

Environmental Information Regulations Policy

1.0 Introduction

The Environmental Information Regulations 2004 (EIR) allows any person access to environmental information held by Welwyn Hatfield Borough Council. (WHBC)

Environmental information is defined as any information in written, visual, aural, electronic or any other material form on:

- (a) the state of the elements of the environment such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among those elements;
- (b) factors such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges, and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements or factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c)

Individuals already have the right of access to their personal information under the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 and other recorded information under the Freedom of Information Act 2000.

WHBC's Data Protection policy maintains the confidentiality of personal data held or processed either electronically or manually to increase access given to individuals to information relating to them. The EIR extends that right to allow access to all types of environmental information held by public authorities. The EIR allows access to information regardless of when that information was created or how long it has been held. It also sets out exceptions from that right and places a number of obligations on public authorities.

WHBC maintains a Publication Scheme and complies with requests for environmental information unless an exception applies.

Other relevant policies that should be read in conjunction with this policy are:

- The Council's ICT Strategy
- Data Protection Policy
- Records Retention Policy
- Freedom of Information Policy

2.0 Purpose

The aim of this policy is to:

- Provide a framework that ensures that the Council complies with the EIR
- Promote transparency of decision making by the Council.
- Improve and enhance the democratic process.
- Build public trust and confidence.

This policy is available to all internal and external stakeholders and is on the Council's website at www.welhat.gov.uk

3.0 Scope

Records can be defined as "information that is written or stored on computer so that it can be used in the future". Records covered by this policy include all environmental records (irrespective of the medium on or in which the information is carried) which belong to or are in the custody of the Council or any of its officers and members. This policy will apply to all WHBC officers, members, contractors, partners, consultants and service providers who have access to the Council's records.

Failure of a contractor/partner/consultant/service provider to comply could lead to legal action and the cancellation of a contract.

4.0 Objectives

WHBC will ensure that:

- There is someone with specific responsibility for responding to Environmental Information Regulation (EIR) requests in the organisation.
- Everyone involved in managing and handling EIR requests will be appropriately trained and supervised.
- Anyone who makes enquiries about EIR requests will be told what they need to do to have their request dealt with.
- All requests will be dealt with by the statutory deadline.
- All request will be dealt with courteously.
- Procedures for handling EIR requests will be regularly assessed and evaluated and changes will be made if deemed necessary.

5.0 Policy Statement

WHBC will endeavour to increase the access given to individuals to information to promote openness and transparency of decision making.

6.0 Publication Scheme

As required by the (FOIA), WHBC has adopted and maintains a publication scheme as a guide to information it holds which is routinely available. This will include environmental information. Any individual who requests it will be informed whether the Council holds the information and, subject to exemptions, be supplied with it. The Publication Scheme which is available on the Council's website at www.welhat.gov.uk will be reviewed on a regular basis and at least annually.

7.0 Datasets

The Protection of Freedoms Act 2012 amended certain sections of the FOIA. The amendment affects the way in which datasets must be made available. In accordance with the amendment WHBC will ensure:

- Datasets will be available in reusable format as far as reasonably practicable.
- If the dataset copyright is owned by the Council, it will provide the information under licence.
- Datasets that have been requested will be published as part of the Publication Scheme.

8.0 Codes Of Practice

The Freedom of Information Act has created two codes of practice:

- Access code (Section 45) – This deals with how to handle requests for information including the level of advice and assistance expected, the transfer of requests between authorities and consulting with third parties who may be affected with the release of information.
- Records Management (Section 46) – Public authorities must have good records management procedures in place to comply with its obligations under the Act.

9.0 Information Held

WHBC is a local public authority and we provide a range of government services to local people and businesses within the borough. We collect information for specified, explicit and legitimate purposes so that we can offer our services to the residents of the borough, support our employees and comply with our statutory and legal obligations and we do not retain data for longer than is necessary. This is in accordance with our Document Retention Policy.

10.0 Provision of advice and assistance

All WHBC officers will provide advice and assistance in response to EIR requests in so far as they reasonably can. Advice and assistance includes publishing procedures to enable applicants to understand how the Council deals with requests and their rights of access under the EIR

11.0 Requests for information

Any request for recorded environmental information held by WHBC in any format will be treated as a request under the EIR unless another statutory access right applies (e.g. GDPR and DPA). Requests will be accepted from any individual or organisation. Applicants are not required to mention the EIR when requesting information.

Requests under the regulations need not be in writing but may be in any form. The Council will provide an on-line form for requests to be submitted, if required. Applicants do not have to explain the purpose of their request although it may be necessary to obtain further information in order to fully process their request.

All officers and members of the Council are required to follow the agreed procedures and these will be monitored by the Freedom of Information Officer.

12.0 Provision of Information

Where information is not subject to any exceptions, WHBC will:

- Wherever possible provide information to any applicant who requests it in the format they have specified. The Council may decide that it is unreasonable to supply information in the format requested by the applicant as a result of practical or cost implications. Where this is the case, the applicant will be told of the reason for this decision. The Council will still supply the information by any other reasonable means.
- Comply with requests for access to information as quickly as possible and not later than 20 working days following the date of receipt of the request. (or payment of fee if applicable) Working day means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is deemed a Bank Holiday.

If the request is complex or voluminous the regulations allow for an extension to 40 working days. This is the absolute limit for a response to be provided. In these circumstances the Council will give a realistic estimate of when a decision will be made as to whether the information will be provided. If it becomes apparent that the decision will not be made within the estimated time given, the Council will inform the applicant of any delay as soon as possible. The reasons for the delay will be explained. The Freedom of Information Officer will monitor all instances where estimates are exceeded.

13.0 Transfer of Requests

Where a request for information is received and WHBC does not hold all or any of the requested information, the Council will deal with the areas it is responsible for and advise the applicant that the other information is held by another authority and will provide relevant contact details where possible. In certain situations requests will be transferred to other authorities immediately.

14.0 Fees and Charges

Wherever possible, WHBC will provide any requested information free of charge. Charges may be levied for certain information or publications listed in the Publication Scheme. Where this is the case, the applicable charge will be listed and will be payable prior to the information being supplied.

Fees may be incurred for requests for information that fall outside the Publication Scheme to cover the costs of locating, retrieving and communicating the information to the applicant e.g. photocopying and postage. All charges will be as reasonable as possible.

A fees notice will be sent to the applicant which must be paid within three months. If the fee is not paid within this time limit, it will be assumed that the applicant no longer wants the information and the request will be cancelled.

In all cases, the Council will consult with the applicant to provide as much information within a reasonable cost.

15.0 Exceptions

There are certain circumstances under which WHBC is not obliged to release information because an exception applies under the EIR. The Council's policy is to release information unless an exception can be reasonably applied. The Council will endeavour to apply exceptions for requests for information fairly, objectively and consistently and will not use exceptions as a means of obstructing access to information.

Exceptions may apply to only some of the information requested by an applicant. In such cases, WHBC will release as much information as it can by "redacting" the information deemed to be exempt. Redaction is the blacking out of information so that it is can not be read. The Council is not obliged to confirm or deny the existence of information or to advise in respect of exemptions, where to do so would in itself disclose exempt information.

A list of the exceptions to the EIR and general guidance can be found on the Information Commissioner's website at www.informationcommissioner.gov.uk

There will be occasions when the Council will need to balance the rights of applicants to information against another individual's person's (or individual

persons') right to privacy, third parties rights to confidentiality and what information subject to the public interest test.

- Personal Information – Where information requested under the EIR contains personal details about anyone other than the applicant, the principles of the GGPR and DPA must be applied.
- Information provided in confidence – This exception applies to information provided in confidence to WHBC by external persons or organisations including other public authorities. WHBC will not automatically presume a duty of confidence and may seek the views of third parties with regard to the disclosure of requested information.
- Public Interest Test – Information will only be withheld if in the opinion of WHBC the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

16.0 Refusals

Requests for information will not be processed where the information:

- Does not exist in a recorded format.
- Is intended for future publication.
- Is already contained in the Publication Scheme.
- Is already available via an existing charged service i.e. Public Register.
- Is subject to any existing legislation where statutory access rights apply either to WHBC or any other public authority.

WHBC will provide written notice to applicants of refusals and/or part refusals of requests for information. The notice will include details of any exemptions that have been applied with an explanation of why the exemption applies. In cases where the public interest test has been applied resulting in non-disclosure, the reasons for refusal will be given and the arguments that have been considered when deciding upon disclosure.

The notice will also give details of WHBC's appeals procedure if the applicant wishes to appeal against the decision.

17.0 Vexatious and Repeated Requests

WHBC will not comply with vexatious requests where there is a strong likelihood that such requests are being made to intentionally cause harassment, divert resources and/or disrupt the proper workings of the council.

WHBC will not comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request. A written notice stating when a request is deemed vexatious or a repeat will be sent to the applicant stating the reasons for this decision.

18.0 Training

All WHBC staff and members will receive annual appropriate training to ensure that they are fully informed of their obligations under the EIR. Further specific training will be given to staff with extra responsibilities for administering or monitoring the EIR. Advice and assistance will also be available from the Freedom of Information Officer and the Director (Governance)

19.0 Responsibilities

Overall responsibility for the efficient administration of the Act lies with the Freedom of Information Officer. This is currently Alison Marston, Principal Governance Officer, Governance Services team.

Her duties include:

- Ensuring that WHBC complies with its obligations under the FOIA / EIR.
- Identify and monitor responses and procedures and adapt these to meet best practice.
- Offer guidance to staff on EIR issues.
- Co-ordinate and monitor EIR requests.
- Develop and revise the Publication Scheme in conjunction with the appropriate staff.

The Data Protection Officer will deal with issues relating to Data Protection and will liaise with the FOI Officer to ensure that requests for information are handled effectively and in accordance with the relevant procedures and timescales. All data protection requests should be directed to Farhad Cantel, Data Protection Officer, Finance & Operations Directorate.

All staff and members must comply with this policy and are responsible for ensuring that:

- All information they hold, whether electronically or manually is kept secure.
- All information is retained in accordance with the Retention and Disposal policy.
- Personal information is not disclosed deliberately or accidentally either orally or in writing to any unauthorised third party

20.0 Complaints

In the event of any complaint the Freedom of Information complaint procedure will be applied. This is available on the Council website. All applicants will be informed of the complaint procedure and given a copy of this when a request response is sent.

If the complainant is still unhappy they will be informed of their right to appeal to the Information Commissioner who will decide whether their request has been properly handled.

21.0 Policy Review

This policy will be reviewed at least every three years but will be reviewed sooner if changes in legislation require it.