

CROSTHWAITE AND LYTH PARISH COUNCIL

FREEDOM OF INFORMATION POLICY

The Freedom of Information Act 2000

The Freedom of Information Act 2000 provides public access to information held by public authorities. It does this in two ways:

- Public authorities are obliged to publish certain information about their activities
- Members of the public are entitled to request information from public authorities

The FOI Act gives two related qualified rights – the right to be told whether the information is held and the right to receive the information, subject to exemptions. The right of access applies regardless of the purpose of the application

The Act covers any recorded information held by a public authority in England, Wales and Northern Ireland and by UK-wide public authorities based in Scotland. Recorded information includes printed documents, computer files, letters, emails, photographs, handwritten notes and sound or video recordings.

The Act does not give people access to their own personal data (information about themselves). Individuals wishing to see information about themselves need to make a Subject Access Request under the Data Protection Act 2018.

Policy

1. Crosthwaite and Lyth Parish Council (the Council) will:

- Respond to requests for information promptly and within 20 working days from the day after the day of receipt. Where it is not able to do so it will inform requesters of the reasons and keep them updated of progress in dealing with their request.
- Maintain a 'Publication Scheme' that provides information which is readily accessible without the need for a formal FOIA request.
- Continue to protect the personal data entrusted to us, by disclosing it only in accordance with the Data Protection Act 2018.
- Consult with third parties before disclosing information that could affect their rights and interests. However, it reserves the right to take the final decision on disclosure.
- Reserve the right to make reasonable charge for information requests in line with the FOIA Fees Regulations or other applicable regulations, including charging for requests made under the Data Protection Act 2018.
- Where it is not minded to disclose information where exemption(s) apply seek to explain the exemption and how it is being applied.
- Provide a review process for requesters
- Ensure that all staff are aware of their obligations under the Act to make information available.

Making a request for information

To be valid under the FOI Act, requests:

- Must be in writing;
- Must clearly describe the information being sought;

- Can be made by an individual or an organisation;
- Can be made by letter, or email;
- Must be legible and
- Must contain the name of the applicant and a return address.

To be valid under the FOI Act requests do not:

- Have to be written in a special form;
- Need to mention the FOI Act; or
- Need to refer to “Freedom of Information”.

When making your request you should include:

- Your preferred correspondence details e.g. name, email or postal address
- A clear description of the information you are requesting in as much detail as possible. If we need to clarify your request it may take longer to provide the information to you

The Council has a duty to provide advice and assistance to applicants under Section 16 of the FOI Act so far as it would be reasonable to expect it to do so. The Council must advise whether it holds the information, and must normally supply it within 20 working days. However, if your request is unclear and the Council needs further details to establish if it holds the information, it may ask you for clarification. The time limit will stop and will not restart until it receives the additional detail from you.

If you wish to request information which is not already published on the Council’s website through the Publication Scheme, please email clerk@crosthwaiteandlyth-pc.gov.uk or write to us at:

The Clerk to the Council
18 Barn Holme
Kendal
Cumbria
LA9 5LP

Any information we supply to you under FOIA should be for your personal use. The Council retains copyright to all information it discloses.

Repeat requests

Where a repeated request is received that is identical or substantially similar to a previous request from the same person, the Council will consider this as a repeated request. The Council is not obliged to comply with repeat requests for information, under the FOI Act unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

In reaching a decision about whether an application for access should be categorised, as a repeat request the Council will have regard to:

- The time that has elapsed since the previous request;
- Whether the request is identical or substantially similar to the previous request;
- Whether any relevant, new information has been generated since the previous request.
- A ‘reasonable interval’ will be deemed to be 40 working days.

Vexatious requests

The Council is not obliged to comply with vexatious requests under the FOI Act.

In determining whether a request should be refused because it is vexatious the Council will consider all the circumstances of the request, including:

- The context and history of requests submitted by an applicant;
- Whether the request is likely to cause unjustified distress, disruption or irritation.
- Whether the request could fairly be seen as obsessive
- Whether complying with the request imposes a significant burden
- Whether an applicant is habitually and persistently submitting requests where there appears to be no reasonable grounds for them to do so
- Whether there is a strong likelihood that such requests are being made to intentionally cause harassment, cause distress to staff, divert resources or to disrupt the proper workings of the Council.

Fees

Section 9 of the FOI Act allows the Council to charge a fee for providing information in response to a request. The fee is determined in accordance with the Fees Regulations. The Fee Regulations set out what charges are permissible for information requests. These charges are currently defined as two elements, prescribed costs and disbursements.

Under section 12 of the FOI Act, the Council does not have to comply with a request for information if the cost of compliance exceeds the Appropriate Limit which is the limit for the estimated or calculated prescribed costs. The regulations define an 'Appropriate Limit', for non-central Government organisations as currently £450.

The Council must still confirm or deny whether it holds the information requested unless the cost of this alone would exceed the appropriate limit.

The Council can only take into account the costs it reasonably expects to incur in:

- Determining whether it holds the information requested;
- Locating the information, or document containing the information;
- Retrieving the information, or a document containing it; and
- Extracting the information from a document containing it

The cost will be calculated at £25 per hour per person, regardless of the actual cost or rate of pay. The calculation of the appropriate limit of £450 is equivalent to about 2.5 days of one person's time charged at the £25 per hour rate.

Where a reasonable estimate is made that the appropriate limit of £450 for the costs of preparation would be exceeded then the Council will either:

- Refuse to comply with the request; and/or
- Issue a fees notice to the applicant for the estimated amount

Where appropriate the applicant may be asked whether they would like to reframe their request so that it does not exceed the appropriate limit of £450, in these circumstances the applicant will have the choice of amending the request or alternatively paying the preparation fees.

Where the limit is exceeded, there is no requirement for the Council to undertake work up to the limit. The Council can also include the costs of Disbursement as a separate fee.

Requests for review

If you have not received the information you asked for, or if some of it has been withheld, the Council has a procedure for reviewing FOI requests.

You must put your request for review in writing within 40 working days of receiving the Council's response, giving the reasons for your review request. You can either email:

clerk@crosthwaiteandlyth-pc.gov.uk or write to Freedom of Information at the address on Page 2 above.

Appealing to the information Commissioner's Office

If you are not happy with the way your request has been handled or your review response you may appeal to:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 01625 545745
Fax: 01625 524510

Further information about your rights under the Freedom of Information Act is available from the website of the **Information Commissioner's Office**: Website: <https://ico.org.uk>

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