



ENVIRONMENTAL INFORMATION REGULATIONS

1. What does it mean for me?

On 1 January 2005 new Environmental Information Regulations (EIR) came into force, replacing the former regulations which were in place since December 1992, giving members of the public the right to access environmental information held by public authorities.

EIR apply essentially to the same public authorities that are covered by the Freedom of Information Act 2000 (FOI):

- Central Government and Government departments
- Local authorities
- Health and education establishments
- Police forces and prison services
- Advisory groups, commissions and agencies

However, unlike FOI - EIR also include:

- Any body or person carrying out a function of public administration.
- Any body or person under the control of a public authority who has responsibility in relation to the environment. This includes some private companies, public private partnerships, for example companies involved in energy, water, waste and transport.

2. What is environmental information?

The new regulations have broadened the definition of environmental information. Environmental information covers information on the state of the environment, such as:

- Air, water, soil, land, flora and fauna (including human beings), diversity, genetically modified organisms.
- Information on emissions and discharges, noise, energy, radiation, waste and other such substances.
- Measures and activities such as policies, plans and agreements.
- Reports, cost benefit and economic analyses.
- The state of human health and safety, contamination of the food chain.
- cultural sites and built structures (as they may be affected by environmental factors).

3. Do public authorities always have to give me the information I request?

Although the EIR creates a strong presumption in favour of openness, Regulation 12 does provide public authorities with some grounds for refusing to disclose environmental information. The exceptions are not mandatory and a public authority may choose to release the information anyway. All the exceptions in the EIR are subject to the public interest test.

The public interest test means that even though information may be covered by an exception, public authorities must still disclose unless the public interest positively favours the exception in the particular case.

4. What sort of information is covered by the exceptions?

These include denying disclosure because the request “is manifestly unreasonable”, the “information is unfinished or in the course of being completed”, that release of the information would adversely affect “intellectual property rights” or “interests of the supplier of the information”. There are also exceptions relating to defence, internal relations and national security and the administration of justice. It is for public authorities to identify any relevant exceptions and to justify their use of them.

5. What happens once my request has been received?

- Regardless of whether the request itself was made verbally or in writing, public authorities must respond in writing.
- A public authority has a responsibility to provide ‘advice and assistance’. For example, if a request is too general, the public authority may contact you to try to determine what information is required. However, they have no right to ask you why you want the information.
- Public authorities must respond as soon as possible and at the latest within 20 working days, except in circumstances where the information requested is particularly complex and voluminous. In such cases the time limit can be extended by a further 20 working days. If the time limit is extended, the public authority must notify you of this delay within 20 working days of your initial request, and state when they believe they will be able to respond in full.

6. Are there fees to access information?

Under EIR, a public authority cannot make a charge for allowing you:

- Access to any public registers or lists of environmental information, or
- To examine the information (at a place chosen by the public authority).

For all other situations, charging is at the discretion of the public authority. There is also a requirement for public authorities to publish a schedule of charges (for example, the price per sheet of photocopying), information on the circumstances in which charges may be made or waived, and where advance payment will be required.

7. How do I make a request?

- Requests can be made verbally or in writing (hard copy/electronic). Larger public authorities may have a designated enquiry line, email/postal address.
- A request can be made to any employee of a public authority but it may be dealt with more efficiently if you are able to direct requests to the appropriate person/section.
- If a verbal request is made, we recommend that you note who you spoke to, the date, and the information you requested. You may wish to follow up a verbal request with a letter or email confirming the terms of your request.

8. What if the information is refused or an authority says it does not hold the information?

Under the EIR public authorities have a duty to have an internal review procedure. The requester must be provided with a refusal notice, which will include details of:

- Their review/complaints procedure in case you wish to appeal against their decision.
- Your right to appeal to the Information Commissioner's Office (ICO).
- The Information Commissioner's enforcement powers.
- Your right and the public authority's right to appeal to the Information Tribunal following the Commissioner's decision.

9. How can the ICO help and what is the legal process?

You may apply to the ICO for a decision about whether the request has been dealt with according to the EIR if, for example, you believe there has been excessive delay or if you wish to dispute the application of an exception, or refusals made on public interest grounds.

You should have exhausted the public authority's internal review procedure before approaching the ICO. You should also supply the ICO with all relevant correspondence and information. The ICO may serve a decision notice on the public authority either confirming the decision made by the public authority or directing it to disclose information within a certain time.

Non compliance with a decision notice may constitute contempt of court. If you or the public authority disagrees with the ICO's decision you have 28 days to appeal to the Independent Information Tribunal.

The Information Tribunal may uphold the ICO's decision notice, amend it (for example change the time frame for release of information) or overturn it. Non-compliance with the Information Tribunal's notice may also constitute contempt of court.

10. Additional Information

Additional guidance on the Freedom of Information Act and the Environmental Information Regulations are available on the website at:

www.informationcommissioner.gov.uk

To contact their helpline please telephone: 01625 545 745.

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