

Freedom of Information Act 2000 Environmental Information Regulations 2004

Writing a refusal notice

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) provide rights of public access to information held by public authorities. This is part of a series of guidance notes produced to help public authorities to understand their obligations and to promote good practice.

This guidance, which covers both the FOIA and the EIR, explains to public authorities the benefits to them of following the correct procedures when issuing refusal notices. It sets out in practical terms how to issue refusal notices, detailing what a refusal notice should contain. It demonstrates examples of good practice by providing a series of template letters which authorities may find helpful.

We have also produced a separate piece of detailed guidance on refusal notices: [Refusing a request](#). Both pieces of guidance replace our former guidance on refusal notices (GPG1).

Overview

- A refusal notice should be issued as soon as possible and not later than 20 working days from receipt of the request.
- It is imperative that it is clear and specific and it should explain the authority's decision and reasons for withholding the information.
- The notice must contain information about the appeals process.
- Issuing exemplary refusal notices is of benefit to a public authority.

Issuing a refusal notice

- Ensure the refusal notice is clear and specific, explaining in full the authority's decision and reasoning.
- State the information requested and which legislation (FOIA or EIR) has been applied.

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- Give details of why the information cannot be disclosed, i.e. information not held, exemption or exception applies.
- Cite any exemptions or exceptions applied, stating the full section and sub section number, and say why you have done so. Do not paraphrase the exemption, and fully explain why it applies.
- If applying a qualified exemption, an authority must set out its reasoning regarding prejudice or adverse effect; we recommend that it should specify here whether disclosure “would prejudice” or “would be likely to prejudice”. The authority must also explain its application of the public interest test, setting out the public interest factors it took into account, both for and against disclosure, before reaching a decision.
- If appropriate, the authority must state that it is neither confirming nor denying that it holds the information. When doing so, the authority must also cite the exemption or exception it is relying upon.
- The refusal notice should contain the process, timescales and contact details for all of the appeals processes. It should be made clear to the applicant that they can seek an internal review by the authority. Note that under the FOIA, an authority is only legally required to offer this if it has a complaints procedure, whereas under the EIR it is compulsory to have a complaints procedure. However the ICO recommends that all authorities establish such a procedure: please see the [Section 45 Code of Practice](#). It must also be made clear to the applicant that they can refer the matter to the Information Commissioner.
- The [EIR Code of Practice](#) states that authorities should keep a record of applications where a refusal notice has been served for all or part of the request.

What are the benefits of issuing good refusal notices?

There are a number of benefits which may result from a public authority following both the correct procedure and good practice when issuing refusal notices:

- it will help to enhance the authority’s reputation;
- the authority may receive fewer applications for internal review;
- it should result in fewer complaints being made to the Information Commissioner about the handling of requests;

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- when investigating a complaint, the Information Commissioner will consider the quality and timeliness of a refusal notice, including the application of any exemptions or exceptions;
- if an appeal is made to the Information Tribunal against any decision notice, the tribunal will consider any refusal notice issued by the authority in respect of the request; and
- it will help the authority to conform with the section 45 (FOIA) and the regulation 16 (EIR) Codes of Practice.

Example:

In the ICO decision notice [FS50079972](#) the Information Commissioner found that a public authority had failed to apply s17(1) and s17(3) properly since it had not clarified to the applicant why exemptions applied to the specific facts of the request, nor had it assessed the public interest test with regard to the exemption.

Example:

In the Information Tribunal case: [Berend v Information Commissioner and the London Borough of Richmond upon Thames EA/2006/0049 & 50 \(12 July 2007\)](#) the complainant argued to the Information Tribunal that the whole refusal notice was invalid because it had not specified the relevant exemption. The tribunal found that the authority was in partial breach of section 17 for failing to state the relevant exemption and for failing to provide details of its complaints procedure and of the complainant's right of appeal.

Refusal notice templates

The Information Commissioner's Office (ICO) has provided the following templates to help authorities meet the requirements:

- Information not held (FOIA). NB whilst technically a refusal notice is not required under section 17 where information is "not held", we consider it helpful to provide a template for use by authorities in such cases.
- Information not held (EIR).
- Costs limit (FOIA) and manifestly unreasonable or too general (EIR).
- Information withheld. Exemptions or exceptions; neither confirm nor deny (FOIA and EIR).

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- Extra time needed for public interest test (FOIA) and complexity and volume of information (EIR).

In the templates we explain not only what the legislation requires but also what we consider to be good practice.

Additional guidance

Additional information is also available on specific aspects referred to in this guidance. Please refer to the ICO website as follows:

[Guidance on the FOIA](#)

[Guidance on the EIR](#)

More information

This guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, tribunal and courts on freedom of information cases. It is a guide to our general recommended approach to this area, although individual cases will always be decided on the basis of their particular circumstances.

If you need any more information about this or any other aspect of freedom of information, please contact us.

Phone: 0303 123 1113

Website: www.ico.gov.uk

Template ¹
Information not held (FOIA)

Date

Dear ()

Thank you for your request for information dated () and received on () concerning (). This request has been handled under the Freedom of Information Act 2000

(Information not held) I am writing to inform you that we have searched our records and the information you requested is not held by *(name of authority)*.

(If the authority thinks another authority may hold the information)
However it is possible that *(name of a different public authority)* may hold some or all of the information you require. They can be contacted at: *(provide contact details)* .

(alternatively)

However I have contacted *(name of different public authority)* which has confirmed that it holds some or all of the information you have requested. I propose to transfer your request to it so that it may reply direct to you. If you object to the transfer of your request, please let me know by *(state a reasonable time limit)*.

(If the authority has a complaints procedure, it should include the following paragraph. If it has no complaints procedure, it must say so; however it is good practice to have such a procedure)
If you are unhappy with the way your request for information has been handled, you can request a review by writing to :
(contact details within the authority).

If you remain dissatisfied with the handling of your request or complaint, you have a right to appeal to the Information Commissioner at:

The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Phone: 0303 123 1113
Website: www.ico.gov.uk

There is no charge for making an appeal.

Yours sincerely

¹ Whilst technically a refusal notice is not required under section 17 where information is “not held”, we have provided this template in order to assist authorities.

**Refusal notice template
Information not held (EIR)**

Date

Dear ()

Thank you for your request for information dated () and received on () concerning ().

This request has been handled under the Environmental Information Regulations 2004 (*explain why, if not immediately apparent; for instance if the requester referred to the FOIA in his request*). I am writing to inform you that we have searched our records and the information you requested is not held by (*name of authority*); therefore regulation 12(4)(a) applies to your request. Regulation 12(4)(a) provides an exception to the duty to disclose information when information is not held.

(If the authority thinks another authority may hold the information)
However it is possible that (*name of a different public authority*) may hold some or all of the information you require. They can be contacted at: (*provide contact details*)

(alternatively)

However I have contacted (*name of different public authority*) which has confirmed that it holds some or all of the information you have requested. I propose to transfer your request to it so that it may reply to you direct. If you object to the transfer of your request, please let me know by (*state a time limit*).

(The notice must state the authority's complaints procedure)
If you are unhappy with the way (*name of authority*) has handled your request for information, you can request a review by writing to : (*contact details within the authority*).

(The notice must also include the following):
If you remain dissatisfied with the handling of your request or complaint, you have a right to appeal to the Information Commissioner at:

The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Phone: 0303 123 1113
Website: www.ico.gov.uk

There is no charge for making an appeal.

Yours sincerely

Template ²
Further clarification needed (FOIA and EIR)

Date

Dear ()

Thank you for your request for information dated () and received on () concerning ().

This request is being handled under the Freedom of Information Act 2000 / Environmental Information Regulations 2004 (*delete as appropriate, providing any explanation needed if it is not otherwise clear*).

(The following is a suggested wording to obtain clarification of the request. It is essential that the authority observes requirements to provide advice and assistance under the FOIA or the EIR as well as their respective codes of practice).

I am writing to ask you to clarify your request. This is because we are not certain that we have understood your request correctly / we need further details from you in order to identify and locate the information (*delete as appropriate*). Therefore I should be grateful if you would (*set out clearly what is required from the requester – setting a reasonable deadline for response. Ensure the authority considers the needs of the requester and be as helpful as possible. Consider whether, instead, a telephone call would elicit the required details more effectively. Also guide the requester as far as possible*). If you need assistance with this, please contact me on the following telephone number, or by email as follows:
().

(Alternatively):

I am writing to check whether we have understood your request for information correctly. In order to assist you, I can tell you that (*name of authority*) holds the following information / categories of information (*delete as appropriate*) which may be of interest. Please let me know by (*date*) which, if any, of this information would satisfy your request:
(*list them here*)

Please contact me by means of the above telephone number or email address if you need assistance with this.

Yours sincerely

² This template is technically not a refusal notice, but is included here to promote good practice.

**Refusal notice template
Costs limit (FOIA) and manifestly unreasonable or
too general (EIR)**

Date

Dear ()

Thank you for your request for information dated () and received on () concerning ().

This request is being handled under the Freedom of Information Act 2000 / Environmental Information Regulations 2004 (*delete as appropriate, providing any explanation needed if it is not otherwise clear*).

(FOIA)

From our preliminary assessment, we estimate that compliance with your request would exceed the appropriate costs limit under section 12 of the Freedom of information Act 2000. This is currently £450 / £650 (*delete as appropriate and set out basis of calculation here, specifying whether costs relate to confirming or denying or to location and retrieval of information. ICO guidance is available*).

Rather than refusing your request at this stage, I would like to explore with you how (*name of authority*) may best assist you to request relevant information which we hold (*indicate what information could be provided under the costs limit, suggesting categories of information held and options for reframing the request*). If you need assistance with this, please do not hesitate to contact me on the following telephone number or by email as follows:

().

(FOIA: If the authority has a complaints procedure - NB The authority must state if it has no complaints procedure. However it is good practice to have such a procedure).

If you are unhappy with the way your request for information has been handled, you can request a review by writing to: (*contact details within the authority*) .

Or:

(EIR)

From our preliminary assessment, we consider that the request for information is formulated in too general a manner / is manifestly unreasonable under regulation 12(4)(c)/(d) (*delete as appropriate and refer to ICO guidance*) of the Environmental Information Regulations 2004. I should therefore like to explore with you how (*name of authority*) may best assist you to request relevant information which we hold (*indicate what information it would be reasonable to provide, suggesting categories of information held and options for reframing the request*). If you need assistance with this, please contact me on the following telephone number or by email as follows: ().

Writing a refusal notice

(EIR: the notice must state the authority's complaints procedure)

If you are dissatisfied with the way *(name of authority)* has handled your request for information, you can request a review by writing to : *(contact details within the authority)*.

(The notice must also include the following)

If you remain dissatisfied with the handling of your request or complaint, you have a right of appeal to the Information Commissioner at:

The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Phone: 0303 123 1113

Website: www.ico.gov.uk

There is no charge for making an appeal.

Yours sincerely

**Refusal notice template
Information withheld . Exemptions or exceptions;
neither confirm nor deny (FOIA and EIR)**

Date

Dear ()

Thank you for your request for information dated () and received on () concerning ().

This request is being handled under the Freedom of Information Act 2000 / Environmental Information Regulations 2004 (*delete as appropriate, providing any explanation needed if it is not otherwise clear*).

(FOIA exemption applied)

I can confirm that *(name of authority)* holds (some of) *(delete as appropriate)* the information you requested. However we are withholding that information since we consider that the exemption(s) under section(s) *(specify these, with all sections and sub-sections)* apply / applies to it. *(NB the correct wording to use where information is withheld following consideration of the public interest test is:*

"in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.")

(EIR exception applied)

I can confirm that *(name of authority)* holds (some of) *(delete as appropriate)* the information you requested. However we are withholding that information since we consider that the exception(s) under regulation(s) *(specify these, with sub-sections)* apply / applies to it . *(Set out detailed reasoning for each exception cited and the information to which it applies. If the authority assesses that an exception on the basis of adverse effect (regulation 12(5)) applies, it must explain the likely harm which would arise from disclosure. Where relevant, include a full explanation of the public interest test. (All exceptions under regulation 12 and part of regulation 13 of the EIR are subject to this test))* . *(NB The correct wording to use where information is withheld following consideration of the public interest test is:*

"in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information").

(Neither confirm nor deny – where to do so would entail disclosure)

(FOIA)

Under section 17(4) and section *(specify exemption, including subsection, but do not explain)* *(name of authority)* neither confirms nor denies whether it holds the information you have requested.

Or

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(EIR)

Under regulation 12(6) / regulation 13(5)(a) or (b) *(delete as appropriate)* *(name of authority)* neither confirms nor denies whether the information you have requested exists or is held by it. *(Set out detailed reasoning for each exception cited and the information to which it applies. Where relevant, include a full explanation of the consideration of the public interest test. The authority should do this as far as it can without revealing excepted information).*

(Please note that the authority is more limited under the EIR in this regard than under the FOIA).]

(FOIA: If the authority has a complaints procedure. NB The authority must state if it has no complaints procedure. However it is good practice to have such a procedure).

If you are unhappy with the way your request for information has been handled, you can request a review by writing to : *(contact details within the authority).*

Or

(EIR: the notice must state the authority's complaints procedure)

If you are dissatisfied with the way *(name of authority)* has handled your request for information, you can request a review by writing to : *(contact details within the authority).*

(The notice must also include the following)

If you remain dissatisfied with the handling of your request or complaint, you have a right to appeal to the Information Commissioner at:

The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Phone: 0303 123 1113

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There is no charge for making an appeal.

Yours sincerely

Refusal notice template
Extra time needed for public interest test (FOIA)
and complexity and volume of information (EIR)

Date

Dear ()

Thank you for your request for information dated () and received on () concerning ().

This request is being handled under the Freedom of Information Act 2000 / Environmental Information Regulations 2004 (*delete as appropriate, providing any explanation needed if it is not otherwise clear*).

The (*name of authority*) confirms that it does hold information covered by your request (*NB an authority is not required to confirm or deny that it holds information at this stage if it needs further time in which to consider the public interest aspects of whether to confirm or deny, so it should check this before making such a response*). However we believe that we need further time in which to provide a full response to you.

(FOIA)

We consider that the exemption(s) in section(s) (*specify section and subsection numbers*) of the Act apply / applies to the information you have requested. (*Qualified exemptions only*). (*Explain why the exemption(s) apply / applies*). We now need further time in which to consider the public interest in disclosing the information. We estimate that we will have reached a decision by (*date – which must be reasonable and, the Commissioner considers, no more than 40 working days in total*) and we will write to you then.

Or

(EIR)

We consider that the exception(s) in regulations 12(4)(b)/(c) apply / applies (*specify which*) to the information you requested. (*Explain why the exception(s) apply / applies*). However we believe that the complexity and volume of the information you have requested means that it is impracticable to respond fully to your request within 20 working days. I am therefore writing to inform you that we intend to issue you with a formal response by (*date, within a maximum of 40 working days*).

(FOIA: If the authority has a complaints procedure. NB The authority must state if it has no complaints procedure. However it is good practice to have such a procedure)

If you are unhappy with the way your request for information has been handled, you can request a review by writing to : (*contact details within the authority*) .

Or

Writing a refusal notice

(EIR: the notice must state the authority's complaints procedure)

If you are dissatisfied with the way *(name of authority)* has handled your request for information, you can request a review by writing to : *(contact details within the authority)*.

(The notice must also include the following)

If you remain dissatisfied with the handling of your request or complaint, you have a right to appeal to the Information Commissioner at:

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