

Access to Information Staff Guide

Natural England depends on its staff in order to meet its obligations under the Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIRs). Together with the Data Protection Act they make up the Access to Information legislation.

The Access to Information Staff Guide is designed to help members of Natural England understand what they need to do in order to comply with this legislation. The Guide covers the procedures which are necessary to implement Natural England's [Access to Information Policy](http://www.naturalengland.org.uk/Images/Access_to_Information_Policy_tcm6-4925.pdf), (http://www.naturalengland.org.uk/Images/Access_to_Information_Policy_tcm6-4925.pdf) and should be read in conjunction with the Policy.

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Access to Information Statement

Natural England has an [Access to Information Statement](http://www.naturalengland.org.uk/Images/NEAccessstoInformationStatement_tcm6-4934.pdf), (http://www.naturalengland.org.uk/Images/NEAccessstoInformationStatement_tcm6-4934.pdf). This statement sets out our commitment to our staff, stakeholders and the wider public about how we set about creating a more open and transparent public service organisation. This is essential reading for all Natural England staff.

Overview of the Access to Information legislation

Like other Public bodies, Natural England is subject to the Freedom of Information Act 2000. FOIA imposes significant obligations on how we should provide information to the public and how we should manage our information. It requires us to:

- Respond to requests for information, in most cases by releasing what has been requested, and
- Produce and maintain a list of the information which we make available to the public, called a Publication Scheme.

Failure to do either of these things means that we will be breaking the law. We are also expected to manage our records in a way which supports the access rights created by FOIA, and we can be "named and shamed" by the Information Commissioner (the regulatory body) if we don't do so.

As well as the FOIA, Natural England has to conform to the Environmental Information Regulations 2004. This is a piece of European legislation which has created a right of access to information about the environment, defined broadly to include things such as waste management, air quality and noise pollution. The rights and responsibilities are broadly similar to those created by FOIA.

As a result of the FOIA and the EIRs:

- **Anyone, anywhere in the world can send a request for information to Natural England.**
- **Any member of staff can receive an information request.** There is no requirement for applicants to use a central address.
- **We have to respond to information requests within 20 working days**, even if the request is delivered to someone who is out of the office.
- Requests do not have to state that they are applications under the Freedom of Information Act or the Environmental Information Regulations. **Enquirers do not need to mention the legislation at all.**
- Strictly speaking, **any written request for information** held by Natural England - however mundane or routine - is covered by the legislation, unless it relates to the person making the request.

Requests under the Freedom of Information Act must be in writing - telephone or verbal enquiries don't count. However, this is not the case for Environmental Information requests, which can be submitted verbally.

The legislation does not mean that we have to release all of our information on request. It does mean, though, that we can only hold back information if there are valid grounds for doing so under FOIA or the EIRs. The presumption is that most information should be released on request, in the interests of promoting openness and accountability in the public sector.

If applicants are dissatisfied with how we've handled their information request, they can complain to the Information Commissioner. The Commissioner may require us to release information which we had previously withheld, if they believe that we have applied the legislation incorrectly. The Commissioner will require applicants to have gone through our own appeal procedures first.

It's therefore very important that all staff know what Natural England is required to do when handling requests for information. Guidance is provided in [Handling an Access to Information Request](http://www.naturalengland.org.uk/Images/Handling_a_Request_tcm6-27341.pdf) (http://www.naturalengland.org.uk/Images/Handling_a_Request_tcm6-27341.pdf), and other sections of this Staff Guide.

The Staff Guide should hopefully cover most of the questions and issues which staff are likely to have about FOIA and EIRs. However, advice and assistance are also available from the [Access to Information Specialists](#), who are responsible for ensuring Natural England's compliance with the legislation.

Procedures for handling requests for information

See [Handling an Access to Information Request](#)

(http://www.naturalengland.org.uk/Images/Handling_a_Request_tcm6-27341.pdf)

Managing requests during staff absence

Any written request for information delivered to any member of staff is covered by the Access to Information legislation. In most cases, a response has to be sent within 20 working days. The 20 working day deadline is based on the date when the request arrives at Natural England (eg in our post rooms or on our servers), **not** on when it is opened or read by the person to whom it is addressed. Staff who are going to be away from the office for more than a few days must therefore take the steps outlined below to ensure that requests are handled appropriately in their absence.

Post and faxes

Arrange for a colleague to check and deal with your incoming post and faxes, including items marked 'confidential' and internal items (which may be external requests forwarded by other staff). Make sure that the person whom you ask to do this understands that any requests for information which arrive will need to be processed in accordance with Natural England's procedures [Handling an Access to Information Request](#) (http://www.naturalengland.org.uk/Images/Handling_a_Request_tcm6-27341.pdf).

Email

Set up an out of office auto reply on your email account. Alternatively, arrange for proxy access to your email account for a colleague who will monitor while you are away.

If you set up an out of office reply, your text should include:

- How long you will be away or when you will be back in the office;
- The email address of a colleague (or a departmental email address) which can be used for work-related correspondence; and
- The following text:
If you are requesting information under the Freedom of Information Act, the Environmental Information Regulations or the Data Protection Act, please forward your enquiry to ?????????? where it will be dealt with by ??????????. Natural England will begin processing your request once it is received by that address.

The Information Commissioner has said that, provided staff set up an out of office auto reply which includes a forwarding address to which enquirers are asked to send their requests, a request for information sent to the email account of an absent member of staff will not be 'received' by Natural England until the sender forwards it to the address specified.

Out of office replies and automatic message forwarding can be set up simply and easily using the **guidance** on how to do so. Assistance is also available from the **IT helpdesk**. Don't forget to turn off your out of office reply or message forwarding when you return to the office.

As out of office replies can cause disruption or annoyance to mailing lists, it is advisable to unsubscribe or suspend your membership in mailing lists before setting up an out of office reply.

Voicemail

Although Freedom of Information requests must be in writing, this restriction does not apply to enquiries under the Environmental Information Regulations. The Regulations allow individuals to request information about the environment, and allow requests to be delivered verbally by telephone or in person. It is good practice to ensure that incoming calls will be handled appropriately if you are going to be out of the office for a significant period.

Absent colleagues

Staff who have to go on leave suddenly for personal reasons, and staff on extended sick leave, may not be able to make arrangements to manage their correspondence in their absence. When this happens, the line manager of the absent staff member should ensure that post and faxes are being checked as indicated above. If necessary, the IT Helpdesk should be contacted to arrange for access to the email accounts of absent staff, to check emails which may have arrived and to set up message forwarding or an out of office reply.

Appeal and complaints procedures

The right to appeal is a fundamental part of Access to Information legislation. This right can be exercised in two ways: by an internal appeal using our own appeal procedures, and by an external appeal to the regulatory body.

Internal appeal

Our internal appeal process covers both pieces of legislation, which gives dissatisfied applicants the opportunity for an initial review of how their request for information was handled. Having gone through this process, applicants who are still unhappy can complain to the Information Commissioner, the body which monitors compliance with the Access to Information legislation. At this stage the appeal passes out of our hands, and is dealt with according to the Commissioner's procedures, see External appeals.

Strictly speaking, any written request for information held by Natural England which is not about the person making the request will come under FOIA or the EIRs. This means that the right to appeal doesn't just extend to those who have submitted their request explicitly as a Access to Information request. However, in most cases complaints about routine day to day enquiries can be resolved without having to resort to our formal appeal procedure.

Routine requests for information - informal procedures

A routine request for information is one which is considered to be routine or day to day business. Typically, this will be a written enquiry which you would normally deal with, in the course of your normal business. See [Handling an Access to Information Request \(http://www.naturalengland.org.uk/Images/Handling_a_Request_tcm6-27341.pdf\)](http://www.naturalengland.org.uk/Images/Handling_a_Request_tcm6-27341.pdf) for the categories of requests which should be treated as non-routine including those that should always be referred to the Access to Information Specialist.

When a complaint is received about a routine information request, the department which dealt with the request should initially try to resolve the complaint:

- Complaints should normally be handled by a more senior member of staff than the member of staff who dealt with the original enquiry.
- A response should be sent promptly, and in all cases within our service standard of 20 working days.

- The reply should normally be in writing. If the complaint is received by telephone and it is clear that the person wants to communicate that way, make a note of the complaint and what you said in response.
- Keep a record of the complaint and the response, in case there is any follow-up.

In most cases, the informal approach will be sufficient to clear up the complaint. However, individuals who are still dissatisfied have the right to go through our formal appeal procedure for Access to Information requests, and to appeal beyond that to the Information Commissioner, if they choose to do so. We have a legal obligation to inform them of these rights. This means that when you respond to a complaint about a routine information request, you should ensure that the response explains how they can access our formal appeal process, and their right to appeal to the Information Commissioner.

Formal internal appeals

Natural England's formal appeal procedure for Access to Information requests is used for all appeals relating to requests that have been classed as complex. However, it is also available to other applicants for information, including those who remain dissatisfied after attempts have been made to resolve their complaints informally, see above.

Appeals should be sent to your Team Manager and this should be stated in your response letter.

The appeal is to be acknowledged, investigated and reconsidered. A response must be sent to the applicant within 20 working days of receipt of the appeal, unless otherwise stated. If it includes a decision that information should be released, that information should be provided to the applicant as soon as possible, ideally with the appeal response letter. Applicants should also be informed of their right to appeal to the Information Commissioner, see External appeals.

External appeals

The Access to Information legislation give applicants the right to complain to the Information Commissioner if they believe that we have failed to apply the legislation correctly in dealing with their information request. Before considering their appeal, the Commissioner will usually require them to have gone through our internal appeal procedure first, see Formal internal appeals.

Information on how appeal to the Commissioner is available at www.ico.gov.uk. Appeals can be sent to the Commissioner at the following address:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 700
Email: mail@ico.gsi.gov.uk
Website: www.ico.gov.uk

The Commissioner will investigate the case, and may serve Natural England with an Information Notice specifying information which the Commissioner needs us to provide to make a determination. The Commissioner's judgment upholding or rejecting the complaint will eventually be published as a Decision Notice. If the complaint is upheld in whole or part,

the Decision Notice may require us to release information to the applicant which had previously been withheld or not provided. We and the applicant have the right to appeal the Commissioner's decision to the Information Tribunal. Decisions of the Tribunal can then be appealed to the courts on points of law.

Publication of information and the Publication Scheme

Why should we publish information?

The founding bodies of Natural England have always made large amounts of information publicly available through media such as the Internet and paper format publications. The Access to Information legislation provides strong incentives for this to continue, and be extended to categories of information which might not previously have been published. In particular:

- Pro-actively publishing information demonstrates the Natural England's commitment to openness and accountability.
- If information is publicly available (eg on our website), it is less likely to be requested, as users will find it themselves.
- Under section 21 of the FOIA, published information is exempt from the right of access provided it is included in our [Publication Scheme](http://www.naturalengland.org.uk/freedom_of_information/publicationscheme.aspx), (http://www.naturalengland.org.uk/freedom_of_information/publicationscheme.aspx).
- This is because users can get access to the information by other means, without having to submit a request.
- Under regulation 4 of the EIRs, public bodies have to "... progressively make information available to the public via electronic means."

It is in our interests to publish, as far as possible, information which would otherwise have to be released if it was the subject of a request. For example, most policies, procedures, regulations and guidelines (with a few exceptions relating to sensitive areas such as enforcement) should be made publicly available, as they will almost inevitably have to be disclosed if requested. Publication should become the norm for policy and procedural information; contact the Access to Information Specialist if you need advice on what is suitable for publication. It is also good practice to publish information which is frequently requested, so that future enquiries can be directed to the website.

The role of the Publication Scheme

FOIA requires Natural England to be clear and open about the information which we routinely make available. Section 19 says that we must produce a Publication Scheme, which must include:

- The classes of information which we publish or intend to publish;
- The manner in which each class is made available; and
- Whether the information is available free of charge or subject to a fee.

Schemes are designed to act as 'route maps' to assist people to find key information which is routinely published by public authorities. It focuses on information relating to our key executive, advisory and promotional duties and also on the standards and guidance by which we make decisions. It describes the classes of information which we publish, providing appropriate examples of individual documents, and details the formats in which publications are available and whether any charges apply.

Natural England's [Publication Scheme](http://www.naturalengland.org.uk/freedom_of_information/publicationscheme.aspx), (http://www.naturalengland.org.uk/freedom_of_information/publicationscheme.aspx).is available on our website. It is organised into the following sections:

Designated sites of nature conservation importance
 Biodiversity and nature conservation in the wider environment
 England Rural Development Programme (ERDP) schemes
 Policy Development
 Grant Schemes
 Science and Research
 Communication
 Corporate information
 Natural England Board
 Finance and procurement
 Working for Natural England
 Information management
 Access to Information
 Geographical Information (GI)

There is also an introduction, and pages which explain how to order copies and how to submit a complaint under our complaints procedure.

Each class of information contains the following information:

Class	Name of Class
Description	A brief description of the nature of the information
Availability	Availability and contact points, including any information within the class that may not be publicly available.
Related Information	Any related information – information that does not fall within the class but can be accessed, perhaps from another organisation, to give background to the information in the class – only shown where applicable
Charge	Charge – only shown where applicable

Provided information which we publish is covered by our Publication Scheme, that information will be exempt from the right of access under Access to Information, and does not have to be provided in response to a request. This exemption is based on the fact that the information is "reasonably accessible" by other means, even if a payment is required. In practical terms, this means that if we receive a request for information which is covered by the publication scheme, all we have to do is refer the enquirer to the relevant section of the scheme - which will then provide the information which the user needs to access the information or order copies. Users who submit their enquiries by email can be assumed to have web access, and can be sent the hyperlink/url of the relevant part of the Scheme. If it isn't clear that the user has web access, parts of the scheme can be printed out and sent by post.

We have a legal duty to keep the publication scheme up to date. The scheme will be reviewed at intervals by the Access to Information Specialist. It is important that you contact the Access to Information Specialist if you have withdrawn or made major changes to a document which is included in the scheme, or if you have published a new resource which should be added to the scheme.

Implications of the Act and Regulations for contracts

See [Natural England Procurement Procedures](#)

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1. What is Access to Information?

Access to Information refers to the general right of access that the public have to the information held by Natural England and other public authorities. This right of access comes from the Access to Information legislation:-

- the Data Protection Act 1998 (DPA)
- the Environmental Information Regulations 2004 (EIRs)
- the Freedom of Information Act 2000 (FOIA)

2. Does the legislation apply to Natural England?

Yes, they apply to all the organisations that make up the public sector. The Environmental Information Regulations covers more organisations as its definition of a public authority is very broad.

3. What's the difference between the Act and the Regulations?

The Freedom of Information Act concerns all information except personal information (handled by the Data Protection Act) and environmental information. The Environmental Information Regulations provide the public with a right to request access to environmental information held by us. Most of the information we hold will be handled via the Environmental Information Regulations.

4. What are the Environmental Information Regulations?

The Environmental Information Regulations 2004 provide a right of public access to environmental information. The enable compliance with the UK's commitments under the

UNECE Convention of Access to Information, Public Participation in Decision-making, and Access to Justice in Environment Matter (the “Aarhus” Convention), and with the new EU Directive 2003/4/EC of the European Parliament on public access to environmental information.

5. Who can make requests for information?

Anyone of any nationality is entitled to make a request for information, and no one need state their reasons for applying.

6. Who is likely to make a request for information?

Although the legislation is open to anyone of any nationality, the experience of other countries with similar legislation suggests that many requests are likely to come from the media and business.

7. Do we treat requests from different people differently?

No, all requests should be treated on an equal footing.

8. Who oversees/enforces the legislation?

The Information Commissioner’s Office. If the Information Commissioner finds that material has been incorrectly exempted from disclosure they can issue a decision notice in favour of release. The decision notice can only be overruled by a Cabinet Minister. Without the authority of a Cabinet Minister, failure to comply with a decision notice can cause the organisation to be treated as if it had committed contempt of court. The present commissioner is Richard Thomas.

9. How does the legislation relate to the Data Protection Act?

If someone requests personal information about themselves or the information requested contains personal information then this information should be treated under the Data Protection Act 1998. If someone requests information concerning another person this is likely to be exempt from disclosure.

10. Is this all new?

Not really – the Freedom of Information Act extends and formalises existing requirements. The non-statutory Code of Practice on Access to Government Information has been in place since 1994. The Environmental Information Regulations have been in force since 1992 and have been revised for 2005.

11. What sort of information can Natural England be asked for?

All Natural England information is covered by the legislation, in every format: requests apply to emails, personal notebooks, miscellaneous collections of papers, as well as our registered paper and electronic files. The Act is fully retrospective. Information can be disclosed either in the form of existing documents or by extracting the specific information requested. The legislation **gives a right of access to information rather than documents.**

12. Can we ask why the applicant wants the information?

No, the information can be requested for any purpose. The legislation tells us to be **applicant and purpose-blind.**

13. What is a valid request for information?

Requests for information must be in writing (including e-mails) except requests for Environmental Information which can be verbal, and clear enough to enable us to identify and locate the information requested. However, if we need further clarification from the

applicant in order to identify and locate the information requested, then we must tell the applicant what information we require in order to do so. We need not supply information where the cost of compliance exceeds an appropriate limit, nor where requests are too broad, vexatious or repeated.

14. What happens if we don't understand what information the applicant wants?

If we have a reasonable need for further information from the applicant in order to identify and locate the information requested, we have to tell the applicant what information we require. We are not obliged to supply the information to the applicant unless we are given the further information requested. Under the legislation, we have a duty to provide advice and assistance, where reasonable, to applicants in framing their requests.

15. Can we charge for access to the information?

Yes, the legislation provides for charging for access to information. However, we will continue not to charge for requests for information, unless the charge is set out in our Publication Scheme. We may charge for the cost of media/transit, photocopying etc where these are exceptionally high.

16. How long do we have to answer a request?

The legislation makes clear that all requests must be complied with promptly, but there is a **deadline** of 20 working days and acknowledge within five working days if the subject is complex.

17. Can we refuse a request?

Requests for information must be clear enough to enable us to identify and locate the information requested. We may make further enquiries to deal with a request. We need not supply information where the cost of compliance exceeds an appropriate limit, nor where requests are too broad, vexatious or repeated.

18. What about exemptions?

The legislation does provide exemptions to disclosure of information. For the Freedom of Information Act eight exemptions are absolute, the rest are subject to the public interest test. For the Environmental Information Regulations all exemptions are subject to the public interest test.

19. What is the public interest test?

The public interest test means that information covered by certain exemptions must still be released unless it can be demonstrated that the public interest in withholding the information outweighs the public interest in disclosing it.

20. Do we have to tell the applicant why we have refused to supply the information?

If we decide not to disclose information in response to a request, the applicant is entitled to know why. We must give notice that we are not disclosing the information sought, or where appropriate, that we are relying on the "neither confirm nor deny" (that the information is held) provision.

We must specify which exemption is being relied upon, and, if it is not obvious, explain why the exemption applies to the information in question.

The notice that we give must contain particulars of our procedure for dealing with complaints, and particulars of the right to apply to the Information Commissioner for a decision.

21. Can applicants appeal against decisions refusing disclosure?

In the first instance they should complain to us and request a review of the decision, under our complaints procedure. We are obliged to give details of such procedures on decision notices.

If this proves unsatisfactory they then may approach the Information Commissioner to investigate and adjudicate on the matter.

22. What about the 30 year rule?

The 30 year rule provides for the release of government records to the National Archives after 30 years unless an exemption applies. This will not change under FOIA. The only difference will be that some of the information will already have been released in response to FOIA requests.

23. Can I accept information in Confidence?

We should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of our functions. In addition, we should not agree to hold information received from third parties "in confidence" which is not confidential in nature. And again, acceptance of any confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

24. Does the legislation apply to older information?

Yes. It apply to all recorded information held by Natural England, regardless of when or how it was created or filed.

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1. What types of request are there?

There are two types of requests **routine** and **complex**. You **will** only need to keep a proper record on the casework tracker of complex requests

2. What are routine requests?

If someone is asking for **routine** information you hold about Natural England's business or the services we provide, there is no need to change the way you deal with the request, and no need to log such requests in the Casework Tracker. The legislation is not intended to turn routine provision of information into a bureaucratic process. We do not want to spend time

logging requests when the time spent logging is more than the time spent supplying the information. Therefore when requests are quickly answered in full (ie in a couple of minutes eg over the telephone, by-return to an email or posting a leaflet, then this procedure doesn't apply.

3. What are complex requests?

It is important to create an audit trail for all **complex** requests by keeping a proper record of:

- requests which fall outside your normal course of business
- requests for information where you might refuse eg sensitive, confidential information or a repeat request.
- requests for information related to the **policy making process**
- requests on which it may be necessary to consult with others either within Natural England or outside
- requests for large amounts of information or information which may be difficult to locate
- requests which seem unclear or too general to deal with, and where you will need to seek clarification from the applicant
- requests for information where a search is made but none is found.

4. What about a request that is both?

If the request is partly for routine information, and partly for more sensitive information that will need to be considered carefully before a decision is reached, you should release the routine material without delay and inform the applicant that the other part of their request is under consideration.

5. What is sensitive information?

Sensitive information can be thought of as 'tricky issues'. Examples could be:

- controversial road building schemes through or near SSSIs;
- Owner/Occupiers with large compensatory management agreements with unfavourable condition etc;
- information that may have been exchanged in confidence;
- relating to high profile issues, whether current or historical;
- release of ministerial advice/correspondence.

6. What is Environmental Information?

Environmental Information is any information in written, visual, aural, electronic or any other material form which relates to:

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;

- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

7. What are the Exceptions under the Environmental Information Regulations?

Exemptions from Disclosure under Regulation 12(3).

Information does not have to be disclosed if the information requested includes personal data of which the applicant is not the data subject and:

- (a) disclosure would contravene any of the Data Protection principles or
- (b) disclosure would contravene the right to prevent processing likely to cause damage or distress or
- (c) Natural England could claim an exemption if the person to whom it relates submitted a Subject Access Request.

Exemptions from Disclosure under Regulation 12(4)

Information does not have to be disclosed if:

- (a) Natural England does not hold that information when an applicant's request is received;
- (b) the request for information is manifestly unreasonable;
- (c) the request for information is formulated in too general a manner and Natural England has complied with a code of practice (if one exists) or has asked for more specific details and has provided any necessary assistance to the applicant;
- (d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or
- (e) the request involves the disclosure of internal communications.

Exemptions from Disclosure under Regulation 12(5)

Information does not have to be disclosed if the disclosure would adversely affect:

- (a) international relations, defence, national security or public safety;
- (b) the course of justice, the ability of a person to receive a fair trial or the ability of Natural England to conduct an inquiry of a criminal or disciplinary nature;
- (c) intellectual property rights;
- (d) the confidentiality of the proceedings of Natural England or any other public authority where such confidentiality is provided by law;
- (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
- (f) the interests of the person who provided the information where that person:
 - (i) was not under, and could not have been put under, any legal obligation to supply it to Natural England or any other public authority,
 - (ii) did not supply it in circumstances such that Natural England or any other public authority is entitled apart from these Regulations to disclose it, and

- (iii) has not consented to its disclosure; or
- (g) the protection of the environment to which the information relates.

To the extent that the environmental information to be disclosed relates to information on emissions, Natural England is not be entitled to refuse disclosure of that information under an exception referred to in paragraphs (d) to (g) above.

8. Are my emails covered by FOIA and/or EIRs?

Yes. The right of access under the Freedom of Information Act and the Environmental Information Regulations extends to all recorded information held by Natural England, regardless of the format or storage medium. This means that emails in your Natural England email account could potentially be disclosed in response to an information request. However, personal emails to friends, relatives etc which are not work-related would be exempt from disclosure, as they contain information relating to your private life.

9. What if I receive a request for information which I don't have?

You don't have the means to answer the request, but you must still take some action. If it's obvious that a request relates to another part of Natural England, send it to that department as soon as possible. Let them know when the request arrived, as the 20 working day deadline for our response starts when a request is delivered to Natural England, not when you forward it internally. If you aren't sure which part of the Natural England holds the information or whether the Natural England holds the information, contact the Enquiry Service.

If you forward a request internally, it is good practice to inform the person who submitted the request of this fact, and to give them the contact details of the staff member or the department to whom you have passed the request.

10. Do we have to disclose confidential information?

'Confidential' has a particular meaning, as far as the Access to Information legislation is concerned: it means information provided to Natural England from an organisation or an individual outside Natural England, whose disclosure in response to an information request would constitute an actionable breach of confidence (ie one for which we could be sued). Such information is exempt from disclosure. However, this exemption does not apply to information created within Natural England (including information transferred from one part of the Natural England to another), or to information which is merely sensitive. Sensitive information may be subject to an exemption, but it cannot be assumed that all internally generated information labelled as 'confidential' is exempt from disclosure. The key point is that, regardless of how we classify it, information can only be withheld if a valid exemption/exception applies. For example, Executive Board minutes may have to be released in response to a request, if there is no relevant exemption that would justify not providing the information to the applicant.

11. What happens if someone tries to split a big request into lots of little requests?

There are provisions which allow us to prevent individuals or groups of people from circumventing the limit set on the amount of work which we are required to do to respond to a request. If we receive identical or similar requests within 60 working days from the same person or from a group of people who appear to be acting together (eg as part of a campaign), we can treat them as if they were a single request for the purpose of determining whether the time required to locate and extract the information would exceed the "appropriate limits" (see Handling with requests for information). We still need to respond to

each enquiry individually, but we may refuse to comply if the cost of responding to all the requests would exceed the appropriate limit.

In certain circumstances, we may refuse to respond to multiple requests from the same person or a group of people on the grounds that the requests are vexatious. This exemption under FOIA can be applied regardless of whether the requests arrived within 60 working days of each other. A typical example would be a pattern of nuisance or trivial requests which appear to be designed to consume staff time. Contact the [Access to Information Specialist](#) if you have received what you believe to be a vexatious request, as we need to have valid grounds for invoking this exemption.

The EIRs do not contain any equivalent to vexatious. However, we do not have to respond to EIR requests which are "manifestly unreasonable", and this could be used to refuse to comply with requests which are clearly vexatious.

12. Can we destroy information which has been requested?

Only if you can demonstrate that the information would have been destroyed anyway under a policy or procedure which existed before the request was received. For example, if a retention schedule specifies that a class of information should be destroyed after a certain number of years, it can still be legally destroyed if its destruction date happens to fall in the period after a request has been received but before a response has been sent. However, it would be good practice in this situation to avoid destroying the information until the request had been answered.

Under no circumstances should you deliberately destroy information which has been requested in order to prevent its release. Doing so is a criminal offence under the legislation for which you could be held individually liable as well as Natural England.

13. Are research materials covered by FOIA or EIRs?

Yes. However, there are a number of exemptions which could potentially be applied should a request be received. These include the exemptions/exceptions for:
Information accessible by other means, if the results of the research or the raw data behind it have been published.

Information intended to be published, if an intention to publish the research was formed before the request was received.

Personal data, information provided in confidence or commercially sensitive information, in respect of certain types of research data (eg information supplied by interviewees or survey respondents).

In addition, any information supplied in response to a request will continue to be subject to copyright protection. This means that if research materials have to be released, the person who receives the information will not be able to re-use it without permission except in a very limited way, as permitted by copyright law.

14. Can my personal information be released under the legislation?

If you are seeking information about yourself, you cannot do so under the Freedom of Information Act or the Environmental Information Regulations. There are exemptions for data about the person making the request, because individuals have a right of access to data about themselves under the Data Protection Act. This means that if you submit a request for information about yourself, you will be asked to re-submit your request as a Data

Protection Act request. See our [Data Protection \(www.naturalengland.org.uk/foi/data-protection.htm\)](http://www.naturalengland.org.uk/foi/data-protection.htm) pages.

Certain limited categories of information about individuals can be released to third parties in response to requests. The Information Commissioner has indicated that it is reasonable to release:

- Basic details about staff, such as name, job title, responsibilities and work contact details. Natural England already publishes much of this information, eg publications, directories and websites.
- The salaries and business expenses of senior staff, and grades of more junior staff.
- Information about decisions and actions taken by individuals in an official or work capacity. This is fundamental to the accountability aspect of Access to Information. For example, if a staff member's name appears as the author or recipient of a work-related letter or email which has to be released, the identity of the author or recipient will also be released.

In certain situations, we may be able to withhold information in the above categories. For example, we could refuse to release a staff member's contact details or information about decisions made by them if disclosure would be likely to endanger their health or safety.

Other types of personal information will not normally be released without the permission of the person who is the subject of the data. Doing so would be likely to contravene the Data Protection Principles set down in the Data Protection Act, and would therefore be subject to exemptions/exceptions in Access to Information legislation.

15. Can references be released?

If a request is received from the person who is the subject of the reference, they will be asked to re-submit their request as a Data Protection Act request. Under the Data Protection Act, a right of access only exists to references received by Natural England (not to references produced by Natural England), and then only if the information can be released without disclosing personal information about other people, such as the referee. For further information, see Natural England's Data Protection Policy. Requests for copies of references relating to other people will be refused, as it is exempt under the legislation as it involves the release of personal data, which would breach the data protection principles.

16. What happens if we fail to comply with the legislation?

If we fail to respond to a request, or we handle it in a way with which the applicant is dissatisfied, they have the right to ask for a review of their case under our internal appeal procedures. See [Complaints and appeals](#) for information about these procedures. If the applicant's appeal is upheld, any information, which has to be released, is to be provided as soon as possible.

Applicants can also appeal to the Information Commissioner, who monitors compliance with the Access to Information legislation. The Commissioner will require them to have gone through our internal appeal process first. The Commissioner will investigate the circumstances of the case, and will issue a Decision Notice upholding or rejecting the appeal. If the appeal is upheld, the Decision Notice may require us to release information to the applicant. We and the applicant have the right to appeal the Commissioner's decision to the Information Tribunal, whose decisions can be appealed to the courts on points of law.

The Commissioner also has the power to investigate whether our handling of information requests and our management of our records conform to two codes of practice issued by the

Lord Chancellor under the Freedom of Information Act. If the Commissioner determines that we are failing to abide by the codes, he can issue a non-binding Practice Recommendation specifying the steps which Natural England should take to conform.

Staff should also note that the legislation makes it a criminal offence to deliberately destroy, amend or conceal information which has been the subject of a request in order to prevent its release. Individual staff can be held liable for this as well as Natural England.