

**EPPING FOREST DISTRICT COUNCIL
RE-USE OF PUBLIC SECTOR INFORMATION - POLICY**

1. INTRODUCTION

- 1.1 The Re-use of Public Sector Information Regulations 2005, (here referred to as 'the Regulations') came into effect on 1 July 2005. They encourage the re-use of public sector information for which the public authorities listed in the regulations hold the copyright.
- 1.2 These regulations apply to Epping Forest District Council, and this policy sets out how they relate to requests for re-use of information for which the Council holds the copyright.
- 1.3 The Regulations derive from EU Directive 2003 / 98 / EC on the re-use of Public Sector Information, which also came into force on the 1 July 2005.

2. WHAT IS MEANT BY RE-USE?

- 2.1 When the Council releases information which has been requested under legislation such as the Freedom of Information Act 2000 (FOIA), a person may ask if the information can be re-used, perhaps for commercial purposes. Without permission this might breach the Council's copyright. The regulations are concerned with this management of such re-use.
- 2.2 Nothing in the Regulations affects rights of access under other legislation, such as the FOIA, Environmental Information Regulations (EIR) or the Local Government Acts.

3. WHAT ARE THE BASICS OF THE REGULATIONS?

- 3.1 The Council is not obliged under the regulations to make public sector information available for re-use. However, if the Council decides to do so this has to be done in accordance with the Regulations.
- 3.2 Thus the Regulations provide for:
 - (a) a 20 working day period (beginning from the first working day after the request is received) for the Council to respond to a request for re-use,

although this period may be extended where the information requested is extensive or complex;

- (b) a licence fee if re-use is not to be free;
- (c) a licence must not restrict competition;
- (d) exclusive licensing arrangements will not be allowed except for the provision of a service in the public interest and such arrangements shall be published;
- (e) the Council must make available to the public any conditions and any standard charges for re-use;
- (f) information for re-use must be made available by the Council electronically where possible and appropriate; and
- (g) the Council must not discriminate between different applicants making requests for re-use for comparable purposes.

4. COPYRIGHT

- 4.1 The Regulations do not affect the Council's copyright.
- 4.2 The supply of documents (for example under the FOIA) does not give any person a right to re-use them in a way that would infringe that copyright (for example, by making copies, publishing and issuing copies to the public or to any other person).
- 4.3 Brief extracts of any of the material may be reproduced without the Council's permission, under the fair dealing provisions of the Copyright, Designs and Patents Act 1988 (sections 29 and 30) for the purposes of research for non-commercial purposes, private study, criticism, review and news reporting, subject to an acknowledgement of the Council as copyright owner. Wider re-use however requires our permission.
- 4.4 The Council may choose to allow re-use under licence, imposing conditions on the re-use of the information to ensure it is not used in a manner inconsistent with its copyright; and may also decide to charge a re-use fee.

5. EXEMPTIONS TO RE-USE

5.1 Once the Council agrees to make categories of information available for re-use, the grounds for refusing to provide any of the specific information of that type are limited to the following:

- (a) the activity of supplying the document is one which falls outside its public task;
- (b) the document contains content in which relevant intellectual property rights are owned by a third party; and
- (c) the content of the document is exempt from access by virtue of the FOIA.

6. LICENCES AND CONDITIONS FOR RE-USE

6.1 Any applicant who asks for permission to re-use information for which the Council holds the copyright who has their request agreed in principle will be informed of the conditions and other licence terms. The Council will issue licences, which include the conditions for re-use, on a case-by-case basis.

7. CHARGING

7.1 The Regulations state that, when allowing re-use, public authorities can make a 'reasonable return on investment'. In calculating a licence fee the Council will take into account the following:

- (a) whether Epping Forest District Council's intellectual property (ie information) has a commercial value and the appropriate level of fee which is appropriate for each individual case
- (b) an hourly charge for staff time in making the requested information available to the applicant for re-use in accordance with the following rates depending on the seniority of the member of staff who is required to manage the request:
[Rates to be determined]
- (c) the cost of materials in respect of copying or printing (black & white or colour)
[Rates to be determined]

7.2 These charges will be subject to regular reviews.

8. INFORMATION ASSET LIST

8.1 Where permission for re-use is granted, the Council will add the information type to an Information Asset List. The list will therefore provide a source of reference to applicants as to the type of information which has been approved for re-use. We will also link this asset list to the Council's Freedom of Information Publication Scheme.

9. MAKING APPLICATIONS FOR RE-USE

9.1 An application to re-use information for which the Council holds the copyright must:

- (a) be in writing;
- (b) state the name of the person making the request;
- (c) give an address for correspondence;
- (d) specify the document requested; and
- (e) state the purpose for which the document is to be re-used.

9.2 An application must be sent to the Head of Research and Democratic Services, Epping Forest District Council, Civic Offices, High Street, Epping, Essex CM16 4BZ.

10 COMPLAINTS

10.1 An applicant may complain to the Council about how their request for re-use has been dealt with, eg about any licence fee charged. This will be dealt with under the Council's Compliments and Complaints Procedure.

10.2 The complaints procedure under the regulations works in the same way as the complaints procedure under the FOIA, except that the Office for Public Sector Information (OPSI) is the ultimate authority to which to complain. An applicant can complain to OPSI only after a complaint has been considered by the Council (as the authority to which your request for re-use of information was made) and if the

response to the complaint is not considered satisfactory by the person who requested the information.

10.3 Any subsequent complaint to OPSI must:

- (a) be in writing;
- (b) state the nature of the complaint;
- (c) include a copy of the written notification from the Council of its response to the complaint; and
- (d) be lodged with OPSI before the end of 28 working days commencing with the date of receipt of the Council's response.

10.4 The contact details for OPSI are:

The Standards Division
OPSI
Admiralty Arch
North Side
The Mall
London
SW1A 2WH

11. UNAUTHORISED RE-USE

11.1 The Council reserves the right to review and pursue cases of unauthorised re-use.