

Oxfordshire County Council

Freedom of Information Act & Environmental Information Regulations Policy



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1. Introduction

1.1

The Freedom of Information Act 2000 (the FOI Act) and Environmental Information Regulations 2004 (EIR), provide individuals with a right of access to non-personal information held by Oxfordshire County Council.

1.2

As a public authority (as defined by the Act), Oxfordshire County Council recognises its responsibility and is committed to promoting a culture of openness and transparency with all the information it holds to meet the requirements of the FOI Act and the EIR.

1.3

The FOI Act and the EIR place a statutory obligation on public bodies to publish details of all recorded information that they hold and to allow third parties, including members of the public, to have access to this information on request, except where an exemption applies, such as those related to personal or other confidential information.

1.4

The Publication Scheme is both a public commitment to make certain information available, and a guide as to how information can be obtained. You can find our Publication Scheme on our website www.oxfordshire.gov.uk/informationrequests

2. About this policy

2.1

This policy has been produced to ensure compliance with the requirements of the FOI Act and the EIR. This policy incorporates guidance from the Information Commissioner's Office (ICO).

2.2

The policy provides a framework for compliance and is supported by appropriate procedures and guidance documents to provide advice and maintain good practice.

2.3

This policy does not cover Data Subject Access Request (requests for access to personal data). Subject Access Requests (SARs) are exempt under the Freedom of Information Act, Section 40(1) and are processed in accordance with article 15 of the UK General Data Protection Regulation 2016 (UK GDPR). To find out more visit www.oxfordshire.gov.uk/subjectaccessrequests .

2.4

The Customer Feedback Team is part of the Customer Service Centre and is the central team for receiving, logging, and monitoring requests within Oxfordshire County Council, ensuring it complies with its legal obligations as set out in legislation.

2.5

This policy does not cover information held by schools. Under the FOI Act, schools are public authorities in their own right and responsible for their own information compliance.

3. What is the Freedom of Information Act 2000

3.1

The Freedom of Information Act 2000 provides a general right of access to recorded information held by Oxfordshire County Council at the time a request is received.

3.2

The FOI Act states that information is considered 'held' if it is held by the authority (otherwise than on behalf of third party) or it is held by another person on behalf of the authority.

3.3

This policy applies to all recorded information created or held by, or on behalf of, Oxfordshire County Council where it is:

- Created in the conduct of Oxfordshire County Council business.
- Created/processed by staff and elected members regardless of office, mobile or home working.
- Created in any format e.g., paper, audio, video, electronic, email, etc.
- Regardless of the date the information is generated or received.
- Received from any person whether a private individual, commercial organisation, or the media.

4. What are the Environmental Information Regulations 2004

4.1

Where recorded information is requested which is defined as 'environmental information', the request will be dealt with under the Environmental Information Regulations (EIR) rather than the FOI Act.

4.2

The EIR provides a general right to access information which falls within the definition of environmental information. This includes data on the state of the environment, factors affecting it, and measures or activities impacting or designed to protect it.

4.3

The EIR state that information is 'held' if it is in the possession of the authority and has been produced or received by the authority.

5. Making a request

5.1

Under the FOI Act, applicants must submit their request in writing either by letter, email, webform or social media; provide their name and address (postal or email) and clearly describe the information they are requesting, to enable Oxfordshire County Council to locate it.

5.2

The applicant must supply what is deemed to be a 'real name'. Oxfordshire County Council is not obligated to accept requests where the applicant is clearly using a pseudonym, for example 'Micky Mouse'.

5.3

Applicants are entitled under the EIR to make a request verbally or in writing, however Oxfordshire County Council will require an address (postal or email) for its response, as responses to EIRs must be in writing.

6. Clarifying requests

6.1

A request for information must adequately specify and describe the information sought by the applicant. Oxfordshire County Council is entitled to ask for more detail, if needed, to enable it to identify and locate the requested information. Oxfordshire County Council will, as far as reasonably practicable, provide assistance to the applicant to enable them to describe more clearly the information requested, where required.

7. Processing a request

7.1

All valid information requests are acknowledged on receipt and allocated to the relevant service area and a response will be provided within 20 working days.

7.2

The service area that holds the information will prepare all disclosures and apply any relevant exemptions or exceptions before the information is released. Information will only be withheld from disclosure where a valid exemption or exception applies, and Oxfordshire County Council will notify the applicant if an exemption or exception has been applied to any information.

7.3

If Oxfordshire County Council does not hold the information requested but has reason to believe that some or all of the information is held by another public authority, Oxfordshire County Council will advise the applicant of this. Oxfordshire County Council will suggest to the applicant they reapply to the authority which may hold the information and provide their contact details.

8. Exemptions, Exceptions and the Public Interest Test

8.1

The legislation recognises that there may be circumstance when information should not be disclosed as part of an information request.

8.2

Part II of the FOI Act provides a number of exemptions and regulation 12 of the EIR provides exceptions from the duty to disclose information. A list of the exemptions and exceptions can be found on our [website](#) and on the Information Commissioner's website at www.ico.org.uk

8.3

The FOI Act exemptions are split into two types 'absolute' and 'qualified'. When Oxfordshire County Council relies on a qualified exemption, it must consider a public interest test. 'Absolute' exemptions do not require a public interest test to be conducted.

8.4

The term 'public interest' is not defined in the legislation but is generally considered as being something that serves the interest of the public. When applying the public interest test, Oxfordshire County Council will decide whether the interests of the public are better served by withholding or disclosing the information. The public interest favours accountability and good administration and it is this interest that will be weighed against the public interest in not disclosing the information. There is an express presumption of disclosure under the EIR and unlike the FOI Act exemptions, all of the EIR exceptions are subject to a public interest test.

8.5

In cases where Oxfordshire County Council consider using a qualified exemption under the FOI Act, an extension may be applied for a further 20 working days when Oxfordshire County Council requires additional time to consider public interest in releasing or withholding the requested information. In these circumstances, the applicant will be advised as soon as possible.

8.6

In cases where Oxfordshire County Council consider withholding information under the EIR, an extension may be applied for a further 20 working days if the requested information is deemed as complex **and** includes a high volume of information.

8.7

If an extension is being made, Oxfordshire County Council will inform the applicant as soon as possible within the first 20 working days.

9. Requests exceeding the appropriate limit (FOI Act)

9.1

Oxfordshire County Council is not obligated to comply with a request under the FOI Act, if the cost in supplying the information would exceed the limit as set out [in The Freedom of Information and Data Protection \(Appropriate Limit and Fees\) Regulations 2004](#). The fees limit for Oxfordshire County Council is £450, calculated on a standard rate of £25 per hour base, which equates to 18 hours of staff time.

9.2

The Appropriate Limit and Fees Regulations do not apply to requests made under the EIR. Requests for environmental information which would be particularly voluminous to respond to, may fall under the Manifestly Unreasonable exception of the EIR.

9.3

If Oxfordshire County Council receives multiple requests for information under the FOI Act on the same subject or similar subject within 60 working days of each other from one applicant or from other applicants who appear to be acting in collaboration, Oxfordshire County Council may aggregate the time it would take to answer all of the requests. If the requests exceed the £450 limit, the requests may be refused.

9.4

When deciding whether or not a request will exceed the £450 limit, Oxfordshire County Council can only take into account the time it would take to:

- Determine whether it holds the information;
- Locate the information, or document which may contain the information;
- Retrieve the information, or document which may contain the information; and
- Extract the information from a document containing it.

9.5

Oxfordshire County Council is not permitted to take into account the time it would take to consider any exemptions that may apply and redact (delete) any exempt information.

9.6

If Oxfordshire County Council decides to refuse a request on the grounds of cost, it will issue the applicant with a refusal notice in writing and give a breakdown of the estimated time that would be taken to comply with the request. Oxfordshire County Council will offer applicants advice and assistance to help them bring their request within the limit, where it is reasonable to do so.

10. Manifestly Unreasonable requests (EIR)

10.1

As stated in paragraph 9.2 there is no statutory equivalent to the Appropriate Limits and Fees Regulations under the EIR. If an EIR request is received which is

considered particularly voluminous, this may be refused under the Manifestly Unreasonable exception in regulation 12(4)(b) of the EIR.

10.2

When considering whether an EIR request is Manifestly Unreasonable, Oxfordshire County Council will follow the Information Commissioner's guidance and relevant case law.

10.3

The Information Commissioner's guidance suggests that regulation 12(4)(b) provides an exception to the duty to comply with a request in two circumstances: 1) where the request is vexatious and 2) where it would incur unreasonable costs for the public authority or unreasonable diversion of resources.

10.4

If Oxfordshire County Council decides to refuse a request under Manifestly Unreasonable, it will issue the applicant with a refusal notice providing its reasons. This exception is subject to a public interest test and arguments for and against disclosure will be given. Oxfordshire County Council will offer applicant advice and assistance.

11. Vexatious and Repeated requests (FOI Act)

11.1

Oxfordshire County Council does not have to comply with a request if it is vexatious. The definition of vexatious is not straightforward, and a request that is designed to cause inconvenience, harassment or expense can be considered vexatious, and Oxfordshire County Council are entitled to consider the effect, as well as the intention, of the applicant.

11.2

As the term vexatious implies a manifestly unjustified, inappropriate, or improper use of a formal procedure under both the FOI Act and the EIR, Oxfordshire County Council will use its judgement as to whether a request is vexatious and will consider all the circumstances in which the request was made.

11.3

When assessing whether a request is vexatious, the legislation permits Oxfordshire County Council to consider the context and history of a request, including the identity of the applicant and Oxfordshire County Council previous contact with them. The decision to refuse a request often follows a long series of requests and correspondence.

11.4

The Information Commissioner's Office suggests that when determining whether a request is vexatious, the following five tests should be considered:

1. Can the request be seen as obsessive?
2. Is the request harassing the authority or causing distress to staff?
3. Would complying with the request impose a significant burden in terms of exposure and distraction?
4. Is the request designed to cause disruption or annoyance?
5. Does the request lack any serious purpose or value?

11.5

If a request is deemed as vexatious, Oxfordshire County Council will notify the applicant in writing by issuing a refusal notice providing a clear explanation as to how and why it meets one or more of the Information Commissioner's five tests' outlined in paragraph 11.4. A request does not need to meet all five tests to be considered vexatious.

11.6

If Oxfordshire County Council has previously notified an applicant that a request is vexatious and receives further requests for similar or the same information, Oxfordshire County Council is not obligated to provide the applicant with a further refusal notice.

11.7

Oxfordshire County Council does not have to comply with a request from the same person, submitted without a 'reasonable' interval in between, and where Oxfordshire County Council has already responded to the first request.

11.8

A 'reasonable' interval depends upon the nature of the request; if the requested information changes or is updated frequently, a reasonable may only be a couple of months. However, if the information is obviously never going to change, or only changes annually, then a reasonable interval may be a year or longer.

12. Information requests regarding deceased persons

12.1

Information about deceased individuals is not covered by any right of access under the United Kingdom General Data Protection Regulations (UK GDPR) or the Data Protection Act (DPA) 2018, as personal data only relates to living individuals.

12.2

Oxfordshire County Council would only search for and release any information held about a deceased person in very limited circumstances. In order to protect Oxfordshire County Council from any future breach of confidentiality claim from the deceased's estate, Oxfordshire County Council would require evidence of the relationship between the applicant and the deceased.

12.3

When processing requests under the FOI Act for deceased persons records, Oxfordshire County Council is only able to accept original or countersigned copies of documentation provide to us as evidence, in order to ensure Oxfordshire County Council only disclosed information to those entitled to it. This includes evidence showing the applicant is the deceased persons personal representative (also known as the executor or administrator of their estate) or had lasting power of attorney.

12.4

If none of the evidence described in paragraph 12.3 can be provided, it is very likely that information related to the deceased would be lawfully withheld from disclosure under section 41 of the FOI Act.

13. Internal Reviews

13.1

If an applicant is unhappy with a response, they have the right to request an Internal Review in accordance with the FOI Act Code of Practice and the EIR.

13.2

Oxfordshire County Council considers an internal review when the applicant expresses a dissatisfaction with the response; the way the response was handled; or the decision to withhold information.

13.3

A request an internal review must be made in writing within 40 working days of the initial response being sent. The applicant must set out the reasons why they do not agree with the initial response and what factors they would like to be taken into account as part of the review. This should include any public interest arguments, where applicable.

13.4

An internal review is an independent review undertaken by a senior officer who was not involved with the initial response. The review will assess how the request was handled and determine if the initial response given was correct.

13.5

The request for review will be dealt with within 20 working days. If a review is complex, requires consultation with third parties or the relevant information is of a high volume, it may be necessary to extend the deadline for a response by a further 20 working days. If this is the case, the applicant will be notified as soon as possible with the reasons why, alongside a revised response date, which will not exceed a total of 40 working days.

13.6

Where a complaint does not fall under the examples given above, we may deal with complaint under the [Oxfordshire County Council's Corporate Complaints Policy](#)

14. Information Commissioner's Office (ICO)

14.1

The Information Commissioner's Office (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

14.2

Complaints about decisions made by Oxfordshire County Council, regarding an FOI or EIR response can be made to the ICO. The ICO will decide whether Oxfordshire County Council has dealt with the request in compliance with the relevant legislation.

14.3

For more information about the Information Commissioner, please visit www.ico.org.uk