

**Guidelines on the Freedom of Information Act 2000  
and Environmental Information Regulations 2004**

**April 2010**

## Background

The Freedom of Information Act (FOI) 2000 and the Environmental Information Regulations (EIR) 2004 establish a right of access to recorded information held by public authorities, such as e-mails, meeting minutes, research or reports.

A public authority includes:

- Central government and government departments
- Local authorities
- Hospitals, doctors' surgeries, dentists, pharmacists and opticians
- State schools, colleges and universities
- Police forces and prison services

Both the FOI and EIR provide means of gaining access to information and are aimed at encouraging organisations to be more open and publish information pro-actively.

Information on FOI can be found here:

[http://www.ico.gov.uk/what\\_we\\_cover/freedom\\_of\\_information.aspx](http://www.ico.gov.uk/what_we_cover/freedom_of_information.aspx).

Information on EIR can be found here:

[http://www.ico.gov.uk/what\\_we\\_cover/environmental\\_information\\_regulation.aspx](http://www.ico.gov.uk/what_we_cover/environmental_information_regulation.aspx).

## Publication Scheme

The FOI obliges every public authority to adopt, maintain and periodically review a scheme for the publication of information approved by the Information Commissioner's Office.

## Voluntary Application of FOI

As a registered charity, London Higher is not presently covered by the FOI. However, we are committed to good practice and transparency and as such voluntarily operate under FOI and EIR. Whilst London Higher has also voluntarily created a publication scheme, this scheme cannot be formally enforced by the Information Commissioner's Office (ICO), nor can the ICO investigate FOI complaints against organisations such as London Higher which is not formally covered by the legislation.

## **Freedom of Information Act**

FOI is fully retrospective and applies to all information held. A public authority must:

- respond to a written request for information within 20 working days
- return information in the format requested
- must provide advice and assistance to anyone seeking information

However, information requests can be denied if:

- there are exemptions
- the request is vexatious or similar to a previous request
- if the cost of compliance exceeds an appropriate limit

Certain exemptions are subject to a public interest test; a decision must then be made as to whether it is in the public interest to disclose the information in question.

Applicants can make a complaint to the [Information Commissioner's Office](#) who can investigate the use of exemptions or other refusals (you are permitted to exhaust your own internal FOI complaints procedure before a complainant is referred to the ICO.)

## **Exemptions to FOI requests**

Records exempt from FOI include information:

- accessible to applicant by other means (e.g. through a Publication Scheme.)
- intended for future publication.
- draft documents.
- supplied by, or relating to, bodies dealing with security matters.
- which, if disclosed, would prejudice national security.
- which, if disclosed, would prejudice international relations.
- being held for investigations and proceedings conducted by public authorities.
- which, if disclosed, would prejudice law enforcement.
- contained in Court records.
- which, if disclosed, would prejudice the exercise of any authority's audit functions.
- covered by Parliamentary privilege.
- which, if disclosed, would be prejudicial to the effective conduct of public affairs.
- which, if disclosed, could endanger the health and safety of any individual.
- which is already available to the public under Environmental Regulations.
- classed as Personal.
- provided in Confidence.

- which constitutes a trade secret or which, if disclosed, would prejudice commercial interests.
- whose disclosure is prohibited by any enactment, is incompatible with any community obligation or which would be punishable as a contempt of Court.

Further information can be found at

[http://www.ico.gov.uk/what\\_we\\_cover/freedom\\_of\\_information/guidance.aspx](http://www.ico.gov.uk/what_we_cover/freedom_of_information/guidance.aspx).

## Environmental Information Regulations

### Background

The regulations apply to most public authorities, but can also apply to any organisation or person in a public administration function, and any organisation or person under the control of a public authority with environmental responsibilities, e.g. private companies or public private partnerships in energy, water, waste or transport.

Whilst the majority of the areas below are not relevant to London Higher's activities, some requests may need to be directed towards and dealt with by London Higher as tenants of the University of London.

Environmental information is divided into six main areas:

- state of the elements of the environment, such as air, water, soil, land, fauna (including human beings)
- emissions and discharges, noise, energy, radiation, waste and other such substances
- measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment
- reports, cost-benefit and economic analyses
- state of human health and safety, contamination of the food chain
- cultural sites and built structures

For EIR requests, public authorities:

- must respond to written or oral information requests (letter, email, telephone or in person) within 20 working days, which can be extended to 40 working days if the information is complex and voluminous
- must provide advice and assistance when necessary.
- can charge for environmental information but no charges can be made for information held in registers, lists or for viewing the information at the public authority's premises.

Guidance on EIR can be found at:

[http://www.ico.gov.uk/what\\_we\\_cover/environmental\\_information\\_regulation/guidance.aspx](http://www.ico.gov.uk/what_we_cover/environmental_information_regulation/guidance.aspx).

### Exceptions to EIR

These include:

- information not held by the authority, or the nature of the request is unclear
- the request is "manifestly unreasonable"
- the information is "unfinished or in the course of being completed"
- defence, international relations, national security, and public safety
- the course of justice, or the confidentiality of proceedings
- "intellectual property rights"
- "interests of the supplier of the information", where supply was voluntary

- commercial confidentiality
- the protection of the environment

In addition:

- London Higher is a tenant of the University of London. Whilst London Higher will endeavour to deal with EIR requests in the first instance, in certain cases, requests may have to be forwarded to the University of London, as London Higher's landlord, for action.
- information about the applicant (personal information) will be dealt with under the Data Protection Act 1998 and personal information of a third party may be exempt if release would breach the Data Protection Principles
- Only a limited number of exceptions can be claimed when the information request concerns emissions

Denial of information through the use of exceptions must be explained in detail especially if it falls under the public interest test.

Enforcement of EIR by the Information Commissioner's Office is similar to FOI.

### **Proactive dissemination**

To minimise EIR requests, public authorities should:

- make environmental information available through electronic means
- organise environmental information for systematic dissemination to the public

Public authorities subject to FOI can use their publication scheme to partly comply with dissemination responsibilities under EIR.

Minimum criteria on items public authorities are expected to disseminate proactively are detailed in Article 7 (2) of the European Directive (2003/4/EC).

## **5. Status**

*Policy Created:* 23 November 2009

*Policy Approved:* 2 December 2009

*Policy Last Updated:* 16 April 2010

This policy will be reviewed every three years.

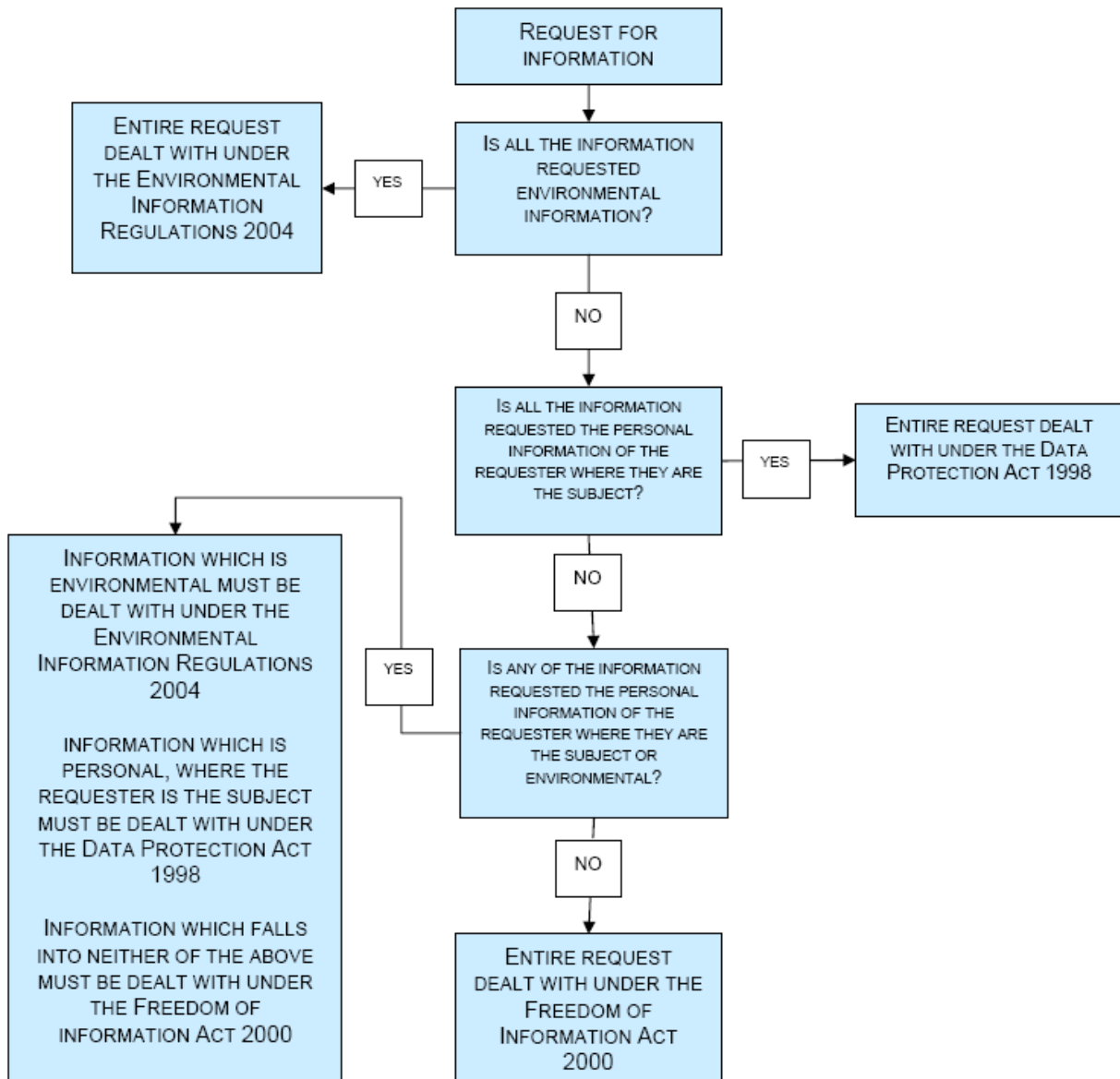
## **6. Contact(s)**

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### Flowchart for requests for information



Source: [http://www.ico.gov.uk/what\\_we\\_cover/environmental\\_information\\_regulation/the\\_basics.aspx](http://www.ico.gov.uk/what_we_cover/environmental_information_regulation/the_basics.aspx).