Northiam Parish Council Managing Information & Data Requests

Requests for Data

* The Freedom of Information Act gives a general right of access to information held by public authorities. The right applies to all information, obtained from any source. The right of access includes both the right to be told whether the information exists, as well as the right to receive it.
* A request for information (unless for environmental information) needs to be in writing, although an e-mail request is sufficient. The request must give enough details about the information to enable the authority to identify it and basic contact details must be provided so that a reply can be sent. The Information Commissioner’s Office (ICO) takes the view that this need not be a postal address and that an e-mail address is sufficient. There is a duty on authorities to advise and assist applicants, which would normally require the authority to give some help to an applicant to better identify the information they request.
* The right of access to information is subject to a range of exemptions. Some of the exemptions are “absolute”. Once an authority decides that an absolute exemption applies to information requested it cannot release it under the FOI Act. In the case of all other exemptions, once it is decided that one or more of them applies, the authority must use the ‘public interest test’. The authority can withhold the information maintaining the exemption if the risk of harm to the public is greater than its disclosure.
* Generally requests must be dealt with within 20 working days from the receipt of the request, but if it is necessary to apply a public interest test, this time limit does not apply and the authority should respond within a reasonable period.
* If a request is refused, the refusal notice should 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 ICO.

How are records kept

* A Statutory Code of Practice, covering aspects of compliance and the management of records has been produced and public authorities have to comply with the Government FOI Code of Practice.
* Northiam Parish Council will keep written records of all requests for information detailing how and when they were responded to.
* Northiam Parish Council will also consider keeping an ongoing evidence log to record relevant correspondence or behaviour that has been taken into account when assessing whether a request maybe vexatious. This will be helpful in the event the applicant complains about the handling of the request.

Vexatious requests

It is recognised that on occasions the council will receive requests that may be defined as repeated, vexatious or manifestly unreasonable. The relevant legislation allows for requests to be classed under these headings in order to prevent abuse of the public’s right to know.

The Information Commissioner (ICO) has recognised that there may be a risk that some individuals and perhaps some organisations may seek to abuse the right of access with requests. Such cases may well arise in connection with a grievance or complaint that an individual is pursuing.

In all cases that are considered possibly vexatious, repeated or manifestly unreasonable, the council will undertake an assessment to determine if it is acceptable to define the request under one of those headings.

Vexatious and manifestly unreasonable requests

A request is likely to be considered as vexatious or manifestly unreasonable if it is considered to be a substantial burden on the financial and human resources of the council and it:

• clearly does not have any serious purpose or value;

• is designed to cause disruption or annoyance;

• has the effect of harassing the council; or

• can otherwise fairly be characterised as obsessive or manifestly unreasonable

It may be helpful for a public authority to ask itself the following questions when considering whether a request is vexatious:

• the likely motives for the request;

• the potential value or purpose of the request;

• any harassment or distress to staff.

• What is the burden imposed on the public authority 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 the public authority?

• Does the request have any serious purpose or value?

Assessing the request

The council will undertake the assessment of requests that are considered to be vexatious on a ‘case by case’ basis. The assessment will follow ICO/Information, Tribunal decisions and current ICO guidance. Complex cases will be referred to a legal adviser. If there is uncertainty as to whether a request is vexatious the council will consider one of the following actions:

• Contact the applicant and ask him or her to clarify the request.

• Refuse a request and provide an explanation of the reason for refusal.

Repeated requests

Where a request for information has previously been complied with which was made by any person, there is no obligation to comply with a subsequent identical or substantially similar request from that same person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request. A repeated request does not mean similar or identical requests from

different applicants, unless those applicants have been identified as working together.

The council has defined a “reasonable interval” as 40 working days from responding to the previous request.

On some occasions the council will process requests as standard requests that appear to repeat a previous request, for example, this may be in a situation when a repeated request is received, and it is for information that is regularly updated.

Applicant expectations

Applicants will be issued with a refusal notice to inform them of the decision to define their request as vexatious, repeated or manifestly unreasonable within the 20 working day deadline. They will be provided with an explanation of the factors that have led to the decision. Repeated requests will receive one such notice. In most cases, any repeated requests received after this notice has been issued will be acknowledged but the council will undertake no further correspondence relating to the matter, unless the

applicant wishes to appeal against our decision. In some cases repeated requests may cease to be acknowledged.

Nicola Ideson

Clerk – 8th August 2023

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