

MILTON ERNEST PARISH COUNCIL

Freedom of Information (FOI) Policy

Introduction:

The Freedom of Information Act 2000, from 1 January 2005, gave everyone for the first time a general legal right to be provided, on request, with any information held by all public authorities subject to stated exemptions. Anyone has a right to ask public authorities for any information they hold and there is no requirement to explain why the information is being requested.

What information is covered by the Act?:

Anything public authorities create, hold or process. This includes, for example, e-mails, letters, reports, faxes, file notes, notes of phone calls, videos, audio records - they are all "information" potentially disclosable under the Act - even a casual comment scrawled on the side of a minute may be covered. The Act will apply retrospectively to existing information, no matter how old, as well as that produced from 1 January 2005.

How can requests for information under the Act be made?

The Parish Clerk is ultimately responsible for ensuring MEPC complies with the FOI Act. In the first instance, make contact with the Parish Clerk via clerk@miltonernest-pc.gov.uk or via the website. The Parish Clerk will decide who is in the best position to respond to FOI requests. A request can be made in any written form (eg. letter, e-mail, fax) and need not mention the Act - it will still apply. The request must state the name and address of the person applying and the required information.

The information requested, unless exempted under the Act, must be supplied within 20 working days of being requested. A refusal to release the information must be given in writing and the reasons for refusal specified along with the applicant's right to appeal.

The Parish Clerk will keep a record of all FOI enquiries received, how dealt with, any decisions and reasons for them and any complaints or appeals.

Should the information requested always be provided?

The information should be disclosed unless it falls under one of the exemptions in the Act.

There is a range of exemptions under the Act that will allow certain types of information to be withheld under certain circumstances. The majority of these exemptions require a "public interest test" to be applied. For those exemptions where the public interest test applies, a request may only be refused if the public interest in withholding the information

outweighs that in disclosing it.

What are the Exemptions?

There are 23 exemptions from the general rights of access. For example: certain information relating to national security, information that would prejudice international relations, commercially sensitive information and confidential information.

Environmental information is exempt as access rights are covered by the Environmental Information regulations.

An applicant wishing to access information about themselves should use their rights under the Data Protection Act. Personal data about other people cannot be released if to do so would breach the Data Protection Act. Please refer to MEPC's Data Protection Policy.

Some of the exemptions require MEPC to consider whether it is in the public interest to withhold information. Consideration of the public interest may take longer than the 20 days normally allowed for responding to requests. In these cases, MEPC must give the applicant an estimate of when it will have reached a decision on where the public interest lies within 20 days of receiving the request.

How should the information be provided?

The applicant can either ask for a copy of the information they seek, the chance to inspect the records, or even to be provided with a summary of the information. MEPC will try and provide the information in the form requested unless it is unreasonable to do so. If any of the information requested is exempt the applicant should be told which of the exemptions has been relied on to withhold the information.

How will the access rights in the Act be enforced?

The Act establishes an Information Commissioner who has wide-ranging powers of enforcement and is already taking a close interest in how public authorities are preparing to implement the Act. From 1 January 2005, anyone can complain if dissatisfied with the way a request has been dealt with, or with the information supplied.

Can information already published be used?

MEPC has a publication scheme which provides a guide to the types of information that it routinely publishes, the format in which the information is available in and how much it will cost if there are any charges. Information that is available by other means or is intended for future publication is always exempt and a request for such information may be refused.

A person can contact MEPC in any way, such as telephone, email, fax or in writing and ask to

see their publication scheme. They can then make a request for any of the information included within the scheme.

The duty to provide assistance:

MEPC is required to provide advice and assistance to people who have made or are thinking of making a request. This will support such persons to understand their rights under the Act and identify the information they want. MEPC will fulfil its responsibilities under other legislation such as the Equality Act 2010 in responding to any particular requests from different sectors of the community.

Charges for the information:

The Act only allows the Council to charge for answering Freedom of Information requests in the following circumstances:

Disbursement costs such as printing, photocopying and postage; and when estimated staff costs involved in locating and or compiling the information exceed £450. Under these circumstances, the Council can refuse the request on the grounds of cost, or charge the applicant £20 per hour, plus disbursements for the estimated work. The request will not be answered until the fee has been received. Where the cost is less than the estimated cost then the difference will be refunded to the applicant.

For disbursements costs the Council will charge 10p per sheet for black and white photocopying and printing of documents and 20p per sheet for colour. We would also recover the actual cost of postage (ordinarily posted second class) or any other transmission costs from the applicant.

What if you are not satisfied with our response - how can you complain?

Responses to requests for information should be as detailed as possible, taking each individual request and responding with either:-

- a) the requested information;
- b) a request for clarification or
- c) a written Refusal Notice

Where you are dissatisfied with the way in which your request has been handled please follow the procedure outlined below and we will do everything we can to resolve your complaint on an informal basis in the first instance.

You will initially need to follow the internal review procedure noted below.

Internal Review Process:

The following procedure applies:-

Put your complaint in writing, providing any supporting evidence, to the Clerk to the Council. This information will be passed to MEPC for investigation.

You will normally receive a response within 40 working days.

If you are still dissatisfied with this response please follow the formal complaints procedure outlined below.

Formal Procedure:

If, after pursuing the above complaints process, you are still dissatisfied with the response you have been given, you may refer the matter to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

The Information Commissioner's contact details are:

By Post:

Information Commissioner's Office, Wycliffe
House, Water Lane,
Wilmslow, Cheshire SK9 5AF

Telephone: 0303 123 1113

The website for the ICO is available at www.ico.org.uk

This policy will be reviewed as legislation changes.

Revised 10th March 2022