

Elected Members' guide to the Environmental Information Regulations (EIR)

- The Environmental Information Regulations (EIRs) provide individuals and organisations with the right to request access to recorded environmental information held by the council.
- Recorded information includes information held in paper files, such as file notes, post its and letters, as well as information held electronically such as email, word documents and other less obvious forms, such as CCTV footage.
- Elected Members must be aware the information that they produce or receive could be subject to disclosure.
- These provisions are enforced by the Information Commissioner.

What is environmental information?

Environmental information covers information on the state of the environment, such as:

- air, water, soil, land, flora and fauna (including human beings), diversity, genetically modified organisms
- emissions and discharges, noise, energy, radiation, waste and other such substances
- measures and activities such as policies, plans and agreements
- reports, cost benefit and economic analyses
- the state of human health and safety, contamination of the food chain
- cultural sites and built structures (as they may be affected by environmental factors)

How the EIRs apply to Elected Members

Elected Members in their own right are not subject to the EIRs, but there are many circumstances where the information produced, received or held by them could be liable to disclosure. If an Elected Member were to email or write to a council officer about an issue that related to council business, then the information would be covered by the EIRs.

What about political information?

Where the information produced is of a political nature, such as an election strategy, this does not relate to council business and therefore the regulations would not apply.

However, there are potential 'grey' areas. For example, Elected Members **might** consider information relating to their voting intentions on an environmental issue to be political, but it could also be argued that that same information relates to the business of the council and therefore would be subject to disclosure. In these instances please liaise with IMS to help clarify the situation and determine a way forward.

Responding to requests

If an Elected Member receives a request for environmental information that is really intended to be a request to the council, then they should either:

- a) Advise the requester to address the request for information to the Information Management Service (IMS) foi@goucestershire.gov.uk; or
- b) With the agreement of the requester, pass the request for information to IMS on their behalf.

Overview of the requirements

- The council must respond to written and verbal requests within 20 working days.
- Members are responsible for the proper management of the information they hold, including being able to retrieve information that relates to council business in a timely manner. This includes supporting any requests received by the council and providing relevant information to council staff in line with statutory deadlines.
- The council cannot make a charge for allowing access to any public registers or lists of environmental information, or for its examination. For all other situations, charging is at the council's discretion.
- The regulations state that access is to information not necessarily documents, so a requester doesn't have to ask for a specific document, but can for example ask about a specific topic, author or type of information.
- In every case the law requires that there will be full and unconditional disclosure unless one of the statutory exceptions applies.

Exceptions

- Information must be provided, unless there is a lawful reason not to. These reasons are set out in exceptions within the regulations and cover such things as the protection of the environment to which the information relates, personal information, and commercial interests.
- When applying an exception, the content of the information must be assessed to determine whether the public interest is in releasing or withholding the information.

Examples to illustrate whether information would be covered by the EIRs

- Information emailed by an Elected Member about a proposed new road layout would be covered.
- Information related to council business sent between Elected Members to another would be covered, if it related to council business.
- Comments on reports relating to the environment which had been prepared for consideration by a council committee would be covered.
- Information sent from an elected member to another elected member, about their chances in any forthcoming local elections would not be covered.

Examples of requests for information received by the council

- Review of Mineral Planning Permissions - Shakemantle Quarry, Ruspidge.
- Consultation report on the Residual Waste project.
- All correspondence and records re footpath ZGL143 across the railway line, Robinswood Crossing, October 2006 – present.
- Council's policy on incineration.
- A list of all (or as many major ones that are accessible under compliance limits) tree planting projects that have happened in the area.
- Documents that outline the council's carbon strategy, including any strategy for using carbon offsets to meet carbon targets.
- The Javelin Park Waste to Energy facility - 1. Amount of CO2 released for each month in 2023, 2. Amount of energy produced for each month in 2023, 3. Amount of waste processed in tonnes for each month in 2023
- A copy of the draft cabinet report for M5 junction 10 improvements
- The condition and maintenance reports for B4215.