

# Freedom of Information Act & Environmental Information Regulations Policy

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## 1. Aim of the policy

The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR), provides individuals with a right of access to non-personal information held by the Council, creating openness and transparency, unless an exemption applies.

This policy provides a framework within which the Council will ensure compliance with the requirements of FOIA and EIR. This policy will guide the specific operational procedures and activities connected with the implementation of the legislation.

The Customer Feedback Team are part of the Customer Service Centre and are the central team for receiving, logging, and monitoring requests within the Council. The Customer Feedback Team ensure the Council complies with its legal obligations as set out in each piece of legislation.

## 2. What information is covered under FOIA and EIR?

The legislation applies to all recorded information held by the Council where it is:

- Created in the conduct of the Council's business.
- Created/processed by staff and elected members regardless of office, mobile or home working.
- Created in any format e.g., paper, audio, video, electronic, email, etc.
- Regardless of the date the information is generated or received.
- Received from any person whether a private individual, commercial organisation, or the media.

## 3. The Council's obligations

If information is requested, and is held by the Council, then it must be disclosed unless there is an exemption to restrict/prevent its release.

The Council is obliged under FOIA and EIR to:

- Publish information in accordance with its approved Publication Scheme.
- Have clear arrangements in place for dealing with requests.
- Have a monitoring system to record and monitor requests.
- Have a clear process for dealing with internal reviews relating to FOIA and EIR requests.

## 4. Publication Scheme

Oxfordshire County Council is required to publish and maintain a Publication Scheme by the Information Commissioner's Office (ICO). The Publication Scheme is both a public commitment to make certain information available, and a guide as to how information can be obtained. You can find our Publication Scheme on our website [www.oxfordshire.gov.uk/informationrequests](http://www.oxfordshire.gov.uk/informationrequests)

## 5. Making a request

To make a request under FOIA, a requester must:

- Submit their request in writing either by letter, email or webform.
- Provide their name and address (postal or email).
- Clearly describe the information they are requesting, to enable the Council to locate it.

Under Section 8(1) of the Act, for a request to be valid, the requester must supply what is deemed to be a 'real name'. Therefore, their first and last name are required.

An EIR request can be made verbally or in writing, however we will require an address (postal or email) for our response, as responses to EIRs must be in writing.

## 6. Processing a request

On receipt of a valid request, the Council will:

- Acknowledge the request within 3 working days either by letter, email or web.
- Provide a response within 20 working days. Up to a further 20 working days may be applied in exceptional circumstances, when the Council requires additional time to consider public interest in releasing or withholding the requested information. In these circumstances, the requester will be advised as soon as possible.
- Notify the requester if an exemption has been applied to any information.
- Advise the requester as soon as possible if the information requested is held by a different organisation.
- Provide the requester with advice on how to request an internal review if the requester is dissatisfied with how their request was handled.

## 7. Internal Reviews

If a requester is unhappy with the Council's response to a request they have made, they have the right to request an Internal Review.

### 7.1 What is an Internal Review

The Team considers an Internal Review when the requester expresses a dissatisfaction with the response; or the way the response was handled; or the Council's decision to withhold information. Including where the requester considers that the Council has:

- Failed to provide the information asked for.
- Failed to tell the requester whether we hold the information.
- Failed to respond to the request within the timeframe.
- Failed to give the requester proper assistance or advice.
- Failed to give information in the format requested.
- Failed to properly explain the reasons for refusing a request.
- Failed to correctly apply an exemption under the relevant Act – in other words, withholding information for the wrong reason.

Where a complaint does not fall under the examples given above, we may deal with complaint under the [Council's Corporate Complaints Policy](#)

### 7.2 Requesting an Internal Review

To request an Internal Review, the requester must contact the Council in writing within 40 working days of the initial response. The requester must set out the reasons why they are requesting a review.

### 7.3 How the Internal Review will be handled.

If possible, the Council we will try to resolve reviews informally and provide a response within 15 working days. If we consider we cannot handle the review informally, we will carry out an Internal Review and will:

- Acknowledge the request within 3 working days, advising the requester that will be dealt with as an Internal Review.
- Provide a date for when the requester can expect their response by (either 20 working days or 40 working days depending on which piece of legislation the review falls under).
- Pass the review to an officer who is senior (reviewing officer) to the original responder and who was not involved in the original response.

The reviewing officer will

- Thoroughly reconsider the original request and take into account any concerns raised by the requester before making their decision.
- Provide a response of their decision, within the appropriate timeframe (see below)

## 7.4 Response Times

- **Freedom of Information Act 2000** – 20 working days\*
- **Environmental Information Regulations 2004** – 40 working days

\*If an internal review is complex, requires consultation with third parties or the relevant information is of a high volume, it may be necessary to extend the deadline for a response by a further 20 working days. If this is the case, the requester will be notified as soon as possible with the reasons why, alongside a revised response date, which will not exceed a total of 40 working days.

## 7.5 If requester remains unhappy with the Council's response

If, after going through the Council's Internal Review process, the requester remains unhappy with our decision, the requester can contact the ICO, whose contact details are available on their website [www.ico.org.uk](http://www.ico.org.uk)

## 8. Role of the Information Commissioner's Office (ICO)

The ICO is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

Complaints about decisions made by the Council, relating to any of the Access to Information legislation, can be made to the ICO who will decide whether the Council has dealt with the request in accordance with the relevant legislation.

The ICO can, however, refer the matter back to the Council where a requester has not completed the Council's own Internal Review Procedure.

For more information about the Information Commissioner, please visit [www.ico.org.uk](http://www.ico.org.uk)

## 9. Vexatious and Repeated requests

### 9.1 Vexatious Requests

The Council does not have to comply with a request if it is vexatious. The definition of vexatious is not straightforward, and a request that is designed to cause

inconvenience, harassment or expense can be considered vexatious, and the Council entitled to consider the effect, as well as the intention, of the requester.

As the term vexatious implies a manifestly unjustified, inappropriate, or improper use of a formal procedure under both FOIA and EIR, the Council will use its judgement as to whether a request(s) is vexatious will consider all the circumstances in which the request(s) was made.

When assessing whether a request is vexatious, the legislation permits the Council to consider the context and history of a request, including the identity of the requester and the Council's previous contact with the requester. The decision to refuse a request often follows a long series of requests and correspondence.

## 9.2 Repeated Requests

The Council does not have to comply with repeated requests. This only applies to requests from the same person, submitted without a 'reasonable' interval in between, and where the Council has already responded to the first request.

A 'reasonable' interval depends upon the nature of the request; if the requested information changes or is updated frequently, a reasonable may only be a couple of months. However, if the information is obviously never going to change, or only changes annually, then a reasonable interval may be a year or longer.

## 10. Exemptions and Exceptions

Under FOIA and EIR, there are several exemptions and exceptions, which remove the right of access. A list of the exemptions and exceptions can be found on our [website](#)

Where an exemption or exception is used to withhold information, the Council will issue a refusal notice in response to a request.

## 11. Public Interest Test (PIT)

Where the Council is applying an exemption to any information requested, and the exemption is qualified, it is required to consider the Public Interest Test.

The Public Interest Test determines whether the public interest is best served by, withholding, or releasing the information.



## 12. Fees and Charges under FOIA and EIR

When the cost of providing information rises above the appropriate limit, the Council is not obliged under FOIA to respond to a request under Section 12(1) of the Act.

Under Regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, the appropriate limit is set at £450 for Local Authorities. This is calculated on a standard rate of £25 per hour base, which represents the estimated cost of spending 18 hours in determining whether the Council holds the information, locating, retrieving, and extracting it.

The Council has discretion whether to proceed with a request which exceeds the appropriate limit. If so, there is no required requirement to issue a fee notice as there is no obligation to comply with the request.

Under EIR, there is no cost limit for dealing with requests. However, requests that cost a disproportionate amount can be refused on the basis they are manifestly unreasonable or too general, or subject to the Public Interest Test (Regulation 12).