



## About Defra

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### Guidance on how to deal with requests for information

The guidance below is provided internally to Defra staff to help them handle requests for information being made under the Freedom of Information Act and the Environmental Information Regulations after 1 January 2005. We have also placed a copy on this site. The guidance is updated from time to time, and what is published here is the guidance currently available to staff.

### Guidance on how to deal with requests for information

#### Introduction

1. This step by step guide is for anyone handling a request for information from January 2005. There is a [separate checklist](#) for those involved in deciding whether or not to release the information sought.

2. Your first point of contact for advice should always be your local member(s) of the Information Management Representatives' Network (IMRs). Your IMR will also be able to seek specialist advice from Information Management Division (IMD), which co-ordinates Defra's policy on access to information issues.

3. Where the term 'Defra family' is used in this guidance, it refers to Defra and its executive agencies (see list at [Annex A](#)). Other bodies which form part of the wider Defra family, such as NDPBs, constitute separate public bodies under the access to information legislation – see section on consultation.

**4. It is very important that everyone follows the recommended procedure as there is a 20 working day statutory deadline for most responses and penalties for failing to provide information, as well as for destroying or altering information requested to avoid its release.**

5. The basic steps are:

- Identify requests, write down oral ones and mark and date every request ([Section 1.2 & 3](#))
- Sift out Subject Access Requests under the Data Protection Act ([Section 4](#))
- Help applicants seeking information already in the public domain or held by other organisations ([Sections 5 & 6](#))
- Refer on immediately requests that belong elsewhere in the Defra family or cross Defra requests (for IMD to co-ordinate) ([Section 7](#))
- Copy sensitive requests, particularly those relating to the policy-making process, to the relevant Ministerial Private Office ([Sections 8 & 9](#))
- Consider, with your IMR as appropriate, whether the request is likely to require guidance from the Clearing House and seek referral form from IMD as appropriate ([Sections 8 & 9](#)).
- Copy all requests from journalists or media organisations to Press Branch ([Sections 8 & 9](#))
- Reply to routine requests as normal ([Section 10](#))
- Place copies of all non-routine requests in files and log them into the Request Tracking System ([Section 11](#))
- Acknowledge requests and, if necessary, seek clarification from applicant ([Section 12](#))
- Consider burden of providing response and, if necessary, scope to refuse unmanageable requests or to request fees before work is done ([Sections 13 & 14](#))
- Find, and collate the information requested ([Section 15](#))
- In parallel, consider who you need to consult and discuss whether and how to release information, and what to withhold and why ([Sections 16 & 17](#))
- Keep the applicant fully informed of any delays and the reasons for them ([Section 18](#))
- Decide whether information should be disclosed, in light of comments from IMR, IMD and others, and get the decision signed off at appropriate level ([Sections 19, 20, 21 & 22](#))
- Reply to applicant and close case in Request Tracking System ([Section 23](#))
- Send a copy to the Library of all information released ([Section 24](#))
- Stand by for appeals ([Section 25](#))

6. Please go carefully through each step with the help of the notes which follow to see whether it is relevant to the particular request you are handling. But also remember that the new legislation should **not** change or interfere with the ways we normally provide information to the public. **If you would have provided the information as part of your normal business in 2004, you can do the same in 2005.** And we only have to answer for information we hold. We do **not** have to get new information to answer a request.

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## 1. Identifying a request

1.1 From January 2005, requests for information could fall under one (or possibly more) of three access regimes:

- the Freedom of Information Act 2000 (FOIA)
- the Environmental Information Regulations 2004 (EIRs)
- the Data Protection Act 1998

1.2 Extensive guidance on the requirements of the three regimes is available on the Access to Information intranet, but the key points to note are:

- any request for information we hold is likely to count under at least one regime
- the form of the request is unlikely to matter – letters, emails and faxes all count as written requests, and under the EIRs oral requests, by telephone or in person, are also allowed
- the person asking does not have to mention the legislation when making a request – it is our job to determine which regime a request falls under.

1.3 Although, there are some differences between the provisions on handling requests under FOIA and under EIRs (particularly in relation to refusals and charging) requests under both these regimes should be handled in broadly the same way. However, Subject Access Requests under the Data Protection Act require different treatment – see 4 below.

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## 2. Recording oral requests

2.1 If someone asks for information over the telephone or in person, and you cannot answer immediately, you should ask the applicant to put the request in writing since it will make it easier for us to help them. If they are unable or unwilling to do so, you should write down their request and ask them to confirm that what you have recorded is accurate.

## 3. Marking and dating the request

3.1 If you are the first recipient of the request within the Defra family you should clearly mark on it (e.g. at the top of the e-mail or letter or the record you have made): INFORMATION REQUEST - RECEIVED YY/MM/DD. This date is vital as it marks the start of the 20 working day period in which we must reply.

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## 4. Sifting out Subject Access Requests

4.1 If someone is **asking for information about themselves**, this should be treated as a Subject Access Request under the Data Protection Act. You should forward it immediately to Defra's Data Protection Officer, David Waller. He will advise you on what further work is required.

4.2 The remainder of this guidance relates to FOIA / EIR requests only.

## 5. Helping those requesting information already in the public domain

5.1 If the information is already in the public domain, in most cases all you need to do is tell the applicant where it is and how to get it. You do not need to log such requests on the Request Tracking System. We do not have to provide for free those publications which are normally priced.

## 6. Helping those requesting information held by other bodies

6.1 If the Defra family does not hold the information requested but you think another public body (outside Defra and its executive agencies) may do so, you should either inform the applicant promptly providing contact details for the other body or obtain their permission to transfer the request to the body concerned. See [example letter](#).

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## 7. Referring on requests to other parts of the Defra family

7.1 If you do not hold the information requested, or are not confident that yours is the most appropriate team to respond, it is important that you act quickly.

7.2 **If you think someone else in Defra or its agencies may hold the information**, you must identify the relevant business area **at once** and, if you are sure, forward the request to them marked: "URGENT: INFORMATION REQUEST RECEIVED YY/MM/DD. When forwarding the request you should include your own contact details in case there are any queries. If in any doubt you should

always contact the business area before sending on the request to ensure they are willing to accept it, and you should also telephone to confirm receipt of any electronic transfer.

**7.3 If the request is seeking information from several different business areas within Defra, and there is no obvious lead business area**, you should forward it immediately to Information Management Division (IMD) who will co-ordinate a response. IMD will not accept requests that are clearly directed mainly at one particular business area.

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## 8. Referring requests to Ministers, Press Branch

8.1 Ministers have made clear that they wish to be involved in consideration of all requests for information relating the **policy-making process** (e.g. Ministerial correspondence, advice to Ministers including submissions, and notes of meetings with other Ministers, officials or external stakeholders related to policy development). **Requests that fall into this category, or in which you think your Minister will have a particular interest, should be copied on receipt to the relevant Ministerial Private Office, as well as to your local IMR and IMD.** Such requests will probably also need to be referred via the IMR and IMD to the **MOJ Clearing House** – see Section 9. In copying requests to the Ministerial Private Office, you should make clear that this is for information and that further advice will follow shortly (see para 16.3 below).

8.2 All requests from **journalists and the media** should be copied at once to **Press Branch**, who can advise on communication with the media. Business areas should liaise closely with Press Branch over the handling of such requests. The business area which holds the information being requested will be responsible in the normal way for processing the request, including logging it onto the tracking system, gathering the information and applying the public interest test where appropriate.

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## 9. Referrals to the MOJ Clearing House

9.1 The Government has established a **central 'clearing house'**, based in the Ministry of Justice. The clearing house will act as a centre of expertise on FOI and provides advice and guidance on FOI and EIR requests, in particular on cases that engage one of the 'triggers' for referring cases to the Clearing House, which is listed at [Annex B](#). It is essential that all cases that activate one of the triggers are referred to the Clearing House. If you are dealing with a request which may activate one of the triggers you should inform your IMR as soon as possible (do not wait until you have carried out other consultations). Consultations with the clearing house will be channeled through IMD, who will provide a referral form for completion. Where a request is referred to the Clearing House, it is important that they are provided as soon as possible with all the relevant information, including all documents we plan to release or withhold.

9.2 The Clearing House may take some time to provide guidance on a request. As a result, other activities such as gathering together the requested information and consulting others with an interest will therefore often need to take place while we are awaiting Clearing House advice – otherwise it would not be possible to meet the 20 working day deadline. Further information on the role of the Clearing House is available here: [www.justice.gov.uk/guidance/foi-procedural-referring.htm](http://www.justice.gov.uk/guidance/foi-procedural-referring.htm)

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## 10. Replying to routine requests

10.1 If someone is asking for routine information you hold about Defra's business or the services we provide, there is no need to change the way you would have handled it before January 2005. Indeed there is no need to log such requests in the Request Tracking System - FOI is not intended to turn routine provision of information into a bureaucratic process. If the request is partly for routine information, and partly for more sensitive information which will need to be considered carefully before a decision is reached, you should release the routine material without delay and inform the applicant that the other part of their request is under consideration.

## 11. Recording and logging non routine requests

11.1 However you **will** need to treat as formal requests and keep a proper record of:

- all questions about information you hold which is sensitive or confidential or could fall under an exemption ([see checklist](#))
- and in particular, requests for information related to the **policy making process**
- requests on which it may be necessary to consult with others either within Defra (e.g. Ministers) or outside
- requests for large amounts of information or information which may be difficult to locate
- requests which seem unclear or too general to deal with, and where you will need to seek clarification from the applicant

11.2 You must therefore both put a copy of every paper request (or a print out in the case of an electronic request) on a **registered file** and log it electronically in the IT Request Tracking System. You, or a colleague in your business area with access to the system, will need to enter details including:

- Name and address of applicant (an e-mail will be sufficient if a postal address has not been provided)
- Date request received in Defra

- Summary of information requested (a cross-reference to the paper file on which the request has been recorded should be included)

11.3 You will also need to indicate **whether the request falls under Environmental Information Regulations (EIRs)**. This will depend on whether some or all of the information requested relates to air, water, land, natural sites, flora and fauna, the built environment and health and safety, or to policies / activities likely to impact on any of these ([see here for full definition](#))  (154 KB). Any non-routine requests for such information must be logged as EIR requests. This should not affect the way the request is handled but may affect decisions on:

- what information should be released
- how much effort needs to be devoted to answering
- how long the deadline can be extended if it is not possible to answer the request in 20 working days
- whether we should charge for the information and how much.

11.4 Once you have logged the request, IMD and your local Information Management Representative will be able to see it and the system will automatically generate the deadline for the reply.

11.5 At this point it will be sensible to take stock of how difficult it is likely to be to find the information and how complex it will be to decide how to respond. The more difficult the request, the sooner you need to act to allow time for a response within the statutory deadline, and the more likely you are to need advice from your IMR. If you think you are likely to need specialist advice it will be essential to inform your IMR immediately.

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## 12. Acknowledging requests and seeking clarification from applicant

12.1 If a request is not straightforward and it may take some time to provide a full response, it should be acknowledged as soon as it has been logged drawing on the [example acknowledgement letter](#), and quoting the deadline for response generated by the system.

12.2 **If the request is unclear, or too general** (so that complying with it might place a substantial and possibly unreasonable burden on resources), then you should contact the applicant, preferably by telephone, as soon as possible to seek clarification. In particular, if the 'prescribed cost' of dealing with a request is likely to exceed £600, we should always invite the applicant to narrow it down – see section 14 below for guidance and example letters. The request should be logged on to the tracking system. The Codes of Practice implementing FOIA and the EIRs require public authorities to offer advice and assistance in such circumstances. *Good customer care is very important when dealing with requests.*

12.3 If there is a delay of longer than a couple of days in receiving clarification, you should close the request on the tracking system and open a new entry when you receive the clarified request. The clarification is treated as a new request. If the applicant does not send a clarification after six weeks then it is good practice to send them a reminder.

12.4 **If the applicant can clarify / narrow down the request in a way which makes it manageable to deal with** (e.g. by reducing the cost of dealing with the request to less than £600). You will have to judge the request on its merits and possibly refuse it in the basis of that it will take an unreasonable length of time to answer. You should contact your IMR for further advice.

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## 13. Refusing burdensome requests

13.1 **If the applicant cannot clarify or narrow down the request in a way which makes it manageable to deal with** (e.g. by reducing the cost of dealing with the request to less than £600), then it may be necessary either to reject the request or to charge fees for providing the information (see section 13 below). You must always seek advice from your IMR before refusing a request on these grounds as the rules are complex and differ between FOI and the EIRs. The IMR will in turn consult IMD. If it is agreed that the request should be refused you should log this onto the system, quoting the appropriate grounds for refusal.

## 14. Charging of fees

14.1 Under both FOIA and the EIRs public bodies have discretion to charge a fee for complying with a request under certain circumstances. Fees can include:

- the prescribed cost of dealing with a request (i.e. the cost of finding, sorting and editing the information); plus
- the cost of disbursements such as printing, photocopying and postage.

See [guidance issued](#) by the Ministry of Justice for further details.

14.2 The Government's policy is that, for all FOI and EIR requests where the prescribed cost of providing information would be less than £600, **no fee will be charged**. If it appears that the cost of providing the information is likely to exceed £600 then the first step is to invite the applicant to narrow down the request to a manageable size – see [example letters](#).

14.3 If the applicant cannot narrow down the request so that the cost of dealing with it is less than £600 then, **under FOIA**, the request may be refused on cost grounds or the cost of complying with the request may be charged. **Under the EIRs**, a request may not be refused purely on cost grounds but the cost of complying with the request may be charged. EIR requests may also be refused on the grounds that they are 'formulated in too general a manner' or 'manifestly unreasonable'.

14.4 If you think that it is appropriate to levy a charge for information, you should first contact your IMR who will consult IMD. It is important that fees are only requested where you are confident that the information can be released. The [guidance](#) explains what can be included in the calculation when estimating fees (including an hourly staff time flat rate of £25 per person per hour), and this approach is applicable to both FOI and EIR requests. If it is considered appropriate to charge, a fees notice will need to be issued to the applicant as soon as possible, drawing on the [example letter](#). Logging the issue of a fees notice on the tracking system will then 'stop the clock' until payment is received. Once the payment is received this should be logged onto the system, at which point the 20 working day clock will start ticking again.

14.5 It should be noted that the rules on fees do not require us to provide applicants with priced publications free of charge – these can continue to be charged for in the normal way.

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## 15. Locating the information

15.1 It is important that you identify as far as possible **all** of the information relevant to the request, whether or not you think it is likely to be disclosable. The Department currently requires everybody to manage corporate records in a paper format, with a 'print to paper' policy for all significant e-mails and electronic documents. So the first point of call should be the **registered paper file**. If the file(s) you require are not held locally then you will have to request them from filestore. Do this as soon as possible to avoid any delay in answering the request.

15.2 It is vital that all business areas file documents in accordance with Defra's records management procedures so that information can be easily located. However, bad records management practices might mean that information is stored in a range of places other than paper files - many important documents may not currently be placed on registered files in the proper way. You may therefore need to check with colleagues that additional information is not held, for example:

- within personal sets of papers held by individuals on or within their desks;
- in papers held by the branch generally, e.g. on top of filing cabinets or elsewhere.

15.3 You will also need to be sure that additional information is not held **electronically**. This may require searches of:

- electronic files held on personal drives;
- networked shared drives;
- floppy disks or other areas where electronic files are archived;
- emails (including personal file stores, those held in email inboxes and outboxes, and even those emails that have not been deleted from deleted folders).

15.4 Information is available on the intranet on managing your records more effectively to meet access to information requirements.

**Remember that it is a criminal offence deliberately to destroy, conceal or alter information in order to frustrate a request.**

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## 16. Consulting internally on whether to release information

16.1 Given the 20 day statutory deadline you will probably need to approach **all** the bodies you wish to consult at the same time **and** without waiting to assemble all the information requested.

16.2 You must consult your IMR at an early stage on:

- All requests for sensitive or confidential information. **All releases of such information must also be copied to IMD before disclosure;**
- Any cases where you think it may be appropriate to refuse a request. IMD will wish the opportunity to comment on all refusal letters before they are issued;
- If you are proposing to edit or summarise information from existing documents – see below.

In consulting your IMR and IMD it is important to be clear at all stages about precisely what information is being considered release, so that no sensitive disclosure issues are overlooked.

16.3 **Ministers have also made clear that they wish to be consulted on all requests for information relating to the policy-making process** (e.g. Ministerial correspondence, advice to Ministers including submissions, and notes of meetings with other Ministers, officials or external stakeholders related to policy development) – see Section 8 above. If you think it may be necessary

to seek Ministers' views you should inform your IMR who will in turn inform IMD. All submissions to Ministers must be sent to IMD in draft for comment. In cases where consultation with Ministers is necessary, you should allow at least 5 working days for this.

16.4 You should also consult:

- **Security Branch** if considering disclosure of any information which has a security marking
- **Procurement and Contracts Division** if considering disclosure of information on contracts and procurement
- **Press office** if the request is from the media or is likely to give rise to media attention (see Section 8.2)
- **Other business areas within the Defra family** which may have an interest in the outcome of the request
- **Legal advisors** You may wish to consult your legal advisor on the request, depending on the issues that arise. If you think you may require specialist FOI/EIR legal advice you should talk to your IMR, who can approach IMD for this.

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## 17. Consulting externally on whether to release information

17.1 Consultation with the MoJ Clearing House, via IMD, is essential for all requests where the triggers in Annex B are activated – see Section 9 above.

17.2 You should also consider consulting:

- **Other Government Departments, devolved authorities, agencies or NDPBs** which may have an interest in the request. Their comments may be of great help in weighing the public interest when applying an exemption. They do not, however, have the final say in the matter – the decision on disclosure is ultimately one for the Defra family.
- **External stakeholders** such as Non-Governmental Organisations (NGOs) or businesses. If, for example, you are considering disclosure of information which may be commercially confidential, it is good practice to inform the business(es) concerned and give them the opportunity to articulate what commercial harm might be caused by disclosure. This may help you in weighing up the public interest. However, it is again important to make clear that stakeholders do not have a veto on disclosure decisions – the decision is Defra's.
- **Foreign governments.** If you are holding information supplied by a foreign government, or are concerned that disclosure may impact on our relations with another country, it may be appropriate to consult the Foreign and Commonwealth Office. Always seek advice before carrying out such consultations, in the first place from your IMR who will involve IMD.

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## 18. Keeping the applicant informed of delays

18.1 Under FOIA and the EIRs the time for response can be extended for complex requests – under EIRs the maximum permitted extension is an additional 20 working days. In all cases the applicant **must** be notified of any extension, and the reason for it, as soon as possible, and no later than 20 working days from receipt of the request. This is a requirement of the Codes of Practice on implementing the legislation. **It is also basic good customer care which will reflect well on the Department and minimise the risk of appeal.**

## 19. Reaching a decision

19.1 The basic position is that information must be released unless it falls under one of the exemptions or exceptions laid down in the legislation. Most of these exemptions/exceptions are subject to the **public interest test**, which means that information can only be withheld if the public interest in doing so outweighs the public interest in disclosure.

- Guidance on applying exemptions under FOIA is available at [www.justice.gov.uk/guidance/foi-exemptions.htm](http://www.justice.gov.uk/guidance/foi-exemptions.htm)
- Guidance on applying the EIR exceptions is available at [www.defra.gov.uk/corporate/opengov/eir/guidance/index.htm](http://www.defra.gov.uk/corporate/opengov/eir/guidance/index.htm)

## 20. Disclosing information

20.1 Information can be disclosed either in the form of existing documents or by extracting the specific information requested. The legislation gives a right of access to information rather than documents. Therefore, while sending applicants copies of existing documents will often be the best (and least laborious) approach, there may be circumstances in which it could be necessary to edit out (or redact) sensitive information (such as the names of individuals) or to release summaries of the information contained in documents rather than the documents themselves.

20.2 If you decide to send copies information electronically to the applicant, you must check that you do not inadvertently include additional and possibly sensitive hidden information (e.g. in the form of tracked changes) which may be recovered by the applicant.

20.3 If you decide to edit or summarise documents before disclosure you will need to explain to the applicant what you have done and why and also be careful to avoid erroneously omitting or inadvertently misrepresenting information. You must always consult your IMR before releasing redacted or summarised information.

20.4 Wherever time permits, you should provide IMD with a final version of the response to the applicant, including all attachments,

for last review before it is issued.

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## 21. Refusing a request

21.1 **Before** refusing a request you need to set down in detail for the record all the issues you took into account in applying the exemption(s)/exception(s) and weighing the public interest. It is essential to keep such a full record as part of the audit trail in the event that an appeal is made, and we are called on to justify our decision. A record should be kept of all the information considered in relation to the request, including information that it is planned to withhold.

21.2 You then need to prepare a refusal letter which explains as clearly and helpfully as possible, the exemptions/exceptions under which the information is being withheld and, where relevant, how the public interest test was applied and the factors that were taken into account. The letter also needs to explain the applicant's right of appeal, firstly through an internal review and then to the Information Commissioner. You should draw on the [example letter](#) in preparing the refusal letter. It is important that refusal letters are expressed as politely and helpfully as possible – this will help the applicant understand the reason for our decision, and will reduce the risk of appeal.

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## 22. Sign off

22.1 Subject to any views expressed in consultation, responsibility for the decision rests with the business area which holds the information. No additional clearance will be required for the release of routine and non-sensitive information. However releases of sensitive information, or cases where exemptions were considered, will always require sign-off at Grade 5 level. As with other decisions, Heads of Division may delegate responsibility for handling some or all types of request as they see fit.

22.2 All refusal letters should be sent in draft to your IMR, who will refer them to IMD for comment. IMD will respond as quickly as possible, but wherever feasible you should allow 5 working days for this.

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## 23. Closing requests

23.1 At the end of this process you will need to close the case by entering into the Request Tracking System confirmation that the requested information has been disclosed, or an indication of the reason(s) it has been withheld.

## 24. Considering further publication

24.1 If you are releasing new information in response to a request you should send a copy by email to the Library. Quarterly tables detailing requests received and their outcome will be [published online](#), and anyone wishing to obtain copies of disclosed information listed in these tables will be referred to the Library where a depository of disclosed information will be maintained. To avoid having to answer further requests on the same topic, you should also consider whether to add the information released to the [Defra Publication Scheme](#). For further advice contact Kevin Jackson in the Library.

## 25. Appeals

25.1 In the event of an appeal, IMD will log this onto the tracking system and invite the business area(s) which responded to the request to comment on the issues raised.

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## Annex A

### Defra's Executive Agencies

- Central Science Laboratory
- Centre for Environment, Fisheries and Aquaculture Science (CEFAS)
- Government Decontamination Service
- Marine Fisheries Agency
- Pesticides Safety Directorate
- State Veterinary Service
- Rural Payments Agency
- Veterinary Laboratories Agency
- Veterinary Medicines Directorate

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## Annex B

- [List of 'triggers' for referral to the DCA Clearing House](#)  (16 KB)

Further information is available on our [Help page](#) about downloading or reading Adobe Acrobat  documents.

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