



Department
for Environment
Food & Rural Affairs

FOI Training

Information Rights Team



Forestry Commission
England



Environment
Agency

Aim of the session

- Help you identify an information request
- Raise awareness of FOIA and EIRs (and DPA)
- Understand the process for handling information requests (FOIA and EIRs)
- Clarify what Information Rights Team (IRT) do
- Give you more confidence
- How we can help you going forward

True or False?

Are the following 6 statements true or false?

1. A public authority may not ask a person making an information request why he or she wants the information...
2. If a public authority receives a request for a copy of a contract it has entered into with a private company, it must not disclose it without the company's consent...
3. A request made to the Defra Twitter account is a valid information request...
4. A public authority may refuse to comply with a request for information on the grounds that it would cost too much...
5. If a request for information is made and the public authority does not hold the info, but knows which public authority does, they should take steps to get hold of the information in order to respond quicker...
6. The FOIA/EIRs applies to all information held by a public authority, even if it pre-dates the Act/Regulation coming into force...

True or False?

1. A public authority may not ask a person making an information request why he or she wants the information... **TRUE**
2. If a public authority receives a request for a copy of a contract it has entered into with a private company, it must not disclose it without the company's consent... **FALSE**
3. A request made to the Defra Twitter account is a valid information request... **TRUE**
4. A public authority may refuse to comply with a request for information on the grounds that it would cost too much... **TRUE**
5. If a request for information is made and the public authority does not hold the info, but knows which public authority does, they should take steps to get hold of the information in order to respond quicker... **FALSE**
6. The FOIA/EIRs applies to all information held by a public authority, even if it pre-dates the Act/Regulation coming into force... **TRUE**

What is a request for information?

- Freedom of Information Act 2000:

...provides public access to recorded information held by public authorities in the UK (Act of UK Parliament)

“1) Total departmental spending on Brexit (i.e. the UK leaving the EU) in each quarter from July 1 2016-September 30 2016 to October 1 2018-December 31 inclusive.”

- Environmental Information Regulations 2004:

...provide public access to recorded environmental information held by public authorities in the UK (derived from European law)

“Please provide me with a copy of all the Waste Infrastructure Delivery programme (WIDP) Transactor’s Monthly Reports (TMRs) for Norfolk County Council’s Waste Treatment PFI.”

When is it BAU?

- Business As Usual:
... asking for opinions, interpretations and individual knowledge

For example:

“DEFRA’S view on whether it is satisfied that the transport and husbandry of wrasse is compliant with the requirements of the Directive, and whether it believes that the welfare standards set under national law are being met and any correspondence or evidence in support.”

About Information Requests (FOIA / EIRs)

- A request for recorded information
- Does not have to state a regime
- Legal statute
- 20 working-day deadline
- Regulated by the Information Commissioner's Office (ICO)
- 90% completion target
- Requires good Records Management practice!

The truth about the Cabinet's expenses

The Prime Minister Brown paid his family more than £4000 for cleaning services

The Justice Secretary Stroom paid £1000 and more for his family to come to court

The Chancellor, Darling, charged his home, designed for his times in his past

The Business Secretary Mandelson claimed thousands after saying he would quit as MP

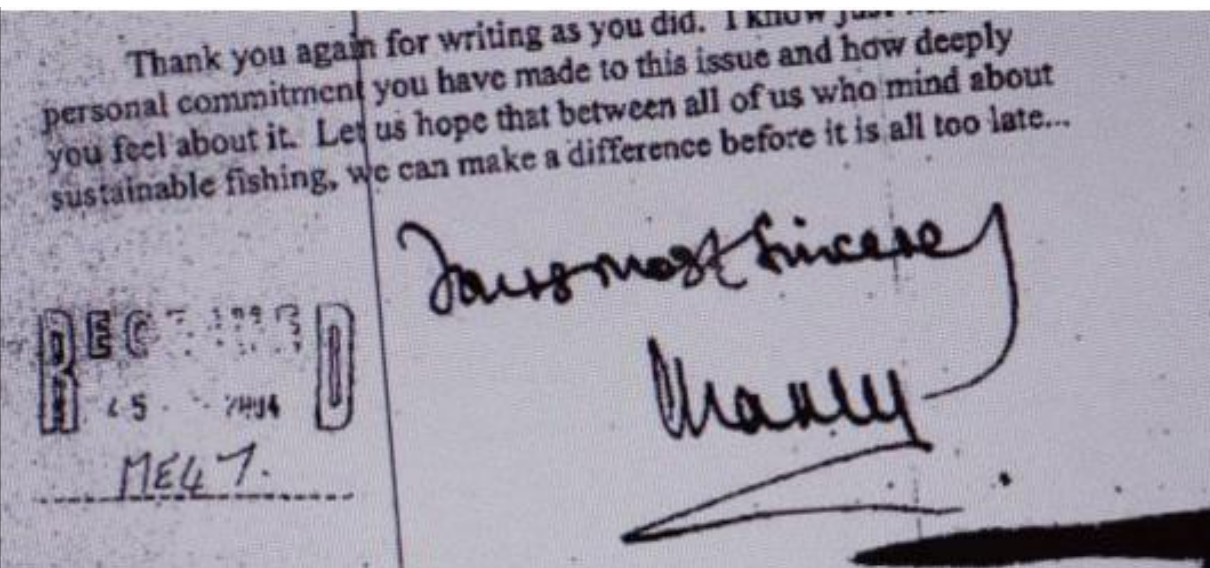


The Telegraph's story. A claim by Sir Peter Viggers MP for a duck house costing £1,645 came to symbolise the expenses scandal

POLITICS

Michael Gove Accused Of Suppressing Report Into Whether Brexit Will Cause Food Prices To Rise

'What are they hiding?'



Ministry Of Justice Staff Called A BuzzFeed Journalist "Crazy" And A "Bitch" After She Published A Leaked Report

A senior lawyer said heavily redacted internal MoJ messages obtained by BuzzFeed News showed staff were "deliberately frustrating legitimate journalistic inquiry".



Withholding information

Exemptions and Exceptions

- Do we hold information?
- Is the information sensitive?
- Would the information cause harm by disclosure?
- Absolute and qualified exemptions (FOIA)
- Absolute = no public interest test
- Qualified = public interest test
- Exceptions for EIRs = public interest test
- Confirm if we hold information
- Why exemptions/exceptions are engaged
- Public interest test arguments – make them specific!

Common Exemptions Quiz

Which of these are real and which are fake?

You can withhold if the information:

1. Is too costly to locate...
2. Would cause embarrassment to an official...
3. Is currently being used to formulate a policy...
4. Will be published in future...
5. Was the view of one official who has since left the organisation...
6. Was sent under the Government Security Classification “Top Secret”...
7. Is advice from a lawyer...
8. Was provided in confidence by a third party...
9. Is a letter from the Prime Minister...

Common Exemptions Quiz - Answers

You can withhold if the information:

1. It is too costly to locate... **REAL**
2. Would cause embarrassment to an official... **FAKE**
3. Is currently being used to formulate a policy... **REAL**
4. Will be published in future... **REAL**
5. Was the view of one official who has since left the organisation...
FAKE
6. Was sent under the Government Security Classification “Top Secret”...
FAKE
7. Is advice from a lawyer... **REAL**
8. Was provided in confidence by a third party... **REAL**
9. Is a letter from the Prime Minister... **FAKE**

Common Exemptions

FOIA

- Section 12 – Cost limit
- Section 21 – Information already accessible
- Section 27 – International Relations
- Section 29 – The Economy
- Section 35 – Formulation of Government Policy
- Section 36 – Prejudice to effective conduct of public affairs
- Section 40 – Personal data
- Section 41 – Information provided in confidence
- Section 42 – Legal professional privilege
- Section 43 – Commercial interests

Common Exceptions

EIRs

- Reg 12(3) & Reg 13 – Personal data
- Reg 12(4)(a) – Information not held
- Reg 12(4)(b) – Manifestly unreasonable, costs
- Reg 12(4)(c) – Request too general
- Reg 12(4)(d) – Material in course of completion
- Reg 12(4)(e) – Internal communications
- Reg 12(5)(a) – International relations, national security
- Reg 12(5)(d) – Confidentiality by law
- Reg 12(5)(e) – Commercial interests

Contact

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