



MONTGOMERY TOWN COUNCIL

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BACKGROUND

The Freedom of Information Act was first passed in 2000 and implemented in 2005

The purpose of the Act was to ensure that public bodies were open and transparent by providing public access to recorded information held by those bodies.

The Act provides that:

1. Public Authorities are obliged to publish certain information about their activities, this is done via the Montgomery Town Council Publication Scheme, which is approved annually and is located at www.montgomery-wales.co.uk
2. Members of the public are entitled to request information from public bodies, who must, with a few exceptions provide this information within prescribed timescales.

This paper is to guide the council and public on the council's responsibilities within the Act, how it will behave, and what the public can do if they wish to make a request for information.

NB The principles within this policy also apply to the requests made under the Environmental Information Regulations (EIA)

BASIC PRINCIPLES

- ❖ Everyone has the right to access official information unless there is a good reason for them to be denied
- ❖ They do not have to give their reason for making a request under the Act
- ❖ All requests must be treated equally
- ❖ Any information released under the Act is available to anyone

WHAT IS A REQUEST UNDER FOI?

- ❖ A request can be made for access to any information held by a council
- ❖ A request does not need to mention the Freedom of Information Act
- ❖ Any correspondence the council receives could include a request for information
- ❖ A request can be made by letter, e-mail or verbally
- ❖ A request needs to be legible, have the name and address, or e-mail address, of the applicant
- ❖ A request must be specific, and clear in what information is being requested
- ❖ The council has a duty to assist anyone who wishes to make, or has made, a request

- ❖ Costs can be charged, for providing the information. The fees are set by regulation

HOW MONTGOMERY TOWN COUNCIL DEALS WITH REQUESTS FOR INFORMATION

- ❖ Every request must be considered as a Freedom of Information request
- ❖ Requests for information which can be provided without question, for example: leaflets, brochures, press releases, will be treated as business as usual, and not as FOI requests, as are queries on decisions or policies.
- ❖ Requests for information which is held, and which needs to be considered, will be treated as a request under the Act.
- ❖ Where the council considers the requested information cannot be disclosed then it will inform the applicant and record it as a request under the Act or Regulation

HOW DOES THE PROCESS WORK?

The council will acknowledge the request and inform the applicant it will be treated as a request under FOI, and in that communication it will outline the timescales within the Act, but also the potential timescale for response, e.g. where a request is straightforward it may receive an earlier response, where the request is complex, it may take the full indicative time. Where the complexity of the query may mean it cannot be answered within the timescale, for example, because paperwork needs to be retrieved from an archive, the applicant will be informed of this, giving the reason, and indicating when a response can be expected.

Requests will be dealt with promptly and within 20 working days. Working days are Monday to Friday each week.

If the council needs more time, it will inform the applicant within the 20 -working day limit

This extended time scale will be reasonable and not more than a further 20 working days

WHAT THE COUNCIL CAN AND CANNOT DISCLOSE UNDER FOI

The Council CANNOT disclose the following information under the Act, and these are known as exemptions

- ❖ Information available elsewhere
- ❖ Information which breaches confidentiality
- ❖ Court Records
- ❖ Official Secrets
- ❖ Information which it is prohibited from disclosing
- ❖ Personal information (Data Protection)

The council MAY not disclose the following information under the Act

Information:

- ❖ Intended for future publication
- ❖ On National security matters
- ❖ Prejudicial to Commercial interests

- ❖ On Legal Professional privilege

However, although the council should not disclose the above, the Act allows it to disclose, or withhold information under what is known as the Public Interest Test, this is explained below.

If an exemption applies to a request the council will consider if:

“The public interest favours withholding or disclosing the information”

Even if an exception applies, the public interest in withholding has to outweigh the public interest in releasing, the information. In some cases, a “prejudicial test should precede the public interest test e.g. a request could be “prejudicial to commercial interests”. There is no fixed definition of “public interest” and a judgement will be made on each case.

WHAT HAPPENS IF AN APPLICANT IS DISSATISFIED WITH THE COUNCIL’S RESPONSE?

Applicants can complain, or appeal, against the council’s decision to withhold information or about the way in which their request has been handled.

Complaints might include (this list gives examples and is not exhaustive)

- ❖ The response took longer than 20 working days
- ❖ Information was withheld and exemptions wrongly applied
- ❖ The cost contravenes the Fees Regulations

The complaint, in the first instance, must be made to the Council who will review their decision. It can be made verbally, or by email or in writing. Where it is made verbally the council will respond in writing acknowledging this as a complaint about the way the request has been treated.

The council will identify members not involved in the original decision making to review the complaint.

The complaint will be responded to in writing or by email within 20 working days.

Where an applicant remains dissatisfied, they can make an appeal to the Office of the Information Commissioner who will decide on the complaint. The council will provide the contact details for the Information Commissioner’s office in the letter of email.

Adopted 25th June 2020

Reviewed Annually by Council or by change of statute