

## Environmental Information Regulations 2004 (EIR)

### TIME FOR COMPLIANCE - FREQUENTLY ASKED QUESTIONS

#### 1. What is the time limit for responding to a request for information?

A public authority must inform the applicant in writing whether it holds the information requested and if so, communicate that information to the applicant **as soon as possible, and no later than 20 working days after receipt** of the request. [Regulation 5(2)]

Wherever possible, public authorities should attempt to respond within any tighter timescale indicated by the applicant.

#### 2. When does the 'clock' start?

The 20 working day clock starts:

- the day **after** the public authority receives the request (According to regulation 5(2))
- or
- the day **after** the public authority receives more particulars (had the original request been formulated in too general a manner).

#### 3. When is a request 'received' by the public authority?

A request is 'received' when it is delivered to the public authority, or when it is delivered to the inbox of a member of staff. The date of receipt is **not** the date the request is passed to the appropriate person for processing.

However, in respect of e-mails or voicemail, where an automated 'out of office' message provides instructions on how to re-direct a message or a caller is directed to another telephone number, the request would not be 'received' until it was re-sent to the alternative contact.

Public authorities may wish to consider the following good practice points:

- It may be helpful to provide, and publicise, a separate e-mail address/telephone number for EIR requests, although there would still be a duty to deal with requests received anywhere within the authority.
- To cover periods of absence, it would be advisable for staff to use the automated 'out of office' facility for e-mails and an appropriate voicemail message to provide alternative contact details.
- Where an alternative contact is provided in an 'out of office' message/voicemail, the contact should advise the original recipient of action taken in respect of the request.

- It would be good practice to acknowledge receipt of requests and to refer to the 20 working day time limit, so that applicants know their request is being dealt with.
- Public authorities should give thought to their procedures for dealing with communications, where an addressee is unexpectedly absent (see also question 10 below –‘What happens if a public authority does not respond within the time limit?’).

Public authorities will need to consider devising policies for receiving telephone requests/requests made in person, and may wish to consider the following:

- Acknowledging receipt of all requests, and
- Keeping a written record/log sheet of verbal requests (for further information regarding log sheets, please see our guidance page on the web).

**4. What if the authority is unable to find the information requested, because the applicant has not provided enough details?**

The public authority should ask the applicant to clarify his or her request. This should be done as soon as possible. There is a duty to provide advice and assistance to applicants. This may include indicating the possible types of information held which might be covered by the request.

Where further details are required, the day after those details are received will be treated as the date from which the 20 day period begins.

The Code goes on to suggest forms such assistance might take, for example *‘providing an outline of the different types of information that meet the terms of the request.’*

**5. What if the request is particularly complex and voluminous?**

The EIR allows for an extension of up to 20 additional working days to the period for response if requests are particularly complex and voluminous. If the extension is claimed, the applicant should be informed. It may be helpful to develop a clear policy as to when the extension may be claimed.

**6. When does the 20 working day ‘clock’ stop?**

If the public authority is charging a fee, where advance payment is required, the applicant has a maximum period of 60 working days to pay. The 20 working day ‘clock’ stops until the fee is received.

**7. What if the public authority needs more time to consider exceptions?**

No extension is allowed to consider the exceptions. Nor, unlike the Freedom of Information Act, is any extension available to consider the public interest.

**8. Can the 20 working day time limit be extended for certain groups of public authorities?**

Unlike the Freedom of Information Act, there is no provision in the EIR to extend the time period for different public authorities.

**9. If an authority does not hold the information requested and transfers the request to another authority, when would the clock start?**

The 20 working day timescale would start for the authority to which the request has been transferred, the day after they receive the transfer i.e. the timescale is no different from if the request was received direct from the applicant.

**10. What happens if a public authority does not respond within the time limit?**

Failure to respond within the time limit would be a breach of regulation 5. In the event of a complaint by an applicant that he/she had received a late response to a request; the Information Commissioner would record that fact in his Decision Notice. Persistent failures may lead the Commissioner to consider enforcement action.