

Freedom of Information Factsheet



Information Commissioner

Promoting public access to official information
and protecting your personal information

What does it mean for you?

The right under the **Freedom of Information Act** (the Act) and the **Environmental Information Regulations** (EIR) to request information held by public authorities, known as the **right to know**, comes into force from January 2005. The Act and the EIR allow you to access recorded information (such as e-mails, meeting minutes, research or reports) held by public authorities in England, Northern Ireland and Wales. Under the Act, a public authority includes:

- Central government and government departments
- Local authorities
- Hospitals, doctors' surgeries, dentists, pharmacists and opticians
- State schools, colleges and universities
- Police forces and prison services

The role of the **Information Commissioner's Office** (ICO) is to enforce and promote the Act and the EIR. It has responsibility for ensuring that information is disclosed promptly and that exemptions from disclosure are applied lawfully.

What is an exemption and how does it work?

Some information could be exempt from disclosure. There are 23 **exemptions** in the Act, some of which are '**absolute**' and some '**qualified**', and 12 **exceptions** from disclosure in the EIR, all of which are qualified.

- Where information falls under an **absolute exemption**, the harm to the public interest that would result from its disclosure is already established, for example, in relation to personal information, or if disclosure would result in an actionable breach of confidence.
- If a public authority believes that the information is covered by a **qualified exemption** or **exception** it must apply the public interest test.

What is the public interest test?

The public interest test favours disclosure where a qualified exemption or an exception applies. In such cases, the information may be withheld only if the public authority considers that the public interest in withholding the information is greater than the public interest in disclosing it.

How do I make a request?

- Make the information as specific as possible. If your request is too broad the public authority may ask you to clarify it. This could mean it takes longer to get the information.
- Provide as full a description as possible of the information you require.
- Be clear about the format you would prefer to receive the information in, for example, by e-mail or as a paper copy.

What happens once my request has been received?

Any request for information should be treated by the public authority as a formal request for information and we suggest that e-mails or letters are clearly marked as freedom of information or Environmental Information Regulations requests to avoid any confusion. Under the EIR, verbal requests must be treated as formal requests for information.

- Public authorities must respond promptly to requests or, in any event, within 20 working days although under freedom of information they have longer to consider whether the disclosure of normally exempt information would be in the public interest.
- There is no extension to the time limit for considering the public interest test under Environmental Information Regulations, except where the request is complex and voluminous.
- When considering the public interest test, the public authority must do so 'within a reasonable time.'

What if the information is refused?

Where a public authority decides not to disclose the information requested it must give reasons for its decision, it must explain how the exemption or exception applies and it must explain the arguments under the public interest test. Under the Environmental Information Regulations the public authority must reconsider its decision and reconsideration is also recommended for refusals under freedom of information. The public authority must also inform you of your right to complain to the ICO.

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 Act or the EIR if, for example, you believe there has been excessive delay or if you wish to dispute the application of an exemption or refusals made on public interest grounds.
- 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.

Additional Information

Additional guidance on the Freedom of Information Act and the Environmental Information Regulations are available on our website at www.informationcommissioner.gov.uk

To contact our helpline please telephone 01625 545545.

To contact our press office please telephone 020 7282 2960.