

Freedom of Information (Fol) and Environmental Information Regulations (EIR) Policy

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Table of Contents

Document overview	1
Intended Audience	1
Linked policies.....	1
Revision history.....	1
1 Introduction	2
2 Policy scope	2
3 FOIA &EIR	2
3.1 Duty to advise and assist	3
3.2 Responsibilities	3
3.2.1 Information Governance Team	3
3.2.2 Council officers and elected members.....	3
3.2.3 Service Co-ordinators	3
3.2.4 Service Directors.....	4
3.3 Publication scheme	4
3.4 Re-use of public sector information (RPSI)	4
3.5 Timescales	4
3.5.1 Requests	4
3.5.2 Internal Reviews.....	4
3.6 FOIA and EIR requests	5
3.7 Internal Reviews	5
3.8 Fees and cost limits	5
3.9 Vexatious requests	6
3.10 Consultations with third parties	6
4 Education and training	6
5 Monitoring Compliance and Effectiveness	6
6 Associated Documents / Further Reading	6

Document overview

This policy is in place to ensure members of staff are aware of their responsibilities and outlines how Kirklees Council complies with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR).

This will be achieved by:

- Complying with FOIA and EIR legislation, guidance and best practice.
- Promoting a culture of timeliness, openness and transparency when responding to FOI and EIR requests.
- Ensuring that risks to information are identified and mitigated against to protect against the risks of a data breach and inappropriate disclosure of information.

Intended Audience

All Kirklees employees, Elected Members (Councillors), volunteers and organisations working on behalf of Kirklees.

Linked policies

- [Information Governance Policy](#)
- [Information Security Policy](#)
- [Information Sharing Policy](#)
- [Records Management Policy](#)
- [Licencing the Reuse of Council Information Policy](#)
- [Freedom of Information \(Fol\) and Environmental Information Regulations \(EIR\) Policy](#)

Revision history

Table 1 Revision history

Version	Author	Reason for issue	Date
1.6	John Shannon	Policy creation	October 2024

Date of next revision

October 2027

1 Introduction

The FOIA and EIR give rights of public access to information held by public authorities. It does this in two ways:

- Public authorities are obliged to publish certain information about their activities.
- Members of the public are entitled to request information from public authorities.

The FOIA and EIR cover any recorded information that is held by a public authority in England, Wales, Northern Ireland and by UK wide public authorities based in Scotland. Information held by Scottish public authorities is covered by Scotland's own Freedom of Information (Scotland) Act.

The FOIA and EIR do not give people access to their own personal data (information about themselves). If a member of the public wants to see information that a public authority holds about them, they must make a subject access request under Data Protection legislation.

Compliance with the FOIA and EIR is a legal duty and is regulated by the Information Commissioner's Office (ICO). This policy sets out the principles which will guide the Council's response to requests under the FOIA and EIR and the approach to be taken to ensure requests are handled appropriately.

The EIR covers information held by public authorities which affect the environment. This includes, but is not limited to, information about factors that affect the environment (energy, noise, waste and emissions), measures and activities designed to affect the environment (policies, plans and legislation) and the state of human health and safety where they may be affected by the state of the environment.

2 Policy scope

This policy applies to all departments and functions within Kirklees Council and those working on behalf of the Council including, but not limited to, Councillors, contractors, agency workers, volunteers and work experience placements.

This policy outlines the behaviours and responsibilities expected to ensure the council continues to fulfil its obligations under the FOIA and EIR.

3 FOIA & EIR

The FOIA and EIR give people the right to request information from public bodies, such as the Council. It is intended to promote a culture of openness and accountability amongst public sector bodies and facilitate better public understanding of how they carry out their duties, why they make the decisions they do and how they spend their money.

3.1 Duty to advise and assist

Kirklees Council has a duty to provide advice and assistance to persons making FOIA and EIR requests in line with the FOI Code of Practice. The Council will take all reasonable steps to achieve this.

3.2 Responsibilities

3.2.1 Information Governance Team

The Information Governance Team is responsible for logging all requests on behalf of the Council and issuing responses in line with the FOIA and EIR. The Team will work with Service Co-ordinators to collate the necessary information to enable a response to requests for information.

3.2.2 Council officers and elected members

Council officers and elected members are responsible for maintaining records in accordance with Kirklees Council policies on information governance and retention and disposal of records.

Council officers and elected members are required to support the completion of FOIA and EIR requests in a timely manner.

Individual Councillors are not covered by the FOIA and EIR, however information held by local elected members, where they are carrying out functions of a Local Authority, is covered by the legislation. This includes information held in their role as Cabinet Members, and where they have executive responsibility for a Service area, represent the Council in a regional forum, and carry out relevant administrative public functions.

Responses to requests for information under FOIA and EIR must be provided to the Information Governance Team, via the appropriate Service Co-ordinator, without undue delay and within the 15 working day deadline.

Any requests sent direct to Council officers or Service email accounts must be forwarded to the Information Governance Team immediately upon receipt.

3.2.3 Service Co-ordinators

Service Co-ordinators are responsible for identifying and liaising with the appropriate officers within their Service and collating the information which will answer the specific information request.

The Service Co-ordinator will also ensure that the Service's response is signed off by the appropriate Service Director and forwarded to the Information Governance Team within 15 working days.

3.2.4 Service Directors

Service Directors are responsible for making sure that information within their area of responsibility is accurate, provided in a timely manner and signed off. They are also responsible for ensuring that co-ordinators are appointed in their service area(s) and that their services provide signed off responses (via the co-ordinators) within the designated timeframe.

3.3 Publication scheme

Public authorities are obliged to publish certain information about their activities. The Council's Publication Scheme is available on the Council's website. [Publication scheme | Kirklees Council](#)

3.4 Re-use of public sector information (RPSI)

Under RPSI, the Council is required to make information that is accessible and is produced as part of our public task (our core responsibilities and functions) available for re-use unless restricted or excluded.

3.5 Timescales

3.5.1 Requests

The Council must comply with the statutory timeframe of answering all FOI and EIR requests within 20 working days.

Services must ensure that all allocated requests are answered, authorised by Service Director and returned to the Information Governance Team within 15 working days (unless otherwise specified).

The FOIA does not allow extra time for searching for information. However, if the exemption is qualified, extra time may be allowed to consider the public interest test.

The EIR allows, in exceptional circumstances, for the 20-working day limit to be extended to 40 working days. This applies only where the request is for a lot of complex information.

3.5.2 Internal Reviews

A request for an internal review must be made in writing by the applicant within 40 working days from the date the Council issued the initial. The Council is not obliged to accept internal reviews after this date.

The outcome of an internal review of a response issued under FOIA should be communicated to the requester within 20 working days, or 40 working days in exceptional circumstances.

The outcome of an internal review of a response issued under EIR should be communicated to the requester within 40 working days.

3.6 FOIA and EIR requests

The FOIA and EIR place two duties on public authorities. Unless exemptions or exceptions apply, the first duty is to confirm or deny whether the information specified in the request is held. The second duty is to disclose information that has been confirmed as being held, subject to appropriate exemptions or exceptions to disclosure.

This general right of access to recorded information held by the Council, subject to exemptions and exceptions, may be exercised by anyone, anywhere in the world, regardless of motive – whether declared or implied. All requests made under FOIA or EIR are considered as ‘applicant blind’ (i.e. we must consider the request without reference to the requester’s identity)

FOIA requests must be made in writing. EIR requests can be made verbally or in writing and they can be made to anyone in the Council. The timeframe commences as soon as the request is made to the authority, not to the Information Governance Team.

FOIA and EIR apply only to information held at the time the request is made. The Council is not obligated to generate “new” information for a response.

3.7 Internal Reviews

If the requestor is unhappy with their response to an information request, they can request the Council conducts an internal review. A request for an internal review should be made in writing to the Monitoring Officer for Kirklees Council within 40 working days from the date the initial response was issued. The Council is not obliged to accept internal reviews after this date.

If the requester is unhappy with a delay in receiving a response to their request, they may submit a complaint. Any complaints received regarding delays should not be handled as internal reviews.

Should the applicant remain unhappy with the Council’s handling of their information request following the internal review, they have the right to submit a complaint to the Information Commissioner’s Office (ICO). The Council must respond to the ICO within the timeframe given by the ICO.

3.8 Fees and cost limits

Section 12 of the FOIA allows the Council to refuse to deal with any requests where they estimate that responding to the request would exceed the “appropriate limit”, or ‘cost limit’.

The cost limit is calculated at a flat rate of £25 per hour which is £450 (18 hours). The FOIA allows the Council to refuse to deal with any requests where they estimate that responding to the request would exceed the “appropriate limit”, or ‘cost limit’ as it is more commonly known.

There is no such ‘appropriate limit’ within the EIR, however, if a requester asks for a lot of complex information, the EIR permits the 20-working day limit to be extended to 40 working days to give more time to answer the request. The requester must be informed of this as soon as possible within the original 20 working day deadline. In some cases, a very large request may be refused as ‘manifestly unreasonable’.

3.9 Vexatious requests

Vexatious or 'repeated' requests are those which are identical or substantially similar and have been made within 6 months of the previous request.

Applicants must be informed in writing that their request will not be answered and why it is deemed vexatious or repetitive.

3.10 Consultations with third parties

There will be circumstances when the Council will be required to consult with third parties about information held in scope of a request to consider whether information is suitable for disclosure.

If the consent of a third party is required prior to disclosure of information, the Council will, at the earliest opportunity, seek to consult with that third party with a view to seeking their consent to the disclosure, unless such a consultation is not practical.

The consultation may assist the Council in determining whether an exemption under the Act applies to the information requested, or the views of the third party may assist the Council in determining where the public interest lies.

The Council may disclose third party information even where there is a refusal to consent to disclosure of information.

4 Education and training

Training and guidance materials will be provided and updated by the Information Governance Team, including mandatory Information Governance training. Mandatory training modules must be completed annually.

Bespoke FOI and EIR training sessions for services are available on request (to the Information Governance Team).

5 Monitoring Compliance and Effectiveness

The Information Governance Team will monitor compliance with this policy through the compliance statistics. Compliance and effectiveness will also be reported to and monitored by the Information Governance Board.

6 Associated Documents / Further Reading

This policy should be read in conjunction with all other Information Governance related policies and procedures. Further guidance is available on the intranet.