

Rights of appeal

If those who are requesting information disagree with a decision by a public body to withhold information, they can appeal to the public body, and then, if they remain dissatisfied, to the Information

Commissioner. There is also a right of appeal against the Commissioner's decision for both the requestor and the public authority, to the Information Tribunal.

Further Information

Further information on access to information can be found on the following websites:

Department for Environment, Food and Rural Affairs:

<http://www.defra.gov.uk/corporate/consult/envinfo/index.htm>

<http://www.defra.gov.uk/corporate/opengov/accessinfo.htm>

Department for Constitutional Affairs:

<http://www.dca.gov.uk/foi/index.htm>

Information Commissioner's Office

<http://www.informationcommissioner.gov.uk/>

How will it affect information you supply to Defra?



PB10463



The purpose of this leaflet is to alert people who provide information to Defra about the implications of the new legislation on access to information which will be in force from 1 January 2005. This includes businesses that provide services and hold contracts with Defra.

Background

The Freedom of Information Act (FOIA) and new Environmental Information Regulations (EIRs) come fully into force on 1 January 2005. This legislation creates a new system of fully enforceable rights of access to information held by public authorities. These new rights apply to all information no matter how recent or how old or who the information is held by. They signal recognition of, and commitment to, the public interest in openness about government.

Rights of access

There are three main pieces of legislation under which requests for information can be made:

Freedom of Information Act 2000, which provides a right of access to information held by public authorities, subject to certain exemptions;

Environmental Information Regulations that provide a right of access to environmental information, subject to certain exceptions; and

Data Protection Act 1998, which continues to provide access for individuals to their own personal data.

The Environmental Information Regulations will apply to most of the information held by Defra.

Disclosure and exemptions

Whilst the legislation makes provision for the disclosure of information, it is only proper that certain types of information are protected from release. There are a number of exemptions or exceptions in the legislation which protect information from disclosure. Under FOIA these exemptions are

either absolute, in which case the information requested is exempt as a matter of course, or qualified, in which case the release of information has to be considered in the context of the wider public interest (the 'public interest test'). Under the EIRs, all exceptions are subject to the public interest test. The public interest test means that if the public interest in disclosure outweighs the public interest in withholding the information, it must be disclosed.

Certain exceptions will be of particular relevance to third parties providing information to public bodies. For example, under the EIRs disclosure may be refused where this would:

- damage commercial interests
- breach intellectual property rights
- harm the interests of a person who supplied information voluntarily
- adversely impact international relations, defence, national security or public safety

Where information relates to emissions, there are only very limited exceptions under which it can be withheld.

Please note – third party personal data will not be released, if releasing it would breach the principles of the Data Protection Act.

Consultation and disclosure decisions

The decision about where the balance of public interest lies, and whether information should be released, rests with the public body that holds the information – not the supplier of the information. However, Defra will, wherever practical, consult with the relevant third party before reaching a decision on disclosure of information which they have supplied. This will enable the third party to highlight any harm which might arise from disclosure, and Defra will take careful account of this in weighing the public interest.