

Natural England's Access to Information Policy

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Introduction

Natural England is committed to promoting and actively developing, a culture of openness, transparency and accountability embodied in the Access to Information (ATI) legislation. This 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 Data Protection Act 1998 (DPA)
- The Environmental Information Regulations 2004 (EIRs)
- The Freedom of Information Act 2000 (FOIA)

This policy establishes a framework, which underlines this commitment. It provides policy statements to underpin our detailed guidance and procedures in the areas of Access to Information, providing a benchmark against which implementation can be audited.

Scope

This policy has been established to ensure that Natural England meets its legal obligations under the Access to Information legislation, and related statutory codes of practices. The legislation, and therefore this policy, applies to all recorded information **held** by Natural England and its staff, departments and agents, regardless of format, storage medium or age.

For the Data Protection Act we have a separate policy statement and guidance.

Information **held** by Natural England includes not only information created by us and our agents, but also information in our possession which originated from outside organisations or individuals, such as other public bodies, regulatory bodies, private companies and individuals. It also applies to any information held by other organisations or individuals on behalf of the Natural England, ie Local Records Centres.

This policy and the procedures which implement it will ensure that Natural England's conforms to the Access to Information legislation and associated codes of practice, the key requirements of which are that:

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- Information which is routinely published by Natural England is made available in accordance with Natural England's Freedom of Information Publication Scheme.
- Information which is not covered by the publication scheme is made available to enquirers on request, within 20 working days, as per our service standards, unless a valid exemption/exception or limit applies.
- Exemptions/exceptions under the FOIA and EIRs are applied consistently and appropriately, and in accordance with the legislation.
- A fair and efficient internal appeal system is administered.

Access to Information Statement

Natural England has an Access to Information Statement. This statement sets out our commitment to our staff, stakeholders and the wider public about how we set about creating a more open, transparent and accountable public service organisation.

Status

This policy was approved by the Natural England Board on 17th October 2006. It will be routinely reviewed and when changes to procedures are necessary through experience, case law or legislation changes.

Responsibilities

Natural England has a corporate responsibility to ensure that it conforms to and implements the Access to Information legislation. Natural England is accountable to the Information Commissioner for its compliance with the legislation.

The **Information Champion** is the **Director of Finance and Corporate Service** who is the senior officer with overall responsibility for this policy in Natural England. They have strategic responsibility within Natural England for FOIA, EIR and DPA and Records Management.

Regional Directors are responsible for ensuring that they have adequate *Information Management Officers* in their Teams.

The **Access to Information Manager** is responsible for the effective day-to-day management of compliance with the legislation. This includes the development of policy, procedures, guidance and standards of good practice; their dissemination to staff through training and awareness raising; the maintenance and periodic review of the publication scheme; the co-ordination of responses to more difficult or complex information requests; and the provision of advice and assistance on FOIA, EIRs and DPA issues. They are also responsible for securing proactive information releases to drive a culture of openness.

Team Managers are responsible for ensuring that procedures and systems within their Team conform to this policy and to Natural England's procedures, guidance and standards of good practice in the areas of FOIA, EIR and DPA and Records Management. They should also ensure that staff are provided with adequate opportunities for training in these areas. Team Managers will also be asked to nominate a member of staff to act as the Information Management Officer (IMO) who is a point of contact for the Access to Information Manager and information rights issues.

Information Management Officers (IMOs)

Information Management Representatives (IMOs) are appointed to help the Knowledge Management Team (KMT) develop, implement and promote good access to information responses throughout Natural England. IMOs have an important role in overseeing and advising on information requests in the local business areas, and promoting good records management practices. They will be the contact person within the local business area responsible for coordinating the information responses and records management.

All staff must handle information and requests for information in a way that complies with this policy and the Natural England's related procedures, guidance and standards of good practice. Staff should note that the deliberate concealment, amendment or destruction of information which has been the subject of a request, in order to prevent its disclosure, is a criminal offence under the legislation for which individual staff as well as Natural England can be held liable.

Relationship with existing policies and legislation

This policy has been developed and will be implemented within the context of other Natural England policies and guidelines, national legislation and codes of practice, and sectoral/professional standards. For details of relevant internal and external documents.

Staff Guide

Guidance on the procedures necessary to comply with this policy will be developed by the Access to Information Manager. The guidelines produced will be produced and added to from time to time as the regulatory environment evolves.

The Publication Scheme

As well as providing information when asked to do so, the Access to Information legislation also requires public bodies to be proactive in the release of official information. As a result, each must produce a publication scheme, giving details of what information it already makes available or intends to publish as a matter of course. Schemes are designed to act as 'route maps' to assist people to find key information which is routinely published by public bodies. 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 that we publish, providing appropriate examples of individual documents, and details the formats in which publications are available and whether any charges apply.

Publication of information via the scheme incurs a number of benefits, such as a reduction in the amount of information that can be subject to requests. To secure these benefits, and in the interests of openness, accountability and business efficiency, Natural England affirms through its Access to Information Statement its commitment to the routine publication of as much non-sensitive information about our policies, procedures and activities as possible.

Requests for information

Information which is not covered by Natural England's publication scheme can be requested by individuals within or outside Natural England under the FOIA and EIRs. The legislation provides the public with the right to be informed whether the information is held by Natural England, and if so, to have the information communicated to them unless an exemption/exception or limit applies. We have a **maximum of 20 working days** under the legislation to provide the response or notify of a refusal, this matches our service standards. The deadline can be extended, but only in certain circumstances.

Natural England is committed to processing requests for information in accordance with the requirements of the legislation. Natural England will ensure that requests are processed in accordance with the Code of Practice issued by the Secretary of State for Constitutional Affairs under section 45 of the Freedom of Information Act. Similarly, requests under the Environmental Information Regulations will be handled according to the code of practice issued by the Department for Environment, Food and Rural Affairs. Procedures and systems for dealing with information requests have been developed to promote conformity to these codes and the legislation, and will be coupled with appropriate training for staff handling requests.

Charges

Natural England will not charge for requests for information, unless the charge is set out in our publication scheme. However, we may charge for the cost of media/transit, photocopying etc where these are exceptionally high.

Whilst we are **not charging for information requests**, we still need to be able to calculate how much a request would 'cost' even though we do not charge. This is so we are able to refuse a request for information. FOIA impose a statutory limit on the amount that can be spent on locating and extracting the information required to answer a request. This limit is currently set at £450, which the legislation says is equivalent to 18 hours of staff time

When estimating the cost of complying with a request for information, we can take into account the staff time reasonably incurred, when involved in the following activities:

- determining whether we hold the information,
- locating the information or a document which may contain the information,
- retrieving the information, or a document that may contain the information, and
- extracting the information from a document containing it.

Actions to be taken once the estimated cost has been determined:

Request less than £450 (<18hrs) We must respond to request.
Request between £450-£1000 (18-40hrs) FOIA – we will refuse all requests. EIRs – we can refuse the request if it is formulated in too general a manner or is manifestly unreasonable or we have reason to believe that the requests are cumulative or campaign requests.
Request greater than £1000 (>40Hrs) FOIA – we will refuse all requests. EIRs – we will refuse all requests as formulated in too general a manner or manifestly unreasonable or we have reason to believe that the requests are cumulative or campaign requests.
There is a presumption here that we have attempted to refine or narrow down the request by providing the applicant with reasonable advice and assistance.

Appeal procedures

We have a statutory duty to have an appeal process called an internal review, against our initial responses to requests for information. An appeal will follow our complaints procedure

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as described on the Intranet. The review should normally be conducted by a Team Manager or next senior person.

The procedure should be followed if an applicant expresses dissatisfaction, whether justified or not about the way their request was handled and about the information supplied or not supplied.

Applicants can complain to the Information Commissioner if they remain dissatisfied after going through our complaints procedures. If the Information Commissioner decides to investigate, they can ask to see all the requested data and our case handling information in order to review the case. The Information Commissioner can overturn our refusal of a request.

Exemptions/Exceptions

Although Natural England upholds the principle that information should be accessible wherever possible; there are times when we have to withhold information to protect our legitimate interests and those of other organisations and individuals. Natural England will only refuse to disclose information in response to a request if a valid exemption/exception applies under the FOIA or the EIRs. Natural England will apply exemptions/exceptions in a way which takes into account the guidance on exemptions issued by the [Information Commissioner](#), the [Department for Constitutional Affairs](#), [Defra](#) and our own legal advice. Where information is withheld under an exemption/exception, applicants will be informed of the relevant exemption and why we believe it applies, if necessary our consideration of the public interest test, and will be provided with details of our appeal procedures.

The Access to Information Manager has to be consulted in all cases where release of the requested information is felt to be sensitive or may set a precedent for future releases or where the request is being considered for refusal. This is to ensure the exemptions/exceptions are used correctly and consistently.

Contractors, suppliers etc

The Access to Information legislation cover all information held by Natural England, including information provided to us by outside organisations such as contractors, tenderers, suppliers, other public or regulatory bodies. It is not compulsory that we consult with suppliers of information. However, there may be occasions when we feel it is necessary, for example due to the type of information requested, the relationship we have with the supplier or any previous notification that information may be confidential. The Code of Practice recommends that we consult, when a supplier of information believes that its release would adversely affect their commercial interests, ie when they have acted under the Annex B instruction.

Copyright

The supply of information under FOIA and EIRs does not give the person or organisation who receives it an automatic right to re-use the information in a way which would infringe copyright. For example, by making multiple copies, publishing and issuing copies to the public. Any information which is supplied will continue to be protected by copyright law. In most cases, copyright will belong to Natural England, although copyright may belong to other organisations or individuals.

Brief extracts (eg short quotations) of any material which is supplied under the legislation may be reproduced under the fair dealing provisions of the Copyright, Designs and Patents

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Act 1988, provided this is done for the purposes of research for non-commercial purposes, private study, criticism, review or news reporting. Commercial re-use must only be carried out with prior written permission from Natural England or the copyright owner if copyright is not owned by Natural England. Otherwise, re-use is likely to infringe copyright.

In some cases, Natural England may have to provide information in response to a request where the copyright of the information is owned by another organisation or individual. If the FOIA or EIRs requires us to release the information, any copying or reproduction which we have to do, will not infringe copyright. However, the person who receives the information is likely to need the permission of the copyright owner if they want to re-use the information (see above).

Records management

Effective management of Natural England's records is essential for business efficiency and to ensure compliance with information rights legislation. We will develop record keeping policies, procedures and systems with the goal of conforming to the code of practice (known as the Records Management Code) issued by the Lord Chancellor under section 46 of the Freedom of Information Act. In so doing, we will take account of standards and good practice issued by The National Archives. Staff will be provided with appropriate training in records management responsibilities and procedures.

Further information

Questions relating to this policy and Natural England's compliance with the Freedom of Information Act, the Environmental Information Regulations and the Data Protection Act should be directed to the Access to Information Manager at the following address:

Access to Information Manager, Isobel Chivers

Phone: 017334 55000

Fax: 01733 568834

Email: isobel.chivers@naturalengland.org.uk