



**LIVERPOOL
CITY REGION**
COMBINED AUTHORITY

METROMAYOR
LIVERPOOL CITY REGION

Freedom of Information and Environmental Information Regulations Policy

Document Title	Freedom of Information and Environmental Information Regulations Policy
Document Owner	Information Management Group
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Document Version	V2.3
Approved By	Merseytravel
Created Date	December 2015
Review Date	December 2022
Renewal Date	December 2024

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<u>Version</u>	<u>Date</u>	<u>Updates</u>
2.3	Dec 2022	<u>Change of uses of “Merseytravel and the Combined Authority” to “the Organisations</u> <u>Addition of explanation that each organisation remains its own statutory body</u>

Freedom of Information and Environmental Information Regulations Policy

1. Introduction

- 1.1 The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities.
- 1.2 The FOIA and the EIR provide a disclosure regime for accountability and transparency in decision making.
- 1.3 This document provides the policy framework through which effective compliance with the FOIA and the EIR can be achieved. The policy aims to facilitate and ensure access to information in order to promote greater openness and to build public trust in Merseytravel and the Liverpool City Region Combined Authority's ('the Organisations') work. Both organisations are individually responsible under the legislation as separate statutory bodies.

2. Purpose

- 2.1 The purpose of this policy is to ensure that the provisions of the FOIA and the EIR are adhered to and specifically that:
 - a significant amount of routinely published information held is made available to the public as a matter of course through the Organisations' Publication Schemes;
 - other information not included in the Publication Scheme is readily available on request and such requests are dealt with in a timely manner; and
 - in cases where information is covered by an exemption, exception or other legislation, consideration is given as to whether or not the information should be released.
- 2.2 The Organisations recognise our corporate responsibilities under the FOIA and the EIR to provide a general right of access to information held.

3. Roles & Responsibilities

- 3.1 Executive Directors/Assistant Directors/Heads of Service
 - Responsible for ensuring operational compliance with this policy within their own directorate/service area

- Ensure that all staff comply with the agreed policy and procedures for the FOIA/EIR
- Recognise FOIA/EIR issues in service planning and resource allocation

3.2 Information Management Group

- Provide staff training on FOIA/EIR issues
- Develop and maintain the corporate FOIA/EIR policy and procedures
- Monitor and review the effectiveness of the policy and procedures
- Identify and communicate any FOIA/EIR issues to Directorates
- Report on compliance with the policy and procedures to Organisations

3.3 Legal, Procurement & Democratic Services Department

- Log all requests for information
- Coordinate responses to requests for information
- Maintain Publication Schemes for the Organisations
- Provide legal advice and guidance on FOIA/EIR request responses and procedures
- Carry out any information request internal reviews and correspond with the Information Commissioner's Office in relation to any complaints

3.4 All Merseytravel & Combined Authority Employees

- Be aware of the FOIA and the EIR and what they mean
- To identify any requests that fall under the FOIA or the EIR
- Follow the policy and procedures for handling FOIA or EIR requests

4. What Constitutes an Information Request?

- 4.1 The Organisations will comply with all requests for information in accordance with the FOIA/EIR and will endeavour to assist the public in exercising their 'right to know'. Merseytravel will ensure that these

are understood by its employees and that internal procedures are in place to facilitate access.

- 4.2 The FOIA and the EIR allow anyone to request any information from the Organisations regardless of their age, nationality, location, motive or history, subject to a limited number of exemptions and exceptions laid down by law.
- 4.3 This will include information that the Organisations has produced internally, information that is maintained about another organisation or received from another organisation following a mutual exchange of information, e.g. a contract or partnership.
- 4.4 To be a valid request under the FOIA, requests must:
 - be in writing (email, letter or fax);
 - be legible;
 - contain the name of the applicant;
 - contain a return address (postal or email);
 - describe the information that is being sought.
- 4.5 Requests under the EIR do not need to be made in writing; however, a written record should be made of any verbal requests that are received.
- 4.6 Applicants will not be required to explain the purpose of their request, although in the course of clarifying requests and ascertaining exactly what information is being sought it may be necessary to seek further information from them.
- 4.7 Information requests can be received by any employee of the Organisations and do not need to mention any legislation to qualify as an official request.
- 4.8 For further guidance, please see the [‘How To Identify Information Requests’](#) flowchart at Appendix One.

5. **What Information is Covered?**

- 5.1 Within the context of the FOIA, the term ‘information’ means any piece of recorded information held the Organisations, whether paper or electronic. It includes all draft documents, agendas, minutes, emails, diaries and handwritten notes.
- 5.2 Under the EIR, environmental information is defined as any information in written, visual, oral, electronic or any other material form on:
 - a) the state of the elements of the environment: air, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity (including genetically modified organisms) and the interaction among these elements;

- b) factors affecting or likely to affect the environment such as substances, energy, noise, radiation or waste, emissions, discharges and other releases into the environment;
- c) measures (including administrative measures) such as policies, legislation, plans, programmes, agreements and activities affecting or likely to affect the environment, and related cost-benefit and other economic analyses;
- d) reports on the implementation of environmental legislation;
- e) the state of human health and safety, including the contamination of the food chain, and conditions of human life so far as they are affected by the elements of the environment and by factors, measures or activities affecting the environment;
- f) cultural sites and built structures so far as they are or may be affected by the elements of the environment and by factors, measures or activities affecting the environment.

6. **Receiving a Request**

- 6.1 Some simple enquiries can be solved directly in line with existing customer service standards. If the request requires further attention then it should be processed under the FOIA or the EIR.
- 6.2 When such a request for information is received it should be forwarded to FOI@merseytravel.gov.uk for Merseytravel or FOI@liverpoolcityregion-ca.gov.uk for the Combined Authority, where it will be progressed by a member of the Legal, Democratic Services and Procurement Department.
- 6.3 If any member of staff is unsure if any request for information should be dealt with in accordance with the FOIA or the EIR, they can contact the Legal, Democratic Services and Procurement Department for advice.

7. **Provision of Advice & Assistance**

- 7.1 The Organisations have an obligation to provide advice and assistance in response to requests for access to information in so far as they reasonably can and where such help is required.
- 7.2 Advice and assistance will include, but not necessarily be limited to:
 - a) publishing procedures for applicants to refer to that detail how the Organisations will deal with requests for information;
 - b) advising applicants about their rights of access under the relevant legislation;

- c) advising applicants about other agencies that may be able to help them to make requests, or offering such assistance directly;
- d) or providing further details about information held, so that applicants can more accurately describe what they are seeking access to.

8. **Timescales for Responses**

- 8.1 The Organisations are committed to dealing with requests for information promptly and no later than the statutory deadline of 20 working days. The Organisations will endeavour, where possible, to provide the requested information at the earliest opportunity from the date of the request.
- 8.2 Where a delay in reaching a decision beyond this period is expected to occur due to the consideration of a public interest test (see 14), the Organisations must give a realistic and reasonable estimate of when a decision will be reached. This revised estimate must be complied with unless there is a valid reason for not doing so. If this estimate is exceeded, the applicant should receive an apology and an explanation for the delay. It is imperative that the applicant is informed if the estimate is proving unrealistic. The Cabinet Office's Freedom of Information Code of Practice states that best practice for an extension to be for no more than a further 20 working days.
- 8.3 Under the EIR, an extension of a further 20 working days is permitted if required due to the complexity or volume of information requested.

9. **Clarifying a Request**

- 9.1 If the request is unclear, the Organisations have a duty to clarify the request with the requester. The requester is not obliged to reveal their aims or motives for making the request.
- 9.2 Where the Organisations have offered all the advice and assistance that it deems to be reasonable and the applicant still fails to describe the information requested in a way which enables the Organisations to identify and locate it, there is no statutory obligation for the Organisations to respond to the request or to seek further clarification.
- 9.3 The Organisations will, however, provide whatever information it has identified and located that is believed to be relevant to the enquiry subject to any exemptions, exceptions and, when applicable, the public interest test.

10. **Transferring Requests**

- 10.1 Information requests can be transferred where the Organisations receives a request for information which it does not hold, but which is held by another public authority.
- 10.2 When transferring a request the applicant should be given the details of who holds the information. The Organisations will also offer to transfer the request on the applicant's behalf. In this instance the Organisations need to consult with the second authority to ensure that they hold the information. Requests should not be transferred until this has been ascertained. There is always a need to consider if the applicant is likely to have any grounds for objecting to the transfer.
- 10.3 If the Organisations can answer part of the request, they will endeavour to do so, as well as transferring the remainder of the request as soon as is reasonably possible.
- 10.4 Alternatively, the requester will be informed who holds the requested information and instructed to resubmit their enquiry to the appropriate body themselves.

11. **Third Party Consultation**

- 11.1 The Organisations understand that unless a valid exemption or exception is applicable it will be obliged to disclose the requested information about a company, public authorities or individual in response to a legitimate information request.
- 11.2 In general it will be necessary and/or courteous for the Organisations to consult third parties about the prospect of disclosing information regarding them. Their views will be important if it is necessary to assess the balance of public interest in the disclosure of information.
- 11.3 While due consideration will be given to all views received, the decision on how to respond to a request must be made solely by the Organisations.

12. **Fees & Charges**

- 12.1 Information that is referred to in the Publication Scheme will be charged for as stated within the scheme. Most of this will be free and available for immediate access.
- 12.2 Under the FOIA, where it will require up to 18 hours staff time to determine whether the information is held, locate and retrieve the source document and extract the requested data, a fee will not be charged.
- 12.3 If it will take more than 18 hours staff time to determine whether the information is held, locate and retrieve the source document and extract the requested data, the Organisations may offer to carry out this

additional work at a rate of £25 per hour. There is no statutory obligation to offer this, and it will be made available solely at the Organisations' discretion.

12.4 Photocopies may be charged for at 10p per sheet and postage at cost.

12.5 These fees and charges may be waived wholly or in part at the Organisations' discretion.

13. **Exemptions & Exceptions**

13.1 The Organisations will provide the requested information unless:

- a) an exemption under the FOIA or exception under the EIR to disclosure applies;
- b) the information sought is not held;
- c) the request is considered to be vexatious or manifestly unreasonable;
- d) or the request is identical or substantially similar to another request that the Organisations have received from the same individual or group in the previous 6 months.

13.2 Some FOIA exemptions and all EIR exceptions are subject to the public interest test.

14. **The Public Interest Test**

14.1 In order to apply an exception or 'qualified' exemption, the public interest in withholding the information must outweigh the public interest in releasing it.

14.2 This assessment will be a matter of judgement on a case-by-case basis.

14.3 If consideration of the public interest test under the FOIA is likely to take the request over the 20 day limit, the requester needs to be informed of the extension within this initial period and the circumstances that have led to the extension being required.

15. **Appeals & Complaints**

15.1 Where an applicant is not satisfied with a decision they are entitled to a review of the decision by an independent officer through the FOIA and EIR internal review procedure.

15.2 A review can be made with regards to:

- a) the Organisations not following their Publication Schemes;
- b) requests that have not (in the requester's opinion) been handled in accordance with the relevant legislation;
- c) where the requester is dissatisfied with the outcome of the consideration of the Public Interest Test;
- d) or where the issue is such that it cannot be resolved informally in discussion with the officer dealing with the request.

15.3 Reviews relating to requests made under the FOIA will be dealt with within 20 working days of a written complaint being received by the Organisations.

15.4 Reviews for requests made under the EIR will be dealt with within 40 working days of a written complaint being received by the Organisations.

15.5 After the Organisations' internal review procedure has been exhausted, further complaints should be directed to the Information Commissioner for a decision. Details of how to do so will be communicated to the requester.

16. **Publication Scheme**

The Organisations will maintain Publication Schemes and review them regularly.

17. **Training**

17.1 The Organisations are committed to its aim that all staff will be properly trained and fully informed of their obligations under the FOIA & EIR.

17.2 Training sessions are available from the Senior Information Management Officer, and can be tailored to suit the particular needs of a department.

18. **Disciplinary Action**

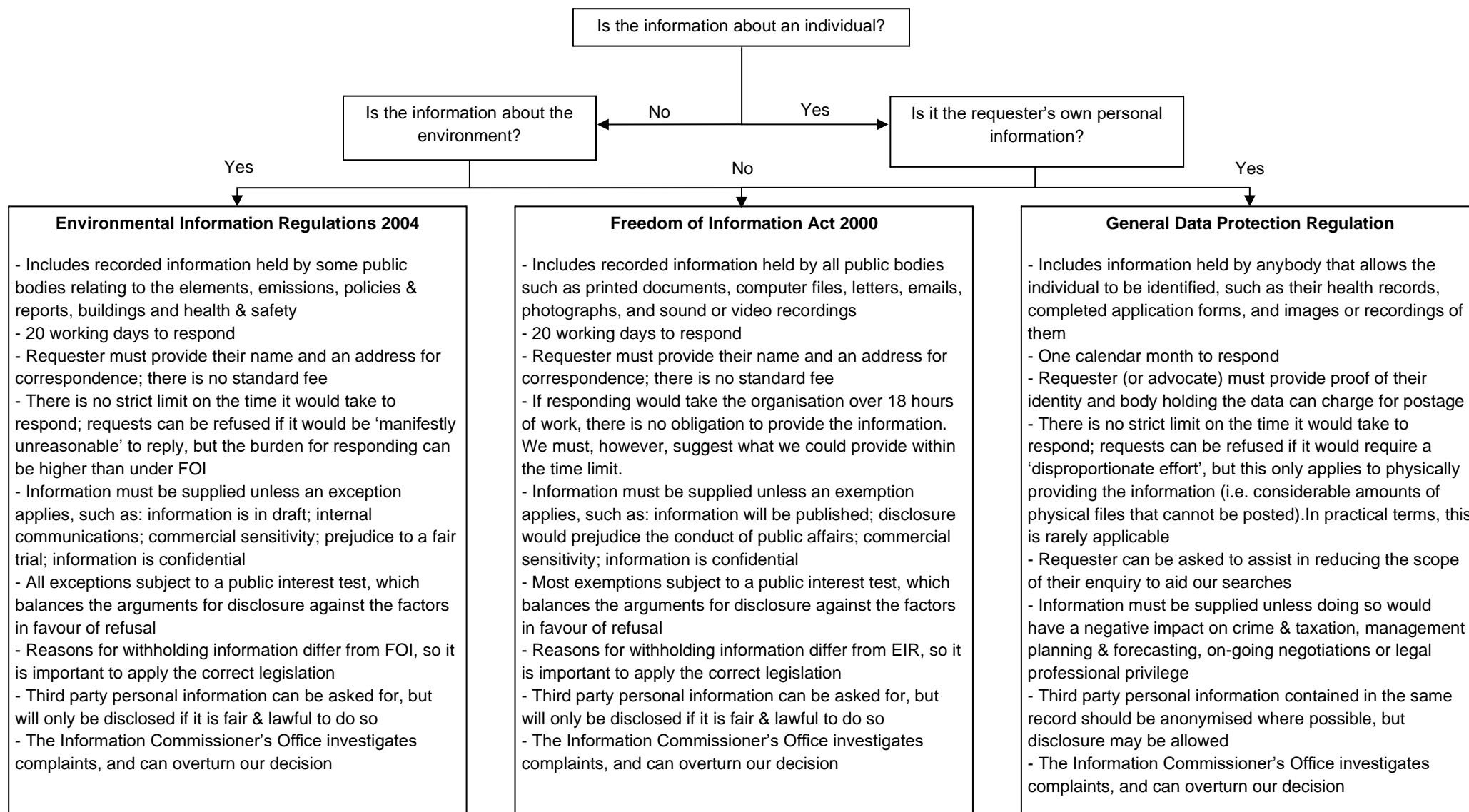
The Organisations expects all of their staff and members to comply fully with this Policy and the FOIA & EIR. Disciplinary action may be taken against any employee who breaches any of the instructions or procedures following from this Policy.

19. **Monitoring & Review of the Policy**

19.1 This policy will be reviewed regularly by the Legal, Democratic Services and Procurement Department to ensure it is updated in line with any legislative updates.

19.2 The Organisations will continue to review the effectiveness of this policy to ensure it is achieving its stated objectives.

How to Identify Information Requests



If you have any questions, or have received an information request, please contact
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