Scotland or Northern Ireland.

Section 29 - The economy Information likely to prejudice the economic interests of the United Kingdom or part of the United Kingdom, or the financial interests of the government.

Section 30 - Investigations and proceedings conducted by public authorities Information held for the purpose of criminal investigations and proceedings, and information obtained from confidential sources relating to these or civil proceedings arising out of them.

Section 31 - Law enforcement Information not covered by Section 30 above, and which is likely to prejudice a wider range of investigative activities.

Section 33 - Audit Applies to information held by public authorities which have functions relating to audit (for example, the National Audit Office), or which examine the economy, efficiency and effectiveness of the use of resources of other public authorities. Information is exempt if its disclosure is likely to prejudice those functions.

Section 35 - Formulation of Government Policy Information held by a government department or the National Assembly for Wales, relating to the creation of government policy.

Section 36 - Prejudice to the effective conduct of public affairs Information that may inhibit the ability of the authority to conduct its business effectively should that information be made freely available in the public.

Section 37 - Communication with Her Majesty etc. and honours This applies to information that relates to communications with Her Majesty, members of the Royal family or Royal household, or the conferring of honours, for example, recommendations for individuals to receive an honour in the New Year's Honours List.

Section 38 - Health and Safety Information that would, or would be likely to, endanger the physical health, mental health or safety of an individual.

Section 39 - Environmental Information Exempted under Freedom of Information but the request will be dealt with in accordance with the Environmental Information Regulations.

Section 40 - Personal information about a third party Information which is personal to the applicant or someone other than the person making the request.

Section 42 - Legal Professional Privilege This exemption applies where a claim to legal professional privilege could be maintained in legal proceedings, for example advice provided by a lawyer to his client, or information relating to ongoing legal proceedings.

Section 43 - Commercial Interests Such as trade secrets, and to information which if disclosed could harm/prejudice the commercial interests of any person, including the authority holding it.

**Contact details:**

**Town Clerk, Shire Hall Agincourt Square Monmouth NP25 3DY**

**TELEPHONE: (01600) 732722**

**Email: [townclerk@monmouth.gov.uk](mailto:townclerk@monmouth.gov.uk)**

**Web: [www.monmouth.org.uk](http://www.monmouth.org.uk)**

## APPENDIX C

### SCHEDULE OF CHARGES

This describes how the charges have been arrived at and are published as part of this scheme.

Type of Charge	Description	Basis of Charge
Disbursement cost	A4 sheet (black & White copy) 10p per sheet	Cost of paper, copy charge & minimal administrative charge

	Photocopying @ 10p per Photocopying @ 50p per A4 sheet (colour) *50p	Cost of paper, copy charge & minimal administrative charge
	Postage	Actual cost of Royal Mail standard 2nd class
<b>Statutory Fee</b>	In accordance with the 'The Freedom of Information and Data Protection (Appropriate Limit and Fees) Act 2004, the actual cost incurred by the public authority.	N/A

## Version Control

<b>Version Number</b>	<b>Description of Changes</b>	<b>By Whom</b>	<b>Adopted at</b>
1	Devised, reviewed & adopted	DL	FC 27/01/2020
2	Review & rewrite	PH	FC 20/09/2021
3	Reviewed & adopted – no changes	PH	F&P 06/03/2023
4	Reviewed – no changes	PH	FC 15/05/2023