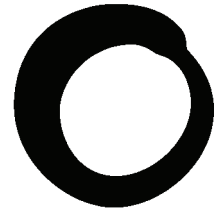


May 2008



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Your Right to Know

...an introduction

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1.1 INTRODUCTION

What is my ‘right to know’?

You have a general right of access to information held by all public authorities.

There are two main ‘right to know’ laws. The Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 (**EIR**). Both laws apply in England, Wales and Northern Ireland¹.

The two laws can be found on-line:

- Freedom of Information Act 2000
http://www.opsi.gov.uk/Acts/acts2000/ukpga_20000036_en_1
- Environmental Information Regulations 2004
<http://www.opsi.gov.uk/si/si2004/20043391.htm>

Why are there two laws and what is the difference between them?

You have slightly different rights of access to information for ‘environmental information’ (covered by the EIR) and for other recorded information (covered by FOIA).

You will not usually need to worry about the differences between the two laws as your basic rights are often similar and the basic procedures for requesting and appealing are broadly the same.

Basically, you just need to make a request for the information. If the information you have asked for is ‘environmental information’ then the public authority must consider your request under the EIR. If it is any other information then they must consider your request under FOIA.

However, there are some important differences between the two laws. Most importantly there are different grounds on which a public authority can refuse to give you information (the exceptions). This guide deals with both laws together where it is possible to do so. Where the laws are different in ways that affect your rights we say so.

¹ In Scotland there are similar laws – though slightly more favourable to the requester.

How do I know if they have applied the right law?

This is not always an easy question. It depends on whether the information you have asked for is 'environmental information' (so the EIR apply) or not (so FOIA applies).

The definition of environmental information is set out below.

"environmental information" [is] 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 these 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 and 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);"

Reg. 2 Environmental Information Regulations 2004

Generally speaking your rights to know are better under EIR than FOIA. This means that you should try to make sure that any request you make for environmental information is dealt with under EIR and not under FOIA (as sometimes happens).

The good news is that the courts have repeatedly decided that the definition must be applied broadly meaning that there is lots of information that is 'environmental information' and which must be dealt with under the EIR. The bad news is that public authorities often seem to deal with requests for environmental information under FOIA because they have not realised that the information requested is 'environmental'. It is useful to mention the EIR in your request and to check any response/refusal to see that they have applied the right law (see draft letters at the end of this Guide).

The following are examples of information that have been held by the Courts to be 'environmental information':

- advice given to the secretary of state by civil servants on a planning application,
- legal advice to a local authority on a section 106 planning agreement,
- documents in a planning register such as planning applications,
- the name of an informant about illegal mine dumpings;
- information about the location of mobile phone masts and
- discussions between the Government and industry lobby groups about energy policy.

What information can I get hold of?

Under FOIA and EIR you have a right of access to nearly all recorded information that is held by 'public authorities', regardless of when the information was created. That right is subject to exceptions – discussed below.

What is recorded information?

Recorded information obviously includes written documents like reports, correspondence, minutes of meetings, financial statements etc.

However, it also includes information recorded in non-written forms, for example, photographs, maps, cassette tapes, DVD, CD, video, CCTV, computer database, post-it notes or emails.

If the information is not 'recorded' then you do not have a right to it. For example, a public authority is not required to provide you with a record of a meeting where no record exists.

It also means that you do not have a right under FOIA / EIR to have 'why' questions answered: e.g., 'why did the Council not...'. However, as the public authority has a legal duty to give you 'advice and assistance' then they should help you to find information that is relevant to any more general question that you might have.

Can I ask for information in a particular form or format?

Yes you can and the authority must comply with that request unless it is reasonable to supply the information in another form or format or the information is easily accessible to you in another form or format. The question of whether it is reasonable to make the information available in another form or format will depend on all of the circumstances but can be reviewed by the Commissioner (and the court).

If you want the information in a particular form or format (perhaps on a CD Rom or in electronic form) then you should say so clearly in your request.

Why only ‘public authorities’? Do I have rights to get information from companies?

FOIA only applies to public authorities that are listed in the Act (see <http://www.foi.gov.uk/yourRights/coverageguide.htm> for more details) and to a small number of other bodies (such as companies like BNFL that are 100% owned by the UK Government). There are more than 100,000 such public authorities including central and local government, universities and colleges, NHS hospitals and doctors and a huge range of other public bodies most of whom you will never have heard of².

However, the EIR apply more widely and cover not only all authorities covered by FOIA but also certain private companies or Public Private Partnerships that have public environmental functions such as waste disposal, water, energy, transport companies, and certain environmental consultants.

These companies are not listed in the EIR but are those companies that are covered by the following definition:

“any other body or person that carries out functions of public administration or
(d) any other body or other person, that is under the control³ of [another public authority] and—

- (i) has public responsibilities relating to the environment;
- (ii) exercises functions of a public nature relating to the environment; or
- (iii) provides public services relating to the environment.”

Where a company is subject to the EIR then you have the same rights of access to environmental information as you would for other public authorities. Whilst this is very good news for information requesters who want to access information held by, say, a waste management company the difficulty is that those companies will not always accept that they are covered by the EIR. This means that you will often need to challenge them by making a complaint to the Information Commissioner (see below).

The decision on whether a company is a public authority for the purposes of the EIR is ultimately a question for the Commissioner or the courts.

The Courts and the Information Commissioner have dealt with this issue in relation to a number of companies and have decided that the following were public authorities in the context of specific requests:

- a waste company with a waste management contract with a local authority⁴;

² <http://www.foi.gov.uk/yourRights/publicauthorities.htm#part6>

³ ‘Under the control of’ can include companies that are under ‘contractual’ control of an authority – for example a waste company carrying out the terms of a waste contract with an authority.

⁴ http://www.ico.gov.uk/upload/documents/decisionnotices/2008/fs_50114241.pdf

- an environmental consultancy company carrying out a Strategic Environmental Assessment of a Regional Spatial Strategy (see other parts of the Community Rights Resource Pack for an explanation of these terms)⁵
- a Port Authority⁶

How do I ask for the information?

A request for information should be made in writing (including in an email). Although a request for 'environmental information' can be made orally (including over the phone) it always makes sense to put a request in writing so that you have a record.

You must give your name and an address to which the information can be sent.

You must describe the information that you want as clearly as you can. Some tips for making an effective request are set out below.

You do not need to say what you want the information for but it could help the authority identify the information you are asking for.

You can ask for as much information as you like and can make requests as often as you like. The authority can, however, refuse your requests if they are deemed to be abusing the process because they are 'vexatious' or 'manifestly unreasonable'.

What do they have to do when I ask for information?

When you make a request for information, the public authority must tell you whether they hold the information that you have requested and, subject to various exceptions discussed below, must provide you with a copy of it.

How quickly must a public authority send me the information?

The information must be sent to you within a maximum of 20 working days (i.e., usually four weeks). However, there is a duty to provide the information 'as soon as possible' (EIR). That means that a request should be dealt with as quickly as possible and that the public authority must not wait until the last of the 20 working days. If you want the information more quickly than 20 working days then you should say so clearly in your request.

However, there are some limited circumstances when they are allowed to take more time.

- If the information is 'environmental information' then they are allowed to extend time by a further 20 working days (maximum) where the information requested is

⁵ http://www.ico.gov.uk/upload/documents/decisionnotices/2006/decision_notice_fs50090259.pdf

⁶

<http://www.informationtribunal.gov.uk/Documents/decisions/portofLonAuthvInfoCommandjohnhibbert31may07.pdf>

both voluminous and complex so that it would be impracticable to deal with your request within the original time limit.

- If the request is for other information then they are allowed to extend time where (a) they have decided that the information is covered by one of the qualified exceptions; but (b) need more time to consider how the public interest is balanced. These terms are explained below. In that case there is no limit on the amount of time that they can extend for although they must give you indications of when they will give you a response to your request.

Those are the only circumstances in which they are allowed to take more than 20 working days.

In both cases the authority must give you a written notice that they are extending time and explain why they are doing so.

What will happen next?

Hopefully the authority will send you the information that you have asked for.

However, if they decide not to send you the information then they must send you a refusal notice in writing. That notice must explain clearly why they are refusing to give you the information and must explain your right to appeal.

In particular they must explain

- which exemption applies to the information,
- why that particular exemption applies (if it is not obvious) and
- how they have carried out the public-interest balancing exercise (where it applies).

Can they charge me for information requests?

There are only very limited circumstances in which you can be charged for information. You will never be charged simply for making a request and will always be told in advance that the authority considers that there will be a charge so that you can decide whether to proceed. In that situation you will be sent a 'fees notice' which will explain the proposed charges and ask whether you want to go ahead with the request.

If you think that the charges are unjustified or too high then you can write back and challenge those fees before deciding whether to carry on with your request.

They must publish a list of their charges for environmental information and also information on instances when charges can be reduced and waived.

Authorities can charge for photocopying and postage though their charges must be reasonable. An Information Tribunal case on access to copies of planning documents (such as planning applications) ruled that such charges should normally be 10p per sheet for black and white A4 documents unless there are good reasons for higher charges.

Authorities cannot charge you for their time responding to your request and can never charge you:

- for accessing environmental information on public registers, and
- for accessing environmental information requested at a place which the public authority makes available for examination (for example, in the authority's offices or a library).

Is there a limit to the amount of Information I can ask for?

No. You can ask for as much information as you like and can make requests as often as you like.

However, under FOIA (i.e., for non-environmental information) an authority does not have to comply with a request for information if it estimates that the cost of complying with the request would exceed the '*appropriate limit*'.

The 'appropriate limit' is £600 for central government authorities and £450 for all other authorities. Those figures are based on an official rate of £25 per hour for all work expected to be carried out dealing with a request.

The result is that authorities can refuse to comply with a request where they work out that it would take one person more than 24 hours (central government) or 18 hours (other public bodies) to comply with the request.

However, when deciding whether or not a request would exceed the 'appropriate limit' an authority is only allowed to take into account the costs it reasonably expects to incur in relation to:

“(a) determining whether it holds the information,
(b) locating the information, or a document which may contain the information,
(c) retrieving the information, or a document which may contain the information,
and
(d) extracting the information from a document containing it.”

Source: The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, Reg. 4) (Known as the Fees Regulations)

This means that when deciding whether the 'appropriate limit' will be exceeded they cannot, for example, take into account the time that they would need to consider which exemptions apply or which parts of the document to redact.

The result is that for requests which exceed the 'appropriate limit' an authority may either refuse to provide the information, or it may agree to provide it, but charge the full amount of their allowable costs (which will be at least £600 / £450) as well as any copying and communication costs

For environmental information they are not allowed to refuse to release the information just because dealing with your request would exceed the appropriate limit. However, they could try to charge the full amount of time for processing the request.

What if I ask for information about me? (The Data Protection Act 1998)

Sometimes you will want to access information about you. That information might be information specifically 'about' you (credit ratings etc) or might simply be information which relates to you (for example emails containing references to you or even communications with you).

Broadly speaking, information about you is your 'personal data'.

Any requests by a requester for their own personal data are exempt from FOIA and EIR and must be addressed instead through the requirements of the Data Protection Act 1998. This guidance does not deal with Data Protection Act requests. If you want information on how to make such a request then you can look at the Information Commissioner's guide at:

http://www.ico.gov.uk/upload/documents/library/data_protection/introductory/subject_access_rights.pdf.

However, in summary request for your own personal data can be made either to a public authority or to a company or other person who processes your data. That person (known as a 'data processor') is entitled to require payment of up to £10 and a copy of your passport identity page or other similar proof of identification. The processor has 40 days to respond.

1.2 REFUSALS AND EXEMPTIONS

When can they refuse to release information?

The EIR require a public authority to “apply a presumption in favour of disclosure”.

However, authorities can refuse to release information where one of the exceptions applies.

The exceptions can be complicated, and an authority may be in no better position than you to understand how they work and what they mean, so do not assume that they know best. However, there are some important points to remember about the EIR exceptions that might help you:

Important points to remember about the EIR exceptions

- All exceptions must be “interpreted in a restrictive way” (i.e., they must be interpreted narrowly and in your favour) (European Directive, Art. 4(2)).
- An exception may only be relied on where the public interest in relying on the exception outweighs the public interest in disclosing the information (Reg. 12(1)(b)).
- Even where the exception applies, the authority is not prevented from releasing the information to you. It only means that they may withhold it, subject to the public interest test.
- There is an explicit presumption in favour of disclosure (Reg. 12(2)).
- Refusals may only be made ‘to the extent that’ they are relevant in each case (Reg. 12(4) and (5)).
- Even where a document contains some information which may be withheld, all other information in the document must be released unless it is impossible to separate it. This will usually be done by blacking out the bits that are not being released. ([Reg. 12\(10\)](#)).
- Information that ‘relates to emissions’ must still be released, even where certain exceptions apply (Reg. 12(9)).
- Some exceptions only apply where release of the information ‘**would adversely affect**’ a particular interest. That adverse effect must be explained to you.
- Exceptions must always be applied on a case-by-case basis. In other words they cannot simply decide that all information of a certain type is to be withheld legitimately.

There are two types of exceptions. For most exceptions even where the exception applies, the information must still be released unless “the public interest in maintaining the exception outweighs the public interest in disclosing the information”. This is known as the public interest balancing exercise. These exceptions are known as ‘qualified exceptions’.

Importantly, **all** of the exceptions under the EIR are qualified exceptions.

Therefore, for all EIR exceptions and for most of the relevant FOIA exceptions an authority wishing to withhold information must:

- show that the information is exempt, and
- show that the public interest in the particular exception is greater than the public interest in its disclosure.

If the authority cannot meet **both** the above tests, the information must be disclosed.

The decision on whether the information is exempt may involve different kinds of questions depending on the particular exception. Some exceptions apply only where it can be shown that release of the information would harm particular interests, such as national security, international relations, law enforcement or commercial confidentiality. Other exceptions apply simply if the information falls within a particular class for example information relating to the formulation of Government policy or, for the EIR ‘internal communications’. Remember though, that even where the information is covered by an exception it is usually still subject to the public interest test.

Under FOIA there are some exceptions that do not require a public interest balancing exercise. Where those exceptions apply then the authority can refuse to release the information without assessing the public interest. These are known as ‘absolute exceptions’.

Where an authority relies on an exception to withhold information they cannot just summarise or repeat the terms of the exception but must give a clear explanation of their reasons for refusing to release information.

Where a document contains some information that can be refused, the authority is not entitled to withhold the whole document or record. They can remove or redact (black out) the legitimately withheld information, but they must disclose everything else.

Any information that is blacked out or removed is information which has been refused. The authority must give you full reasons for any refusal. Where information is refused for a number of reasons, the reasons must indicate clearly why the different parts of the document have been refused.

What are the exceptions?

The table at the end of this guide includes a brief description of the exceptions and how they work.

Some of the exceptions are very complicated and making sense of the FOIA exceptions in particular can sometimes require legal help.

The Government and the Information Commissioner have published detailed guidance about the exceptions. Although that guidance is not binding it is usually helpful and is worth reading if you need to know more about any particular exceptions.

That guidance can be found at:

Central Government FOI Guidance:

<http://www.foi.gov.uk/guidance/index.htm>

DEFRA EIR Guidance:

<http://www.defra.gov.uk/corporate/opengov/eir/guidance/full-guidance/index.htm>

Information Commissioner’s Guidance

http://www.ico.gov.uk/what_we_cover/freedom_of_information/guidance.aspx

(FOIA)

http://www.ico.gov.uk/what_we_cover/environmental_information_regulation/guidance.aspx (EIR)

Differences between the exceptions under FOIA and the EIR?

There are two important differences between the EIR and FOIA in relation to exceptions.

The first relates to prohibitions on disclosure in other laws. Under FOIA there is a specific absolute exception (not subject to the public interest test) that allows a public authority to withhold information where any other law prevents the authority from disclosing it.

By contrast, the EIR states explicitly that any prohibition on releasing information that is contained in any other law does not apply to environmental information. What that means is that even if another law makes it illegal to release environmental information that provision is overridden by the EIR.

The second important distinction is that a number of the exceptions under the EIR specifically do not apply to information about 'emissions'. This means that if any of the information you request is information about 'emissions' then that information must be disclosed even if one of the exceptions applies (for example commercial confidentiality).

How do they decide what is in the 'public interest'?

This is at the very heart of your right to know. Deciding where the public interest lies in any particular case depends on the particular information that you have asked for. It will also depend on other things such as the stage in the decision making process. There can be no definite list of factors that are relevant to deciding where the public interest lies.

However, the following are often strong public interest factors in favour of disclosure:

- promoting informed public debate about significant decisions
- Ensuring that the public can participate effectively in decisions affecting them
- Allowing proper scrutiny of the decision-making process
- Making sure that authorities are accountable for the spending of public money and that they do their job properly
- Ensuring that the public is not deceived about the way public authorities, or bodies which they regulate,
- Operate
- Helping the public become informed about possible dangers to health and safety or the environment
- Exposing misconduct is exposed

Those are the sorts of things that you can rely on to explain to the public authority why they should release the information to you. However, you should also use your own specific knowledge of the situation to explain why there is a strong public interest in releasing the information that you have asked for.

In addition, there are various public interest factors that are specific to environmental information. Again the Information Commissioner sets out some helpful principles⁷:

There is a strong inherent public interest in releasing environmental information.[...] It has long been recognised that in order to protect the environment it is important for people to have access to environmental information, to be able to participate in environmental decision making and have access to justice.

In addition, the European Directive on access to environmental information states that

'Increased public access to environmental information contribute to a greater awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision-making and, eventually to a better environment.

The public interests to be weighed on the other side are much narrower and are only concerned with the specific issue that the exception is intended to protect.

⁷ In the *Brief Introduction to the Exemptions* at <http://www.informationcommissioner.gov.uk/eventual.aspx?id=7635>

1.3 APPEALS

MAKING FREEDOM OF INFORMATION APPEALS

What can I do if they don't give me the information?

1. Request an internal Review

Your first route is to request an **Internal Review**. You should write to the public authority and ask them to reconsider your request. You must do this within 40 working days of the date when the authority refused your request (or the date when it should have done so).

The authority must make sure that a different person deals with the internal review process – i.e., someone who was not involved in the original request.

There is no particular format for an internal review request, a letter or email will do. Authorities must treat any letter of complaint as a formal request for an internal review. You should set out as clearly as possible the way in which you think that the authority has failed its duties. It would be good to enclose a copy of your original request and of any response you were given to it.

Under the EIR the authority must complete their internal review within 40 working days. Under FOIA there is no time limit but the Information Commissioner recommends that they should complete their review within 6 weeks.

2. The Information Commissioner

If you are still dissatisfied with the way that your request has been dealt with, you can complain to the **Information Commissioner**. Complaining to the Commissioner is free.

The Commissioner will not accept a complaint if you have not already completed the internal review procedure, if there has been “undue delay” (usually two months) in applying or if your complaint is frivolous or vexatious. Having considered your application, the Commissioner will notify you of his decision with his reasons, and will send a copy to the public authority.

If you would like to see what other Information Commissioner Decision Notices look like you can search the web-site register of Decision Notices at http://www.ico.gov.uk/tools_and_resources/decision_notices.aspx.

The Commissioner's complaint process is extraordinarily slow and can take more than a year to complete a complaint although he says that most complaints are dealt with within six months. If there is a particular urgency to your complaint then you should say so clearly. If there is a real urgency then you might need to consider an application to Court.

If the Commissioner decides that the authority has not complied with its obligations, it will rule on what steps need to be taken by the authority and by what time. This will usually mean an order for information to be disclosed within 35 days.

Details of how to complain to the Information Commissioner are set out in Guidance on the Information Commissioner's Website at:

http://www.ico.gov.uk/complaints/freedom_of_information.aspx.

When applying for a review by the Information Commissioner you should include:

- a covering letter explaining what you would like the Commissioner to assess,
- a copy of the initial request, if a verbal request was made, any details of the request which you recorded,
- a copy of the public authority's initial response (the 'Refusal Notice')
- a copy of the complaint you made to the public authority's internal review/complaints procedure,
- a copy of the public authority's response following reconsideration through the internal review/complaints procedure,
- any other information which you think is relevant,
- an indication of any particular urgency in your case, and
- your own contact details so they can contact you.

3. The Information Tribunal

If you are dissatisfied with the decision of the Information Commissioner, you can apply to the **Information Tribunal**. The Tribunal is a Court that deals exclusively with cases relating to freedom of information and data protection.

The public authority may also apply to the tribunal if it disagrees with the Information Commissioner's decision.

Any appeal to the Tribunal must be made within 28 days of the Commissioner's decision so you have to act quickly.

Making an appeal is free and the Tribunal will only make an order for legal costs against you in very unusual circumstances where you have acted unreasonably. The Tribunal has not previously made an order for costs against a requester.

An appeal to the Information Tribunal should be made using the Notice of Appeal Form. Details of this form and of how to appeal are set out on the Tribunal website at <http://www.informationtribunal.gov.uk/formsguidanceappeal.htm>.

The Tribunal deals with some appeals on paper and some orally. Where it deals with an appeal on paper then you do not need to attend any hearing. It will simply consider the written arguments from all parties and make a decision. Sometimes it will write to the parties asking for more information before it makes its decision.

If the appeal is to be heard orally then there will be a formal hearing (much like a Court hearing). The hearing might last several days if it is a complicated matter but most are normally dealt with in one day (or less). Sometimes there will be witnesses. You will normally be a witness in your own appeal and the Tribunal and the lawyers for the other parties will usually want to ask you questions (known as cross-examination).

Although the Information Tribunal is a formal Court it is used to members of the public representing themselves and actively tries to be as informal as possible.

However, the reality is that the Tribunal process can be legally and procedurally complex and you will usually be faced with expert barristers for the Information Commissioner and/or the public authority. If you are thinking of appealing to the Tribunal then you may wish to have legal representation.

If you do think that you might want to appeal then please contact Friends of the Earth's Rights & Justice Centre at the earliest possible opportunity (i.e., immediately after the Information Commissioner's Decision Notice has been issued).

4. The High Court

Beyond the Information Tribunal, it is possible to appeal to the High Court, but purely on a point of law (similar to a judicial review – covered elsewhere in this Handbook). We would strongly recommend that you take professional legal advice if you are considering an appeal to the High Court, particularly as there are significant cost risks involved.

1.4 OTHER RIGHTS TO INFORMATION

Local government access to information

In addition to your rights under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, you have specific rights to know in relation to local government issues. These rights have become less important since FOIA/EIR came into force.

Some of these rights to know are not, strictly speaking, rights of access to information. They are actually rights to attend meetings, with supplementary rights of access to documents relating to those meetings. You have specific rights to attend meetings of the council, attend meetings of the executive (public meetings only), attend meetings of committees or groups of the council or executive, see and take copies of agendas, background reports, minutes and decision documents in connection with such meetings.

Meetings of local authorities (councils) are generally required to be open to the public except for in limited circumstances. The council must exclude the public during an item of business when it is likely that confidential information would be disclosed in a way that would amount to a 'breach of confidence' if the public were allowed to stay. Or a council may exclude the public from a particular item of business if allowing them to stay would result in disclosure of 'exempt information' (see shaded box below). In order to exclude you on that basis, the council must first pass a resolution.

The situations in which the public can be excluded from such meetings and in which you can be refused access to documents from such meetings are mainly set out in the amended version of Schedule 12A to the Local Government Act 1972 (see shaded box below).

Categories of exempt information under Schedule 12A in England⁸.

This is information which may be kept private at council meetings or excluded from minutes or agendas.

1. Information relating to any individual.
2. Information likely to reveal the identity of any individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising

⁸ The situation in Wales is slightly different with a different range of exceptions. They are not covered in detail in this guide.

between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes—

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

But information is not required to be exempt if one of the qualifications applies under Part 2 of the schedule.

They are:

- Information that is required to be registered under one of the acts listed (eg Companies Act, Charities Act)
- Information that 'relates to proposed development for which the local planning authority may grant itself planning permission' under Reg 3 of Town and Country General Planning Regulations 1992
- Most importantly, **information is not exempt unless the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

If the local authority does exclude you, they may only do so during the discussion of those particular items of business and not for the entire meeting. These rights also apply (with minor changes) to meetings of committees and sub-committees.

Access to European Information

The European institutions (Parliament, Council and Commission, as well as other bodies, such as agencies created by the institutions – for instance, the European Environment Agency) hold huge numbers of documents and vast quantities of information that you are entitled to access.

You may want to see internal briefings, records of meetings, letters, analyses, reports, photographs, emails, draft documents, and much more. The Institutions often hold information produced by member states (such as the UK), and by companies and other organisations.

Any EU citizen or anyone living in a member state can request documents⁹ that the institutions hold.

This right is provided for under a European Regulation (Regulation 1049/2001). A detailed guide to using those rights and an application form (not obligatory) can be found on the Commission web-site at

http://ec.europa.eu/transparency/access_documents/index_en.htm

A “document” includes anything that is written or that is stored in electronic form or as a sound, visual or audiovisual recording, and that concerns any matter relating to the policies, activities and decisions falling within the institution’s sphere of responsibility. An institution “holds” a document if it has drawn it up or if it has received it and the document is still in its possession

The institutions can refuse your request for information but only on limited grounds which are set out in the shaded box below.

The exceptions to your right to know

There are a number of exceptions to your right to know i.e., situations in which the authorities are allowed to refuse to give you access to the documents that you want. These are set out in Article 4 of the Regulation and are known as the Article 4 Exceptions

Article 4 Exceptions

1. The institutions shall refuse access to a document where disclosure would undermine the protection of:

(a) the public interest as regards:

- public security, - defence and military matters,
- international relations,

- the financial, monetary or economic policy of the Community or a Member State;

(b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

- commercial interests of a natural or legal person, including intellectual property,
 - court proceedings and legal advice,
 - the purpose of inspections, investigations and audits,
- unless there is an overriding public interest in disclosure.

3. Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the

⁹ In Europe you have a right of access to ‘documents’ rather than to ‘information’. This means (a) that you generally only have a right of access to written documents; and (b) that you should try to specify the ‘documents’ that you want rather than the ‘information’.

institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

4. As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.

Source: Regulation 1049/2001, Art. 4

If the document is more than 20 pages long there may be a charge (possibly 0.10 Euros per page of copying plus postage). As with other requests, ask for advance warning of whether a charge will be made. Charges must not exceed the “real costs of producing and sending the copies”.

The institutions have to respond within 15 “working days” (usually three weeks). In “exceptional cases” that period may be extended by an additional 15 working days.

If you are refused access to information, there is a free route of appeal. First, you are entitled to make a “confirmatory application”. Basically, this is a request for an internal review of the decision. A “confirmatory application” must be dealt with within 15 working days.

If you are still refused access to the information requested, or if the institution fails to respond within 15 working days, you have two separate routes of appeal. You can either make a complaint to the European Ombudsman, which is free, or you can take a case to the European Court of Justice, which can be expensive. Both options are likely to result in a considerable delay, but going to the European Court of Justice will usually take longer.

Each of the three main European institutions (the European Commission, the Council of the European Union and the European Parliament) has published specific procedural rules for dealing with requests for information http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_345/l_34520011229en00940098.pdf.

Other Environmental Information Sources

There are further places you can find environmental information without having to make a request for it. This information is to be made publicly available in the form of environmental and planning registers.

DEFRA maintains a ‘register of registers’ setting out environmental information registers held by them and other Government departments covering a huge range of issues from

matters such as Bee Health or Disposals at Sea through to Energy Efficiency, Waste and Water Quality, and many more. This can be found at:

<http://www.defra.gov.uk/corporate/opengov/eir/pdf/register.pdf>

Two particularly helpful sources of environmental information are:

- The Environment Agency's *What's in Your Backyard?* website (<http://www.environment-agency.gov.uk/maps>). This site allows you to enter your postcode and to see (in map form) lots of information about your area, including information on landfill sites, bathing waters, groundwater pollution and much more. The Environment Agency is also developing an online searchable version of its public registers which can be found at <http://www2.environment-agency.gov.uk/epr/index.asp>. This is particularly helpful if you want to access information about a particular site or installation that is regulated by the Environment Agency.
- The Government's *Magic* website (<http://www.magic.gov.uk/website/magic/>) provides very detailed (map-based) information about a range of different types of information sources including nature designation areas, administrative areas. This site is particularly helpful (though not that easy to use) if you want to find out about designations of land in your area, for example to help you make submissions on a planning application.

Bodies such as the Environment Agency and DEFRA already publish large quantities of environmental information which is usually accessible through their web-sites or through their publication schemes.

A list of some key registers is included at the end of this note (Annex 2).

1.5 SOME USEFUL TIPS

Planning your information strategy

The suggestions in this section are designed to help you to get the most from your various rights to know. However, using your rights to know should be simple and you do not need to read or follow these suggestions. If you want information held by a public authority, you can simply ask for it in writing and wait for a response

Initial Steps

Before you make an information request (unless it is very simple) it is worth doing some preliminary thinking. The four most important questions you need to ask yourself are:

- What information do I really want?
- Who is likely to hold it?
- What rights do I have to this information?
- Do I really need copies of the information, or would it be sufficient to go and have access to it on site?

Deciding what information you want

Decide what information you really want, and try to limit your request accordingly. If you ask for “all files relating to x”, you risk costs and delays. Be as specific as possible about the type of information that you want.

To make your request specific and focussed:

- Limit your requests to a particular range of dates (for example, from January to July 2007)
- Limit your requests to a particular form or format of information (for example, reports, letters or emails)
- If you want a particular piece of information, be as precise as you can (for example think about giving possible author names, dates of publication, committees involved, etc)
- If you think you know how the authority came to have a particular piece of information, let them know, but state clearly that you want the information even if you are wrong about how they came to have it.
- Consider whether you want to ask for particular documents, or simply ask a question and leave it up to them how to answer it.

Who is likely to hold the information?

In many cases, it will be obvious who is likely to hold the information. If you are not sure which authority holds the information, try to find out. The Internet can be a valuable resource for this. It may be worthwhile telephoning the authority to ask them whether they hold the type of information you want.

Do I really need copies of this information, or is access enough?

Sometimes it may be more efficient, in terms of cost and resources, to go and inspect the information that you want to see before asking for copies. That will allow you to decide whether you really do need that information and to take copies only of the information you need. In practice, it will often be difficult for people to make time to go and inspect information and therefore it may be necessary to request copies.

Is the information already published by the authority?

Before making your request, have a look at the authority's Publication Scheme. This is required by law under the Freedom of Information Act 2000, and will help you to find out if any of the information you want is already published, and if so, where to locate it. You should be able to find the publication scheme easily on the authority's website.

Making initial contact

For all but the simplest requests, it can be helpful to make initial contact with the authority in question (by phone or in person) to discuss your request. You may want to contact someone in the particular department likely to be responsible for the information in question (for example, the planning department) or the authority's information officer or Freedom of Information Unit. Sending your request to the wrong person in an authority can often waste time, so an initial conversation can ensure that you have exactly the right contact details. Making initial contact could also avoid time being wasted later in the process because of misunderstandings.

It is worth remembering that authorities have a legal duty to provide reasonable advice and assistance under FOIA/EIR.

Many authorities have information officers, who are often keen to help members of the public access information – it is their reason for existing. An information officer should be able to help you focus your request to help you access the information you want as quickly and cost-effectively as possible. Knowing the name of information officer will also ensure that your request gets dealt with speedily on receipt. A phone conversation before sending a request will also mean that the officer will better understand the context to your request and may be able to be more helpful in finding the information.

Drafting your request letter

There is no particular form which your request letter must take to constitute a valid request under the FOIA or the EIR (indeed, under the Regulations a telephone call will suffice). And remember that if you have any doubts, you can contact the authority itself for advice and assistance (they have a legal duty to provide it).

However, you may wish to consider the points outlined below, to help you tailor your letter to the particular circumstances of your request:

- How quickly do I need it?
- Do I want the information in a particular format?
- Where do my rights to information come from?

How quickly do I need it?

If you need the information in a particular hurry you should say so (and explain why, if you are willing to do so) in your letter. This is particularly important in the case of the EIR

as the European Directive requires the authority to take into consideration any time frame that you specify.

You should also need to remind the authority that it has a legal duty to provide the information “as soon as possible” in the case of environmental information, or “promptly” for other information.

Do I want the information in a particular form or format?

If you want the information in a particular form or format, say so clearly in your letter of request. For example, you might want the information in electronic data form so that you can examine it using computer models.

In cases involving a large number of document pages, it is often more efficient (in terms of cost and resources) to ask for the information on a CD. Many authorities can copy files onto a CD just as easily as they can make paper copies.

Keeping records of any contact

Make sure you keep a note of conversations that you have with authorities, including the date, the time, who you spoke to, and (roughly) what was said. This is particularly important where you make an oral request for environmental information, but can also help ensure that the advice and assistance you have been given is correct, and that any promises you are given are met.

Follow up phone conversations with a short letter or email confirming what has been said – particularly if you have made an oral request for information.

Make sure you keep copies of all correspondence between you and the authority. These will be important if you need to request an internal reconsideration or appeal to the Information Commissioner.

Understanding and dealing with refusals

Where you receive a refusal to release the information, you need carefully to consider the terms of that letter to see:

- whether the authority has complied with the procedural requirements for refusals.
- whether you agree with their reasons for refusing to release information to you.

At that stage, you need to compare carefully the particular exemption relied on, against:

- the wording of the law
- any guidance produced by DEFRA (for the Environmental Information Regulations 2004), the DCA (for the Freedom of Information Act 2000) or the Information Commissioner (for both) in relation to that exception, or in relation to the “public interest”.

You also need to carefully consider whether they have correctly balanced the public interest test and have taken into account the relevant public interests in favour of disclosure and have not over-emphasised (or invented) public interests in favour of withholding the information.

Importantly, do not assume that the authority is right. The exemptions are complex, and the people answering your request will often be no more expert than you are. In some ways (particularly in relation to the public interest), they may be less so, as you will probably know more about the subject matter of the request. This will put you in a strong position to argue the “public interest” in your particular case.

If your request is for “environmental information”, make sure that the authority makes its refusals on environmental information grounds, rather than Freedom of Information Act grounds, which are very different.

If you ask for a document and the authority is allowed to withhold some of the information in that document, they must still release the rest of it. Carefully check to see whether they have unlawfully refused to release all of the information because they can legally withhold some of it. The fact that removing the confidential information is a difficult job will not normally provide an exception.

If you are refused access to information and you think that the authority has got it wrong then feel free to email us at legal@foe.co.uk. We will see whether we are able to help in any way. Even if we are not able to help, your contact will help us continue to build a picture of ongoing difficulties with access to information.

ANNEXES

Annex 1 - Table of exceptions

(you can click on the Section numbers to go to the Government's guidance on the exemptions).

Freedom of Information Act 2000		
Section Regulation Number	Description	Qualified or Absolute (If qualified then the public interest test applies)
Section 21	Information that is reasonably accessible to you by other means	Absolute
Section 22	Information intended for future publication where it is reasonable in all the circumstances to withhold it until the intended publication date	Qualified
Section 23	Information that was supplied by or that relates to any of the security bodies. A ministerial certificate may be given confirming this to be the case.	Absolute
Section 24	Information (which does not fall under s.23) but where exemption is required to safeguard national security. A ministerial certificate may be given confirming this to be the case.	Qualified
Section 26	Would or would be likely to prejudice defence	Qualified
Section 27	Would or would be likely to prejudice International Relations	Qualified
Section 28	Would or would be likely to prejudice relations between the devolved administrations (i.e., Scottish Executive; Welsh Assembly Government etc)	Qualified
Section 29	Would or would be likely to prejudice the UK's economic interests	Qualified
Section 30	Information held for the purposes of certain investigations and proceedings	Qualified
Section 31	Would or would be likely to prejudice prevention of crime, administration of justice etc	Qualified
Section 32	Court Records	Absolute
Section 33	Information that would prejudice the audit functions of certain public authorities	Qualified
Section 34	Information whose disclosure would infringe parliamentary privilege	Absolute

Section 35	Information that relates to the formulation of Government policy where that information is held by a Government Department or by the Welsh Assembly Government	Qualified
Section 36	Information that is <u>not</u> exempt under section 35 and that would prejudice to effective conduct of public affairs or would inhibit the free and frank exchange of views for the purposes of deliberation. The 'reasonable opinion of a qualified person' is needed for the public authority to rely on this exception.	Qualified (other than for Parliament)
Section 37	Information that relates to communications with the royal family	Qualified
Section 38	Disclosure would or would be likely to endanger health or safety of an individual	Qualified
Section 39	Environmental information. (Because environmental information is dealt with under the EIR and not under FOIA.	Qualified
Section 40	Personal information (personal data).	Absolute (mainly)
Section 41	Information provided in confidence so that disclosure would amount to a breach of confidence	Absolute (though see note below)
Section 42	Legal Professional Privilege	Qualified
Section 43	Trade secrets or prejudice to the commercial interests of some person	Qualified
Section 44	Prohibitions on disclosure in other legislation	Absolute
Environmental Information Regulations 2004		
Reg. 12(4)(a)	The authority does not hold the information	Qualified
Reg. 12(4)(b)	The request is manifestly unreasonable	Qualified
Reg. 12(4)(c)	The request is formulated in too general a manner and the authority has tried to help you reformulate it	Qualified
Reg. 12(4)(d)	The information requested is in unfinished or incomplete	Qualified
Reg. 12(4)(e)	Disclosure of internal communications	Qualified
	Information may be refused to the extent that disclosure would adversely affect:	
Reg. 12(5)(a)	International relations, defence, national security or public safety	Qualified
Reg. 12(5)(b)	The course of justice, the conduct of a criminal inquiry	Qualified
Reg. 12(5)(c)	Intellectual property rights	Qualified
Reg. 12(5)(d)	Confidentiality of public authority proceedings where protected by law	Qualified

Reg. 12(5)(e)	Commercial or industrial confidentiality	Qualified
Reg. 12(5)(f)	The interests of a person who voluntarily supplied the information	Qualified
Reg. 12(5)(g)	The protection of the environment to which the information relates	Qualified

The exceptions at Regs. 12(5)(d) to 12(5)(g) do not apply where the information relates to emissions. That means that the information must be disclosed even if one of those exceptions applies (for example commercial confidentiality).

ANNEX 2 – A summary Register of Registers

Register name	Type of information (summary)	Who holds the Register?	Relevant legislation (For more details of information on registers, click on the links.) ¹⁰
Waste management licenses	Location, extent of landfills and waste transfer, treatment and disposal sites, types of waste accepted and annual volumes...	Environment Agency regional offices	EPA 1990 s. 64 (as amended by EPA 1995), Waste Management Licensing Regs 1994
Water abstraction licenses	Applications, grants and revocations of licenses, details of the licensees	Environment Agency regional offices	Water Resources Act 1991 s. 189 Water Resources (Licences) Regulations 1965
Discharge consents to controlled waters (‘Controlled water’ refers to freshwaters, groundwaters, tidal and coastal waters)	Notices of water quality objectives, applications for consents under various acts, consents given, analysis of samples of water or effluents, particulars about IPC/IPPC11 enforcement notices, revocations of consents, appeals, directions by Secretary of State	Environment Agency regional offices	Water Resources Act 1991 s. 190 The Control of Pollution (Applications, Appeals and Registers) Regs 1996
Main rivers information	Main river maps for the area of a regional flood defence committee	Environment Agency Flood Maps	Water Resources Act 1991 s. 193-194
Water quality information	Appointments and regulation of undertakers, termination or transfer of appointments, variation of areas covered by undertakers	Water Quality information from the Environmental Agency (What’s in my Backyard?) Director General of Water Services OFWAT (for tap water) From 2006. the above will be substituted by the Water Services Regulation Authority.	Water Industry Act 1991 s. 195 Water Act 2003 Water Supply (Water Quality) Regs 1989 (info corresponding to 2003 or older) Water Supply (Water Quality) Regs 2000 (info corresponding to 2004 onwards)

¹⁰ Be aware that the links below are to the Government's HMSO website. The laws on HMSO are the original laws at the date they became law. They do not include any later amendments and therefore may be out of date or otherwise inaccurate.

¹¹ Integrated Pollution Control / Integrated Pollution Prevention and Control

Trade effluents	Consents for discharges of liquid waste to sewage works, directions for discharges, agreements, notices	Sewerage undertakers' office (ie the offices of major water companies)	Water Industry Act 1991 s. 196
Water pipes	Maps showing every resource main, water main or discharge pipe, and any other underground works that are the responsibility of the undertaker	Water undertakers offices (ie the offices of major water companies)	Water Industry Act 1991 s. 198
Sewage pipes	Maps showing public sewers or disposal mains, private sewers adopted by the undertaker, description of effluents discharged	Sewerage undertakers' offices [ie the offices of major water companies]	Water Industry Act 1991 s. 199
IPC/IPPC12	This applies to the most polluting plants, factories and so on, as well as to certain types of intensive livestock farming. Applications, notices, representations, authorisations, variation notices, revocations of authorisations, monitoring information	Environment Agency regional offices and local authorities, depending on details such as precise installation	EPA 1990 s. 20 IPC Environmental Protection (Applications, Appeals and Registers) Regs 1991 IPPC: Pollution Prevention and Control (England and Wales) Regs 2000 See IPPC Guidance
Contaminated land	Remediation notices, appeals against remediation notices, remediation statements, appeals against charging notices, notices designating land 'special sites', notices terminating 'special sites' designations, notices of remediation	Environment Agency regional offices (special sites only), local authority (other sites)	EPA 1990 s. 78R (as amended by s. 57 Environment Act 1995) The Contaminated Land (England) Regs 2000
Local land charges	Class 'C' land charges (ie mortgages, limited owner's charge, general equitable charges, estate contracts) Class 'D' land charges (ie Inland Revenue charge, restrictive covenants, equitable easements) Class E land charges Class F land charges (husband/wife right to habitation)	District councils, county borough Councils, Welsh county councils, London's borough councils	Local Land Charges Act 1972 s. 2, s. 9 Local Land Charges Act 1975 s. 3
Noise abatement zones	Measurements of noise emanating from premises	Local authority	Control of Pollution Act 1974 s. 64 The Control of Noise (Measurement and Registers) Regs 1976

12 As above

Planning permission applications	Applications for planning permission, plans drawings, directions given in respect to the applications, decisions of planning authorities	Local authority	Town and Country Planning Act 1990 s. 69 The Town and Country Planning General Development Order 1988 Planning and Compulsory Purchase Act 2004 (But note that the key provisions of this act are not in force at the time of publication of this edition of the Handbook)
Air quality	Information about the total volume of gases (whether pollutant or not) discharged from premises, the concentration of pollutant in the gases discharged, the total of the pollutant discharged over a given period, the height or heights at which discharges take place, the hours during which discharges take place the concentration of pollutants at ground level.	Environment Agency (large processes) Local authorities (small processes)	Clean Air Act 1993 s. 38
GMOs (Genetically Modified Organisms)	Particulars of environmental impact assessments, applications, prohibitions, consents granted.	The Secretary of State	EPA 1990 s. 122 Genetically Modified Organisms (Deliberate Release) Regulations 2002
Natural conservation	National parks Applications for planning permission, plans drawings, directions given in respect to the applications, decisions affecting land in national parks.	National Park Authorities	Town and Country Planning Act 1990 s. 4A (as inserted by s. 67(1) Environment Act 1995)
	Sites of special scientific interest (SSSIs) Notifications and denotifications by English Nature and designations by the Secretary of State. In England and Wales the above are local land charges.	See local land charges, above Some details regarding SSSIs are available at English Nature's website	Wildlife and Countryside Act 1981 s. 28 (as amended by Sch 9 Countryside and Rights of Way Act 2000)
	Special protected areas (SPAs) Special areas of conservation (SACs) Particulars of designated areas, sites of community importance, sites hosting priority natural habitats.	Secretary of State (main register) English Nature Countryside Council for Wales (copies of the register)	Conservation (Natural Habitats) Regulations 1994 Reg 11 and 12
Waste management licenses	Location, extent of landfills and waste transfer, treatment and disposal sites, types of waste accepted and annual volumes...	Environment Agency regional offices	EPA 1990 s. 64 (as amended by EPA 1995), Waste Management Licensing Regs 1994
Water abstraction licenses	Applications, grants and revocations of licenses, details of the licensees	Environment Agency regional offices	Water Resources Act 1991 s. 18 9 Water Resources

			(Licences) Regulations 1965
Discharge consents to controlled waters (‘Controlled water’ refers to freshwaters, groundwaters, tidal and coastal waters)	Notices of water quality objectives, applications for consents under various acts, consents given, analysis of samples of water or effluents, particulars about IPC/IPPC13 enforcement notices, revocations of consents, appeals, directions by Secretary of State	Environment Agency regional offices	Water Resources Act 1991 s. 190 The Control of Pollution (Applications, Appeals and Registers) Regs 1996
Main rivers information	Main river maps for the area of a regional flood defence committee	Environment Agency Flood Maps	Water Resources Act 1991 s. 193-194
Water quality information	Appointments and regulation of undertakers, termination or transfer of appointments, variation of areas covered by undertakers	Environment Agency regional offices (for fresh, marine, surface and underground water) Director General of Water Services OFWAT (for tap water) From 2006. the above will be substituted by the Water Services Regulation Authority.	Water Industry Act 1991 s. 195 Water Act 2003 Water Supply (Water Quality) Regs 1989 (info corresponding to 2003 or older) Water Supply (Water Quality) Regs 2000 (info corresponding to 2004 onwards)
Trade effluents	Consents for discharges of liquid waste to sewage works, directions for discharges, agreements, notices	Sewerage undertakers’ office (ie the offices of major water companies)	Water Industry Act 1991 s. 196
Water pipes	Maps showing every resource main, water main or discharge pipe, and any other underground works that are the responsibility of the undertaker	Water undertakers offices (ie the offices of major water companies)	Water Industry Act 1991 s. 198
Sewage pipes	Maps showing public sewers or disposal mains, private sewers adopted by the undertaker, description of effluents discharged	Sewerage undertakers’ offices [ie the offices of major water companies]	Water Industry Act 1991 s. 199

IPC/IPPC14	This applies to the most polluting plants, factories and so on, as well as to certain types of intensive livestock farming. Applications, notices, representations, authorisations, variation notices, revocations of authorisations, monitoring information	Environment Agency regional offices and local authorities, depending on details such as precise installation	EPA 1990 s. 20 IPC Environmental Protection (Applications, Appeals and Registers) Regs 1991 IPPC: Pollution Prevention and Control (England and Wales) Regs 2000 See IPPC Guidance
Contaminated land	Remediation notices, appeals against remediation notices, remediation statements, appeals against charging notices, notices designating land 'special sites', notices terminating 'special sites' designations, notices of remediation	Environment Agency regional offices (special sites only), local authority (other sites)	EPA 1990 s. 78R (as amended by s. 57 Environment Act 1995) The Contaminated Land (England) Regs 2000
Local land charges	Class 'C' land charges (ie mortgages, limited owner's charge, general equitable charges, estate contracts) Class 'D' land charges (ie Inland Revenue charge, restrictive covenants, equitable easements) Class E land charges Class F land charges (husband/wife right to habitation)	District councils, county borough Councils, Welsh county councils, London's borough councils	Local Land Charges Act 1972 s. 2, s. 9 Local Land Charges Act 1975 s. 3
Noise abatement zones	Measurements of noise emanating from premises	Local authority	Control of Pollution Act 1974 s. 64 The Control of Noise (Measurement and Registers) Regs 1976
Planning permission applications	Applications for planning permission, plans drawings, directions given in respect to the applications, decisions of planning authorities	Local authority	Town and Country Planning Act 1990 s. 69 The Town and Country Planning General Development Order 1988 Planning and Compulsory Purchase Act 2004 (not in force at the time of publication of this edition of the Handbook)
Air quality	Information about the total volume of gases (whether pollutant or not) discharged from premises, the concentration of pollutant in the gases discharged, the total of the pollutant discharged over a given period, the height or heights at which discharges take place, the hours during which discharges	Environment Agency (large processes) Local authorities (small processes)	Clean Air Act 1993 s. 38

	take place the concentration of pollutants at ground level		
GMOs (Genetically Modified Organisms)	Particulars of environmental impact assessments, applications, prohibitions, consents granted	The Secretary of State	EPA 1990 s. 122 Genetically Modified Organisms (Deliberate Release) Regulations 2002
Natural conservation	National parks Applications for planning permission, plans drawings, directions given in respect to the applications, decisions affecting land in national parks	National Park Authorities	Town and Country Planning Act 1990 s. 4A (as inserted by s. 67(1) Environment Act 1995)
	Sites of special scientific interest (SSSIs) Notifications and denotifications by English Nature and designations by the Secretary of State. In England and Wales the above are local land charges.	See local land charges, above Some details regarding SSSIs are available at English Nature's website	Wildlife and Countryside Act 1981 s. 28 (as amended by Sch 9 Countryside and Rights of Way Act 2000)
	Special protected areas (SPAs) Special areas of conservation (SACs) Particulars of designated areas, sites of community importance, sites hosting priority natural habitats.	Secretary of State (main register) English Nature Countryside Council for Wales (copies of the register)	Conservation (Natural Habitats) Regulations 1994 Reg 11 and 12