



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. These rights create help create openness and transparency, giving individuals access to information, unless an exemption applies.

This policy provides a framework so the Council can ensure compliance with the requirements of FOIA and EIR. It includes guidance on specific operational procedures and activities required to ensure compliance. The Information Management Team are the corporate team and first point of contact for receiving, logging, and monitoring requests within the Council.

2. What information is covered under FOIA and EIR?

Quite simply the legislation applies to all recorded information held by the Council.

3. The Council's obligations

If information is requested and it is held by the Council, then it must be disclosed unless there is an exemption within FOI or an exception within EIR which can be applied to refuse the request. The Council is required 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

Wirral Council is required to publish and maintain a Publication Scheme by the Information Commissioner's Office (ICO). The Publication Scheme acts as 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 <https://www.wirral.gov.uk/about-council/freedom-information-and-data-protection/publication-scheme>

5. Making a request

To make a request under FOI or EIR, a requester must:

- Submit their request in writing, this includes email, surface mail or the use of our webform. This form can be used for BOTH FOI or EIR requests <https://www.wirral.gov.uk/about-council/freedom-information-and-data-protection/freedom-information>
- Provide their name and address (postal or email).
- Clearly describe the information they are requesting; this enables Officers to more easily locate the requested information.

For FOI requests, 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.

For EIR requests, these 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:

- Log the request and assign it to the relevant Service Area/Officer.
- Provide a response to the requestor within 20 working days. Up to a further 20 working days may be applied in exceptional circumstances. These circumstances can be when the Council requires additional time to consider the public interest in releasing or withholding the requested information. In these circumstances, the requestor will be advised as soon as possible regarding the extended time frame.
- Notify the requestor if an exemption has been applied to any information.
- Advise the requestor as soon as possible if the information requested is not held by the Council. If it is held by a different organisation then the requestor will be advised of this.
- Provide the requestor with advice on how to request an internal review if the requestor is dissatisfied with how their request was handled.

7. Internal Reviews

If a requestor 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

If a requestor is dissatisfied because:-

- a. The response received from the Council was not satisfactory.
- b. The way the request was handled was deemed unsatisfactory.
- c. The Council made a decision to withhold information. Including where the requestor considers that the Council has:
 - Failed to provide the information asked for.
 - Failed to tell the requestor whether it holds the information.
 - Failed to respond to the request within the timeframe.
 - Failed to give the requestor proper assistance or advice.
 - Failed to give information in the format requested.
 - Failed to properly explain the reasons for refusing a request.

7.2 Requesting an Internal Review

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

7.3 How the Internal Review will be handled.

The Internal Review will be passed to an Officer within the Information Management Team who has not had any dealings with the original request.

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. If the requester remains unhappy with the Council's response after going through the Council's Internal Review process, the requester can contact the ICO and complain.

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.

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 is 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 and 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.

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 request 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. 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, which represents the estimated cost of spending 18.5 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).

Policy Monitoring and Review

The table below sets out the ownership and review schedule for this policy.

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Author: Jane Corrin - Compliance and Governance Manager DPO

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