

## **TUNBRIDGE WELLS BOROUGH COUNCIL**

### **POLICY ON THE RE-USE OF PUBLIC SECTOR INFORMATION (PSI)**

#### Introduction

The Re-use of Public Sector Information Regulations 2005 (SI 2005 No. 1515) came into force on 1 July 2005 and were further amended by the Re-use of Public Sector Information Regulations 2015 (SI 2015 No. 1415) which came into force on 18 July 2015. In this policy both sets of regulations taken together will be referred to as “the Regulations”.

The Regulations require the re-use of information produced by public sector organisations such as Tunbridge Wells Borough Council (unless it is otherwise restricted or excluded).

#### What is meant by re-use?

Essentially re-use means using the information for a purpose other than the purpose for which the document was originally produced. When the Council releases information which has been requested by a member of the public under access to information legislation such as the Freedom of Information Act 2000, that person may ask if they can re-use that information, perhaps for commercial purposes, in a way which, without permission, might breach the Council’s copyright. Data Protection Act 2018 (DPA)

The Regulations do not reduce the protections of the DPA and GDPR. They do not apply to any personal data that is not available under access legislation, nor to personal data that may be accessible but cannot be re-used due to data protection.

#### Copyright

The supply of documents to a member of the public would not usually give them 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 any other person. The Regulations require the Council to give permission for information re-use (except where restricted or excluded) and where possible under standard conditions. For this purpose the Council has adopted the [Open Government Licence](#) v3 unless otherwise stated.

Brief extracts of any of the material may be produced without the Council’s permission, under the fair dealing provisions of the Copyright, Designs and Patents Act 1988 (sections 29 and 30) for the purpose of research for non-commercial purposes, private study, criticism, review and news reporting, subject to an acknowledgement of the Council as the copyright owner.

Information with third-party copyright is excluded from the Regulations and information produced, held or disseminated outside the Council’s public task is also excluded from the Regulations.

## [Open Government Licence](#)

Use of copyright and database right material is expressly made under the terms of the Open Government Licence (v3) for public sector information. If your request for re-use is accepted the Council will grant you a worldwide, royalty free, perpetual, non-exclusive licence to use the Information subject to the conditions contained in the licence. Please read the licence carefully before using the material as use of the material expressly made under this licence indicates your acceptance of the terms and conditions in that document.

<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

## Summary of the Regulations

The Council is required to make information that is produced, held or disseminated within its public task (unless it is restricted or excluded) available for re-use in accordance with the Regulations.

- The Council must deal with requests within 20 working days, starting from the day after which the request was received by the Council. This period may be extended if the request is particularly complex and we must explain any reasons for the delay.
- The Council can issue a licence imposing conditions on the re-use of the information and this will be in the form of the Open Government Licence v3 unless otherwise stated.
- If there is to be a charge for supplying the information or for its use then we will explain why and how much.
- Exclusive licensing arrangements will generally not be allowed except for the provision of a service in the public interest. Such arrangements shall be published.
- Information for re-use should be made available electronically where possible.
- The Council must not discriminate between applicants making requests for re-use for comparable purposes.
- The Council must have an internal complaints procedure

If the information is outside the scope of the Regulations the Council has the right to refuse the request for re-use. Examples of such requests include:

- The activity of supplying the document falls outside of its public task (this could include documents that are produced and charged for exclusively on a commercial basis).
- The document contains content in which relevant intellectual property rights are owned by a third party.
- The document contains content that is exempt from access under freedom of information and data protection legislation.
- The document does not exist.

### [Making an Application for the Re-use of Information](#)

To be valid a request must:

- Be in writing, which includes email
- State your name and address for correspondence
- Specify what information you want to re-use (provide as much detail as possible)
- State how you wish to re-use the information (for example, on an intranet site, to copy for in-house training papers, for commercial publication)

An applicant must either have already obtained the information from the Council under an access request or be in the process of requesting information before he/she can have an application for re-use to be considered.

### [Refusal of a Request for Re-use](#)

If the Council makes the decision to refuse your request for re-use the Council will advise you of this decision in writing setting out:

- The reasons for refusal
- Your rights to an internal review
- The necessary time limits

Where refusal is due to intellectual property rights being owned by a third party, the Council will confirm, if it is known and provided it does not breach the Data Protection Act 2018:

- Who owns the intellectual property rights, and
- Provide you with their name and contact details.

### [Charges](#)

When allowing re-use the Regulations allow public authorities to make a charge for permitting re-use. Each request will be assessed on a case by case basis and should a fee be payable you will be informed of this when the Council receives your application. Please note that all charges are subject to review.

### Complaints to the Council

Complaints about issues of re-use must:

- Be in writing (email is acceptable)
- Give your full contact details
- State the nature of the complaint – what sections of the Regulations are at issue and
- Say what you would like the Council to do in order to resolve the complaint

The Council will deal with your complaint through its internal complaints process.

### Complaints to the ICO

If the Council's internal complaints process can not resolve the complaint, the complainant can escalate it to the Information Commissioner's Office (ICO), for example if it relates to the following:

- marginal cost pricing
- non-charging re-use complaints (e.g., refusal of permission to re-use)

The ICO has guidance on their role in the complaints process and the procedures that public sector bodies and complainants must follow when a complaint is escalated and this is available from the website [www.ico.org.uk](http://www.ico.org.uk)

After reviewing the complaint, the ICO will issue a binding decision via a decision notice. Either the complainant or the Council may appeal this decision to the General Regulatory Chamber of the First-tier Tribunal, information rights jurisdiction (the First-tier Tribunal).

### Further Information

Further guidance about the Regulations can be found by looking at the website for the Office of Public Sector Information at <http://www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/about-psi/>