

## THE RE-USE OF PUBLIC SECTOR INFORMATION REGULATIONS 2005 – Guidance Notes

### Statutory Instrument 2005 No 1515

Website <http://www.opsi.gov.uk/si/si2005/20051515.htm>

These regulations came into force on 1 July 2005. In Scotland the regulations operate alongside other access legislation including the Data Protection Act (1998) and the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

Re-use means the use by a person of a document held by a public sector body, such as a local authority, for a purpose other than the initial purpose within the authority's public task for which the document was produced.

Re-use legislation is monitored by the Office of Public Sector Information (OPSI) which operates from within The National Archives, Kew, Richmond, Surrey, TW9 4DU. Telephone +44 (0) 20 8876 3444  
Please see their website for further information:

<http://www.opsi.gov.uk/advice/psi-regulations/index.htm>

### Moray Council has identified the following documents as being available for re-use under the Regulations

- Departmental circulars
- Codes of practice
- Consultation and policy documents
- Annual reports
- Statutory registers such as those for birth, marriage and death and land titles
- Forms issued by the local authority e.g. tax forms
- Press notices
- Public records
- Technical reports
- Local planning information
- Regional economic strategies

### The regulations do not apply

- where supplying the document falls outside of the public task of the local authority
- a third party owns relevant intellectual property rights in the document
- where the content is exempt from release under FOI(S)A, environmental information or any other access legislation. This means that for documents which are reasonably accessible section 25 of FOI(S)A applies. If the documents are e.g. published on the website they would normally be already available for re-use

### The regulations do not apply to a document unless it has been

- identified by the local authority as being available for re-use
- provided to the applicant, e.g. in response to an FOISA access request
- made accessible by means other than by making a request under the Acts and regulations cited above.

### The regulations do not apply to documents held by:-

- educational and research establishments such as schools, archives, libraries
- cultural establishments such as museums, libraries, archives, theatres
- Information held in a public sector archive is excluded from the scope of the regulations if the archive exists wholly or in part for educational, research or cultural purposes. It is not classed as an archive under the regulations if the documents are held by a public sector body which is not primarily a research, educational or cultural body or the documents are kept solely to serve the operational needs of the parent body. If the archive exists for educational, research or cultural purposes all the information held by it is excluded whether among the historical records or among

the archive's own current files. Consequently the archives held by the Local Heritage Centre are exempt from the scope of the regulations.

### **Request for re-use**

Such requests will be

- in writing
- state the name of the applicant and an address for correspondence
- specify the document requested
- state the purpose for which the document is to be re-used

### **Responding to such a request**

The local authority

- will respond promptly and before the end of the 20<sup>th</sup> working day beginning with the day after receipt.
- Can extend the period where the documents are extensive in quantity or complex in nature
- must inform applicant that no decision has been reached if 20 days have passed will send an estimated date by which it expects to respond
- Can respond with a refusal to allow re-use
- Can respond making the document available for re-use
- Can impose conditions on the re-use of the document NB 1) any conditions imposed shall not discriminate between applicants, and they should not be unduly restrictive 2) if Moray Council wishes to re-use the same material itself it should do so under the same conditions as for applicants 3) there should be no exclusive arrangements with applicants

### **Charging**

A local authority may charge for allowing re-use. The total income from any charge will not exceed the sum of:-

- The cost of collection, production, reproduction and dissemination of the documents
- A reasonable return on investment

The local authority should establish standard charges where possible and these should be made available to the public.

The Licence fee will be considered on a case by case basis and will take into consideration:-

- The Council's intellectual property i.e. information that has a commercial value
- Staff time
- Charges for materials supplied i.e. photocopying

The Policy Committee of The Moray Council adopted charging on 24 October 2007.

### **Information which should be published concerning the Regulations**

A list of the main documents for re-use should be available. See Publication scheme.

- These should be available electronically
- As far as possible applicants should be able to search the list of documents by electronic means.
- The means of redress available to an applicant relating to any decision or practice affecting them under the regulations

### **Complaints**

- The applicant has a right to complain to the Council if they are dissatisfied with the response to their enquiry. Please see the Comments and Complaints procedure on the council's internet site and contact the PPR and Communications Officer, Corporate Policy Unit, Tel (01343) 563601 or email [Info@moray.gov.uk](mailto:Info@moray.gov.uk)
- Where these procedures have been exhausted the applicant may exercise their right to complain to the Office of Public Sector Information (OPSI). Such complaints must be in writing. They may be appealed.

## Copyright

The copyright in material and information supplied in response to an FOI(S)A enquiry will often belong to the Moray Council. Such material is not to be used commercially without permission from the copyright holder. The supply of documents under FOI(S)A does not give the person who receives them a right to re-use the documents in a way which may infringe copyright e.g. making further copies, publishing the material so supplied and making it available to the public. If the applicant wishes to re-use the material for a purpose beyond fair dealing they will need to seek the permission of the copyright holder. Where the copyright holder is the Moray Council the council will deal with the application for re-use in accordance with the Re-Use of Public Sector Information Regulations

In accordance with the fair dealing provision of the Copyright, Designs and Patents Act 1988 extracts may be taken from copyright material for the purposes of non-commercial private study or research, review, or current news reporting. For all other purposes only insubstantial extracts may be re-used without infringement of copyright.

For advice please contact:

PPR and Communications Officer  
Corporate Policy Unit  
Tel (01343) 563601 (Ext: 3601)  
[Info@moray.gov.uk](mailto:Info@moray.gov.uk)

The Records Manager  
Elgin Library  
Tel (01343) 562633 (Ext 2633)  
Email [records@moray.gov.uk](mailto:records@moray.gov.uk)

Thanks to Susan Corrigan, The National Archives of Scotland for her advice