



# Freedom of Information Policy

**Martham Parish Council**

Last reviewed - 15<sup>th</sup> March 2017

## 1.0 Introduction

The Freedom of Information Act 2000 (FOIA) “provides an over-arching right of access to all information held by a local authority, over and above existing statutes relating to specific service areas where authorities hold a large range of information”.

Individuals already have the right of access to information under the Data Protection Act 1998. The FOIA extends this right to allow public access to all types of recorded information held by public authorities. The FOIA allows access to information regardless of when that information was created or how long it has been held, and also sets out exemptions from that right and places a number of obligations on public authorities.

The FOIA requires the Council to produce and maintain a Publication Scheme and to comply with requests for information (unless exempt from disclosure).

## 2.0 Aim of Policy

The aim of this policy is to:

- provide a framework that ensures that the Council complies with the FOIA;
- promote transparency of decision making by the Council;
- improve and enhance the democratic process; and
- build public trust and confidence.

This policy is available to everyone and is on the Council’s website at [www.marthamparishcouncil.norfolkparishes.gov.uk](http://www.marthamparishcouncil.norfolkparishes.gov.uk).

## 3.0 Scope

Records can be defined as “information that is written on paper or stored on computer so that it can be used in the future”. Records covered by this policy include all records (irrespective of the medium on or in which the information is carried) which belong to or are in the custody of the Council or any of its officers and members. This policy applies to all Martham Parish Council officers, members, contractors, partners, consultants and service providers who have access to the Council’s records. Failure of a contractor/partner/consultant/service provider to comply could lead to legal action and the cancellation of a contract.

#### **4.0 Objectives**

Martham Parish Council will ensure that:

- the Clerk to the Council is specifically responsible for Freedom of Information (FOI) on behalf of the Council and that he/she is provided with appropriate training on how to handle FOI requests;
- anyone wanting to make enquiries about FOI requests, whether a councillor, member of staff or a member of the public, knows what to do;
- queries about handling FOI requests are promptly and courteously dealt with;
- methods of handling FOI requests are regularly assessed and evaluated, and
- the Council will continue to provide access to information to promote openness and transparency of decision making by the Council.

#### **5.0 Publication Scheme**

As required by the FOIA, Martham Parish Council has adopted and maintains a Publication Scheme as a guide to the information that it holds and which is publicly available. Any individual or organisation who requests it will be informed whether the Council holds the information and, subject to exceptions, be supplied with it. The Publication Scheme (based on the Model Publication Scheme), is available on the Council's website at [www.marthamparishcouncil@norfolkparishes.gov.uk](mailto:www.marthamparishcouncil@norfolkparishes.gov.uk) and is reviewed on a regular basis.

#### **6.0 Information Held**

Martham Parish Council holds information as long as necessary to enable it to perform its functions. Every effort is made to ensure that the information is accurate and up-to-date and that inaccuracies are corrected quickly.

#### **7.0 Requests for Information**

Any request for recorded information held by Martham Parish Council in any format will be treated as a request under the FOIA, unless another statutory access right applies (e.g. Data Protection Act 1998). Requests will be accepted from any individual or organisation. Applicants will not be required to cite the Act when requesting information.

All requests must be submitted in writing and must state the name and address of the person applying for the information. Correspondence, including e-mails and/or facsimiles, that provide all the necessary details to process an application will be accepted as valid requests. Applicants do not have to explain the purpose of their request, although it may be necessary to obtain further information from them during the course of responding to their request.

## **8.0 Provision of Information**

Where information is not subject to exemptions, Martham Parish Council will:

- provide information to any individual who requests it in the format specified by the applicant\*, e.g. paper copy, electronic copy, in situ and/or summary information.
- comply with requests for access to information as quickly as possible, **within 20 working days of receipt of the request (or payment of fee, if applicable)**.

*\*Should the Council deem it unreasonable to supply information in the format requested by the applicant as a result of practical or cost implications, then the applicant will be informed of the reasons for this decision. The Council will, however, still supply the information by any other reasonable means.*

Due to the Public Interest Test (section 11.0 refers), it may not be possible to deal with requests within 20 working days. In these circumstances, the Council will give a realistic estimate of when a decision will be made as to whether the information will be provided. If it becomes apparent that the decision will not be made within the estimated time given, the Council will inform the applicant of any delay as soon as possible. The reasons for the delay will also be given.

## **9.0 Transfer of Requests**

Where a request for information is received and Martham Parish Council does not hold all or any of the information requested, the Council will deal with the areas it is responsible for and advise the applicant that the other information is held by another authority and will provide the relevant contact details.

## **10.0 Fees and Charges**

Charges may be levied for certain information or publications listed in its Publication Scheme. Where this is the case, the applicable charge will be listed against the relevant item and will be payable prior to the information being supplied.

Fees may be incurred for requests for information that fall outside the Publication Scheme to cover the costs of locating, retrieving and communicating the information to the applicant (e.g. photocopy and postage).

A fees notice will be sent to the applicant, which must be paid within three months. If the fee is not paid within this time limit, it will be assumed that the applicant no longer wants the information.

The Council will advise the applicant as soon as possible if their request for information exceeds the maximum defined in the FOIA Fee Regulations. In these circumstances, the applicant will be offered the opportunity to either amend their request so that as much of the information that they had originally requested can be provided within the fee limit, or pay the full cost over the maximum stipulated where this is practical and manageable.

## 11.0 Exemptions

There are certain circumstances under which Martham Parish Council is not obliged to release information. The Council will endeavour to apply exemptions to requests for information fairly, objectively and consistently and will not use exemptions as a means of obstructing access.

Exemptions may apply to only some of the information requested by an applicant. In such cases, Martham Parish Council will release as much information as it can by blocking the information deemed to be exempt. The Council is not obliged to confirm or deny the existence of information, or to advise in respect of exemptions applied, where to do so would in itself disclose exempt information.

A list of the 23 exemptions to the FOIA can be found on the Information Commissioner's website at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk). In general the following information is exempt from disclosure.

- Information accessible by other means.
- Information intended for future publication.
- Investigations and proceedings conducted by public authorities.
- Information provided in confidence.
- Personal information which can be accessed by an individual under the Data Protection Act 1998.
- Where the disclosure of the information would breach a confidence actionable in the courts.
- Where the disclosure of the information would breach legal professional privilege.
- Where the information was a trade secret

There will be occasions when the Council will need to balance access rights to information against a person's (or persons') right to privacy, third parties' rights to confidentiality and what may or may not be in the public interest. *Public Interest Test* – Information will only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## 12.0 Refusals

Requests for information will not be processed where the information:

- does not exist in a recorded format;
- is intended for future publication;
- is already contained within Martham Parish Council's Publication Scheme;
- is already available via an existing charged service, e.g. copies of accounts;
- is subject to existing legislation where statutory access rights apply either to the Council or any other public authority.

Martham Parish Council will provide written notice to applicants of refusals and/or part refusals of requests for information. The notice will include details of any exemptions that have been applied. In cases where the public interest test has been applied resulting in non-disclosure, the reasons for refusal will be given.

### **13.0 Vexatious and Repeat Requests**

Martham Parish Council will not comply with vexatious requests where there is a strong likelihood that such requests are being made to intentionally cause harassment, divert resources and/or disrupt the proper workings of the Council.

The Council will not comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request. A written notice stating when a request is deemed vexatious or a repeat will be sent to the applicant.

### **14.0 Administration**

Day to day responsibility for administration and compliance with this policy is delegated to Clerk to the Council, who will:

- monitor compliance with this policy, the FOIA and associated procedures;
- implement security requirements and access rights to documents and records;
- coordinate and monitor FOI requests;
- ensure that the Publication Scheme and this policy are regularly reviewed.

Signed:

Clerk

15<sup>th</sup> March 2017