BERKSWELL PARISH COUNCIL

FREEDOM OF INFORMATION POLICY

1. BACKGROUND

a. The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) place legislative requirements on all public authorities, including local councils. The laws established the legal Right to Know; a presumption in favour of public access to information held by public authorities, subject to certain exemptions; and other measures to improve public sector transparency.

The Council is obliged to provide information:
• Through a publication scheme
• In response to requests made under the general right of access.

b. When responding to requests, there are set procedures that the Council needs to follow. These include:

• The time limit public authorities are allowed for responding to requests.
• The fees or amount that public authorities can charge for dealing with requests. Public authorities are not obliged to deal with requests if the costs of finding the information exceed a set amount known as the appropriate limit.
• Public authorities need not comply with vexatious or repeated requests. (See Appendix 1 for some of the indicators that the Council will use to identify a vexatious request).

The Act also recognises that there are valid reasons for withholding information by setting out a number of exemptions from the right to know, some of which are subject to a public interest test.

2. POLICY STATEMENT

As part of a society where information rights and responsibilities are respected by all, Berkswell Parish Council will aim to move away from the need for individual freedom of information requests and complaints towards a culture of routine, proactive and substantially increased transparency on the part of the Council, by:

• Being open and transparent and endeavouring to provide the public with access to the official information that it holds, as a matter of course.
• Making people aware of their rights to access the official information the council holds.
• Making as much routine information as possible available through the Council's Publication Scheme and website.
• Providing reasonable advice and assistance to applicants for information, including pointing applicants to possible sources of the information they seek if it is not held by the Council.

3. DEALING WITH REQUESTS FOR INFORMATION

a. Members of the public have a general right of access to information held by Berkswell Parish Council, specifically:

• To be told whether or not the information is held by the Council, and
• If it is, to have the information communicated to them.

Note: There are certain exemptions and limitations to this general right, but just because a document is marked "Confidential" does not automatically mean that it is exempt information, although it may be covered by certain exemptions. Each case will be dealt with on its merits.

b. Requests for information must be in writing, must give the applicant's name and return address and must describe the information requested in such a way that we are able to locate it. A written request includes an e- mail. (For environmental information, the request does not have to be in writing.)

c. All requests for information will be logged on a record sheet.

d. Receipt will be acknowledged but if it is possible to respond with the information requested, this will be done instead. If further information is required to locate the information requested, this will be undertaken as quickly as possible.

e. All correspondence, phone calls, e-mails etc., that follow the original request will be recorded.

f. The Council has 20 working days in which to deal with a request for information. If it is not clear what information is required, the 20 day period does not begin until clarification is received from the applicant as to exactly what is required. (For environmental information the response period is extended to 40 working days for information that is complex and bulky.)

g. A charge will be made for the photocopying of information requested as follows:

• 10p per single b/w A4 size sheet

• Additionally, postage will be charged at cost.

• If the cost of finding, sorting and editing the information requested is more than £450 then, under the FOI Act, the Council does not have to provide the information. (Under EIR, environmental information cannot be refused on the grounds of cost).

h. Any requests for information that is not contained in the Publication Scheme will be passed to the council Clerk to deal with under the FOI Act. A certain amount of guidance on dealing with requests is held by the Clerk, but it may be necessary that further specific guidance will be required from the Information Commissioner's Office. If a member of staff is unsure as to whether a request for information is routine or not, they will refer to the Clerk as certain personal information is covered by the Data Protection Act.

i. The applicant will be kept informed at all stages of the process of supplying the information requested, particularly if it is a complex request, when guidance may have to be sought from other agencies.

j. If a request is refused, the refusal notice will give the reasons for refusing the request and advise the applicant as to their rights of appeal – both internally by way of a complaint and, following that, by way of an appeal to the Information Commissioner.

4. REVIEW PROCESS

a. If the information requested cannot be supplied, the reasons for this will be communicated to the applicant immediately. The applicant has the right to ask for a review of the decision to refuse disclosure, initially to the Council, but ultimately to the Information Commissioner. The review process will be undertaken in accordance with the ICO Code of Practice

b. Any internal review will be made to the Council and will be dealt with by elected members who will 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. If the original decision not to supply the information is

upheld by the Council, but is still not accepted by the applicant, then the applicant is able to appeal to the Information Commissioner.

c. The council will notify that applicant of the internal review process and inform the applicant of their right to complain to the Information Commission if they are still dissatisfied following the outcome of the council's internal review.

d. Any request for an internal review must be made by the applicant within 40 working days of them being notified of the decision by the council to refuse their request. Unless complex, the council will complete the review within 20 working days of being notified of the request. If complex the review will be completed within 40 working days, and the applicant will be notified of this.

e. The internal review will be undertaken by the 3 Councillors who will re-evaluate the handing of the request and take account of any concerns raised by the applicant.

f. Reasons for refusing information must be in accordance with the respective provisions of the legislation, including consideration of the public interest test where this applies.

g. If the outcome if the review process is that the information previously withheld be disclosed, the applicant will be informed of the when the information will be disclosed

5. REVIEW

This policy will be reviewed every 3 years (or earlier if required by changes to legislation or additional documentation) and amended as necessary based on good practice or evidence taken forward.

Policy adopted by Council May 2025