

BARFORD SHERBOURNE AND WASPERTON JOINT PARISH COUNCIL

Minutes of the meeting of the Joint Parish Council held at Barford Memorial Hall on Monday 12th January 2009

Present: Cllr Mrs P W Wilkinson (Chairman)
Cllrs: Mrs W Barlow, M P Byerley, Mrs D S Cobb, R G Mulgrue, W Worrall, Mrs A Gordon, Mrs P Johnston, N F J Thurley, J T Wright,
Apologies: Cllrs: R Clay, Mrs M A Hayward, J V Murphy, A B Rhead, Dr M J Metcalfe,

Opening

- 282 The meeting opened at 7:30 pm
- 283 Two members of the public were present.
- 284 Apologies for absence were noted.

Declarations of Personal and Prejudicial Interests

- 285 None was declared.

Cooption of JPC Member for Barford

- 286 Two residents of Barford had volunteered to fill the vacancy created by the resignation of S G Starkey. They were:
- Mr Andrew Bolam.
 - Mr David Morrow.
- 287 Members commented upon the excellent qualities of both candidates and encouraged whichever of them was unsuccessful on this occasion to reapply whenever a vacancy occurred in future.
- 288 The vote was taken and it was RESOLVED: That Mr David Morrow be and is hereby appointed a member of the Barford, Sherbourne and Wasperton Joint Parish Council.

Minutes of the Meeting of Council 10th November 2008

- 289 The minutes were approved as a true record.

Matters Arising

- 290 Minute 232. There had still been no progress on the development of a generic Section 106 agreement for Affordable Homes allocations despite Cllr Rhead's efforts to expedite. Further efforts would be made to extract a decision from WDC.
- 291 Minute 233. Cllr Rhead had reported a meeting with Mr Sollis the contractor for the renovation of bus shelters in which a letter of guarantee for the roof of the Wasperton shelter had been promised but it was not yet forthcoming. Cllr Rhead was asked (in his absence) to pursue this matter.
- 292 Minute 234. Cllr Mulgrue had complained that he had been unable to obtain details of progress on the s.106 funding, especially relating to the bus shelters, from the Oldham's development. He now reported that he had the name of the WDC officer and that money had been paid to the

WDC. He had arranged a site meeting for January. He proposed raised kerbs at the bus shelters and invited other suggestions.

293 Minute 236. Cllr Wright updated the JPC on repairs to the Wasperton war memorial. Wasperton had raised £140. The way forward was being investigated with other sources of funding to be explored. It might be necessary to approach the JPC for a grant.

294 Minute 237. Cllr Mrs Hayward's request that the stiles on the Saddler's footpath be replaced with a kissing gates had been met.

Minutes of the Meeting of Council 15th December 2008

295 The minutes were approved as a true record. There were no matters arising.

Minutes of the Meeting of the Planning Committee 10th November 2008

296 The minutes were approved as a true record. There were no matters arising.

Minutes of the Meeting of the Planning Committee 15th December 2008

297 The minutes were approved as a true record. There were no matters arising.

Reports on Contacts with Other Bodies

298 Cllrs Mrs Barlow and Worrall had on 6th December 2008 attended a seminar on "Changes to the Town and Country Planning System".

299 Cllr Mrs Barlow gave a progress report on Friends of Oakley Wood.

300 Cllr Mrs Johnston briefed the JPC on Warwick District Tree Network

Cash Balances as at 31st December 2008

301 Members took note of the following cash balances:

HSBC	£ 1,604.22
Alliance & Leicester	£35,818.82

Receipts and Payments

302 Members endorsed the following:

Date	Payee	Category	Sum
4 Nov 08	HSBC	Bank Interest	0.79
10 Nov 08	WALC	Training and Seminar Expenses	(125.00)
10 Nov 08	Viking Direct	Printing and Stationery	(70.04)
10 Nov 08	J F Johnson	Postage	(20.77)
10 Nov 08	J F Johnson	Travel Expenses	(22.31)
10 Nov 08	B&PS Ltd	Open Spaces Maintenance	(80.14)
10 Nov 08	S&D Window Cleaners	Bus Shelters Maintenance	(60.00)
10 Nov 08	MFM Services	Mowing Charges	(198.00)
10 Nov 08	Regent	Printing and Stationery	(38.92)
10 Nov 08	A&L	Bank Interest	80.99
10 Nov 08	BMHMC	Barford Post Office	(260.00)
10 Nov 08	BT	Barford Telephone Kiosk	(1.00)
30 Nov 08	HSBC	Bank Interest	0.18
30 Nov 08	HMRC	Employment Expenses	(518.52)
30 Nov 08	J F Johnson	Employment Expenses	(679.03)
30 Nov 08	J F Johnson	Office Accommodation	(48.25)
2 Dec 08	J F Johnson	Postage	(20.10)

2 Dec 08	J F Johnson	Travel Expenses	(21.84)
2 Dec 08	Barford Village Shop CIC	Barford Post Office	(4,999.91)
2 Dec 08	SLCC	Subs: SLCC	(133.00)
2 Dec 08	A&L	Bank Interest	60.12
6 Dec 08	HMRC	Employment Expenses	50.00
11 Dec 08	Regent	Printing and Stationery	(15.23)
12 Dec 08	S&D Window Cleaners	Bus Shelters Maintenance	(45.00)
12 Dec 08	Viking Direct	Printing and Stationery	(128.48)
16 Dec 08	J V Murphy	Section 137	(20.00)
16 Dec 08	J V Murphy	Chairman's Allowance	(379.00)
16 Dec 08	Barford Heritage Group	Barford Telephone Kiosk	500.00
26 Dec 08	J F Johnson	Postage	(20.10)
26 Dec 08	J F Johnson	Travel Expenses	(17.73)
31 Dec 08	HMRC	Employment Expenses	(518.52)
31 Dec 08	J F Johnson	Employment Expenses	(679.03)
31 Dec 08	J F Johnson	Office Accommodation	(48.25)

Management Accounts as at 31st December 2008

303 Members took note of the management accounts at Annex A to these minutes.

Freedom of Information Act 2000 - New Publication Scheme

304 Further to the JPC's adoption of the model publication scheme (vide Minute 202), it now adopted two supplementary documents:

- Freedom of Information Policy (at Annex B to these minutes)
- Confidentiality Code of Practice (at Annex C to these minutes)

Any Other Business

305 Westham Lane.

305.1 Cllr Byrley drew attention to undesirable activities by young people in Westham Lane late at night. The area was strewn with litter and there was suspicion that drugs were being used there.

305.2 He was asked to bring this matter to the attention of the police on behalf of the JPC.

306 Barford Post Office. Cllr Mulgrue informed the JPC of the Sub-Postmaster's wish to alter the opening times of the Post Office as shown below:

Day	New Hours
Tue	1430-1800
Wed	1400-1730
Thu	1430-1800

307 Parking Barford Burrows.

307.1 Cllr Wright reported that the parking congestion on Wellesbourne Road by Barford Burrows was worsening.

307.2 He was asked to bring this matter to the attention of the police on behalf of the JPC.

Closure

308 There being no other business the meeting closed at 8:28pm.

Date of Next Meeting

309 The next meeting of the JPC is on Monday 9th February at 7:30 pm in Sherbourne Village Hall.

Management Accounts as at 31 Dec 08

	Budget	YTD	FOO
RECEIPTS			
Allotments Rents	666	185	817
Allotments Water Charges	0	86	233
Bank Interest	783	741	783
Barford Playing Field Lettings	167	167	167
Barford Telephone Kiosk		500	500
Barford Village Shop		1,734	1,734
Concurrent Services Contribution (WDC)	1,820	1,820	1,820
Precept (WDC)	27,974	27,974	27,974
VAT prior year (HMRC)	800	810	810
Wayleave	4	4	4
TOTAL RECEIPTS	32,214		34,842
PAYMENTS			
Allotments Hire of Land	(150)	(75)	(150)
Allotments Maintenance	(50)		
Allotments Water charges		(42)	(42)
Audit Fees	(395)	(395)	(395)
Bank Charges	(20)		(20)
Barford Parish Plan	(2,463)		
Barford Post Office	(1,670)	(5,960)	(5,960)
Barford Telephone Kiosk		(1)	(1)
Barford Village Shop		(2,585)	(2,585)
Bus Shelters Maintenance	(465)	(1,540)	(1,600)
Chairman's Allowance	(379)	(379)	(379)
Consideration Covenant Release		(4,350)	(4,350)
Dog Bins		(315)	(315)
Employment Expenses	(13,535)	(9,682)	(13,539)
Grants: Churchyard Maintenance	(1,113)		(1,113)
Grants: Village Halls	(2,735)		(2,735)
Insurance	(962)	(963)	(963)
Mowing Charges	(1,716)	(1,320)	(1,320)
Noticeboards	(50)		
Office Accommodation	(579)	(434)	(579)
Open Spaces Maintenance	(1,200)	(1,113)	(1,200)
Postage	(275)	(161)	(275)
Printing and Stationery	(777)	(527)	(600)
Section 137	(2,000)	(2,186)	(2,346)
Subs: Information Commissioner	(35)		(35)
Subs: SLCC	(135)	(133)	(133)
Subs: WALC	(373)	(390)	(390)
Training and Seminar Expenses	(50)	(155)	(200)
Travel Expenses	(393)	(255)	(393)
Venue Hire	(84)		(160)
TOTAL PAYMENTS	(31,605)		(41,778)
NET TOTALS	610		(6,936)

Executive Summary

Opening Balance 1 Apr 08	36,362
Less Excess Expenditure over Income	<u>(6,936)</u>
Closing Balance 31 Mar 09	<u>29,426</u>
Designated Funds	
Barford Parish Directory (CVS)	83
Barford Parish Plan	537
Barford Telephone Kiosk	500
Barford War Memorial	535
Consideration Covenant Release	10,000
Election expenses (reserve for 2011)	<u>2,000</u>
Total Designated Funds	<u>13,655</u>
Risk Management Reserve	10,589
Discretionary Reserve	<u>5,182</u>

Barford, Sherbourne & Wasperton Joint Parish Council

FREEDOM OF INFORMATION POLICY

INTRODUCTION

The UK's Freedom of Information Act 2000 (FOIA) was passed on 30 November 2000 to promote greater openness by public authorities. The Act gives the public a general right of access to all types of recorded information held by public authorities, enables the public to question the decisions of those authorities more closely and will ultimately help to improve the delivery of services provided by the public sector. It will give the public greater access to information about how decisions are taken and how public services are developed and delivered.

The FOIA operates alongside the Data Protection Act 1998 (DPA), which allows people to access personal information about themselves, the Access to Health Records Act 1990 which additionally covers access to the health records of dead people, and the Environmental Information Regulations (EIRs) which give people access to information about the environment.

The FOIA is far reaching and covers the whole of the public sector including government departments, local authorities, NHS Trusts, all GP surgeries, and pharmacists, dentists and opticians offering NHS services.

KEY PROVISIONS OF THE ACT

All public sector organisations must comply with three main provisions of the Act. Authorities must adopt and maintain a Publication Scheme listing information routinely held by that authority (ie what do you publish). Authorities must inform the person making a request for information whether the information specified in the request is held (ie do you have it). Authorities are also required to communicate the information held to the applicant unless the public interest test in not making the information available outweighs the interest in disclosure, or unless a specific exemption applies (ie may I see it).

PUBLICATION SCHEMES

Under Section 19 of the FOIA, public authorities also have an obligation to produce and maintain a Publication Scheme that contains basic information about the organisation, lists information that is routinely available to the public and states whether the information is chargeable. Publication Schemes are unique to the FOIA and represent proactive disclosure of information to encourage greater openness.

INTERACTION BETWEEN DATA PROTECTION AND FREEDOM OF INFORMATION

The Information Commissioner is responsible for both Data Protection and Freedom of Information. One reason for this is the recognition of the potential tension between Data Protection and Freedom of Information. Data Protection relates solely to personal information about an individual. Third party information should not be disclosed unless it falls within the provisions of the Act. Freedom of Information relates to information about the organisation. It gives the public the right to be informed about how public bodies function, operate and make decisions.

Section 40 of the FOIA is an extremely complicated series of exemptions intended to delineate the interface and boundaries of the two Acts. Section 40(1) exempts information if it is personal data relating to a data subject whilst Section 40(2) exempts any other personal information if its disclosure would contravene the data protection principles.

However, some information relating to public functions of key personnel will be disclosable under the FOIA, even though there may have previously been a case under the DPA for withholding that information. Information that is now considered appropriate to share under the

FOIA includes a person's position in the organisation, job function, grade and salary band, especially for those personnel in positions of considerable responsibility. It would not be appropriate under the FOIA to share private information such as home address or family details, but a Chief Executive or Director should realistically expect details of their age, experience, career history and salary to be shared.

DEALING WITH REQUESTS

Applicants

Requests may be received in any written format, including e-mail. Any requests received in a foreign language should be translated to determine the scope of the request. However, the time limit will not always apply until the Trust can judge what information is requested.

The FOIA stipulates that requests must be legible and capable of being used for subsequent reference. If someone is disabled, the request can be made verbally. However, all requests must contain an address for correspondence. Any person has a right of access to information held by a public authority, whether or not that person is resident in the UK. Applicants can also be any age. This is likely to generate requests for information to support school projects.

Applicants have a responsibility to request the information so that the organisation can clearly understand what is required. If a request is so ill-defined the information is impossible to identify, the Trust must provide reasonable assistance to the applicant to determine what is required. The request can ultimately be refused, although there are likely to be test cases to determine what is reasonable, thus setting a precedent for the refusal of requests.

Applicants will expect the council to confirm or deny whether the requested information is held. The Trust must therefore provide the information if it is held, notify the applicant if the information cannot be shared due to an exclusion, or notify the applicant the information is not held.

Timescales

The FOIA requires requested information to be supplied within 20 working days of receipt of the request. The clock starts to tick the moment the request is received, although there are some circumstances when the clock stops. The council must ensure there is a mechanism for accurately measuring and responding to requests in a timely way.

Personal responsibilities

Anyone employed by the council has a personal responsibility to action any request received, whatever format it is received in, whoever receives it and whether or not the requested information can be provided. To provide consistency, all requests will be managed by the clerk of the council. Any requests received should therefore immediately be passed to the clerk for logging. The requests process is clearly defined in 'The Freedom of Information Act 2000: a guide for employees' and is appended to this document.

Format

The FOIA refers not to documents but to 'information'. Steps should be taken to ensure information provided in response to requests is generated from manual and computer files, videos, cassettes, e-mails, some voice communications and unregistered correspondence.

Third party information

Where the council holds information relating to a third party, it must consider whether disclosure affects the third party's legal rights. If so, the third party must be consulted before a decision to disclose is made. If there are no legal rights but the interests of the third party are in question, the council must still ensure it is acting within the terms of the FOIA before releasing information.

Contracts

Information relating to private sector companies the council has dealing with is disclosable under the FOIA unless subject to exemption. Care should therefore be taken when negotiating contracts. The council should not enter into contracts which restrict the disclosure of information held, it should not sign any blanket in-confidence agreements. Every case should be dealt with on an individual basis

Information 'in confidence'

The council should consider whether to accept information 'in confidence', only do so if essential to the proper exercise of functions, and only accept information for very limited circulation. Much of the information currently considered to be 'in confidence' is not in fact confidential at all

Information held by other authorities

If the council holds some, but not all of the information requested, the applicant should either be referred to the agency holding the remainder of the information, or more helpfully, the council should contact the other agency to verify if the information is held and whether the request should be transferred. The clock ticks until the applicant has been notified the request has been forwarded elsewhere. Care should also be taken that the applicant is happy to have details forwarded to another organisation. The Act is about the **holding** of information, not the **ownership** of it

REFUSING A REQUEST

Vexatious requests

Section 14 of the FOIA makes provision for the refusal of vexatious requests for information. However, as the council should not make any judgement as to why an enquirer wants information, requests should only be looked at objectively. The fact an applicant is irritating is not good reason for refusal. It is anticipated there will be a number of test cases on what is vexatious.

Repeated requests

When a request has previously been complied with, the council can refuse to provide information where a subsequently identical or substantially similar request is made by the same person

Fees

If the cost of providing the information exceeds £450, the council does not have to provide it. Otherwise, charges can only be made to cover photocopying, postage etc. Any charges must be stated in the council's Publication Scheme

EXEMPTIONS

The council can refuse some requests if an exemption can be applied. These cannot be applied without due consideration. Each request should be analysed to see whether any exemptions apply. Exemptions can apply to **part** of the information held, or to **all** of it. There are two main categories of exemptions and 23 clauses of statutory exemptions but many are multi faceted.

Categories of exemptions

There are two categories of exemptions. Absolute exemptions and exemptions subject to the 'public interest test'.

Absolute exemptions

If an absolute exemption applies, the request can be denied. There are five absolute exemptions:

Section 21 – information reasonably accessible by other means (this includes information in the Publication Scheme)

Section 32 – disclosure of Court documents which are already governed by rules of the Court

Section 40 – personal data under the Data Protection Act 1998

Section 41 – where disclosure would be a breach of confidence actionable at common law

Section 44 – information whose disclosure is prevented by any other Act or which would constitute contempt of court

Public interest test exemptions

These are detailed and complex. There are two types of public interest test exemptions. The first applies to exemptions that can be applied to a class or category of information. The second is where the prejudice test applies

Class exemptions

These are determined by the formal classification of the information or document in which it is contained:

Section 22 – information intended for future publication. Applies where information is being collected with a view to publication. The council must show it intends to publish the document at a future date and that it is reasonable for the applicant to wait. There may be an issue about what is 'reasonable'

Section 42 – legal professional privilege. Covers the right to obtain and receive confidential advice from the council's lawyers

Section 43(1) – commercial interests, trade secrets. Trade secrets are those which could cause harm to the owner if disclosed to a competitor. Application of Section 43(1) will affect procurement policies and processes

Prejudice exemptions

These apply where a test of harm or prejudice must be fulfilled and the public interest test then applied

Section 31 – law enforcement. A multi faceted and complex exemption that allows the council to consider exempting from disclosure information about various internal investigations including, whether an individual is guilty of non compliance with the law, whether an individual has been guilty of misconduct or incompetence, where there has been an accident and the cause is being

investigated and where there is an investigation into a health and safety issue. Application of the public interest test will be vital as all enquiries ever conducted are potentially covered by the exclusion. Public interest will be subject to change over time

Section 33 – audit. Limited to any authority with the power to audit the activities of another authority e.g. the Audit Commission. Whilst these powers do not directly affect the council, care should be taken in ensuring the Audit Commission approves the release of any information it has provided to the council (third party information)

Section 38 – health and safety. Differs from Section 31 (law enforcement) as this exemption applies to health and safety in its broadest term rather than purely statutory responsibilities. Exempts the disclosure of information which would endanger the physical or mental health or the safety of any individual.

Section 39 – environmental information. Covered by Environmental Information Regulations (check date) which embrace the same principles as the FOIA

Section 43 (2) – commercial interests. Exempts information where its disclosure would, or would be likely to prejudice the interest of any person. Difficulties may arise in drawing the line between protecting a valid commercial interest and allowing the public to know about the commercial interests of the council itself (or any other organisation it may be connected to commercially)

COMPLAINTS PROCESS

If an applicant is unhappy with the response to a request, the applicant should be advised to outline the complaint, in writing, to the clerk of the council so that the formal complaints procedure can be started, following an auditable and transparent process to ensure probity conducted by the Disciplinary and Complaints Committee of the council:

In some cases the original decision to withhold information may be upheld. In this instance, the clerk of the council will draft a letter for the Chairman's signature clearly signifying why the original decision is being upheld.

In some cases, it may be decided to provide information that was previously withheld. Where information is not instantly available, the clerk of the council will send a holding letter to the complainant advising the information will be provided within 20 days. Where the information can be provided quickly, the clerk of the council will instead provide the information and supporting letter for immediate signature by the Chairman.

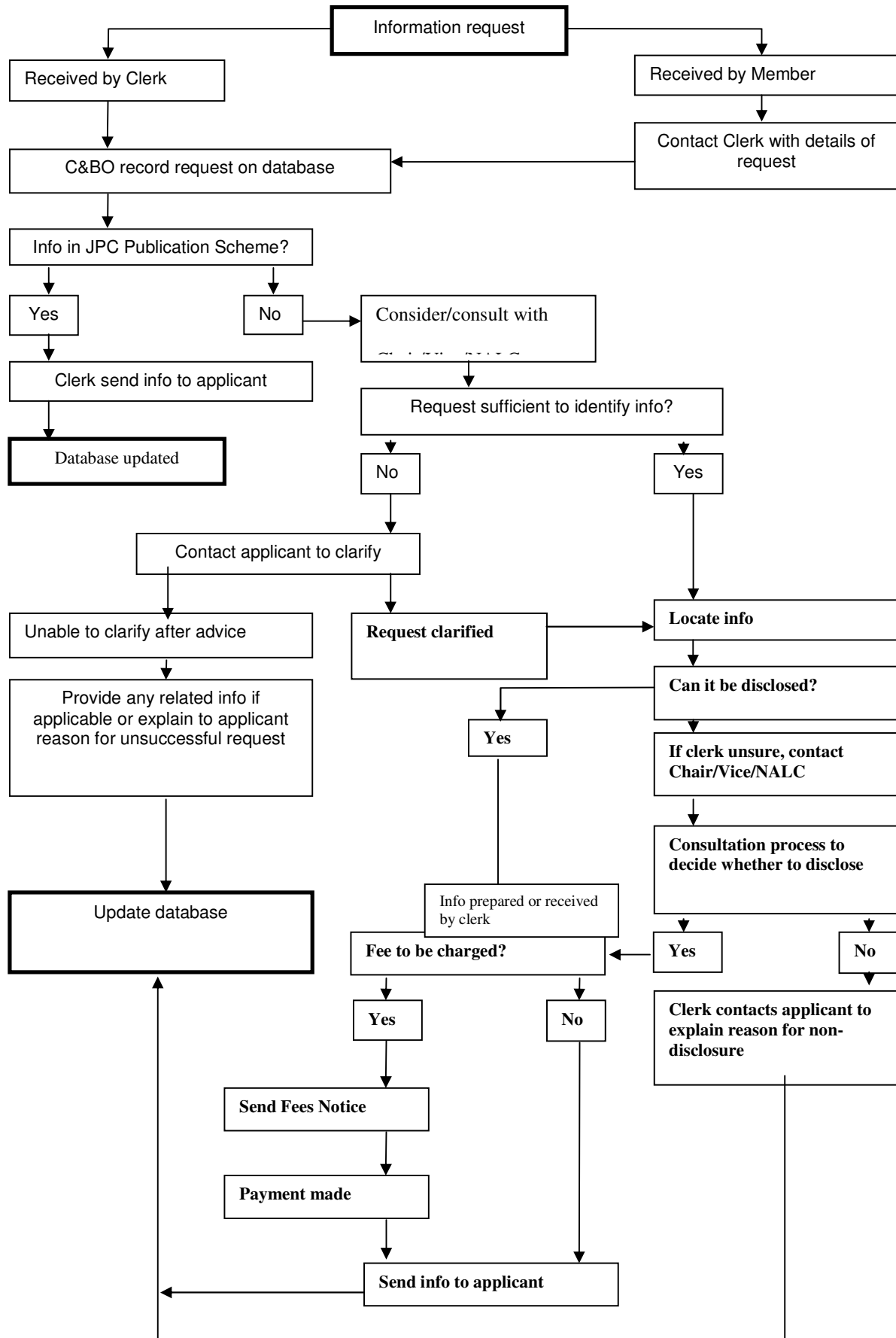
In contentious cases a decision will be sought from WALC/NALC.

If the applicant continues to be dissatisfied with the response received from the council, that person has the right to contact the Information Commissioner who will investigate the complaint and either uphold the view of the council, or order the council to release the information. If the council continues to refuse to release the information, the whole council and its clerk is ultimately responsible for FOI and could risk imprisonment or a fine for failure to comply with the Information Commissioner's order.

RECORDS MANAGEMENT

The delivery of Freedom of Information depends on effective records management. Records management is identified as a key component of the FOIA and is supported by the Lord Chancellor's 'Code of practice on the management of records' which is an integral part of the Act. The Information Commissioner has made it very clear failure to respond to requests due to poor record keeping will not be tolerated. In the context of the FOIA, records cover all forms of communication including e-mail, telephone conversations and documents.

Process



Barford, Sherbourne & Wasperton Joint Parish Council

CONFIDENTIALITY CODE OF PRACTICE

- 1 A duty of confidence arises when one person discloses information to another in circumstances where it is reasonable to expect that the information will be held in confidence.
 - It is a legal obligation that is derived from case law;
 - It is a requirement established within professional codes of conduct; and
 - It must be included within employment contracts as a specific requirement linked to disciplinary procedures.
- 2 Electors and other members of the public entrust the JPC with, or allow it to gather information about them as part of carrying out its duties and powers. They may do so in confidence and they have the legitimate expectation that the JPC will respect their privacy and act appropriately.
- 3 One consequence of this is that information that can identify individuals must not be used or disclosed without the individual's explicit consent, or where there is a robust public interest or legal justification to do so. In contrast, anonymous information is not confidential and may be used with relatively few constraints.

Obligations on individual JPC members and employees

- 4 All individuals should meet the standards outlined in this document, as well as any terms of employment (or other engagement agreements) and the Current Code of Conduct. Much of what is required builds on existing best practice. What is needed is to make this explicit and to ensure that everyone strives to meet these standards and improves practice.
- 5 Clearly individuals are constrained from meeting these standards where appropriate organizational systems and processes are not yet in place. In these circumstances the test must be whether they are working within the spirit of this code of practice and are making every reasonable effort to comply.
- 6 The need for change may apply to many existing systems and processes and it is important that members and the clerk should be informed of any specific problems or barriers to change that are noted and steps should be taken to improve the situation at the earliest convenience.

PROVIDING A CONFIDENTIAL SERVICE

The Confidentiality Model

- 7 The model outlines the requirements that must be met in order to provide a confidential service. The four main requirements are:
 - **PROTECT** – look after the information collected;
 - **INFORM** – ensure that the public is aware of how their information may be used;
 - **PROVIDE CHOICE** – allow individuals to decide whether their information can be disclosed or used in particular ways.

To support these three requirements, there is a fourth:

 - **IMPROVE** – always look for better ways to protect, inform, and provide choice.

Protect Information

- 8 Information and interests must be protected through a number of measures:
 - Procedures to ensure that all members, staff, contractors and volunteers are at all times fully aware of their responsibilities regarding confidentiality;
 - Recording information accurately and consistently;
 - Keeping individuals' information private;
 - Keeping all information physically secure;
 - Disclosing and using information with appropriate care.

Inform Public Effectively – No Surprises

- 9 In order to inform the public properly, the JPC must:
- Make clear to the public when information is recorded
 - Make clear to the public or individuals when it is or will be disclosing information to others
 - Check that individuals are aware of the choices available to them in respect of how their information may be disclosed and used
 - Answer any queries promptly or direct the public to others who can answer their questions or to other sources of information
 - Respect the rights of individuals and assist them in exercising their right to have access to their records.

Provide Choice to Members of the Public and JPC

- 10 Individuals may have different needs and values which must be reflected in the handling of their personal information. What is very sensitive to one person may be casually discussed in public by another. Just because something does not appear to be sensitive does not mean that it is not important to an individual in his particular circumstances.
- 11 The JPC must:
- Ask individuals before using their personal information in ways that do not directly contribute to or support the delivery of service to that individual
 - Respect individuals' decisions to restrict the disclosure or use of information, except where exceptional circumstances apply
 - Communicate effectively with individuals to ensure they understand what the implications may be if they choose to agree to or restrict the disclosure of information.

Improve Wherever Possible

- 12 It is not possible to achieve best practice overnight. The JPC must:
- Be aware of the issues surrounding confidentiality and seek training or support where uncertain in order to deal with them appropriately
 - Report possible breaches or risks of breaches.