

Kirklees Metropolitan Council Licensing the Re-use of Council Information Procedure

This procedure should be used in association with the **Licensing the Re-use of Council Information Policy**.

1. Receipts of Requests

All requests for re-use should be directed to the Corporate Information Management Team (CIMT). Any requests received elsewhere in the Council should be forwarded to CIMT at the earliest opportunity. Further information on the roles each person plays is provided in section 4. As per the policy this procedure must be followed when dealing with all requests for re-use. The process is summarised in the accompanying flow chart (see section 8).

2. How to Identify a Valid Re-use Request

For a request for re-use to be valid it must:

- be in writing (in a legible form),
- state the name of the applicant and the address for correspondence,
- specify the document(s) to be re-used, and
- state the purpose, and way in which the document is to be re-used.

As this process involves the Council entering into an agreement with the applicant, the applicant must provide their full legal name and permanent address before the process can be concluded.

If the request is not valid then it will not continue in the process until the applicant has provided the information required. The CIMT will make reasonable efforts to communicate this to the applicant if an invalid request is received. If there is any doubt as to whether a request for re-use is valid or if a request is asking for re-use then CIMT will make that decision.

3. The Timetable

A valid request must normally be responded to within 20 working days from the day after receipt in the Council.

If the request is extensive or complex then this may be extended by such time that is reasonable in the circumstances. Decisions on extensions will be made by CIMT in consultation with the Service(s) involved. This decision will take into account the quantity of information requested for re-use, and whether the request raises complex issues. If re-use has previously been licensed for a similar purpose then this would normally be responded to within 20 days. Re-use requests that cover new categories of information or types of re-use are more likely to require an extension to the processing time.

The applicant will be notified of any delay within 20 working days and given an estimated date by which the Council expects to respond to the request for re-use. A decision will be either to issue a licence or refuse the request with an explanation.

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4. Roles and Responsibilities

The Policy lists how the responsibilities are split between the corporate, Service and individual. The information below provides further procedural details. This should be viewed in conjunction with the flow chart in section 8.

4.1 Individual Role

Individual members of staff across the Council will have only a small role in this process. All staff must follow this procedure by

- Identifying all requests for re-use of council information. The decision whether the request is valid under this procedure does not need to be made at this point.
- All requests for re-use received on paper must be date stamped on the day of receipt in the Council. They should be forwarded to CIMT at the earliest opportunity (the 20 days for processing of the request starts from the day after it arrives in the council). Services should aim to do this within 24 hours of receipt.
- If there is any doubt as to whether correspondence is a request for re-use of information advice should be sought from CIMT immediately. Whilst it is the responsibility of the applicant to make their request clear, the Council will make reasonable efforts to identify requests and move them through the process. Individual members of staff should therefore make reasonable efforts to identify any requests.
- In the event that a request for re-use is made at the same time as a request for access to information then the original request should go to the appropriate service contact for FOI. A copy of the request should also be sent to CIMT to enable work to start on considering the request.

4.2 Corporate Role

CIMT will handle the movement of the request through the process from the point it receives the request until the process ends.

CIMT will be responsible for deciding when a request for re-use is valid and identifying any additional information that is needed. It will communicate with a potential applicant to obtain this. Reasonable efforts will be made to obtain this information but if the applicant does not provide the necessary information then the process will end.

Once a request has been identified as valid CIMT will coordinate the decision making process which will decide if re-use is to be allowed and if so whether fees are to be charged. This process is detailed in section 5 and 6.

CIMT will communicate the decision to the applicant and if re-use is to be licensed the terms of the offer. This is detailed in the flow chart in section 8.

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4.3 Service Role

Each service will ensure that their staff know how to identify a request for re-use and what to do with it.

Services will work with CIMT to come to a decision on whether to allow re-use, establish if a fee should be charged and at what level. Further information on the service role in these decisions is detailed below in sections 5 and 6.

5. The Decision on Allowing Re-use

CIMT will coordinate the examination of all valid requests for re-use to establish whether or not re-use should be allowed. The presumption is that the re-use of information will be allowed unless there are justifiable reasons for not allowing the re-use. This will work in the following way, varying according to whether the request is similar to previous requests or new.

The key question will be: has a broadly similar request for re-use already been made by another party and was there a decision to license this? To answer this there will be a need to examine whether the request covers the same purpose and type of re-use and whether the information it covers is similar. If the request is similar to a previous successful request then CIMT will contact the information holding Service(s) to inform them of a proposal to allow re-use. The Service(s) will then have an opportunity to comment on this proposal and if necessary it will be discussed further between CIMT and the Service(s). Unless a justifiable reason is identified for not allowing re-use then the request for re-use will be approved and will move to the next stage in the process.

If this is the first time such a request has been made then this will be examined by CIMT and a note will be made of any initial views and recommendations around allowing re-use. These will be sent to the information holding service(s) together with the original request for their views on allowing re-use. Discussion will take place between CIMT and the Service(s) until a decision on re-use is made. If the request is approved then it will move to the next stage in the process.

For both of these, if the decision is to not allow re-use then CIMT and the Service(s) will agree the reasons for this. CIMT will record these and communicate the decision and reasons to the applicant. The applicant will be informed of their right to review, both through the Council and to the regulatory bodies. This will then be the end of the process.

6. The Decision on Fees

Once the decision has been made on whether or not to allow re-use the focus needs to shift to deciding whether a fee should be charged. Any decision as to whether to apply a charge will be consistent across all similar requests for re-use. Most successful requests for re-use are likely to be provided for free.

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Decisions on when to charge will take into account the following:

- Has a fee been charged for a similar re-use request? If so there must be a justification for any difference between that decision and this.
- What is the level of investment that has been made in creating the information? If this is significant a fee should be considered.
- Would the cost of collecting the fee be a significant proportion of the fee that could be charged under the formula for setting the fee?
- Is it in the public interest to release the information for free? For example would the information only be re-used if it were made available for free? Would the information be made more publicly accessible through the licensee having permission to re-use the information without charge?
- Is it in the public interest to charge a fee for the information?
- Is there another justifiable reason for a decision?

The reasons for any decision on fees will be agreed between CIMT and the information holding Service(s).

The broad method of calculating fees for the licensing of re-use is set down in the Re-use of Public Sector Information Regulations 2005. The following is the council's interpretation of the charging portion of these regulations together with the policy direction where there is discretion provided for in the regulations. In the event of any dispute the 2005 regulations will take precedence.

Where the Council decides to charge, the level of fee will be set so that the total income from all applicants for that re-use shall not exceed the sum of:

- **The cost of collection and production.** This will be a reasonable estimate of the original cost of creating the information that is to be re-used.
- **The cost of reproduction and dissemination to all applicants.** If the applicant has already been charged a fee for this as part of an FOI access request then this must be deducted from the final re-use charge for that applicant.
- **A reasonable return on investment.** The council will only charge this where the market value of the information will allow for this charge and where this is in the public interest to do so.

This shall be calculated by establishing a reasonable estimate of the expected demand for the relevant information over the expected lifetime of that information. The lifetime of the information will be decided based on a reasonable assessment of the length of time for which the information shall continue to be of interest for re-use.

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7. Requests for Review and Complaints

Any applicant may request to see the reasons behind any decision in the process and these will be provided by CIMT. An applicant may question these decisions and argue their case on an informal basis with CIMT. Decisions will not normally be reversed through this contact but the process may be reopened if in the view of CIMT there is a good reason for this.

In the event of the process being re-opened CIMT will discuss the comments from the applicant with the information holding service(s) and a formal response will be made to the applicant. If there is, in the view of CIMT and the Service(s), an error or a weakness in the reasoning of the original decision then a new decision will be made and the normal re-use procedure will then be followed from that point in the process. This will be completed within a reasonable time.

If the applicant is not satisfied with the outcome of this review they may make a formal complaint in writing. In this event the complaint will be dealt with in accordance with the Council's **Corporate Complaints Procedure**.

If the applicant is not satisfied with the outcome of their complaint through the Council's Corporate Complaints Procedure then they may take their complaint to the Office of Public Sector Information.

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8. Process / decision flow chart

