

# Environmental Information Regulations 2004 Internal Guidance

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milton keynes council



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## Version Control

Version	Date	Description
1.0	March 2020	Initial Version
2.0	August 2021	Updated roles and responsibilities.

## Introduction

The Environmental Information Regulations (EIR) 2004 came into effect on 1 January 2005 and mean that anyone can make a request for information held by or on behalf of Milton Keynes Council (MKC) as long as it clearly describes the information requested.

**The Council then has 20 working days to respond (although if the request is large or complex it might be possible to extend this to 40 working days).**

This guide is designed to guide you through processing an EIR request – it cannot however advise for all possible eventualities and therefore if you come across something not included in this guide always contact the FOI Team who can offer more specific advice.

**LO** = Liaison Officer

**ICO** = Information Commissioner's Office

**FOI** = Freedom of Information Act 2000

**EIR** = Environmental Information Regulations 2004

## Roles and responsibilities

The responsibility for compliance with EIR sits with the Information Governance Team (or more specifically the FOI team) as well as "Liaison Officers" within the service areas as follows:

- The **Corporate Information Officer** is responsible for logging, acknowledging, assigning, monitoring and ensuring responses within MKC's statutory obligations on a daily basis.
- Where issues arise the **Information Governance Officer** is the first stage for escalation and the **Head of Customer Services and Data Insight** is the second stage.
- **Liaison Officers** are responsible for compiling the information from the various teams/officers in their service areas within the statutory timeframe. In some cases, Liaison Officers are responsible for sending responses and in others this falls to the FOI team – the FOI Team will advise who should send the response when they contact you. Full details of the responsibilities of Liaison Officers are detailed within the **IG Liaison Officer** guide found on the [intranet](#).

## Receipt of a Request

Upon receipt of a new request the FOI team will:

- **Review the request** to see if it is a valid request and how it should be processed.
- **Log and acknowledge** the request on our Firmstep system producing a reference number.

**If you receive a request from the public you should forward it to the FOI team immediately at [FOIA@milton-keyes.gov.uk](mailto:FOIA@milton-keyes.gov.uk) to be processed.**

## Personal Information

The FOI team will do their best to filter out requests for personal data under FOI however inevitably some will slip through. **If you receive a request which you believe contains a request for personal information, either of the applicant or a third party, or if personal data would be part of the disclosure you should contact the FOI team before proceeding.**

As a general rule we would advise the following, although there can be exceptions and so you should always seek **FOI Team Approval** before responding:

- Requests for / disclosures which contain the requesters own personal data – direct requestor to complete a Subject Access Request.
- Requests for / disclosures which contain the personal data of anyone but the applicant – apply an exception to the information under Regulation 13 (See [Appendix 1](#) for table of exceptions).
- Requests for specific names, salary bands or qualifications etc. of colleagues below the “level” of Head of Service - apply an exception to the information under Regulation 13 (See [Appendix 1](#) for table of exceptions).
- Requests for specific names, salary bands and job titles etc. of colleagues above the “level” of Head of Service – generally we would release but it is best to confirm with the FOI Team.
- Requests where the disclosure contains information on less than 5 individuals - apply an exception to the information under Regulation 13 (See [Appendix 1](#) for table of exceptions) as the number is low enough to potentially identify an individual.

**FOI Team Approval is required for any EIR disclosure where personal data has been considered.**

## Requests from the Media

If a request is received from a media source such as the **BBC or Guardian** then the final response **must be approved** by the **Head of Communications** prior to sending.

## Handling an EIR Request

All EIR requests **must** be responded to within **20 working days** of receipt; unless they are particularly large then it might be possible to extend this to 40 working days. You **must** have the approval of the FOI Team for this.

When you received a new request you should ask yourself a number of questions which will guide you through processing the request and are explained further in the process flow overleaf and in the following pages:

- Is the request clear? Is clarification required?
- Is the information held?
- Am I happy to provide **all** of the information requested?
- Do I believe the request is too large to reasonably be expected to comply with?
- Do I believe an exception applies?

The process flow on the next page shows how all of these questions fit together – clicking on the relevant boxes will provide further information.

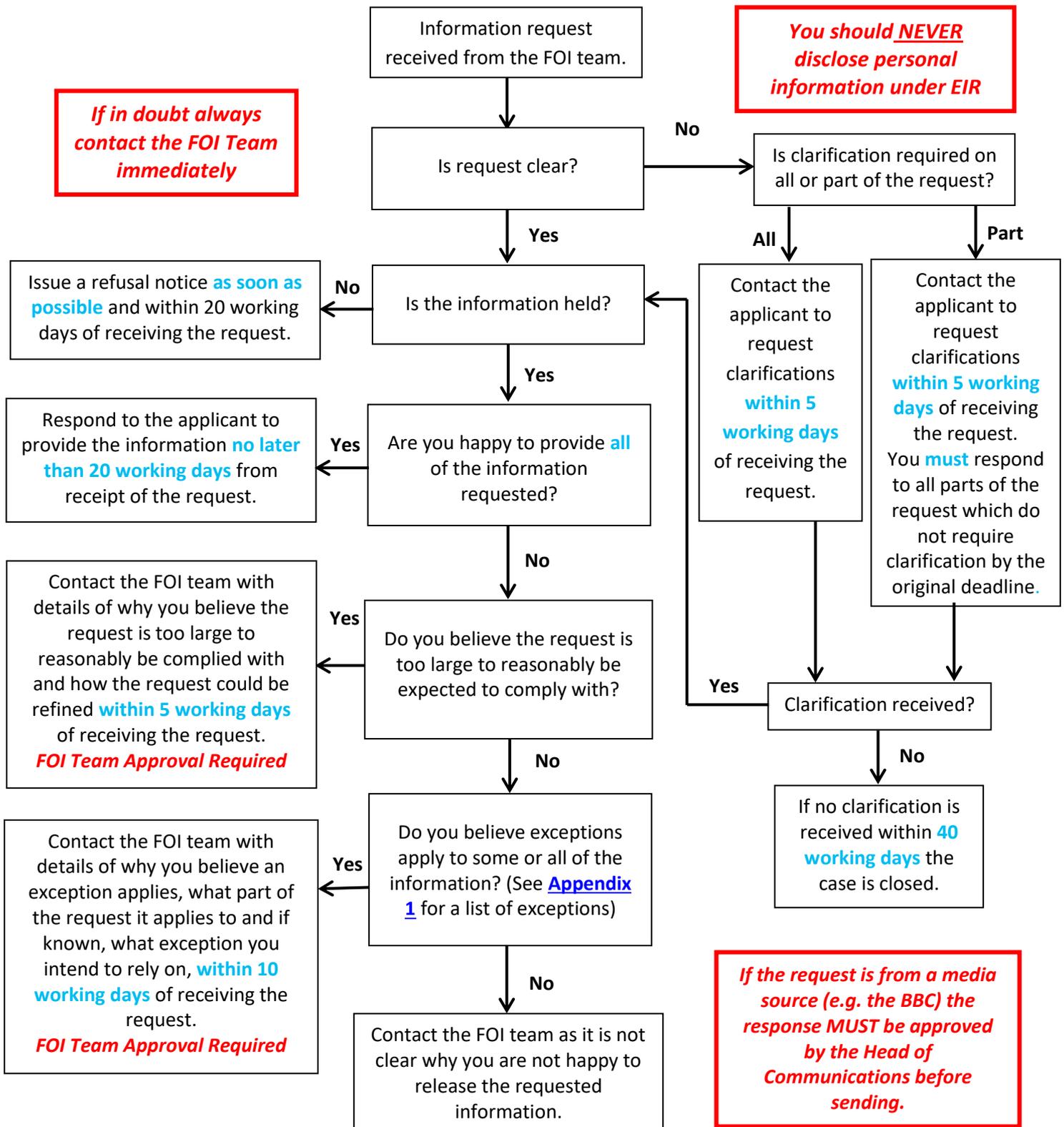
If you receive a FOI which you don't think is for you then please inform the FOI team immediately so it can be reassigned.

# I've received an information request from the FOI team – what do I do now?

The below process flow offers a guide to the overall process only and should be read in conjunction with the guidance on the following pages – it is possible to navigate to the relevant pages by clicking on the relevant question box.

If you are a Firmstep user then you should issue responses via Firmstep.

If you are NOT a Firmstep user then all information should be sent to the FOI team as usual.



**For Sections 7 to 11:**

**Green boxes** indicate to proceed through the process flow.

**Red boxes** indicate a response needs to be sent to the applicant / advised to the FOI Team.

## Unclear Requests

### If clarification is NOT required (the request is clear) ...

We should continue to process the request, asking the remaining questions. [Return to process flow.](#)

If you need to make assumptions of what information is being requested (e.g. where a specific time period hasn't been requested so you assume 2 years will be enough) then the request is not clear and you will need to request clarification (red box below). The duty is on us to clarify.

### If clarification is required (the request is unclear) ...

If a request is unclear it is our duty to clarify it with the applicant and so we will need to contact the applicant and request clarification. We should do this ideally within **5 working days** [but no later than 20 working days] from the date of receipt of the request.

It is not appropriate to ask the applicant to clarify their motives – EIR is applicant blind and is about the release of information to anyone and everyone.

Requesting clarification effectively “stops the clock” on the parts of the request requiring clarification however as soon as clarification is received the clock immediately restarts. You should request clarification **as soon as possible** as the number of working days you take to request clarification will be deducted from the 20 working days you have to respond once clarification is received. (E.g. if you take 5 working days to request clarification you will have 15 working days to respond once clarification is received BUT if you take 10 working days to request clarification you will only have 10 working days to respond once clarification is received.)

#### The next steps will depend on if you need clarification on all or part of the request ....

##### If clarification is required in order to respond to **all** of the request ...

- We need to contact the applicant ideally **within 5 working days** [but no later than 20 working days] of receiving the request. This should include:
  - Confirmation that we cannot process their request without clarification on some points.
  - What we need clarification on (be specific) – it is okay to offer your assumptions of what is meant and ask them to clarify if this is correct.
  - Confirmation that they have 40 working days to provide the requested clarification and if we do not hear from them within that time their request will be automatically closed.

- The right to apply to the ICO (including the ICO's contact details).

#### **If clarification is required in order to respond to **only part** of the request**

- We need to contact the applicant ideally **within 5 working days** [but no later than 20 working days] of receiving the request. This should include:
  - Confirmation that we cannot process part of their request without clarification on some points.
  - What we need clarification on (be specific) – it is okay to offer your assumptions of what is meant and ask them to clarify if this is correct.
  - Confirmation that they have 40 working days to provide the requested clarification and if we do not hear from them within that time we will close the request.
  - Confirmation that any parts of the request which do not require clarification will be responded to within 20 working days of receipt of their request.
  - The right to apply to the ICO (including the ICO's contact details).

**You must respond to all parts of the request which do not require clarification within 20 working days of receipt of the original request**

**Firmstep Users** – Send the case back to Triage on Firmstep advising what clarification is needed. Firmstep will automatically close the case after 40 working days if there is no response and advise you if a response is received.

**Not on Firmstep** – Send the information required for the response directly to the FOI team. We will automatically close the case after 40 working days if there is no response and contact you if there is.

## Information Held

#### **If the information is held...**

We should continue to process the request, asking the remaining questions. Information is deemed to be held if MKC holds it (either because it has produced it or it has received it in an official capacity) or another person / organisation holds it on behalf of MKC. If you are unsure you should speak to the FOI Team. [Return to process flow.](#)

#### **If the information is NOT held ...**

We should issue a refusal notice **as soon as possible** [but no later than 20 working days] of receiving the request.

The refusal notice will include:

- Reference to the request being processed under EIR.

- That it is a refusal notice in line with Regulation 14.
- That an exception under Regulation 12(4)(a) of EIR applies (see [Appendix 1](#) for details of exceptions).
- Why the exception applies (in plain English) – the information is not held [and details of any organisation that might hold it (if known)].
- Details of how to request an internal review and that such a request must be received within 40 working days.
- The right to apply to the ICO (including the ICO's contact details).

**If only some of the information is not held you should continue with the questions / process flow and use the above only for the parts of the request not held.**

**Firmstep Users** – Draft a refusal using the above and templates in Firmstep and send for **FOI Team Approval**.

**Not on Firmstep** – Advise the FOI team of the need for a refusal under data not held and details of any organisation that might hold it (if known).

## Withholding Information

### If you are NOT happy to provide all of the information requested ...

We should continue to process the request, asking the remaining questions. [Return to process flow.](#)

### If you are happy to provide all of the information requested ...

We should respond to the applicant to provide the information no later than **20 working days** from receipt of the request.

The disclosure correspondence must include:

- Reference to the request being processed under EIR.
- **ALL** the information requested.
- Details of how to request an internal review and that such a request must be received within 40 working days.
- The right to apply to the ICO (including the ICO's contact details).

**Firmstep Users** – Send responses as above using the templates in Firmstep.

**Not on Firmstep** – Send the information required for the response directly to the FOI team.

## Large Requests

### If you believe the request is NOT too large to reasonably be expected to comply with ...

In calculating if the request can be deemed “manifestly unreasonable” or reasonable you can only take into account:

- Time taken in establishing if the information is held.
- Time taken in locating and retrieving the information.
- Time taken in extracting the relevant information from the document containing it.

“Manifestly unreasonable” is not a defined term but instead depends on the burden which complying with the request would put on the Council. A request would have to be very substantial to be deemed manifestly unreasonable. If you are unsure **contact the FOI Team**.

At this point in the process flow you have concluded that the information is held, is not published, the request is not too large to be complied with but you’re not happy for it to be released in full. We should therefore continue to process the request, asking the remaining questions. [Return to process flow](#).

### If you believe the request is too large to reasonably be expected to comply with ...

An EIR request can be considered as “manifestly unreasonable” if the time it takes to comply with the request would put an “unreasonable” burden on the authority. Unlike under FOI, there is no set number of hours over which a request would be deemed “manifestly unreasonable”. When considering if a request is manifestly unreasonable the “serious purpose” of the request and the public interest in the information also matters.

The FOI team will do their best to filter out these requests however should you receive a request which you believe is manifestly unreasonable you should contact the FOI team to determine if a refusal is required.

If a request is deemed “manifestly unreasonable” we should initially send a request to the applicant to refine their request ideally within **5 working days** [but no later than 20 working days] of receiving the request. If you believe that the request cannot be refined then you can skip these bullet points and go straight to if they advise they are not willing to refine. This response should include:

- Reference to the request being processed under EIR.
- Reference to the fact that we believe the request is manifestly unreasonable in line with Regulation 12(4)(b) of EIR (see [Appendix 1](#) for details of exceptions).
- Why we believe it is manifestly unreasonable (in plain English) – specific to the information request.
- Details of how we believe their request could be refined and a request for refinement.

- Confirmation that they have 40 working days to refine their request. If a refined request is not requested within that time we will close the request and they will need to submit a new one.
- Details of how to request an internal review and that such a request must be received within 40 working days.
- The right to apply to the ICO (including the ICO's contact details).

Should they advise they are not be willing to refine their request then we will issue a refusal notice ideally within **5 working days** [but no later than 20 working days] of receiving their response.

The refusal notice will include:

- Reference to the request being processed under EIR.
- The fact that it is a refusal notice in line with Regulation 14.
- That an exception under Regulation 12(4)(b) of EIR. (See [Appendix 1](#) for details of exceptions).
- Why the exception applies (in plain English) – specific to the information request.
- Details of how the public interest test has been applied (and details of the conclusion of the test) (see later section on [public interests tests](#) and what they are).
- Details of how to request an internal review and that such a request must be received within 40 working days.
- The right to apply to the ICO (including the ICO's contact details).

**Firmstep Users** – Draft a responses using the above and templates in Firmstep and send for **FOI Team Approval**.

**Not on Firmstep** – Contact the FOI team to advise you believe the request cannot be complied with within the appropriate limit and providing the above require information.

## Exceptions

### If you believe NO exceptions apply ...

At this point in the process flow you have concluded that the information is held, is not published, the request is not too large to comply with and no exceptions apply but you're not happy for it to be released in full.

You should therefore **contact the FOI team** as it is not clear why you are not releasing this information.

## If you believe an exception applies / the information should NOT be released ...

At this point in the process flow you have concluded that the information is held, is not published and the request is not too large to comply with but that you're not happy to release the information and believe an exception may apply. We therefore need to assess if it would be appropriate to apply an exception and issue a refusal to disclose the information.

### The FOI Team must approve any use of an exception and will need to know:

- What part of the request you are seeking to withhold information for (all or part).
- What exception you are seeking to rely on and why (if you don't know the exception then just explain to the FOI Team why you think the information should not be released and they can guide you).
- If redactions are needed in a disclosure (to remove exempt information) then these should be marked and sent to the FOI Team for approval no later than a minimum of 2 working days for disclosures under 50 pages or 4 working days for disclosures over 50 pages). If you are unsure how to mark redactions or do not have the software then please advise the FOI Team who can assist you.

**You must respond to any part of the request which is not exempt within the 20 working day deadline also.**

There are a number of exceptions which we can apply to withhold information and they are detailed within [Appendix 1](#) and Regulation 12 of the Environmental Information Regulations. It is possible to apply more than one exception, if applicable to the request.

Under EIR a Public Interest Test should be undertaken when relying on any exception (see later section on [public interest tests](#) and what they are).

The refusal notice should be sent ideally within **10 working days** [but no later than 20 working days] of receiving the request.

When relying on an exception the refusal notice must include:

- Reference to the request being processed under EIR.
- That it is a refusal notice in line with Regulation 14.
- The exception(s) being relied upon (see [Appendix 1](#) for details of exceptions).
- Why the exception(s) applies (in plain English) – specific to the information request.
- Details of how the public interest test has been applied and details of the conclusion of the test (see later section on [public interest tests](#) and what they are).
- Details of how to request an internal review and that such a request must be received within 40 working days.
- The right to apply to the ICO (including the ICO's contact details).

**Firmstep Users** – Draft a refusal using the above and templates in Firmstep and send for **FOI Team Approval**.

**Not on Firmstep** – Contact the FOI team to advise you believe the information cannot be released and providing the above require information.

## Consultation with third parties

There are some cases where it would be appropriate for MKC to consult a third party for their views on if information should be released, typically this will be in situations where an exception is possible (otherwise the information would have to be released anyway).

Cases where consultation might be considered best practice include:

- If there is a doubt about whether a breach of confidence is likely to be actionable.
- Where it is necessary to confirm the confidentiality of information for the third party.

It is MKC's policy to try to consult third parties which may be affected by disclosure prior to disclosing the information. You cannot request more time to consult with third parties and so you should aim to consult with them **as soon as possible** and ensure that any deadline for their response is **at least 5 working days prior to the EIR deadline**. You should also confirm that if we do not hear from them we will assume they are happy for the information to be released.

**We are not required to follow the advice / views of third parties and MKC should make a decision on what to disclose and/or withhold based on the information, the strength of the exception and the public interest in the information. If challenged it is MKC that will have to evidence the decision and to state that a third party objected to the release is not sufficient.**

## Public Interests Tests

Public interest tests **must** be undertaken whenever an exception is relied upon (see [Appendix 1](#) for list of exceptions). The results of the public interest test **must** be advised to the applicant as part of the refusal notice or disclosure **within 20 working days** of receipt of the request.

**The public interest test effectively weighs up if it is in the public interest to withhold or disclose the information. The public interest is not the same as the interests of the public – just because information is interesting to one person does not mean it is in the public interest to release it.**

The test:

- is time based and should be considered as if it was the day the request was received;
- cannot be affected by consultation with any third parties – only MKC can conduct the test;
- must be unbiased;
- must balance the arguments in favour of disclosure against those in favour of withholding – those arguments must be specific to the information / request;
- is weighted towards disclosure as being in the public interest – meaning any arguments to withhold must be even stronger.

If the arguments in favour of disclosing **outweigh** the arguments in favour of withholding then you **must disclose the information**.

If the arguments in favour of disclosing **do NOT outweigh** the arguments in favour of withholding then you are **not obligated to disclose the information** (but still can).

**All public interest tests must be reviewed and approved by the FOI Team prior to a refusal notice being issued. For the response, you will simply need to advise a public interest test has been undertaken, the arguments for and against disclosure and the outcome (to withhold or release the information).**

**Typical arguments in favour of disclosure include:**

- accountability and transparency of officers or spending of public money;
- reassuring the public;
- allowing others to understand the decisions the Council has made;
- correcting a suspicion of wrong-doing / presenting a “full picture”;
- promoting of good decision making (through accountability);
- more informed debate of the issues under consideration by the Council;
- protection of the environment and ensuring environmental legislation is enforced;
- greater awareness of environmental issues;
- informed public participation in environmental decision making.

**Typical arguments in favour of withholding include:**

- undermining or prejudicing of an investigation or prosecution of a crime or criminal proceedings;
- protection / prevention of prejudice of a third party;
- destruction of a “safe space” to have frank discussions;
- that the information does not need to be scrutinised under EIR as it is scrutinised via other means (e.g. internal audit, scrutiny committees or a regulatory function);
- protection of a specific interest or part of the environment.

**The “weight” of each argument will be influenced by:**

- the likelihood and severity of harm from disclosure;
- the timing of the applicant / age of the information – older information is generally less sensitive;
- whether any of the information is already in the public domain.

**The identity / private interests of the applicant and the potential for information to be misunderstood are not relevant to the public interest test.**

## Internal Reviews

If a requestor is unhappy with the response they receive to their EIR they can request an internal review. Typically, this is when they believe we hold information which hasn't been disclosed or when they disagree with an exception we have applied. An applicant must complete MKC's internal review process before the Information Commissioner (the EIR "regulator") will consider a complaint regarding the handling of an EIR by MKC.

*Note: They do not have to actually request an internal review; any written correspondence which makes it clear they are unhappy with the EIR response should be considered as a request for an internal review.*

**Should you ever receive a request for an internal review or an email which suggests that an applicant is unhappy with their EIR response then you should forward it to the FOI team and take no further action unless advised to by the FOI team.**

### Internal Reviews must be:

- received within **40 working days** of the date of the final response to the EIR;
- acknowledged by the FOI team;
- completed within **20 working days** of receipt. *(In exceptional cases where the request is large or complex it might be possible to request an extra 20 working days however this is only possible with the agreement of the FOI team and is rare.);*
- carried out by a different individual than completed the initial request and where possible, a more senior individual;
- impartial and overseen by the FOI team;
- considerate of any public interest in the information in question;
- challenging of the original EIR response (willing to amend or reverse previous decisions);
- responded to by the reviewing officer directly.

### When conducting an internal review the reviewer should review the original request and response and any information held and ask themselves the following questions:

- Was the request handled under the correct legislation? *(The FOI team can help with this)*
- Was the request responded to on time (usually 20 working days)?
- If applicable, were the exceptions correctly applied / appropriate? (see [Appendix 1](#) for details of exceptions).
- If applicable, was the public interest test correctly applied and did the response include details of the public interest test and its conclusions? (see later section on [public interest tests](#) and what they are).
- Did the response fully explain what information was provided/withheld or not held?
- Did the response answer the actual request?

**If the reviewer finds that the complaint is upheld (such that something could or should have been done differently) then their response should include:**

- Confirmation of if the request was handled under the correct/incorrect legislation (and what legislation that was).
- That the complaint is upheld.
- The findings for each part of the complaint in turn.
- The information withheld previously (if applicable).
- What went wrong / what has been learnt / what is being put in place to ensure it doesn't happen again.
- An explanation of the reasons for their decision (if not otherwise addressed above).
- Details of how to complain to the ICO if the applicant remains unhappy.

**If the reviewer finds that the complaint is NOT upheld (such that the original response was correct and there is no change) then their response should include:**

- Confirmation that the request was handled under the correct legislation (EIR).
- That the complaint is NOT upheld.
- The findings for each part of the complaint in turn.
- Reiteration of the original response.
- What has been learnt (if applicable).
- An explanation of the reasons for their decision (if not otherwise addressed above).
- Details of how to complain to the ICO if the applicant remains unhappy.

## ICO Complaints

When an applicant has exhausted our internal EIR process (completion of an EIR request and internal review) but they remain unhappy they can make a complaint to the Information Commissioner's Office (ICO), effectively the regulator of information request (amongst other things).

The FOI team will receive, process and respond to all ICO complaints however they will require input from the individuals who handled the original EIR and internal review. Primarily this will be advice on what information was withheld and/or disclosed and why and the reasoning behind the decisions taken. The FOI team cannot be subject experts on all areas of the Council and therefore rely on you for this more detailed and request/data specific information.

Typically, the ICO will always try to resolve any complaints informally and so providing information to the FOI team when asked promptly and being as helpful as possible can help us to avoid any decision notices (bad things we don't want).

The ICO will always provide us with a deadline to respond – please respond to any queries from the FOI team promptly and fully to enable us to respond to the ICO as quickly and as comprehensively as possible. If we don't the ICO might take further action against us (which would be bad!).

## Training, Guidance & Other Legislation

Online training is available via the training portal which can be found on the intranet. However, if you or your team require any further training on the Environmental Information Regulations 2004 and its application then please contact the FOI Team on [FOIA@milton-keynes.gov.uk](mailto:FOIA@milton-keynes.gov.uk) to arrange a chat or our attendance at a team meeting.

Further guidance and in depth guides for each part of the Regulations can also be found on the Information Commissioner's website <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>.

The following legislation which is relevant to EIR might also be helpful:

- The Data Protection Act 2018
- The General Data Protection Regulations 2018
- The Freedom of Information Act 2000

**BUT if in doubt contact the FOI team for assistance – a quick chat with us could potentially save you hours of work or searching for answers!**

## Appendix 1 – EIR Exceptions

**A Public Interest Test MUST be carried out when relying on any exception.**

Regulation	Exception	Class*	Prejudice*	Notes
5(3)	Personal information of the applicant		N/A	If the information is the personal information of the applicant then they should be directed to complete a Subject Access Request.
12(3) and 13	Personal information of which the applicant is not the data subject		N/A	Applies to the personal information of anyone other than the applicant where it would breach the data protection principles to release the information. Only applies to information regarding living individuals. Information relating to Councillors or officers acting in their official capacity should be disclosed. MKC will not release the name or contact details of colleagues below the level of Heads of Service in response to an information request.
12(4)(a)	Information not held	X		MKC does not hold the information requested and it is not held by another individual/organisation on behalf of MKC.
12(4)(b)	Manifestly unreasonable	X		An EIR request can be considered as “manifestly unreasonable” if the time it takes to comply with the request would put an “unreasonable” burden on the authority. Unlike under FOI, there is no set number of hours over which a request would be deemed “manifestly unreasonable”. When considering if a request is manifestly unreasonable the “serious purpose” of the request and the public interest in the information also matters.
12(4)(c)	Too general	X		The request is too general and the “burden” placed on the authority to comply with it is large. Similar to clarifying requests under FOI - MKC should ask the applicant to refine the request to specifically what they are looking for, in line with our obligations under Regulation 9 before issuing a refusal. In reality this exception would only ever be applied if a refusal was issued if the applicant refused to refine their request after we have asked.
Regulation	Exception	Class*	Prejudice*	Notes

Regulation	Exception	Class*	Prejudice*	Notes
12(4)(d)	Material in the course of completion / unfinished documents / incomplete data	X		The request relates to material which is still in the course of completion, to unfinished documents or to incomplete data. The chance of the final version differing from the draft version is a key consideration. If the document is unlikely to change substantially from draft to final version then the ICO will view it as finalised and a document which should be released. If it is not MKC who will publish the final document we must advise who will as part of our response.
12(4)(e)	Internal communications	X		Allows the withholding of internal communications – this only covers communications between MKC officers where it has not been shared with a third party (e.g. email trails are no longer internal if at any point a third party is copied in). It is in place to provide a “safe space” for “frank discussions” without fear of disclosure, primarily for policy making.
12(5)(a)	International relations, defence, national security of public safety		X	Provides exception for information relating to international relations, defence, national security or public safety. In reality this rarely applies to information held by MKC, although things like emergency plans might be covered. Under this exception It is possible to respond to a request by neither confirming nor denying if the information exists and is held by MKC if to provide such confirmation or denial would involve the disclosure of information which would adversely affect any of the above and would not be in the public interest.
12(5)(b)	Course of justice		X	Information can be considered under this exception if its release would prejudice the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.
12(5)(c)	Intellectual property rights		X	We do not have to release information if to do so would breach intellectual property rights.

<b>Regulation</b>	<b>Exception</b>	<b>Class*</b>	<b>Prejudice*</b>	<b>Notes</b>
<b>12(5)(d)</b>	<b>Confidentiality of proceedings</b>		X	Information can be considered under this exception if its release would prejudice the confidentiality of the proceedings of us or any other public authority where such confidentiality is provided by law. "Proceedings" covers a range of investigatory, regulatory and other activities as long as they are carried out according to a statutory scheme.
<b>12(5)(e)</b>	<b>Confidentiality of commercial or industrial information</b>		X	Releasing the information would prejudice the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. A confidentiality clause in a contract is not sufficient to apply this exception.
<b>12(5)(f)</b>	<b>Interests of the person providing the information (where not compelled to)</b>		X	Covers information that was provided to MKC by an individual who was not (and could not be put under) any legal obligation to supply it to us and would not consent to its disclosure or in circumstances which MKC are not entitled to disclose it apart from in line with these Regulations. This exception effectively protects any voluntary disclosure of information to MKC e.g. in the case of whistleblowing.
<b>12(5)(g)</b>	<b>Protection of the environment the information relates to</b>		X	Disclosure would prejudice the protection of the environment to which the information relates.
<b>12(9)</b>	<b>Emissions</b>		N/A	Where the information relates to information on emissions then exceptions under Regulations 12(5)(d) to 12(5)(g) cannot be relied upon.

\*Class based exceptions depend on the "type" of document. Prejudice based exceptions depend on the "harm" the disclosure would cause.

Freedom of Information Team

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