



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

**POLICY ON HOW TO APPLY TO RE - USE PUBLIC SECTOR INFORMATION**

### The Re-use of Public Sector Information

The Re-use of Public Sector Information Regulations 2005 (the PSI Regulations) establish a framework for making the re-use of information easier and complements existing access to information legislation such as the Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR).

Dartford Borough Council has made a commitment to allow re-use of its information, wherever it is possible and reasonable to do so. If you would like more information about how to apply to re-use our information, please refer to our Frequently Asked Questions set out below. If you can't find what you are looking for, please contact the Freedom of Information Officer at:

Dartford Borough Council  
Civic Centre  
Home Gardens  
Dartford  
Kent DA1 1DR  
Tel: 01322-343634  
DX: 142726 DARTFORD 7  
Email: [foi@dartford.gov.uk](mailto:foi@dartford.gov.uk)

#### Frequently Asked Questions

##### **Q: What are the Re-Use of Public Sector Information Regulations about?**

The PSI Regulations are designed to help unlock the value held in public sector information and to allow re-use of these resources for the benefit of commercial exploitation.

FOI and the EIR both provide a statutory public right of access to information held by public authorities subject to the application of legal exemptions in certain cases. However, although FOI and EIR give a right of access to publicly held information, it does not automatically give an applicant a right to re-use that information. The PSI Regulations are designed to enable you to apply to re-use public sector information upon the principles of fairness, transparency, non-discrimination and consistency of application.

The PSI Regulations impose the following main obligations upon a public sector body:

- to publish a list of its documents which are available for re-use. This list is referred to as an Information Asset Register. Currently, Dartford Borough Council's Information Asset List is contained within its Publication Scheme
- to provide a clear statement on the arrangements for re-use of its information, including datasets and
- to clearly explain any applicable charges for re-use and any licence terms and conditions
- to process applications for re-use in a timely, open and transparent manner and through fair, consistent and non-discriminatory processes
- to establish a quick and easily accessible complaints process

**Q: What is meant by 're-use'?** Information is generally produced by Dartford Borough Council as part of its statutory duty to carry out public functions (its public task). A re-use of that information will occur when that information is used for a purpose other than that for which it was originally produced.

The PSI Regulations do not require Dartford Borough Council to permit re-use of its documents. However, where we do permit a re-use to one party for a purpose which is outside the scope of our public task, the Regulations require us to consider requests from others in a fair and transparent manner. Where re-use is permitted by more than one party, this must be on the same terms and conditions for comparable categories of re-use.

### **Q: What information will you allow me to re-use?**

1. Generally, Dartford Borough Council will permit re-use of all of the documents listed in its Publication Scheme and published datasets (unless otherwise stated) under its Open Licence (based on the Non-Commercial Government Licence). If you would like to re-use a document which is not listed in the Publication Scheme or published as a dataset on our website, you can still apply to us and we will consider your application.
2. Information which has been produced by Dartford Borough Council and which is already reasonably accessible to you, example, a policy document which is published on our website, but subject to our copyright may be re-used under the Open Licence.

### **Q: Will I always be granted permission to re-use documents?**

Not always. The PSI Regulations allow us to refuse requests for one or more of the following reasons:

- Where the relevant intellectual property rights in the document are owned or controlled by a person or organisation other than Dartford Borough Council. However, if we refuse to allow re-use of a document which falls within this category, we will tell you who does own or control the intellectual property rights (where known to us), so that you can contact them direct. Examples of relevant intellectual property rights are copyright, performance rights, architectural drawings and database rights.
- Where the document is exempt from disclosure under FOI, EIR, Data Protection Legislation<sup>1</sup> or other legislation dealing with access to information. An exception to this rule is where section 21 of FOI applies. This section covers information which is exempt from disclosure because it is already 'reasonably accessible to the applicant', for example, information published on our website or information which we have a statutory duty to disclose to you (other than by way of inspection).
- Documents that fall outside the scope of our public task. This covers those situations where we may produce documents that are not directly related to our core responsibilities (i.e. statutory functions), such as where there are optional commercial products competing in the open market.
- Documents that have not been provided to the applicant.
- Documents that have not been identified by Dartford Borough Council as being available for re-use.
- Documents held by Council owned cultural establishments - Dartford Museum and The Orchard Theatre.
- The PSI Regulations do not apply in cases where a person is under a legal obligation to prove a particular interest in the information in order to gain access to it. For example, information which would only be released in response to a subject access request under the Data Protection Legislation would not be available for re-use, due to this provision.

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<sup>1</sup> Data Protection Legislation' means the General Data Protection Regulation (EU) 2016/679) (GDPR) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time and any successor legislation to the GDPR or the Data Protection Act 1998 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner

**Q: Will I be told why you have refused to let me re-use the information?** Yes – if we refuse your request for re-use, we must inform you in writing of the reason for refusal. We must also advise you of your rights of an internal review and appeal. Where the refusal is because of intellectual property rights 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 information.

**Q: What is an Information Asset List and do you have one?** An Information Asset List is a list of documents which a public sector body has identified as being available for re-use. The list may include both published and unpublished information. Those public sector bodies which have to comply with the PSI Regulations, are required to publish an Information Asset List.

Currently, Dartford Borough Council's Information Asset List can be found within its Publication Scheme. Unless otherwise stated, all documents held within the Publication Scheme are available for re-use subject to the Open Licence terms and conditions.

**Q: How do I make a request to re-use your information for commercial purposes?** Once you have obtained access to the document you would like to re-use (perhaps via a Freedom of Information request or similar), you may apply to re-use it.

In order to help us process your request as swiftly as possible please ensure that your application:

- is in writing,
- states your name and address, including any organisation you represent,
- contains full details of the document you would like to re-use *and*
- contains the purposes for which you would like to re-use the document.

Your request can be made by applying in writing or by email addressed to:

The Freedom of Information Officer  
Dartford Borough Council  
Civic Centre  
Home Gardens  
Dartford  
Kent DA1 1DR  
Tel: 01322-343634  
DX: 142726 DARTFORD 7  
Email: [foi@dartford.gov.uk](mailto:foi@dartford.gov.uk)

**Q: Does the Council have to respond within a set time?**

We must respond to your request within 20 working days. Where your request is received outside of normal working hours (i.e. evenings, weekends, bank holidays) it will be treated as having been received the next working day. If your application is complex or particularly extensive, we may require longer to process it, in which case, we will consult with you on extending the time limit. You will either receive a final offer permitting re-use together with any conditions of re-use *or* a refusal letter.

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

**Q: What happens if someone else wants to re-use the same information?** We cannot discriminate between two applicants who request the same information. Both requests have to be dealt with. We cannot grant you exclusive rights to re-use the information, other than in

exceptional circumstances e.g. where the arrangement is for the provision of a service in the public interest. By granting exclusive rights to one person or organisation it effectively means that nobody else, even Dartford Borough Council, is able to use or publish the material in question. It is therefore potentially discriminatory and could raise competition issues.

**Q: What are your terms and conditions of re-using your information?** If we agree that you can re-use our information, we will require you to agree to our terms and conditions of re-use. These terms and conditions are set out in our Licences. We operate 2 different types of licence depending upon the circumstances of your application. These comprise:

- Open Licence (based on the Non-Commercial Government Licence)
- Charged Licence

We will advise you which form of Licence applies.

**Dartford Borough Council Open Licence** In most cases, you will be able to re-use our information, free of charge, through the Open Licence.

**Dartford Borough Council Charged Licence** In some circumstances, we may wish to recover nominal charges and/or impose re-use conditions over and above those contained in our [Open Licence](#) or we may require a reasonable return on investment by way of a single fixed fee. In such cases, we will require you to agree to our fee under the [Charged Licence](#).

For more information about our charging policy see below:

### **Q: Do I have to pay to re-use your information?**

In most circumstances, material may be re-used without charge. However, where Dartford Borough Council is requested to convert material or if there is a charge for a reasonable return on investment, a charge may be made. The following explains what fees might apply and how they are calculated.

Dartford Borough Council may require you to contribute towards the cost of meeting your application for re-use by paying either a *Nominal* or *Full Charge fee* (see below).

If you have been charged for access to the same information e.g. under a FOI request, we will not make further charges in respect of the collection and production of the information or we will deduct the charge made under FOI from any further charges due for the re-use of information. You may still be required to pay a reasonable return on our investment (see below).

**A. Nominal charges** may cover our basic costs relating to:

- (i) the collection, production, reproduction and dissemination of the documents including relevant copyright work e.g. copying, printing and postage;
- (ii) the cost of conversion of the information to a different format or extraction from a larger dataset; and

in relation to copyright and database rights i.e.(intellectual property)<sup>2</sup> the basic costs relating to:

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<sup>2</sup> The Freedom of Information (Release of Datasets for Re-Use)(Fees) Regulations 2013

- (iii) the collection, production, reproduction and dissemination of the relevant copyright work; and
- (iv) a reasonable return on investment (see below).

Where possible and relevant, we will make information available in both a 'human-readable' format (such as PDF) and an open, 'machine-readable' format (such as CSV or XML) that is not dependent on any specific software. In the case of map reference points, we will make these available as a visual map and a CSV file.

We will try and meet reasonable requests wherever possible, to provide the information in a particular format, in which case, there may be an additional charge.

### **B. Reasonable return on investment –** For example,

When allowing re-use, the Council can make a 'reasonable return on investment'. In calculating a licence fee, the Council will take into account the following:

- (a) where it has made a significant professional or technical input into the creation of the information, beyond simple collection and collation of information or where you propose to make a commercial re-use of the material.
- (b) whether its intellectual property (ie information) has a commercial value and the appropriate level of fee which is appropriate for each individual case;
- (c) an hourly charge for staff time of £25 per hour in making the requested information available to the applicant for re-use;
- (d) the cost of materials in respect of copying or printing in accordance with our Disbursement Charges for reproducing information.

**Full Charges** may include nominal charges together with a reasonable return on our investment. .

### **Q: How do I complain about how you have handled my re-use application or your re-use processes?**

If we refuse your request to re-use our information, we will provide a written explanation of why your application has been refused and explain how you can complain, together with related rights of appeal.

If you want to complain about the way Dartford Borough Council has handled your application for re-use or complain generally about our re-use policy and processes, you should write to the Corporate Complaints Officer, Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR or email [complaints.officer@dartford.gov.uk](mailto:complaints.officer@dartford.gov.uk)

If you are dissatisfied with the outcome of your complaint or the way in which we have handled your complaint generally, you are entitled to refer your complaint to the Office of Public Sector Information (OPSI) at: Office of Public Sector Information, The National Archives, Kew, Richmond, Surrey TW9 4DU.

If you are not satisfied with the response from OPSI, you can appeal their decision to the Advisory Panel on Public Sector Information (APPSI) at: Office of Public Sector Information, The National Archives, Kew, Richmond, Surrey TW9 4DU.

### **Additional Information**

In line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making use of our services. We can also help, if English is not your first language. If you need any support in accessing our services,

please let us know as soon as possible. For more information, call our Customer Services on 01322 343434 or email [customer.services@dartford.gov.uk](mailto:customer.services@dartford.gov.uk)

# **DARTFORD**

## **BOROUGH COUNCIL**

### **SCHEDULE OF CHARGES**

[Schedule of Charges](#)