

# Meeting the Requirements

## Freedom of Information Act and Environmental Information Regulations

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## Introduction

**The Freedom of Information Act 2000 (FOIA)** is designed to increase transparency; providing members of the public the opportunity to be able to routinely access information held by public authorities. It does this in two ways:

- public authorities are obliged to routinely publish certain information about their activities; and
- members of the public are entitled to request information from those public authorities.

The Act covers any recorded information that is held by a public authority. Public authorities include government departments, local authorities, police forces, state schools and the NHS; **this includes information from GMPs concerning their NHS work**. Recorded information includes printed documents, computer files, letters, emails, photographs and sound or video recording, which is held by a public authority.

The Act requires each organisation to have a '[Publication Scheme](#)', which should set out the organisation's high-level commitment to proactively publish information; this is generally provided through the organisation's web site.

The organisation should ensure they have adequate procedures in place to enable individuals to exercise this right. Staff should be made aware of how to respond if they receive a request for information under the Act. See '[Table One](#)' for information on the key considerations when responding to an FOI request.

The FOIA does not give people access to their own personal data such as their health records. If a member of the public wants to see information that the organisation holds about them, they should make a Subject Access Request under the Data Protection Act 2018 and the UK General Data Protection Regulation. Further information on Subject Access request can be found on the '[Right of Access](#)' page.

See the ICO website for their '[Guide to Freedom of Information](#)', including guidance on the model publications scheme, receiving requests, refusing requests and the type of information expected to be published.

A '[Section 45 Code of Practice](#)' was issued in July 2018. The guide is for those who work for a public authority and have day-to-day responsibilities for freedom of information. It explains how to apply the Act by giving practical examples and answering frequently asked questions.

**The Environmental Regulations 2004 (EIR)** are comparable to the Freedom of Information Act but are limited specifically to information regarding the environment. The EIR grants the right for any person to request access to environmental information held by public authorities and for public authorities to take steps to proactively make environmental information available to the public. The EIR interpret 'environmental information' widely, with the scope to include information such as health and safety policies, details about recycling, land development, pollution levels, energy production, and waste management.



An EIR request can be made verbally; it is important to log these requests, along with written requests. Under the EIR applicants are not specifically required to give their name or reason for the request.

The Regulation requires organisations to follow similar processes, as with the FOIA, for example, it requires public authorities to publish environmental information proactively in its publication scheme, enables the public to request information and requires the organisation to have relevant procedures in place for responding to these requests etc.

See the ICO website for their '[Guide to the Environmental Information Regulations](#)', including guidance on the model publications scheme, receiving requests, refusing requests and the type of information expected to be published.

Applicants do not need to know whether the Environmental Information Regulations or the Freedom of Information Act covers the requested information. When the request is made, it is for the public authority to decide which law they need to follow.

## How do we reach Attainment Level 1?

The organisation should identify an individual to act as the Freedom of Information Lead who will have responsibility for the FOIA and EIR. The FOI Lead takes responsibility for ensuring that procedures are in place and that the organisation is compliant with pieces of legislation. The organisation should ensure that all staff responsible for dealing with FOI and EIR requests are aware of their responsibilities and are appropriately trained.

Procedures for compliance with the FOIA and EIR should be implemented to ensure the organisation effectively meets its statutory requirements. Each member of staff should be aware of the organisation's process for dealing with a request which is received by them, for example, who to contact, and the urgency for doing so due to the strict time limits which the law applies.

All staff should be made aware of their own responsibilities for the creation of records, including emails, which may be subject to and disclosed in response to a request under FOIA and EIR. All corporate information, for example, contracts and commercially sensitive information, including emails, should be created with the awareness that a request for this information may be received and information, which is not exempt, must be disclosed to comply with FOIA and EIR. The organisation should therefore ensure that they (and their staff) receive adequate training to ensure they are able to adhere to the organisational procedures and guidance under the Act, including coordinating responses as well as dealing with complaints, appeals and internal reviews.

As a measure of best practice, the organisation should maintain an FOI and EIR disclosure log, which is maintained regularly and kept up to date.

Although it is acknowledged that GMPs do not receive too many requests under the FOIA and EIR, there is still a legal obligation for practices to comply with its requirements.



As well as responding to requests for information, the organisation must publish information proactively. To enable this the Act and Regulations requires the organisation to provide and maintain a '[Model Publication Scheme](#)' approved by the '[Information Commissioner's Office](#)' (ICO). The publication scheme should be supported by the organisation's '[guide to information](#)', specifying what information it should publish and how it's available. General Practices should pay particular note to the "Guide to information provided by GPs under their model publication scheme".

The '[Definition document for Health Bodies in Wales](#)' provides examples of the kind of information that the ICO would expect the health boards and trusts to provide in order to meet their commitments under the model publication scheme.

The ICO have also developed a '[FOI self-assessment toolkit](#)' that organisations may find useful and a '[schedule of fees](#)' setting out what the organisation charges for information.

## How do we reach Attainment Level 2?

The organisation should provide links to the publication scheme and guide to information on the organisation's website, this should include clear communication points indicating where further/additional information can be found. Posters or leaflets directing the public to the organisation's publication scheme should also be made available.

The organisation should regularly review its website content in relation to the ICO model publication scheme, and proactively published information in addition to the ICO model publication scheme where appropriate.

## How do we reach Attainment Level 3?

Providing staff with written materials or briefings does not provide sufficient assurance that the FOI and EIR procedures have been understood and are being followed. Therefore, spot checks and routine monitoring are recommended to test staff awareness on how to handle or direct FOI and EIR requests.

The organisation should ensure that FOI and EIR performance figures are regularly reported to the relevant forum, such as the Board/Committee/Practice Management team.

## Supporting Resources

**ICO: Guide to freedom of information** - *Guidance for those who work for a public authority*

*This guide includes support on:*

### What is the Freedom of Information Act?



**Publication Scheme** – What information do we need to publish?

**Definition documents** – Sets out what should be published

**Receiving a request** – What should we do when we receive a request for information?

**Refusing a request** – When can we refuse a request for information?

**Dealing with repeat requests**

**Complaints** – What happens when someone complains?

**ICO: Dealing with vexatious FOIA requests** - *This guidance will help public authorities understand when a request can be refused as vexatious under section 14(1) of the FOIA*

**ICO: EIR - Manifestly unreasonable requests** - *This guidance explains to public authorities how to deal with requests for information which are manifestly unreasonable*

**ICO: Freedom of Information Act Datasets (sections 11, 19 and 45)** - *This guidance explains to public authorities the provisions regarding datasets that are added to FOIA by the Protection of Freedoms Act 2012 Section 102. The provisions create duties to provide datasets in response to requests and to make them available under a publication scheme*

**ICO: Means of communicating information** - *The guidance discusses section 11 of the FOI Act and explains what a public authority has to do when a requester expresses a preference for how they want to receive information*

**ICO: Interpreting and clarifying requests** - *The guidance outlines the factors an authority should take into account when interpreting requests under the FOI Act and EIR. This includes advice on how to read requests objectively and impartially. It also covers how to deal with unclear or ambiguous requests*

**GOV.UK: Secretary of State for Constitutional Affairs: Code of Practice on the Discharge of Public Authorities' Functions under Part I of the Freedom of Information Act 2000** - *The Code covers such issues as public authorities' duties in providing advice and assistance to applicants, charging fees, timeliness in answering requests, and transferring requests to other public authorities*

**Code of Practice on the Management of Records issued under section 46 of the Freedom of Information Act 2000** - *The Code sets out the practices that organisations should follow in relation to the creation, keeping, management and destruction of their records, including those selected for historical preservation.*

**Cabinet Office: Freedom of Information Code of Practice (July 2018)** - *Guidance for those who have day to day responsibility for Freedom of Information*



**Freedom of Information Act 2000** - The Act provides public access to information held by public authorities; this includes Health Boards, Trusts and Primary Care Service Providers when providing NHS services

**The Freedom of Information (Release of Datasets for Re-use) (Fees) Regulations 2013** - The regulations set out how a public authority can charge for making a certain datasets available for re-use - the costs they can recover and a reasonable return on investment

**Environmental Information Regulations 2004** - The Regulations provide a right of access to environmental information held by public authorities; this includes Health Boards, Trusts and Primary Care Service Providers when providing NHS services

## Summary Requirement

Attainment Level	Summary Requirement
1	There are documented policies and procedures for the Freedom of Information Act (FOIA) 2000 compliance and for the Environmental Information Regulation (EIR) 2004 which sets out clear responsibilities for responding and dealing with information requests efficiently and in accordance with the law. Requests are documented and the organisation has adopted the ICO Model Publication Scheme. Procedures and Policies are made available to staff
2	The organisation proactively publishes additional information as good practice and this is communicated to and is easily accessible by members of the public
3	There is a review process in place for FOIA and EIR processes and compliance with the procedures is regularly monitored

