

ENVIRONMENTAL INFORMATION REGULATIONS POLICY AND PROCEDURE

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1 Introduction

The Environmental Information Regulations (2004) came into force to give individuals rights of access to environmental information held by public bodies, subject to the exemptions and restrictions. These regulations give Lancaster City Council the opportunity to put more information in the public domain and engage more with the public on environmental related issues.

Lancaster City Council is committed to responding to all EIR requests and providing a Progressive Publication Scheme in accordance to the Act. It fully endorses the notion to provide active and systemic dissemination to the public, therefore promoting a culture of openness and enabling greater public scrutiny. However, this will be offset by the need to maintain individual's rights to privacy and confidentiality.

2 Aim of the Policy

This Policy aims to ensure that:

- All Council employees understand their responsibilities under the Act and the Council's approach to providing information under EIR
- The Council complies with the guidance produced by the Information Commissioner on EIR, making information accessible and maintaining accurate records

3 Scope

This policy applies to all information created, received or maintained

- By staff and Members during the course of Council business
- By external parties working in partnership with the Council

The policy applies to all information formats regardless of their media type, i.e. paper or electronic (e.g. emails, spreadsheets, photographs, CD's etc.)

This policy should also be read in conjunction with the Council's Data Protection & Privacy Policy and Procedure and Records Management and Retention Policy.

4 What is Environmental Information?

The definition of environmental information is very wide. It can cover information which may not appear to be environmental at first glance but relates to the environment. It includes information on:

- The state of the elements of the environment
(e.g. air, atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms.)
- Factors affecting or likely to affect the environment
(e.g. energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases.)
- Measures (including administrative measures) and activities affecting or likely to affect or protect the environment
(e.g. policies, legislation, plans, environmental agreements)
- Reports on the implementation of environmental legislation
- Cost-benefit and other economic analyses and assumptions used within the framework of environmental measures and activities
- The state of human health and safety
Including the contamination of the food chain, conditions of human life, cultural sites and built structures in as much as they are affected by the state of the environment, or factors, measures or activities affecting the environment

5 Roles and Responsibilities

Role	Responsibility
Service Heads	<ul style="list-style-type: none"> • Manage the effective implementation of the Council's EIR Policy • Ensure that employees are aware of their EIR obligations • Ensure that good records management practices are in place
Information Governance Team (IGT)	<ul style="list-style-type: none"> • Develop and implement this EIR Policy and maintain accuracy of the Publication Scheme • Provide best practice EIR guidance and training for staff • Co-ordinate and respond to all EIR requests in a timely manner to enable compliance with the 20-working day deadline • Check the information content and exclude any material which may be exempt¹ before responding • Monitor and review the effectiveness of this policy
Information Custodians	<ul style="list-style-type: none"> • Promote the policy within their service area and act as a central point of contact for all EIR requests within their service • Identify the source and information required to respond to the request • Check the information content and advise IG Team if the service thinks any material may need to be exempted before responding
Information Asset Owners	<ul style="list-style-type: none"> • Ensure that only information that can be disclosed can be accessed under the Act • Ensure all records are appropriately marked to facilitate disclosure of information
Managers	<ul style="list-style-type: none"> • Information is supplied for inclusion into the Council's Publication Scheme • Ensure information created is stored appropriately to enable quick access for EIR requests
Employees	<ul style="list-style-type: none"> • Familiarise themselves with this policy and keep complete, reliable, accurate and up to date records in order to respond to EIR requests • Immediately redirect EIR requests to the IG Team once received • Forward all responses to EIR requests to Information Custodians, within the statutory time limit (20 working days)
Council Contractors	<ul style="list-style-type: none"> • Be aware of their EIR obligations as set out in this policy, including responding promptly to requests • Be aware that any environmental information supplied to the Council is subject to the terms of the EIR Act and therefore may be disclosed under a EIR request

¹ See ICO Guidance on Exemptions
(http://www.ico.gov.uk/for_organisations/guidance_index/freedom_of_information_and_environmental_information.aspx#exemptions)

6 Differences between EIR and FOI

Aspect	FOI	EIR
Information Covered	all information excluding personal and environmental	only covers defined types of "environmental information"
Format of Requests	In writing, including email	Any format; can be made by phone or in person
Charging	Requests can be charged or refused if the cost is over a certain limit	Reasonable charges can be made but requests cannot be refused on cost grounds alone
Extending the time Limit	Allows an extension beyond the 20 working day limit to allow time for considering the public interest test	Allows an extension of a further 20 days to a maximum of 40 working days from the original request if the request is both complex and voluminous

7 Handling an EIR request

Receiving requests

Applicants may submit a request for public information, which is not included in the Council's Publication Scheme.

All applicants should be directed to the council's "[Request Information from the Council](#)" webpage in order to make their request.

All EIR requests must

- be made in writing (webform or email preferred), over the phone or in person
- state the name of applicant and contact address which may be an email
- clearly describe the information requested

There is no legal requirement for the applicant to state why the information is being requested nor does an EIR request need to be labelled specifically; it is the duty of the receiving public authority to recognise and respond to it properly.

If an EIR request is received orally, it would help prevent any misunderstanding if the enquirer was asked if they would mind confirming it in writing (e.g. by email). However, there is no obligation on them to do so.

Duty to respond to requests

The council is not entitled to deny or refuse confirmation that information exists in its possession except where it would be against the interests of international relations, defense, national security or public safety to do so.

If the Council holds the information, there is a duty to provide it (unless an exemption applies – see below) so far as can reasonably be expected. In practice, both stages of the duty are likely to be dealt with together in the same response, except in the most complex of requests.

Replying to requests

The information should normally be provided by the means and in the format specified by the applicant unless there is another reasonable approach, for example if the information can be found in an existing document. If the applicant requests it, the council has an obligation to provide a summary of the information unless it is not reasonable to do so taking into account the cost. The applicant must also be given the opportunity to inspect public register records relevant to their request.

Duty to provide Advice and Assistance

The Council has a duty to provide advice and assistance. This means that officers should give advice to applicants under EIR who appear not to be aware of the provisions of the Act, and should provide assistance in formulating requests for information, and in making applicants aware of the nature and extent of information held by the Council. Officers should also assist any member of the public who has difficulty in putting a request in writing.

The Council's responsibilities are to:

- Provide advice and assistance
- Respond to requests within 20 working days
- Provide advice on any charges that may apply
- Inform the requestor of the appeal procedure

Business as Usual

If responding to a particular EIR request is a simple matter of providing readily available information already held by a single service, and a full response can be provided immediately, then this may be completed as 'normal business' without initiating corporate registration and tracking.

Vexatious or repeated requests

There is no requirement to deal with vexatious requests or with an identical or similar request from the same person unless reasonable time has elapsed since a previous request. There is no statutory definition of "vexatious request" but it is the request and not the applicant that must be vexatious. If a request is felt to be vexatious, it should be discussed with the IG Team.

8 Rights of Applicants

All applicants have the right to:

- Be told whether information exists/is held
- Receive the information (subject to exemptions)
- Appeal non-disclosures and to request internal reviews
- Appeal to the Information Commissioner if they are unhappy with the results of the internal review

9 Fees

Under EIR04 there is no "cost limit" for dealing with requests but requests that cost a disproportionate amount can be refused on the basis that they are manifestly unreasonable, subject to a public interest test.

Unless otherwise specified, information made available through the Council's Publication Scheme will be free of charge. The Council will only charge fees in accordance with the Aarhus Convention. Details of charges can be found at **Appendix 1**.

If the Council is to charge fees for the provision of information to a requestor, the requestor will be sent a fees notice, stating the amount that the Council will charge and how this can be paid. A copy of this information can be found at **Appendix 1**.

10 EIR Exemptions

There are no 'absolute' exemptions under EIR. All exemptions are subject to the public interest test. There is a presumption under the Regulations that environmental information must be released,

unless there are strong public interest considerations to justify withholding. The exceptions are not mandatory and a public authority may choose to release the information anyway.

Regulation 12 of EIR04 lays down the exceptions under which a public authority can withhold information. A request for information can be refused if:

- The information is not held
- The request is manifestly unreasonable
- The request is too general
- The request is for unfinished documents/data
- The request is for internal communications

Public authorities can refuse to release information in order to protect:

- The confidentiality of proceedings
- International relations/public security/defence
- The course of justice and right to a fair trial
- Commercial confidentiality
- Intellectual property rights
- Personal/voluntary data
- The environment

If information relates to emissions the authority cannot refuse information on the grounds of confidentiality of proceedings, commercial, confidentiality, personal/voluntary data or environmental protection.

11 Reviews and Appeals

Any request for an internal review must be submitted by the requester within 40 working days of the original response being provided. If a review request is received after this time limit, the Council are not required to respond.

In the first instance, the Council must investigate all in-time appeals and complaints before the requester is redirected to the Information Commissioner for further assistance.

A member of the IG Team who was not involved in the first decision-making process, will investigate all internal appeals.

All in-time appeal requests must be dealt with within 20 working days from the date they are received as per our statutory obligations.

12 Information Commissioner

Individuals who are not satisfied with the outcome of the internal review/appeals process may submit an appeal to the Information Commissioner's Office:

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

13 Related Policies and Procedures

- FOI Policy

- Records Management and Retention Policy
- Data Protection and Privacy Policy and Procedure

14 Monitoring and Performance

The IG Team will maintain performance figures to ensure that all EIR requests are being responded to efficiently and effectively. These will be presented to the Information Governance, Cyber Security and ICT User Group. These indicators will also be presented to Senior Leadership Team on at least an annual basis.

The performance indicators will include:

- Response times for responding to requests
- Outcomes of requests including refusals and reasons why
- The time taken to respond to requests
- The number of reviews and complaints, and their outcomes

15 Policy and Review

This policy will be reviewed every three years; or when the legislation is subject to change; or risks are highlighted in the policy, whichever is sooner.

16 Contacts

The IG Team deals with the administration of all EIR Requests.
The contact details are as follows:

Information Governance Team
Town Hall
Dalton Square
Lancaster
LA1 1PJ

Telephone: 01524 582204
Internal Enquiry E-mail: info@lancaster.gov.uk
EIR Request Email: foi@lancaster.gov.uk

Appendix 1:
Schedule of Fees

Format	Cost
Photocopies	
A4 black and white	10p per sheet
A3 black and white	20p per sheet
A4 colour	£1.00 per sheet
A3 colour	£1.50 per sheet
Prints from PC	
Black and white	10p per page
Colour	50p per page
Photo quality paper prints	£1.00 per page
Electronic Media	
CD ROM	£1.00
Scanning of A4 paper records	£1.40 per image
Scanning of A3 paper records	£2.10 per image
Email attachment	No charge
Postage Costs	
Individual quotes for postage will be obtained on a case by case basis. This will be calculated on cost basis with reference to national postage rates.	