

Environmental Information Policy and Procedures November 2021

Environmental Information Regulations Policy and Procedures

Introduction

The Environmental Information Regulations 2004 (EIR) provide individuals and organisations with the right to request information held by public authorities. The EIR give two related qualified rights – the right to be told whether the information is held and the right to receive the information, subject to exceptions. The right of access applies regardless of the purpose of the application. It is referred to as ‘applicant blind’ and treats everyone consistently. Requests for environmental information can be made in writing, or verbally; but applicants are encouraged to provide them in writing. If an applicant requires assistance to make the request, we are happy to provide advice on this. Environmental Information must normally be provided to them within 20 working days, subject to any exception to disclosure. This can be extended to 40 working days for complex or voluminous requests. Denbighshire County Council is fully committed to the aims of the Environmental Information Regulations and related legislation and will make every effort to meet its obligations.

Definition of Environmental Information

The legal definition of ‘environmental information’ is set out at appendix B. A helpful summary of the categories has been provided by the courts:

Information on the state of water, air, soil, fauna, flora, land and natural sites; information on activities or measures affecting or likely to affect those environmental factors; and information on activities or measures designed to protect those factors.

Objectives

This policy outlines Denbighshire County Council’s approach to responding to requests for information made under the EIR. Separate policies exist for Data Protection Act (DPA) requests and requests for (non-environmental) information under the FOIA.

Where a request is received under the FOIA and it in fact falls within the EIR or DPA regime, then the Council will automatically channel the request through the appropriate policy, as it is required to do, as different exceptions or exemptions apply in such circumstances and different legal rights apply. An applicant does not need to state

Environmental Information Regulations Policy and Procedures

necessarily which regime they are applying under, but it is helpful when sending in a request to at least identify the regime you think you are applying under.

To ensure consistency in publishing information via the Council's publication scheme and the Council's responses to EIR enquiries.

To work towards the longer-term vision of making use of all available technology and publishing all information unless there is a lawful reason not to do so.

Our policy aims

This policy aims to ensure access to information held by the Council in order to promote greater openness, provide increased transparency of decision making and to build public trust and confidence. Access to information about the decisions we take can help local people to influence local service provision. These aims will be balanced against the need to ensure the confidentiality of certain information, where disclosure would not be in the public interest.

Key commitment to access to information

This policy sets out the general principles that will be adopted by the Council in response to requests for information under the EIRs. The source of our obligations is an international United Nations agreement signed and adopted by the UK in Aarhus, Denmark, called the 'Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters'. Article 1 of the Aarhus Convention states:

"In order to contribute to the protection of the right of every person and future generations to live in an environment adequate to his or her health and wellbeing, each party shall guarantee the rights of access to information, public participation in decision making, and access to justice on environmental matters in accordance with the provisions of this Convention."

Policy objectives

- To provide a framework that fully endorses and adheres to the principles of the Aarhus Convention.
- To improve 'environmental democracy'.

Environmental Information Regulations Policy and Procedures

- To ensure consistency of approach in applying EIR principles, making EIR decisions and enforcing EIR exceptions.
- To ensure that the council meets the good practice set out in the Code of Practice on the discharge of the obligations of public authorities under EIR.
- To confirm the Council will take into consideration any guidance issued by the Information Commissioner's Office.
- To act as a user's guide.
- To ensure consistency in publishing information via the Council's publication scheme and the Council's responses to EIR enquiries.
- To work towards the longer term vision of making use of all available technology and publishing all information, unless there is a lawful reason not to do so.
- To act reasonably and proportionately within the resources available.
- To set out clearly the Council's charges, which will be reviewed from time to time.
- To ensure the Council's obligations under the environmental information legislation also support our 'Sustainable Development' and 'Wellbeing' goals which are set under the Well Being of Future Generations (Wales) Act 2015 and the Equalities Act 2010.

Scope

This policy applies to all recorded information held by Denbighshire County Council. Recorded information can consist of emails, paper copies, videos, DVDs, photographs, digital files, pen drives or memory sticks, and any other form of 'recorded' information held at the time the request is received. The information does not belong to the Officers or Members, it is the Council's information. This policy applies to all employees and councillors, where the information held belongs to the Council. Communications between a councillor and his resident when the councillor is acting in their sole capacity as elected ward representative, will not fall within the FOI or EIR regime. Councillors are subject to the DPA however, and duties of confidentiality between local resident and councillor may apply; even though these may be via the councillor's denbighshire.gov.uk email address.

The policy covers all requests for information except requests from individuals for their own personal data, Environment Information requests and normal 'business as usual' requests. A 'business as usual' request is a request for information or services that a service area would expect to receive in its normal day to day operation. Any request that indicates it is a FOIA request cannot be treated as 'business as usual'.

Environmental Information Regulations Policy and Procedures

We will make information available proactively through our website and publication scheme. The publication scheme includes a guide to information, which shows the types of information that we make available. The information on the publication scheme will be made accessible in accordance with the provisions of the Equalities Act 2010. The more informed residents are about their local environment, the better equipped they will be to contribute to the decisions the Council makes about it.

We will provide access to environmental information through the Environmental Information Regulations 2004 ('EIR'). Requests under the EIR will be dealt with in accordance with Denbighshire County Council's Environmental Information Regulations Policy. The law in this area emanates from an EU Directive, which states that Councils must over time, increasingly disseminate environmental information.

Advice and assistance

The Council has a duty to provide advice and assistance to applicants under Regulation 9 of the Environmental Information Regulations, so far as it would be reasonable to expect the Authority to do so. The Council is committed to compliance with its public sector equality duties and in this regard anyone who requires help or assistance e.g. by reason of disability or language barriers will be assisted by the Access to Information team to make their request under EIR. The Council will offer advice and assistance to any person or organisation that wishes to make a request for information. The Council is committed to dealing with requests within the statutory guidelines, within no more than 20 working days and more speedily if possible.

Any queries regarding this policy or access to information within the Council should be directed to:

Access to Information
Business Information Team
Denbighshire County Council
PO Box 62
Ruthin
LL15 9AZ

Environmental Information Regulations Policy and Procedures

Email: information@denbighshire.gov.uk

Phone: 01824 708242

Roles and responsibilities

Heads of Service

- Responsible for ensuring operational compliance with this policy within their own Service and their own Scheme of Delegation.
- Appoint Information Management Officers to be responsible for FOI and EIR requests.
- Promote publication of information to the website.
- Ensure that officers with responsibilities for FOI and EIR requests are supported in their work in terms of commitment and resources.
- Ensure all staff comply with the agreed policy and procedures for FOI and EIR. Recognise FOI and EIR issues in service planning and resource allocation.

Access to Information Officer, Business Information Team

- Provide advice and guidance on the FOI/EIR policy and procedures.
- Provide training in FOI/EIR issues.
- Log all the details of the request for information.
- Ensure that the electronic request for information system is kept fully up to date.
- Coordinate requests for information in conjunction with coordinators (Information Management Officers).
- Consider whether the request for information is vexatious, repeated (i.e. the requester has asked for the same or similar information within the last 120 days) or likely to take longer than 18 hours to collate the information.
- Consider draft responses prepared by officers and ensure that the information is being provided (subject to any exceptions under the Regulations).
- Prepare responses to internal reviews, referring the complaints to the Services, or the Access to Information Panel, when necessary.
- Identify complex or sensitive cases that require referral to the Access to Information Panel.
- Prepare papers and advice for the Access to Information Panel.

Environmental Information Regulations Policy and Procedures

- Develop and maintain the corporate EIR policy and procedures.
- Publish suitable datasets on the website which have been provided in EIR responses, in accordance with the spirit of the Environmental Information Regulations.
- Publish FOI and EIR statistics on the website
- Monitor and review the effectiveness of the policy and procedures.
- Report on compliance annually to the Senior Information Risk Officer.

Information Management Officers

- Ensure that requests for information are handled effectively in their Service, by coordinating requests.
- Ensure that he/she is the correct officer to progress the request; if not refer the request back to the Access to Information Officer as quickly as possible.
- Provide copies of the original request (if received through the Service) and the response to the Access to Information Officer.
- Promote the policy and procedures within their service, reporting any difficulties to the Access to Information Officer or Business Information Manager.
- Ensure that any relevant databases or spreadsheets are kept fully up to date.
- Consider whether the request for information is vexatious, repeated (i.e. the requester has asked for the same or similar information within the last 120 days) or likely to be expensive (over 18 hours of collation and retrieval). If the request coordinator considers the request to be any of these, they must immediately notify the Access to Information Officer.
- Information Management Officers will receive additional training and will be responsible for providing guidance to staff throughout their Service on access to information in line with this Policy.

The Head of Legal, HR and Democratic Services

- Provide legal advice (when requested) on the legality of proposed responses and refusal notices.
- As Chair of the Access to Information Panel, provide advice and decisions on cases that have been referred to the Panel. (The Panel's Terms of Reference are attached as Appendix A).

Environmental Information Regulations Policy and Procedures

All Council Employees

- Be aware of the Environmental Information Regulations and what it means.
- To identify any request that falls under the Regulations
- Follow this policy and its procedures for handling EIR requests.
- Deal with all requests as soon as possible and within 20 working days of receipt.
- Ensure that all requests are logged with their Information Management Officer or the Access to Information Officer.
- Provide advice and assistance to persons making requests for information.
- Staff that deal with mainly environmental information (such as those employed in waste or planning units) should be aware that a request for environmental information can be made verbally, not in writing as in the Freedom of Information Act.
- Be aware that once a request for information has been made, the information achieves a special status. It will then become a criminal offence to alter, deface, block, erase, destroy or conceal the information with the intention of preventing disclosure. The Council or the individual is liable to a fine not exceeding £5,000.

Council's Publication scheme

The Council has adopted a Publication Scheme and is committed to updating and maintaining it to keep it current and relevant. The Publication Scheme contains documents, policies, plans and guidance used by the Council. The material contained within the Scheme is available on the Internet. Where charges are applied these will be stated in the Scheme.

Fees and Charges

If the Council decides to rely on a statutory power to charge, this will be added as an appendix to this policy and on our website.

Requests for Property Search Data falls within the definition of environmental information and whether the council levies a charge for this type of information depends on the route the applicant wishes to use. These options are set out in Appendix D and on our website.

Environmental Information Regulations Policy and Procedures

Refusal of request

The Council recognises that there will always be some information which it must not disclose or which it is not in the public interest to disclose. In these cases, the Council will ensure that applicants are given clear and accurate reasons for the refusal of their requests and assistance in finding relevant, alternative information. Applicants have the right to have the decision reviewed. Applicants will be informed of this right and may seek such a review if dissatisfied with the Council's response.

If the Council relies on an exemption to refuse a request for information the Applicant will be notified of the appropriate exemption and why it applies. Appendix C sets out the main exceptions likely to apply to information held by the Council. If the reasoning behind the exception, or the exception itself, would result in the disclosure of information which would itself be exempt, then the Council may not provide that reason.

If the Council decides that the public interest in maintaining the exemption outweighs the public interests in disclosure, then this will be stated in the refusal letter together with the public interest factors, which have been considered, and which form a material part of the decision.

If a document contains exempt information, the Council will not refuse access to the whole document unless it is absolutely necessary to do so in order to ensure that exempt information is not disclosed. Where part of a document is exempt, normally only that part of the document containing the exempt information will be withheld.

The Council maintains a central record for monitoring purposes of all Environmental Information requests and will proactively audit decisions to ensure that where information requests are refused, refusals are justified and reasonable.

Extensions

The Council is entitled to extend the deadlines of environmental information requests by twenty working days, when the cases are complex. However, if a request is an unreasonable burden on our resources, then we will refuse it as a manifestly unreasonable request.

Environmental Information Regulations Policy and Procedures

Manifestly unreasonable requests: Cost Limit

The Information Commissioner has indicated that the guidance relating to fees in the Freedom of Information Act are a useful starting point when applying the exception. However, public authorities may be required to accept a greater burden when dealing with environmental information requests. The Public Interest must also be considered.

Costs limit under Freedom of Information for reference

The Council is entitled to refuse to answer a request on the grounds of cost if it would amount to more than £450 to do so. This is equivalent to about two and half days of work (or 18 hours at the rate of £25 per hour of each officer's search time as prescribed in the Regulations).

When calculating whether answering a request would exceed this threshold, the Council will take account of the costs involved in the following activities: determining whether it holds the information; locating and retrieving the information; and extracting the information.

In applying fees and charges the Council can take account of neither the costs of considering whether information is exempt under the Act, nor time taken to redact documents, nor possible expenses incurred in the issuing of Fee Notices.

If a request is estimated to cost less than the prescribed £450 limit, and there is no other basis on which it may be refused or otherwise dealt with, the Council will answer the request. The maximum fee that can be charged in these cases is limited to the specified costs of postage, printing and photocopying, referred to as 'disbursement costs', i.e. the costs of informing the applicant whether the Council holds the information, reproducing any document containing the information; and communicating the information to the applicant.

If the Council chooses to answer a request that will cost more than the £450 threshold, the applicant will be contacted and advised what information will be available below that limit, i.e. it will be discussed with the applicant whether he/she would prefer to modify the request to reduce the cost in terms of officer's time.

Environmental Information Regulations Policy and Procedures

If an applicant still wishes to proceed with the original request the maximum fee that may be charged is equivalent to the total estimated costs of:

Determining whether the Council holds the information, locating and retrieving the information, and extracting the information from a document containing it (prescribed cost of officers' time); and informing the applicant whether the Council holds the data and communicating the information to the person making the request (disbursement costs).

If the applicant does not agree with the proposed fee, they can appeal through the Council's complaints procedure in the first instance.

Manifestly unreasonable requests: Vexatiousness

Repeat requests

This is where a repeated request is received that is identical or substantially similar to a previous request from the same person, The Council will consider this as a repeated request. The Council is not obliged to comply with repeat requests for information, under the Environmental Information Regulations unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request. In reaching a decision about whether an application for access should be categorised, as a repeat request the Council will have regard to: the time that has elapsed since the previous request; whether the request is identical or substantially similar to the previous request; whether any relevant, new information has been generated since the previous request. A 'reasonable interval' will be deemed to be 120 working days.

Where a request is refused because it is considered repeated, the Council will issue a written notice within 20 working days of the request. The Council will send out a standard letter stating that the request has been declined on the grounds that it is repeated. The applicant will receive information about the Council's Internal Review Process. Details of the rights of appeal to the Information Commissioner will also be enclosed.

Where a notice has previously been issued to the applicant that the request is repeated, the Council will not issue a further notice.

Environmental Information Regulations Policy and Procedures

Vexatious requests

The Council is not obliged to comply with vexatious requests under the Environmental Information Regulations.

The Council will apply the term 'vexatious' fairly and consistently. In determining whether a request should be refused because it is vexatious the Council will consider all the circumstances of the request, including:

- The context and history of requests submitted by an applicant; Repeat requests submitted by an applicant (see, 'Repeat Requests');
- Whether the request is likely to cause unjustified distress, disruption or irritation.
- Whether the request could fairly be seen as obsessive.
- Whether complying with the request imposes a significant burden.
- Whether an applicant is habitually and persistently submitting requests where there appears to be no reasonable grounds for them to do so.
- Whether there is a strong likelihood that such requests are being made to intentionally cause harassment, cause distress to staff, divert resources or to disrupt the proper workings of the Council.

The Council is aware that the term 'vexatious' should be applied to the activities of the applicant and not to their nature or attitude. The Council will assess whether a request is vexatious based on the type of information requested and not on the identity of the applicant.

Where a request is refused on the grounds that it is deemed to be vexatious, a written notice from the Council will be issued within 20 working days of receipt of the request.

The Council will send out a standard letter or email stating that the request has been declined on the grounds that it is vexatious. The applicant will be notified of the internal procedures for dealing with a complaint. Details of the rights of appeal to the Information Commissioner will also be enclosed.

Where a notice has previously been issued to inform the applicant that the request has been classified as vexatious, the Council will neither acknowledge nor answer subsequent requests that are made on the same or similar subject.

Environmental Information Regulations Policy and Procedures

Where a request is received and there is a chance it is merely vague rather than vexatious due to a lack of knowledge on the part of the applicant, the Council will clarify with the applicant what is actually required. This may be done by telephone or by providing a written request for clarification.

Where necessary the Access to Information Panel will meet to form a decision on whether the threshold for this exemption has been met, before any further action is taken.

Transferring requests for information to another public authority

If the Council receives a request for information that it does not hold, but knows is held by another public authority, it will provide as much assistance as possible to the applicant in transferring their request to the authority, which holds the information. This may be by simply directing them to the appropriate public authority.

If the Council holds any of the information that has been requested, it will treat that part of the request as an EIR request and process it accordingly. At the earliest opportunity the Council will inform the applicant of the information it does not hold and provide reasonable assistance to enable them to locate it elsewhere.

If the applicant indicates to the Council that they do not object to the transfer of the request to the other public authority, the Council may transfer the request to the other authority direct. However, the Council will notify the applicant if this is to be done.

All transfer of requests and contact with those who have requested information that is held by another public authority will be undertaken as soon as possible so that there is no undue delay. The time period for compliance with the request in respect of the part of information not held by Denbighshire County Council does not start until the public authority that does hold it receives that request.

Consultation with third parties

The Council recognises that disclosure of information may affect the legal rights of a third party and this policy is written in accordance with the terms of the Data Protection Act 2018 and the Human Rights Act 1998. The Council further recognises that unless an exception is provided for in the Regulations, there will be a requirement to disclose that information in response to a request.

Environmental Information Regulations Policy and Procedures

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 disclosure, unless such a consultation is not practical. The consultation may assist the Council in determining whether an EIR exception applies to the information requested, or the views of the third party may assist the Council in determining where the public interest lies. A third party's refusal to consent to disclosure of information does not necessarily mean that information will not be disclosed. If the cost of consultation with the third party is disproportionate, consultation may not be undertaken. The Council will not undertake consultation if it does not intend to disclose the information because of another exemption, or where the views of the third party would have no effect on the decision of the Council because no exemption applies.

Contracts

Some contracts will be regarded as environmental information if they involve work on the environment or have an impact on the environment. The Council will not include contractual terms, such as confidentiality clauses, which purport to restrict the disclosure of information held by the Council in relation to the contract beyond the exceptions under the Environmental Information Regulations. Unless an exception under the Regulations applies in relation to any particular part of the contract, the Council will be obliged to disclose that information in response to a request regardless of the terms of any contract. Trade secrets might be classed as exempt information, so may information, which would prejudice the commercial interests of any person, including the Council. This exemption is subject to the public interest test i.e. whether the public interest in maintaining the exemption outweighs the public interest in disclosing it.

The Council will seek during the tendering process to discuss and agree with the contractor a schedule of information, which the contractor wishes not to be disclosed. However even if such a schedule is included, the restrictions on disclosure may subsequently be overridden by obligations under the Environmental Information Regulations. Further, the public interest in releasing information may after passage of time, be in favour of disclosure.

If a non-public organisation contracts with the Council to provide a service that is a function of the Council then that organisation will be deemed to be part of the Council for the purposes of the Environmental Information Regulations and, in relation to that service,

Environmental Information Regulations Policy and Procedures

will be subject to the terms of the Environmental Information Regulations. The Council will take into consideration the OGC/GPS Policy and Guidance on disclosure of procurement and post tender award information.

Complaints

Any person who is unhappy with the way in which the Council has handled their request for information may request an internal review. Any expression of dissatisfaction concerning an Environmental Information response will also be treated as a request for an internal review. The Information Commissioner is unlikely to investigate any complaint about the Council's handling of an information request unless the complaints procedure has been exhausted.

A complaint may be made about the Council's failure to release information in accordance with its Publication Scheme, about requests that have not been properly handled, or where there is dissatisfaction with the outcome of a request. If, following a complaint, the decision is made to release information; the information will be made available at the earliest opportunity following notification of intended disclosure. Complaints about the way in which information requests are handled should be directed to Access to Information at:

Access to Information
Business Information Team
Denbighshire County Council
PO Box 62
Ruthin LL15 9AZ

Email: information@denbighshire.gov.uk

Phone: 01824 708242

If the decision to refuse disclosure is upheld or the internal Review procedure is exhausted and the applicant is still dissatisfied, they will be made aware of their right to apply for a review to the Information Commissioner at:

Environmental Information Regulations Policy and Procedures

The Information Commissioner

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: 0303 123 1113

Monitoring and review

Compliance with this policy and related procedures will be monitored by the Access to Information Team, working with the Information Management Officers from each service and by the Access to Information Panel. Reports on the panel and the Council's activities under the Environmental Information Regulations are reported annually to the Council's Corporate Governance Committee.

Any deliberate breach of the Environmental Information Regulations will be seen as misconduct and may result in disciplinary action

This policy will be reviewed no later than March 2024

Appendix A

Environmental Information Regulations Access to Information Panel

Terms of Reference

Denbighshire County Council is committed to compliance with all information legislation, the Human Rights Act and the common law duty of confidentiality. The Council approved the formulation of a corporate Access to Information Panel in April 2012, and approved the revision of the Panel in 2020. The panel members' obligations and powers are set out in the officer Scheme of Delegation contained within the Council's Constitution and adopted by Full Council.

Environmental Information Regulations Policy and Procedures

Panel members:

Full Members:

Head of Legal and Democratic Services & Monitoring Officer (Chair)

2 x Heads of Service

SIRO/ Head of Business Improvement and Modernisation

Advisory Members:

Business Information Team Manager

Deputy Monitoring Officer/Data Protection Officer (legally qualified)

Access to Information Officer

The panel is quorate when at least one full member and one legally qualified member (who may be an advisory member) is in attendance.

Role and purpose:

The purpose of the Access to Information Panel is to reach decisions on the disclosure or withholding of information following the receipt of a request for information under the Information Legislation, including disclosures under the Data Protection Act. The purpose of the Panel is **not** to provide an additional layer of bureaucracy, but to ensure consistency of approach in all areas of disclosure across the Council, with the emphasis on open government and transparency, in order to increase public confidence in the Council's decision making, but also its obligations to protect personal information. It will also provide Services with the option of a reference to the Panel where they consider an exemption is applicable, against the views of the Access to Information Officer.

The Panel will make decisions on complex, contentious, highly sensitive or very high profile exemption decisions. It will also accept referrals from a Service who specifically wish the matter to be decided by the Panel.

The Panel will not make decisions on straightforward third party redactions of personal information; exemptions which in the view of the Head of Legal, HR and Democratic

Environmental Information Regulations Policy and Procedures

Services or his deputy, and the Access to Information Officer, are clearly applicable to the request and will not require the commitment and attendance of the Panel.

Terms of Membership

It is a condition of the panel membership that all full Panel members attend training on the Information Legislation in order to understand and apply the exceptions properly. A full Panel member cannot delegate his or her responsibility to another Officer who is not a Panel member.

Where a conflict of interest affects a Panel member's decision making, they must advise the Panel of this interest and not take part in the decision. They may take their 'hat' off as Panel member and make representations from their Service, but they cannot vote on the issue.

Panel members shall keep confidential the personal details of the requestor and any confidential information they are privy to, in their capacity as panel members.

Quorum

The Panel shall only be quorate when at least one legally qualified officer is present and at least one other full Panel member.

Wherever possible the Panel shall endeavour to reach a unanimous decision. Where this is not achieved, each member shall have one vote. Any matter will be decided by a simple majority of those members voting and present. In the event of an equilibrium the Chair shall have the casting vote.

Process and Procedures

A referral to the Access to Information Panel shall be through the Access to Information Officer, who will then make arrangements for the Panel to meet, taking into consideration the statutory time limits in which the Service needs to deal with the request.

The Access to Information Officer shall prepare the report for the panel outlining the issues, but the Panel shall be entitled to ask questions and consider factors outside of the report if they consider this relevant. Where recommended, Legal Services shall draft the

Environmental Information Regulations Policy and Procedures

response to the applicant. If due to shortness of time a written report is not available, legal advice may be given verbally at the Panel, and noted in the minutes.

If a Service wishes to rely on the exemption, a delegate shall be invited to attend the panel, but their attendance is not mandatory.

The Access to Information Panel members shall use their best endeavours to attend any urgent meetings where this is necessary and unavoidable; however reasonable notice must be given to Panel members. If appropriate, urgent decisions may be made electronically, providing the request is not complex or necessitates the personal attendance of the department wishing to rely on the exemption.

Appendix B

The Definition of Environmental Information

The definition of environmental information is wide and includes:

- the state of the elements of the environment such as air and atmosphere, soil, land and landscape and natural sites, biological diversity;
- factors such as substances, energy, noise, radiation, waste or other releases;
- measures such as policies, legislation, plans, programmes, agreements and activities (and cost-benefit or economic analysis on such measures) affecting/likely to affect the above;
- reports on the implementation of environmental legislation; and
- the state of human health and safety including contamination, conditions of human life, cultural sites and built structures

How does this definition apply in practice? Examples are set out below, but it is the precise information at issue that is the important factor in determining whether the information does fall within the above definition.

Information that is environmental:

- majority of planning request / applications
- information about local plans
- section106 agreements

Environmental Information Regulations Policy and Procedures

- drainage records
- energy usage
- information about traffic levels
- contaminated land information
- scrap metal information
- condition of roads
- refuse collections
- smoke controlled areas
- Con 29 Question 1(1)(a) – planning permission
- Con 29 Question 1(2) – planning designations and proposals
- Con 29 Question 2(a) – highways maintainable at public expense
- Con 29 Question 3(2) – drainage agreements and consents
- Con 29 Question 3(5) – nearby rail schemes
- Con 29 Question 3(9)(b) – stop notices
- Con 29 Question 3(13) – radon gas
- Con 29 question 3 (7) – outstanding notices – (3) (7) (a) building works, (3) (7) (b) environment, (3) (7) (d) housing, (3) (7) (e) highways, (3) (7) (g) flooding and coastal erosion. This information is largely environmental, but some parts may be deemed to fall within the Freedom of Information Act.

Information that is not environmental - therefore falling within the Freedom of Information Act:

- animal boarding registries;
- food premises registration;
- premises licences for clubs; and
- regulation of skin piercing.
- food labelling information
- Con 29 question 1.1(d) and 1.1(e) – certificate of lawfulness of existing/proposed use or development; and
- Con 29 question 3.7 – outstanding notices – parts 3 (7) (c) and (f) (health and safety and public health). This information is primarily FOI, but some parts may be deemed to fall within the Environmental Information Regulations.

Environmental Information Regulations Policy and Procedures

Appendix C

Exceptions (exemptions) under the Environmental Information Regulations

- Information not held 12 (4) (a)
- Vexatiousness/Cost Limit 12 (4) (b)
- Request too general 12(4) (c)
- Unfinished documents 12 (4) (d)
- Internal Communications 12 (4) (e)
- Public Safety 12 (5) (a)
- Course of Justice (12 (5) (b)
- Intellectual Property Rights 12 (5) (c)
- Confidentiality of proceedings 12 (5) (d)
- Confidentiality of commercial info 12 (5) (e)
- Information provided in confidence 12 (5) (f)
- Protection of the Environment 12(5) (g)

Appendix E

Property Searches

Property Searches are largely requests for environmental information, although some building regulations information may not be. It is permissible to charge for Official Searches as the authority is providing a service over and above access to data.

Official Searches

Full CON29R Searches

Charges for Property Searches Regulations 2008 (Wales) govern the setting of CON29 fees. These searches are completed in full by the authority and certified as accurate. The fee for a residential property is currently £106 and the fee for a commercial property is £130.

Environmental Information Regulations Policy and Procedures

Part CON 29 Searches (CON29O)

CON29O (Q.4 to 21): £12 per question

CON29O (Q.22): £30

LLC1 Searches

The fee for an LLC1 is fixed by statute in Wales. Recital 18 of the Directive. The fee is currently £4.

Personal Searches

A personal search consists of information from the local land charges register only. Search companies are able to inspect information. The applicant may also ask for information which he/she needs to see in order to answer a CON29 question about a property.

Single Con29 questions

The answer to a specific Con 29 question where the authority is not being asked to provide a full CON29R search. These are processed in the same way as standard EIR requests to be responded to within 20 working days.

Definitive Map

Where an enquiry is made requesting a written copy of the exact position of footpath, a statutory charge of £15 is applied, where this is connected to a conveyance or land charge search.

We have a duty to keep the Definitive map available to the public for inspection both at council offices. Community Councils also hold copies. We are obliged, if requested, to make copies available. However, we are restricted to providing A4 prints of map extracts under our license from Ordnance Survey, and requesters may wish to direct their enquiries to Ordnance Survey for further options.