

# Re-use of information policy

## 1.0 Introduction

Welwyn Hatfield Borough Council (WHBC) encourages the re-use of its information whenever possible.

Legislation such as the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) provide a right of access to information held by WHBC and require that certain information is routinely published. The Data Protection Act 1998 (DPA) and from May 2018, the General Data Protection Regulations (GDPR) provides a right to access to personal information held by WHBC.

Section 102 of the Protection of Freedoms Act 2012 (POFA) adds new requirements to the FOIA as section 45 about how data-sets are released, including the re-use of this information.

The Re-use of Public Sector Information Regulations 2005 (PSI Regs.) came into effect on 1<sup>st</sup> July 2005 following a European Directive to establish a framework for requesting the re-use of public sector information. These regulations apply to the re-use of information that is not a data-set.

## 2.0 Purpose

The purpose of this policy is to ensure that a standardised approach, in line with legislation, is implemented throughout WHBC with regard to re-use of public sector information for a purpose other than for which it was created. The policy also covers when permission to re-use should be sought and the process for doing so.

## 3.0 Scope

This policy applies to the re-use of information produced by WHBC to deliver services or to provide a statutory public function and applies to all employees.

## 4.0 Legislation

WHBC has an obligation to abide by all relevant UK and European legislation. The Acts, which apply, but are not limited to, are:

- Freedom of Information Act 2000 (FOIA)
- Environmental Information Regulations 2004 (EIR)
- Re-use of Public Sector Information Regulations 2005 (PSI)
- Protection of Freedoms Act 2012
- Freedom of Information (Release of Datasets for re-use)(Fees) Regulations 2013
- Copyright, Designs and Patents Act 1998
- General Data Protection Regulations 2018

## 5.0 Re-use of Data Sets

A dataset for the purposes of this policy is defined by the Information Commissioner's Office (ICO) AS:

*"A collection of factual information in electronic form related to the services and functions of the authority that is neither the product of analysis or interpretation, nor an official statistic and has not been materially altered"*

A re-useable form is defined by the ICO AS:

*"A re-usable form means that the data-set is in a machine readable format and based on open standards"*

If WHBC makes information available under the FOIA that fits the definition of a data-set and this information is available or has been requested in electronic form, it must be made available in a re-usable form if reasonably practical. WHBC will treat each request individually and will consider if there are any limitations to providing the information. Making the request electronically is considered to be asking for an electronic copy unless the request specifies otherwise.

The time it takes to convert the information to a re-usable form or the cost and any technical issues can make it unreasonable, although these should be balanced with making information open for re-use whenever possible.

The EIR also require information to be made available electronically whenever possible and WHBC will handle the re-use of this electronic information in the same way.

If WHBC holds the copyright for this information it must make it available for re-use with a licence that permits re-use. To comply:

- When datasets are released a licence for re-use will either be issued with them or details will be provided of how to obtain a licence.
- When a request is received to re-use a dataset either a licence will be issued or details will be provided of how to obtain a licence.
- The licence will include the conditions under which a licence will be granted in order to comply with Crown Copyright regulations.
- Information released as a dataset under FOIA or EIR will be published in WHBC's Publication Scheme available on the website at [www.welhat.gov.uk](http://www.welhat.gov.uk) with details of how the information can be re-used or whether a request for re-use should be made.

## 6.0 Re-use of information that is not a Dataset

WHBC will consider all requests to re-use information that is not a dataset, under the PSI Regulations. We will not always grant permission to re-use but will support and encourage re-use whenever possible.

The PSI Regulations require WHBC to:

- Publish a list of documents that can generally be re-used. The Council's Publication Scheme will contain these documents.
- Publish a clear, fair and transparent procedure for the processing of requests in a timely way for the re-use of information – See section 7.0
- Publish any standard charges associated with re-use – See section 8.0
- Operate a complaints process – See the Council's Freedom of Information and Environmental Information Regulations Complaint policy.

## 7.0 When re-use of information will not be granted

The FOIA or PSI Regulations do not permit the re-use of information, such as:

- That which is exempt from disclosure under the FOIA, EIR, DPA, GPDR or any other information request regime.
- Personal information that identifies any person.
- Where the copyright and other related rights of the information are owned or controlled by an organisation other than WHBC.
- Information held by libraries, museums and schools.
- Where the information falls outside the scope of a public function.

## 8.0 Requesting Re-use of information

All requests for re-use will be handled in a way that complies with the FOIA for datasets and the PSI Regulations for other information by requiring the applicant to:

- Make a clear written request for re-use either via letter or by email to: [freedom@welhat.gov.uk](mailto:freedom@welhat.gov.uk)
- Provide their name and postal address;
- Explain the information that the request to re-use applies to;
- Explain how and why the information would be re-used;

WHBC will process all requests for re-use:

- Within 20 working days from the day after receipt of the request to re-use;
- Advise in writing the reason for refusing a request for re-use and if the reason for refusal is due to WHBC not owning the copyright by

providing details of the copyright owner or if not known details of who originally supplied the information;

- Give permission to re-use if possible along with conditions for re-use
- Provide a copy of the information if the customer does not already have one. In this instance WHBC may make a charge if the Council usually charges to provide the information.
- Provide details of the Council's information complaint process.

## 9.0 Re-use of information licensing

Information can be re-used without permission for reasons including non-commercial personal purposes, such as private study and for news reporting. In this instance a licence is not required.

WHBC may on occasions give written permission to re-use information without this permission being in a formal notice.

Where a licence is required the UK Government Licensing Framework (UKGLF) would be followed, using the following principles:

- Any terms used should be easy to understand.
- Information should be made available so that everybody can re-use it.
- Any terms imposed should be fair.
- Similar requests are handled consistently.
- Anyone who re-uses WHBC information acknowledges it as the owner.
- Details of how licences will be applied are published.

Whenever possible information will be made available for re-use free of charge, using the Open Government Licence (OGL). This licence permits re-use for both commercial and non-commercial purposes.

It is not appropriate to permit re-use using the OGL if the re-use is only to be permitted for non-commercial purposes. In this instance the information would be made available for re-use under a Non-Commercial Government Licence.

Sometimes WHBC will make a charge for re-use and make the information available under a Charged Licence. In this instance we will advise the customer at the time of request why this type of licence is necessary and the cost of the licence. The cost will be based on a reasonable rate of return for the re-use of the information.

Details and examples of all three licences are available in the UK Government Licensing Framework on the National Archives website at [www.nationalarchives.gov.uk](http://www.nationalarchives.gov.uk)

## 10.0 Monitoring, review and audit

This policy will be available on Eteam and the WHBC website. The policy and all supporting procedures will be reviewed annually and will be subject to periodic audit to ensure compliance.