

# Kirklees Metropolitan Council

## Licensing the Re-use of Council Information Policy

### 1. Introduction

This statement outlines Kirklees Metropolitan Council's policy on licensing the re-use of its information. It supports compliance with the Re-use of Public Sector Information Regulations 2005 and aims to increase the protection of the Council's intellectual property rights. It covers all documents that the Council holds the following rights in: copyright; database right; publication right; rights in performances. It does not cover software copyright or other intellectual property rights. Certain types of re-use are allowed by the fair dealing provisions of the Copyright, Designs and Patents Act 1998 and as such are outside the scope of this policy.

This policy does not cover access to Council information. It assumes that the potential re-user has already obtained the information from the Council or is able to obtain it.

### 2. Council Copyright and Notices

The Council reserves all rights in relation to copyright unless otherwise stated. This policy introduces some permissions for the re-use of Council information without the need to make a request, but all re-use is subject to conditions.

All new Council publications and externally distributed documents should carry an appropriate copyright notice. Any significant internal documents that may be externally shared should also carry an appropriate copyright notice.

To inform potential re-users detailed copyright information will be provided on the Council website (<http://www.kirklees.gov.uk/copyright>).

### 3. Guiding Principles of Licensing Re-use

The Council will enable the re-use of information by third parties with the following **aims**:

- to clarify the conditions under which the council's information can be legally re-used by the public (for non-commercial purposes),
- to facilitate further dissemination of information that has been released to the public,
- to stimulate growth in the information services industry and local economy, and
- to recover costs of information creation where these are significant

whilst protecting the Council's legal rights and ensuring all re-use is in the public interest.

**In practice** this will be managed through the use of standard licences and a process that will minimise the time and administration costs to both the Council and potential re-users.

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**Non commercial re-use such as sharing Council information with others (that is already publicly available) will be enabled for some information without the re-user having to apply to or notify the Council. A non-commercial sharing licence will be used and it will be clearly stated when this licence applies.**

Any other type of re-use or re-use of information not covered by this licence will require the potential re-user to request permission. All requests will be processed through the Council's re-use licensing process. The Council reserves its legal rights not to license the re-use of any information where this is not in the public interest. All decisions on re-use licensing will be consistent, fair and transparent. Differences in conditions and fees will be based on the cost of producing the information, the type of re-use and purpose of re-use.

Sharing of information with other public bodies as part of the normal running of the council is not covered by this policy.

### 4. Re-use Licensing Process

All requests for re-use will be handled through the same process. Requests should be directed to the Council contact (see section 6) for re-use licensing. Any requests received elsewhere in the Council must be forwarded to this corporate contact at the earliest opportunity.

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.

If any of these are missing then the request will not continue in the process until the applicant has provided the information required. The Council will make reasonable efforts to communicate this to the applicant if an invalid request is received.

A valid request will be responded to within 20 working days (from the day after receipt in the Council) unless the request is extensive or complex. In this event the time period for providing a decision may be extended by such time that is reasonable in the circumstances. The applicant will be notified of the delay within the 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 refuse the request with an explanation or to issue a licence (subject to agreement and payment of any fees).

The **Licensing the Re-use of Council Information Procedure** provides the current procedure that the Council will follow when processing requests.

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### 5. Standard Licences and Fees

There is a wide range of information held by the Council, with differing value to both the Council and re-users. There are two types of licence that are used to licence the re-use of Council information.

#### 5.1 Non-commercial Sharing Licence

The greatest cost involved in licensing information is the handling of requests for re-use. To minimise this cost a licence is available that does not require a request for permission to be made. Therefore the **Licensing the Re-use of Council Information Procedure** does not apply to the use of this licence.

This licence is a non-exclusive licence to allow non-commercial re-use where this does not involve the alteration of information or its form. This will be made available within the Council to use where the Council wishes to promote the non-commercial sharing of a publication. It will cover most documents on the Council website.

**The current version of the Non-commercial sharing licence and details of its coverage are provided on the Council's website.**

#### 5.2 The Standard Re-use Licence

Any re-use that is not covered by the Non-commercial Sharing Licence requires a request for re-use to be made through the re-use licensing process (see section 4).

When the Council receives a request for re-use it will make a decision on whether this is something that it will licence. An assessment will be made as to whether allowing the re-use would be in the public interest.

If re-use is to be allowed then the Council will assess the value of the information that is to be re-used. If the information is of low value then an appropriately customised version of the standard licence will be issued and no charge will be made.

If the information to be re-used is regarded as high value then a fee may be charged. The right to charge and the method of calculating fees for the licensing of re-use is set down in the Re-use of Public Sector Information Regulations 2005. The Council will exercise this right to charge for re-use where there has been significant investment made in creating the information and this is, in the view of the Council, in the public interest.

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.

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- **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.**

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.

Further information on how the Council will decide when it is appropriate to allow re-use and how the level of fees are calculated is provided in the **Licensing the Re-use of Council Information Procedure**.

The reasons for applying the special conditions and setting the scope of the permission in each licence must be recorded. Any agreement for re-use will be available to another party under the same terms and conditions where the circumstances are the same.

**The current version of the Standard Re-use Licence is provided on the Council's website.**

### **6. The Corporate Role**

The Corporate Information Management Team (CIMT) will:

- maintain this policy, the procedure and licences,
- provide advice and guidance to services,
- oversee the re-use licensing on behalf of the Council and issue all licences,
- deal with all public enquiries about re-use, and
- act as the first point of contact for all complaints on the operation of the policy and decisions made under it.

### **7. The Role of Council Services**

Services will be responsible for providing access to information through the existing FOI procedures. The relevant Service(s) will work with CIMT to decide on each re-use request. Services will advise CIMT on the value of the information and where relevant any justification for not wishing to allow re-use.

The Service(s) will authorise CIMT to issue licenses that cover their information holdings.

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### **8. The Role of Council Staff**

If a member of staff receives a request for re-use this should be forwarded to the corporate contact (CIMT) for copyright licensing at the earliest opportunity. The date of receipt should be recorded. All public queries should be directed to CIMT.

### **9. Internal Review and Complaints Process**

Records of how any re-use licensing decision was made will be retained and may be made available in the event of any request for a decision review or complaint.

CIMT will be the first point of contact for all complaints and requests for review of a licensing decision. Where possible any queries on a decision will be dealt with informally through further explanation of the decision. CIMT may review a decision if in its view there is good reason for this.

Where the applicant wishes to make a formal complaint this will be dealt with through the **Corporate Complaints Procedure**.

### **10. Register of Information Requests**

A register of requests for re-use made will be kept. This will record those details needed to ensure the efficient running of the re-use request process and to ensure the decisions are fair and consistent. The Council may make some or all of this information available on request or publish it as a public register.

Where a request for re-use is successful this information will become available for re-use by others for a similar purpose. Details of information available for re-use will be published on the Council Website.

### **11. Commencement of Policy**

1 December 2005