

## Freedom of Information/EIR

### How to submit a request

Firstly, you need to decide if the information you would like is for a service run by Scarborough Borough Council. You should also check our website to make sure that the information you want is not already available.

If your FOI request concerns any of the following functions you will need to redirect your request to North Yorkshire County Council at [Datamanagement.officer@northyorks.gov.uk](mailto:Datamanagement.officer@northyorks.gov.uk) as these are County Council services and not functions of Scarborough Borough Council and we will not hold the information you want:-

- Schools
- Trading Standards
- Highways and transport (including street lighting)
- Children's and youth services
- Adult services
- Village greens and commons registration

If you would like information about yourself, this falls under the General Data Protection Regulations (GDPR)/DPA 2018 and further details on how to make these requests, known as Subject Access Requests, are provided below.

### About your request

To be valid under the FOI Act, the request must:

- Be in writing, preferably by completing the on-line Information Request Form. Requests can also be made via the web, email to [foi@scarborough.gov.uk](mailto:foi@scarborough.gov.uk), or even on social networking sites such as Facebook or Twitter. If you do not have access to a computer you should write to the Freedom of Information Officer, Performance and Governance, Scarborough Borough Council, Town Hall, St Nicholas Street, Scarborough, YO11 2HG.
- Include your real name. A request can be made in the name of an organisation, or by one person on behalf of another, such as a solicitor on behalf of a client; and must include a title and/or first name with surname. The use by a female applicant of her maiden name is acceptable. The prime consideration is whether enough of a person's full name has been provided to give a reasonable indication of that person's identity;
- Include an address for correspondence. This does not need to be your home or work address – it can be any address at which you can be contacted, including a postal address or email address;
- Describe the information you would like. The Act covers information not documents, so you do not have to ask for a specific document (although you may do so). Please try and provide as much detail as possible about the information you would like as this will help us to process your request.

If you are unable to explain your request in writing, the Council will ensure that appropriate assistance is given to enable you to make a request for information. Depending on the circumstances, this may involve advising you that another person or agency (such as a Citizens Advice Bureau) may be able to assist you with the application, or make the application on your behalf.

Whilst responses should be provided as soon as possible, the Council has 20 working days to reply to a request.

Acknowledgement of requests will be sent within 2 working days.

Requests which are not for recorded information, but instead ask questions, such as “please explain your policy on x” or “please explain your decision to do y” are not requests for recorded information and will be treated as routine correspondence.

### **Charging for responding to requests**

We can charge for disbursements which includes the costs of photocopying documents and postage, etc, if this will cost more than £5. Appendix 1 shows the disbursement costs we can charge. If the disbursement cost is less than £5, the fees will be waived.

You should also be aware that a charge can be applied or the request can be refused if it will take more than 18 hours to gather the information, and the total cost to respond will be more than £450. (calculated at a standard charge of £25 per hour irrespective of the grade of officer involved). If we chose to refuse your request on this basis, we will provide advice and assist you to re-phrase your query to obtain information without incurring the charge if this is possible. Disbursement fees cannot be taken into account when calculating whether the costs of retrieving or locating the information would be over the £450 costs limit.

Tasks for which a charge can be applied would be time spent:

- Determining whether the information is held
- Locating the information
- Retrieving the information
- Extracting the information from other documents

It should be noted that no charge will be made for time taken for redacting documents in preparation for disclosure.

If your request will involve a fee, we will write to you and give you the option to either change your request or to pay the appropriate fee. A Fees Notice will be issued, telling you how to pay. The 20 day response time clock stops once you have been notified of the charge and remains stopped until the fee has been received.

The case remains open (clock stopped) for a maximum of 3 months. If you do not contact us in that period then the case will be closed.

### **Information which we do not have to provide**

In some circumstances, we do not have to provide the information you have requested, ie, where we believe that it falls under the exemptions contained within the FOI Act or EIR. Most of the exemptions also involve a public interest test, which means that as well as showing that releasing the information will cause harm (for example, to commercial interests) the Council also has to show that it is not in the public interest to release the information. If we believe that the information is exempt from disclosure we will explain why in our response to you.

We will also tell you how to appeal against our decision.

More information is available on exemptions on the Information Commissioner's Website, <https://ico.org.uk/>.

### **What is aggregation and when is it appropriate?**

In certain situations the costs of answering more than one request can be added together or aggregated for the purposes of estimating whether the appropriate limit (£450 or 18 hours of officer time) would be exceeded in relation to any of those requests. The Council can aggregate when:

- two or more requests for information have been made;
- the requests must be either from the same person, or from different persons who appear to be acting in concert or in pursuance of a campaign
- the requests must relate to the same or similar information; and
- the requests must have been received within a space of 60 consecutive working days.

### **What is the difference between FOI and EIR?**

Requests relating to environmental information are excluded from the Freedom of Information Act and dealt with under the Environmental Information Regulations. The definition of "environmental information" is very broad and includes information relating to planning, planning enforcement, waste and recycling, traffic, noise nuisance, food safety, emissions, contaminated land, and wildlife.

We do not treat EIR requests differently from FOI requests except in two specific circumstances:

- Where an EIR request is complex and voluminous, we may extend the response deadline by 20 days.
- Where we want to rely on an exemption to withhold any of the information requested (there are different exemptions for EIR requests).

For the purposes of EIR, there is no 'cost limit' but requests which cost a disproportionate amount can be refused on the grounds that they are manifestly unreasonable. When appropriate, we will adopt the same approach and charging procedure as established for FOI.

### **Is the request asking for personal information about any person?**

If you request information about yourself, this will be dealt with as a Subject Access Request under GDPR/Data Protection Act 2018 (DPA) and is therefore exempt under FOI. You should write to the Data Protection Officer at Scarborough Borough Council, stating that you wish to make a Subject Access Request, email [dataprotection@scarborough.gov.uk](mailto:dataprotection@scarborough.gov.uk).

### If your request is for information about another person

Requests involving personal data are exempt from the Freedom of Information Act (FOIA) under Section 40 of that Act if the disclosure would breach any of the data protection principles. In most cases the relevant principle is the first principle, which requires fairness to the subject of the data. The ICO's "Freedom of Information Act Awareness Guidance No 1" sets out a series of questions to ask to help determine whether such a disclosure would be fair.

### If you are not satisfied with the response to your request – Internal Reviews

If you are not satisfied with the response you receive, you are entitled to ask for an internal review of the response.

A request for an internal review should be made within 3 months from the date we have issued an initial response to a request. We will not accept internal reviews after this date. Internal review requests should be made by email to [foi@scarborough.gov.uk](mailto:foi@scarborough.gov.uk), or in writing to Performance and Governance, Scarborough Borough Council, Town Hall, St Nicholas Street, Scarborough, YO11 2HG.

Requests for internal review will be acknowledged and the applicant informed of the target date for responding. This is normally within 20 working days of receipt of the request.

If an internal review is complex, requires consultation with third parties or the relevant information is of a high volume, we may need longer than 20 working days to consider the issues and respond. In these instances, we will inform the applicant and provide a reasonable target date by which they will be able to respond to the internal review. This will generally be no more than an additional 20 working days, although there will sometimes be legitimate reasons why a longer extension is needed.

In the event that clarification of an internal review request is required from the applicant, the normal 20 working day time period will not begin until it is received.

## TABLE OF DISBURSEMENT CHARGES

### Standard Costs to be used in the calculation of fees

<b>Staff Costs</b>	
Staff time	£25.00 per hour
<b>Non-Staff Costs</b>	
Photocopying and/or Printing Costs	<u>A4</u> Black/white - 10p per copy Colour A4 - 20p per copy <u>Large format prints (A2 – A0)</u> Black/white - £3.20 per copy Colour - £5.20 per copy
Postage Costs	1 <sup>st</sup> class at cost or original estimate, whichever is lesser
Other items such as relevant translation	At cost or original estimate, whichever is lesser

### Scarborough Borough Council Charging Regime

Fee is less than £5.00	No charge will be made
Cost of fee between £5.00 and £450.00	If the cost to comply with a request is estimated at between £5.00 and £450.00 (approximately 17 staff hours plus £25 disbursements) then a charge for non-staff costs as above will be made
Cost of fee is over £450.00	If the cost to service a request is estimated to cost in excess of £450.00 (more than 17 staff hours plus £25 disbursements) then the full cost, including staff time at the above rate, will need to be charged
Aggregation of Requests	If two or more requests are received within 60 consecutive working days, for the same or similar information either from the same person or different persons who appear to be acting as part of a campaign, then the charges will be aggregated. Once the cost exceeds £450.00 then the full costs, including staff time, will need to be charged
Mixed Requests	If a request is received in which the information is covered by more than one access to information regime then, for the purposes of calculating fees, it is necessary to separate out the constituent parts of the request to determine what fee may be charged. The above charging regime is applicable to the FOI element.
Section 16(1) requires the Council to provide advice and assistance, “so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information”	Stage 1 – If the request is particularly wide-ranging, and therefore likely to be expensive to answer, the Council must discuss this with the applicant to see if the question could be refined to a more manageable level to bring it below the £450 limit.
	Stage 2 – If after providing advice and assistance, as required under Section 16, the request is still over the appropriate limit the Council can <b>either</b> turn the request down or answer the request and charge a fee.
	<b>Or</b> where the Council decides to provide the information and charge a fee, and does not have other powers to do so, the Council can charge on the basis of the costs outlined above, as well as the cost of informing the applicant whether the information is held and communicating the information to the applicant.

Reviewed: 18/02/2021