

The Regulations on the Re-use of Public Sector Information (PSI)

HOW TO APPLY TO RE - USE PUBLIC SECTOR INFORMATION

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HOW TO APPLY TO RE- USE PUBLIC SECTOR INFORMATION

1. Introduction

1.1 The Re-use of Public Sector Information Regulations 2005 came into force on 1 July 2005. The Regulations encourage the re-use of public sector information - that is, information for which the public authorities (listed in the Regulations) hold the copyright. It is not compulsory for public authorities to allow re-use.

1.2 The Regulations allow you to apply to re-use information held by Horsham District Council. 'Re-use' means using the information for a purpose other than the purpose for which the document was originally produced. This could include a commercial or non-commercial purpose.

'Document' is defined as:

- (a) any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording);
- (b) any part of such content.

NB: Computer programmes are excluded

1.3 This guide explains how you can make a request to re-use information held in the Council's Publication Scheme and how the Council will deal with requests.

1.4 The Regulations do not provide access to the information itself. Access is available through the Freedom of Information Act 2000 (the FOIA), Data Protection Act 2018 (the DPA) or other access to information regimes such as the Environmental Information Regulations 2004 (the EIR).

1.5 When we release information to you which has been requested under access to information legislation such as the FOIA, you may ask if you can re-use the information, perhaps for commercial purposes, in a way which, without permission, might breach our copyright.

1.6 The Regulations only apply to the Council as a local authority. Certain bodies with which the Council is associated are not covered by the Regulations, namely Horsham Museum.

2. What is an Information Asset List?

- 2.1 An 'information asset list' sets out what information public authorities have made available for re-use, how this can be obtained and any licence terms and charges which apply.
- 2.2 The Council does not intend to produce a separate information asset list as most of the information contained in the Council's Publication Scheme (with the exception of the documents where charges apply) are available for re use (e.g. for non-commercial research and private study) on the standard terms and conditions (see details on our Copyright page). No re-use fee is charged under this licence.
- 2.3 The Publication Scheme may be accessed through the following link:
www.horshamfoi.org.uk/search.asp.

3. When can I make a request for re-use of information for commercial gain/purpose?

- 3.1 Only where:
- (1) the document is already identified as available for re-use; or
 - (2) the document has been provided to you; or
 - (3) the document is accessible otherwise than under the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004.
- 3.2 If you intend to re-use the material for commercial gain/purpose then you must write to the Communication & Information Officer at contact@horsham.gov.uk , giving full details of your proposed use of the material, including whether you intend to publish and sell the material as part of your product.

4. How do I make a request to re-use information for a commercial gain/purpose?

- 4.1 There is no prescribed form except that to be valid, your request must:
- be in writing (including electronic);
 - state your name and address;
 - specify the document which you want to re-use;
 - specify the purpose for re-use.

5. Does the Council have to respond within a set time?

5.1 We must respond to your request within 20 working days. Where your request is received outside of normal working hours (i.e. evenings and weekends) it will be treated as having been received the next working day.

5.2 Sometimes it may be necessary to extend the time limit e.g. where the request is extensive or complex. Where this happens we will tell you before the end of the 20 working day deadline why we are extending the time limit and the date on which we expect to be able to respond.

5.3 Responding to a request means:

- making the requested document available for re-use; or
- where conditions are attached to the re-use, finalising the offer to you of the conditions on which re-use will be permitted; or
- refusing the request.

6. Will I always be granted permission to re-use documents for commercial gain/purpose?

6.1 Not always. The Regulations allow the Council to refuse requests for one or more of the following reasons:-

- the document contains information in which intellectual property rights are owned by a third party. An example would be architectural drawings which the Council has commissioned from an architect who retains the copyright;
- the content of the document is exempt from disclosure under the Freedom of Information Act 2000;
- the document is not related to the Council's core responsibilities i.e. statutory functions including incidental work and research.

6.2 Documents held by cultural establishments such as The Horsham Museum and The Capitol Theatre are excluded from the provisions of the legislation and the Council is not obliged to respond to the request or give a reason for refusal.

7. Will I be told why you have refused to let me re-use the information for commercial gain/purpose?

7.1 Yes - if we refuse your request for re-use we must inform you in writing of the reason for refusal.

7.2 We must also advise you of your rights to an internal review and of appeal.

7.3 Where the refusal is because intellectual property rights are owned by a third party we have to tell you who owns the relevant intellectual property rights, where we know that information, or the name of the person from whom we obtained the document.

8. Processing requests for re-use for commercial gain/purpose

8.1 Where possible we will process your request electronically and also make the documents you wish to re-use available electronically.

8.2 However, we do not have to create or adapt a document in order to comply with a request for re-use, nor are we required to provide an extract from a document where it would involve disproportionate effort, or continue to produce a certain type of document just so that someone else can re-use it.

9. Will I be able to re-use information in any way I choose?

9.1 No. If you re-use information for non-commercial research and private study you will be bound by the terms of the FOI standard terms and conditions.

9.2 If you apply to re-use information for commercial gain/purposes, we will agree licence conditions which will be tailored to meet the specific circumstances. This licence will be personal to you.

Conditions imposed by licence, will not unnecessarily restrict the way in which a document can be re-used or restrict competition.

10. What happens if someone else wants to re-use the same information?

10.1 We cannot discriminate between two applicants who request the same information. Both requests have to be dealt with on a case by case basis.

10.2 We cannot grant you exclusive rights to re-use the information, except where the arrangement is for the provision of a service in the public interest. If you are granted exclusive rights, these will be reviewed every 3 years and the details of the exclusivity agreement may have to be published on the Council's website.

11. Will I have to pay for re-use information?

11.1 Yes. You will be advised of any charge and licence fee due to be paid for re-use of information for commercial gain/purposes.

- 11.2 Any fees already paid under the Freedom of Information legislation in respect of the information will be deducted from the charge for its re-use.
- 11.3 We are not allowed to charge more than it costs us to provide the information, other than allowing a reasonable return on our investment. Because of the potential diversity of requests for re-use the Council have taken the view it is not reasonably practicable to publish standard charges, but the charge will not exceed the total of the cost of collection, production, reproduction and dissemination of the document which is the subject of the request together with a reasonable return on investment. Neither the Regulations nor the Directive define what is meant by *a reasonable return on investment*, and therefore this will be dependent on the particular circumstances. You will be advised of any charge due to be paid in these circumstances.

12. What happens if I'm not happy with how you have handled my request?

- 12.1 You may complain to us about how we have managed your request for re-use e.g. you may wish to complain about any licence fee for re-use which we decide to charge.
- 12.2 The complaints procedure set up by the Regulations works in the same way as the complaints procedure under the FOIA, except that the Office for Public Sector Information (OPSI), and **not** the Information Commissioner, is the ultimate authority to which to complain. You can complain to OPSI only after your complaint has first been sent to us (as the authority to which your request for re-use of information was made) and you are not satisfied with our response to your complaint.
- 12.3 You can ask us for an internal review of the decision. To do this you should write or email within 40 days of being informed of the decision to:

Communications & Information Officer
Chief Executive's Directorate
Horsham District Council
Park North, North Street
Horsham
West Sussex RH12 1RL

Email: contact@horsham.gov.uk

Following the outcome of the internal review, if you are still unhappy, you can write to The Office of Public Sector Information (OPSI) at:-

OPSI Standards Team
Room 1.35
Admiralty Arch
North Side
The Mall
London SW1A 2WH

Tel: 020 7276 5217
Fax: 020 7276 5207

or by accessing the OPSI website and completing an on-line contact form at:
<http://www.opsi.gov.uk/about/contact-us/index.htm>

12.4 OPSI is required to publish details of how it will deal with complaints. In certain circumstances, in relation to complex cases they may require you to pay a £500 non-refundable deposit.

12.5 Any appeal to OPSI must be lodged before the end of 28 working days from the date you were advised by us of the outcome of our internal review.

13. What happens if I'm not happy with how OPSI have dealt with my complaint?

13.1 You can complain to the Advisory Panel on Public Sector Information (AAPPSI).

13.2 Your appeal must:-

- be in writing;
- state the nature of the appeal;
- include a copy of the decisions of OPSI and the Council;
- be lodged with AAPPSI before the end of 28 working days from the date you were informed by OPSI of the results of their review.

AAPPSI can be contacted at:-

Advisory Panel on Public Sector Information 1.35 Admiralty Arch
The Mall
London SW1A 2WH

or phone or fax them on:

Tel: 020 7276 5216
Fax: 020 7276 5207

