



Information Security Document

Information Request Procedures

Version 8.0

Version History			
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6.0	13/04/2015	Reviewed by Information Governance Group. Numerous changes to AIO and departmental liaison officer roles.	Elizabeth Wild
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This document has been prepared using the following ISO27001:2013 standard controls as reference:			
ISO Control	Description		
18.1.1	Identification of applicable legislation and contractual requirements		
18.1.4	Privacy and protection of personally identifiable information		

Introduction and Guidance

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) give members of the public a right of access to recorded information held by public authorities. This right is subject to a limited number of exemptions. The legislation places a duty on public authorities to respond to requesters promptly, and in any event within 20 working days; confirming or denying whether the information is held, providing access to the information or explaining that the information will not be disclosed because it is exempt. This document outlines the Council's corporate procedure for dealing with requests for information from members of the public and includes guidance for officers responsible for responding to requests.

The FOIA and the EIR place a duty on the authority to provide access to the information that it holds in a *recorded format*. It does *not* place an obligation on the authority to evaluate or analyse information, justify decisions or policies or to create additional information.

A request for information does not need to refer to the FOIA or the EIR to be a valid request. The only requirement for a valid FOI request is that it is in writing and that it states the name of the applicant and the address for correspondence. A request under the EIR can be made in person or over the telephone; there is not the same requirement for the request to be made in writing.

The Council is responsible for ensuring that requests for information are addressed under the correct legislation. The authority will receive some requests under the FOIA or the EIR that actually relate to information that amounts to personal data. These requests *must* be addressed under the Data Protection Act 2018 as personal data is exempt under both the FOIA and the EIR. The Data Protection Act allows the authority 40 calendar days to respond. The Council's procedure for addressing requests under the Data Protection Act is available on DNet.

The Information Commissioner oversees all public authority compliance with the legislation described above. The Commissioner has a monitoring role and has a variety of enforcement powers under the legislation. The Commissioner adjudicates over disputes between requesters and authorities regarding the release of information. The ICO website is a useful source of information to keep up to date with the latest decisions made by the Commissioner regarding compliance with FOI and EIR and also includes a series of technical guidance notes on the application of the exemptions.

Departmental Liaison Officers

A list of FOI/ EIR contacts within departments is available at;

http://dnet/policies_and_procedures/access_to_information/departmental_contacts/foi_departmental_contacts/default.asp

These officers are offered training in the provisions of and developments in access to information law and therefore have a basic understanding of the technical aspects of the legislation. These officers should be contacted in the first instance should there be any FOI/ EIR related queries within departments. The departmental liaison officers are supported by the Access to Information Officer (AIO) within the Legal Services Department.

Formal Requests

The procedure below sets out how formal requests under the FOIA and the EIR should be addressed. Members of the public are advised via the Council's website and the call centre, that requests for information should be made in writing and sent either to access2info@derbyshire.gov.uk or by post to the AIO within the Legal Services Department. Requests received in this way are formal requests and should be processed in accordance with the procedure below.

Informal requests

When an officer within one of the departments receives a written request for information directly, where the information can be provided either immediately or within 5 working days, it should be forwarded to the departmental liaison officer. These are *business as usual requests* and can be dealt with informally within the department. Business as usual requests also include verbal requests for forms, pamphlets or reports which are easily accessible and require the minimum of effort. (The liaison officer may wish to record informal written requests for their departmental figures but informal requests will not be recorded on the Corporate Database).

Where the liaison officer considers that it may be appropriate to withhold information, the request should be considered formally under the FOIA or EIR, as appropriate.

THE PROCEDURE

Single Department Requests Received by Department

Where a request is received directly by a department it should be dealt with by the departmental liaison officer. The Access to Information Officer should not be informed or copied into the response although legal advice may be sought if required.

Single Department Requests Received by Access to Information Officer

1. DCC receives an FOI/ EIR request via the access2info@derbyshire.gov.uk email address or through the post to the Access to Information Officer (AIO) within the Legal Services Department. Requests may also be received via social media, for example Facebook and Twitter. Requesters should be asked to provide an alternative contact address for the response. Any request received by the Call Centre should be forwarded to the AIO via the access2info@derbyshire.gov.uk email address.

2. The AIO sends a standard acknowledgement of receipt to the requester stipulating the deadline for the response. (See template at Appendix 1).
3. The AIO forwards the request to the appropriate departmental liaison officer. The department then collates the information and responds directly to the requester. The response must include details of the authority's review procedure. (See template response for use by departments at Appendix 2). If the departmental liaison officer is of the view that it is appropriate to apply any of the exemptions, the AIO may be contacted for advice before a response is sent to the requester.
4. Any requests for clarification or extensions of time should be requested by the departmental liaison officer. Departmental liaison officers are responsible for ensuring that the response to a single department request is provided in accordance with the statutory deadline.
5. Where a request is from the media, the Press Office should be provided with a copy of the response.
6. The department liaison officers are responsible for determining whether the request is a high profile matter. If so, the departmental liaison officer should deal with the request in accordance with their own departmental procedure.
7. Where the AIO sends a request to a departmental liaison officer and the departmental liaison officer believes that the request is not a matter for that department, the departmental liaison officer will forward the request to the departmental liaison officer for the correct department.

Multi Department Requests

8. When it is necessary to send a request to more than one departmental liaison officer, the AIO will forward it to the appropriate officers, making it clear that the information held by the department should be forwarded to the AIO to co-ordinate a response on behalf of the authority.
9. The AIO will stipulate a deadline upon which the departmental liaison officer should provide the information held by the department in order to give the AIO the opportunity to consider and collate the authority's response.
10. The AIO will be responsible for collating the information from each departmental liaison officer, preparing the response and sending it to the requester. Any requests for clarification or extensions of time should be made by the AIO. The AIO is responsible for ensuring that the response to multi-department requests is provided in accordance with the statutory deadlines.
11. The onus to determine whether or not a request is high profile will rest with the departments involved. Legal Services co-ordinate multi-department requests and so will be involved in that decision-making process. Should the AIO believe that a request should be treated as a high profile request, the AIO will advise the departmental liaison officers accordingly.

Reviewing Officer

The Access to Information Solicitor is named as the Council's reviewing officer should a requester ask for a review of the Council's response. The reviewing officer will liaise with departments as appropriate when conducting a review.

The Information Commissioner's Office recommends that public authorities carry out internal reviews within 20 working days. Under the Environmental Information Regulations there is a legal requirement that internal reviews must be carried out as soon as possible and within 40 working days. Departments should send any further information requested to the Reviewing Officer promptly in order that the timescale can be met.

FURTHER GUIDANCE

The difference between FOIA and EIR

The FOIA relates to all recorded information held by the authority whereas the EIR refers to information that relates to the state of the elements of the environment such as air, atmosphere, water soil, land, landscape; natural sites e.g. wetlands, bio-diversity and interactions between those elements.

This can be a difficult distinction to make and it is the responsibility of officers addressing the request to establish which is the most appropriate access regime under which to address the request. The EIR offers significantly fewer exemptions and therefore more information is disclosable. The Information Commissioner has produced a guide to assist authorities when considering whether a request is for environmental information. (Please see link below).

<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/what-are-the-eir/>

Advice and Assistance

Both the FOIA and the EIR place a duty on the authority to provide requesters with advice and assistance so far as it is reasonable to do so; this might include, for example, explaining how to make a request or explaining how to frame a request.

The Exemptions

The duty to provide information under the FOIA and the EIR is subject to a limited number of exemptions. The training slides which are available at the following link under the heading *The basics of Access to Information Law* contain guidance on applying certain exemptions under FOI and EIR; <http://dnet/policies and procedures/access to information/foi/default.asp>

In addition to the above guidance there are a series of technical guidance notes available on the Information Commissioner's website.

The Public Interest Test

The FOIA contains absolute exemptions and qualified exemptions. A list of all of the exemptions and an explanation of whether they are qualified or absolute is available at the above link. Officers must apply the public interest when withholding information under a qualified exemption. Applying the public interest test is about balancing the public interest in withholding the information against the public interest in disclosing the information. The public interest test must be applied whenever the authority wishes to engage an exemption under the EIR.

The 18 hour rule

Authorities are not obliged to comply with requests where it would take 18 hours or more to locate, retrieve or extract the information. Guidance on applying this exemption is available at the following link under the heading *Eighteen Hour Rule*; <http://dnet/policies and procedures/access to information/foi/default.asp>

Giving effect to the requesters preferred method of communication

There is a duty to give effect to the requesters preferred method of communication so far as this is reasonably practicable. For example, this may be to provide the information to the applicant in a permanent form, to provide the applicant with a reasonable opportunity to inspect a record containing the information or providing a digest or summary of the information in a permanent form. The authority is not obliged to comply with the requester's preference if it is not reasonably practicable to do so.

Charging

Authorities are permitted to charge for costs incurred in printing, copying, posting and faxing information but not for the time it takes to locate, retrieve and/ or extract the information. The majority of requests are responded to by email, and any relevant documents are attached in electronic format and therefore printing, copying, posting and faxing costs are not incurred. However, where information is provided in hard copy, the requester can be issued with a Fee Notice. Guidance for charging for requests is available at the link below.

http://dnet/Images/Charging%20for%20FOI%20requests_tcm10-174764.doc

Acknowledgement Template [example] - APPENDIX 1

Dear Sir/Madam,

I refer to your request for information received on [date].

We will be dealing with your request under the [Freedom of Information Act 2000] [Environmental Information Regulations 2004]. In accordance with the legislation the deadline for responding is 20 working days from the receipt of the request, this being the [date]. However, we shall endeavour to deal with your request promptly, and if possible before this date.

Yours sincerely,

[Your email signature]

Draft Response email – APPENDIX 2

Dear [*Enquirer*],

I am writing on behalf of the Council in response to your request for information dated [insert date]. You requested the following information:

[*Insert request for information*]

The Council has treated your request as a request for information under the Freedom of Information Act 2000/ Environmental Information Regulations 2004 [**Note: change legislation cited according to the request**]. I can confirm that the Council holds the information you have requested.

[*Insert Information or attach*]

I hope this now satisfies your request. However, should you wish the outcome to be reviewed, please write to:

Access to Information Solicitor
Legal Services Department
Derbyshire County Council
County Hall
Matlock
DE4 3AG
Email: access2info@derbyshire.gov.uk

Please enclose a copy of your request and the response.

Following the review, should you remain dissatisfied and wish to challenge the decision, then you should contact:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Telephone: Tel: 0303 123 1113/Fax: 01625 524510
ICO Weblink: <http://www.ico.gov.uk/complaints.aspx>

Yours sincerely,

[Your email signature]