



WATFORD BOROUGH COUNCIL INFORMATION REQUEST POLICY

July 2025

Information Request Policy 2025

Version 1.0

DOCUMENT CONTROL

Author	Liam Hornsby / Mira Muttu
Version number	1.0
Approval date	17 July 2025
For internal / external publication	Internal

Version	Date	Comments
0.1	June 2025	Initial draft by HCC updated following review and comments from LH, NE, MM, EJ, NW & KH
1.0	17 July 2025	Final version approved by CMB / adopted

Contents

1. Introduction	5
1.1 Scope of Searches for Information Requests.....	5
1.2 Publication Scheme	5
1.3 Responsibilities	6
2. Freedom of Information Act 2000 (FOIA)	7
2.1 Purpose of FOIA	7
2.2 What Makes a Valid Request?	7
2.3 Responding to FOI Requests	7
2.4 Timescales for Responding	8
2.5 Fees and Costs	8
2.6 Internal Review and Complaints.....	9
2.6.1 Internal Review.....	9
2.6.2 Complaints to the Information Commissioner's Office (ICO)	9
3. Environmental Information Regulations 2004 (EIR).....	10
3.1 Purpose of EIR.....	10
3.2 What Makes a Valid Request?	10
3.3 Responding to EIR Requests	11
3.4 Timescales for Responding	11
3.5 Fees and Charges	12
3.6 Internal Reviews and Complaints	12
3.6.1 Internal review	12
3.6.2 Complaints to the Information Commissioner's Office (ICO)	13
4. UK General Data Protection Regulation (UK GDPR) - Subject Access Requests (SARs).....	14
4.1 Purpose of SARs	14
4.2 What Makes a Valid Request?	14
4.3 Responding to a SAR Request	14
4.4. Timescales for Responding	15
4.5 Fees	15
4.6 Internal Reviews and Complaints	16
4.6.1 Internal review	16
4.6.2 Complaints to the Information Commissioner's Office (ICO)	16
5. Vexatious, Manifestly Unreasonable, or Manifestly Unfounded/Excessive Requests	17
5.1. Freedom of Information Act 2000 (FOIA) - Vexatious Requests	17

5.2. Environmental Information Regulations 2004 (EIR) - Manifestly Unreasonable Requests	17
5.3. UK GDPR - Manifestly Unfounded or Excessive Requests	18
6. Exemptions and Exceptions.....	19
6.1. Freedom of Information Act 2000 (FOIA) Exemptions	19
6.2. Environmental Information Regulations 2004 (EIR) Exceptions	19
6.3. UK GDPR (SAR) Exemptions	20
6.3 Neither Confirm Nor Deny (NCND) Responses	21
6.3.1 For Freedom of Information Act 2000 (FOIA):	21
6.3.2 For Environmental Information Regulations 2004 (EIR):.....	21
6.3.3 For Subject Access Requests (SARs) under UK GDPR / DPA 2018:	21

1. Introduction

This Information Request Policy outlines the procedures for handling requests for information received by Watford Borough Council (the "Council"). As a public body, the Council is committed to transparency and accountability, and a core part of this commitment involves responding to requests for information in line with legal obligations.

The purpose of this policy is to ensure that all information requests are handled consistently, efficiently, and in accordance with relevant legislation. By providing clear guidelines, we aim to facilitate legitimate access to information while protecting sensitive data and managing the Council's resources effectively.

The Council is legally obligated to respond to requests for information primarily under the following key legislations:

- **Freedom of Information Act 2000 (FOIA):** Provides a general right of access to recorded information held by public authorities.
- **Environmental Information Regulations 2004 (EIR):** Provides a right of access to environmental information held by public authorities.
- **UK General Data Protection Regulation (UK GDPR) (supported by the Data Protection Act 2018):** Provides individuals with the right to access their own personal data, known as a Subject Access Request (SAR).

1.1 Scope of Searches for Information Requests

All recorded information held by the Council, regardless of its age, format, or storage location (including active, legacy, and archived systems, and backup media), falls within the scope of requests made under FOIA, EIR, SAR. There are strict legal provisions designed to ensure transparency and accountability. Deliberately altering, concealing, or destroying information with the intention of preventing its disclosure, when that information would otherwise be disclosable under an information access request, is a serious matter.

Where the information is not held, the Council is not required to create or acquire it in order to respond to a query, although a reasonable search must be carried out to determine if this is the case.

For detailed guidance on the retention and management of all Council information, including archived data, please refer to the relevant service **Retention Policy**.

1.2 Publication Scheme

Under Section 19 of the FOIA, the Council is required to adopt and maintain a **Publication Scheme**. The purpose of the Publication Scheme is to encourage transparency and ease of access to commonly requested information, thereby reducing the need for formal FOIA requests. This scheme commits the Council to:

- **Publish classes of information:** Proactively make available certain types of information that are routinely held, without the need for individual requests. This includes information about the Council's functions, finances, decision-making processes, policies, and services.
- **Specify how the information is published:** Detail the formats in which the information is available (e.g. on the website, in hard copy) and whether any charges apply for accessing it (usually only for hard copies or significant disbursements).
- **Review and update:** Regularly review the scheme to ensure it remains up-to-date and reflects the information that the Council makes available.

The Council's Publication Scheme is published on the council website.

1.3 Responsibilities

Adherence to this Policy is mandatory for all individuals working for or with the Council. This includes, but is not limited to, all employees (permanent and temporary), contractors, agency staff, volunteers, and councillors. Corporate Management Team (CMT) is responsible for overseeing the effective implementation of the Policy across the Council. The Monitoring Officer is designated as the owner of this Policy, responsible for its maintenance, review, and ensuring compliance with relevant legislation.

2. Freedom of Information Act 2000 (FOIA)

2.1 Purpose of FOIA

The FOIA grants individuals a general right of access to recorded information held by public authorities. Its purpose is to promote transparency and accountability within public bodies by allowing public scrutiny of their activities.

2.2 What Makes a Valid Request?

Under Section 8 of the FOIA, a valid request must:

- **Be in writing:** This includes letters, emails and the Council's online Firmstep portal.
- **State the name of the applicant:** This should be the real and full name of the individual or the name of an organisation.
- **Provide an address for correspondence:** This can be a postal address or an email address where the Council can send its response.
- **Describe the information requested:** The request should be clear enough for the Council to identify and locate the information.

Under Section 16 of the FOIA, the Council has a duty to provide **advice and assistance** to applicants if a request is unclear, or if the applicant has difficulty formulating a valid request. This means:

- Helping requesters to clarify unclear requests.
- Suggesting ways to narrow the scope of a request that might exceed the cost limit.
- Explaining the application of exemptions or other procedural issues.
- Guiding applicants on how to make a valid request if their initial attempt is not compliant.

2.3 Responding to FOI Requests

When responding to an FOIA request, the Council's primary legal obligations are:

- **Duty to Confirm or Deny and Provide Information (Section 1 FOIA):**
 - The applicant must be informed in writing whether the Council holds the requested information.
 - If held, and no exemption applies, the information must be provided.
- **Form of Communication (Section 11 FOIA):**
 - The information should be provided in writing and in the applicant's preferred format (e.g. electronic copy, hard copy, opportunity for inspection, summary) if it is reasonably practicable to do so.
 - If not, an explanation should be provided in writing and an alternative format offered.

- Lawful Withholding and Refusal Notices (Section 17 FOIA):
 - If the information is withheld (in full or part), or the Council cannot confirm or deny holding it due to an exception, a refusal notice must be issued. This notice must clearly state:
 - The exemption(s) being relied on.
 - The reasons why the exemption applies.
 - For "qualified" exemptions (see section 6.1), the summary of the public interest test (i.e. why withholding outweighs disclosure).
 - The applicant's right to an internal review and to complain to the ICO.

2.4 Timescales for Responding

Under Section 10 (1), the Council must comply **promptly**, and in any event no later than the **twentieth working day** following the date of receipt of the request. A "working day" excludes Saturdays, Sundays, Christmas Day, Good Friday, and bank holidays. It does include any period when the council may be closed but it is otherwise a working day (i.e. – between Christmas and New Year). However, there are specific circumstances where this timeframe can be extended but these should be the exception and in all cases agreed by the Monitoring Officer:

- If a "qualified" exemption applies to the information requested, and the public authority needs to assess whether the public interest in maintaining the exemption outweighs the public interest in disclosure (Section 10(3)). However, the Council must still inform the applicant within the initial 20 working days that the public interest test is being considered, stating which exemption is being considered and providing an estimated date for a response. The Information Commissioner's Office (ICO) generally considers an additional 20 working days (making a total of 40 working days) to be a reasonable extension for this purpose. Any extension beyond this is considered exceptional.
- If the Council needs clarification from the applicant to understand the scope of the request. The Council is not obliged to provide a response until such clarification is received, and the statutory timescale for response will be paused until this is provided.
- If the public authority requires a fee to be paid to cover the costs of providing the information. The "clock" for the 20 working days is paused from the date the fees notice is issued until the fee is received (Section 10 (2)).

There is no provision under the FOIA for the Council to request for an extension for complex or voluminous requests. However, the Council can refuse an FOI request if the cost of complying with it exceeds the appropriate limit (Section 12 of the FOIA).

2.5 Fees and Costs

Generally, requests under the FOIA are free. However, Section 12 and 13 of the FOIA, along with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, allow

public authorities to refuse or charge for a request if the estimated cost of complying with it exceeds an "appropriate limit."

- **Appropriate Limit:** For local authorities, this limit is currently **£450**.
- **Calculating Costs:** The Council can only include costs for:
 - Determining if the information is held.
 - Locating the information.
 - Retrieving the information.
 - Extracting the information from a document (if necessary).
- The hourly rate for staff time used in these calculations is set at **£25 per hour**, meaning the £450 limit equates to 18 hours of staff time.
- If the cost exceeds the appropriate limit, the Council may issue a "fees notice" under Section 9, requiring payment for disbursements (e.g. printing, postage) if the applicant still wishes to proceed. Alternatively, the Council may refuse the request under Section 12 of the FOIA, explaining why the cost limit has been exceeded. The Council should also provide advice and assistance to narrow the scope of the request to bring it under the cost limit or consider whether there is any information that may be of interest to the applicant free of charge.

2.6 Internal Review and Complaints

2.6.1 Internal Review

If an applicant is dissatisfied with the Council's response to their request, they have the right to request an internal review of the decision, as stated in the Section 45 Code of Practice.

- Applicants should submit their request for an internal review in writing to the Council, clearly stating their reasons for dissatisfaction. Reviews must be submitted within 40 working days of the date of the Council's response.
- The internal review will be conducted by the Monitoring Officer or their designated deputy providing they were not involved in the original decision. In such circumstances, the Monitoring Officer will appoint another senior officer.
- The Council aims to complete internal reviews within **20 working days** from the date of receipt of the review request.
- The outcome of the internal review will be communicated to the applicant in writing, explaining the decision and their right to complain to the Information Commissioner's Office if they remain dissatisfied.

2.6.2 Complaints to the Information Commissioner's Office (ICO)

If an applicant remains dissatisfied after the internal review, or if the Council fails to conduct an internal review within the prescribed timescales, they have the right to complain to the ICO.

- Complaints to the ICO should usually be made within **three months** of the internal review outcome.
- The ICO is the UK's independent regulator for information rights and will investigate the complaint, decide whether the Council has complied with the legislation, and may issue a decision notice requiring the Council to take specific action.

3. Environmental Information Regulations 2004 (EIR)

3.1 Purpose of EIR

The Environmental Information Regulations 2004 (EIR) implement a European Directive on public access to environmental information. They provide a right of access specifically to environmental information. The EIR operate alongside the FOIA, but for any request that falls within the definition of environmental information, the EIR will apply, regardless of whether the requester explicitly refers to FOIA.

3.2 What Makes a Valid Request?

Under Regulation 5 of the EIR, a valid request must:

- **Be in writing** (e.g. letter, email) **or verbally** (e.g. by phone).
- **State the name of the applicant:** This should be the real and full name of the individual or the name of an organisation.
- **Provide an address for correspondence:** This can be a postal address or an email address where the Council can send its response.
- **Describe the information requested:** The request should be clear enough for the Council to identify and locate the information.

Environmental information is broadly defined and includes information on:

- The state of elements of the environment (e.g. air, water, soil, land, animals, plants).
- Factors affecting the environment (e.g. substances, energy, noise, waste, emissions).
- Measures and activities affecting the environment (e.g. policies, legislation, plans, agreements).
- Reports on the implementation of environmental legislation.
- Cost-benefit and other economic analyses used in environmental decision-making.
- The state of human health and safety, including the contamination of the food chain, where affected by the state of the elements of the environment.

3.3 Responding to EIR Requests

When responding to an EIR request, the Council's primary legal obligations are:

- Duty to Make Environmental Information Available (Regulation 5 EIR):
 - The applicant must be informed in writing whether the Council holds the requested environmental information.
 - The requested information must be provided if it is held, unless an exception applies.
- Form and Format of Information (Regulation 6 EIR):
 - The environmental information should be provided in the applicant's preferred form or format (e.g. copy, inspection, summary) if it is reasonable to do so.
 - If not, an explanation should be provided and an alternative format offered.
- Lawful Withholding and Procedure for Refusal (Regulation 13 & 14 EIR):
 - If the environmental information is withheld (in full or part) because an exception applies (as listed in Regulation 12), a refusal notice must be issued.
 - This notice must clearly state:
 - The exemption(s) being relied on.
 - The reasons why the exemption applies.
 - The summary of the public interest test, demonstrating why the public interest in maintaining the exception outweighs the public interest in disclosure.
 - The applicant's right to an internal review and to complain to the ICO.

3.4 Timescales for Responding

Under Regulation 5(2) of the EIR, the Council must respond **as soon as possible**, and in any event not later than the **twentieth working day** following the date of receipt of the request. A "working day" excludes Saturdays, Sundays, Christmas Day, Good Friday, and bank holidays. It does include any period when the council may be closed but it is otherwise a working day (i.e. – between Christmas and New Year). However, there are specific circumstances where this timeframe can be extended but these should be the exception and in all cases agreed by the Monitoring Officer:

- If the request is complex and voluminous, making it impractical to comply within 20 working days, the timescale can be **extended to 40 working days** (Regulation 7(1)). If an extension is needed, the applicant must be informed within the initial 20 working days, along with the reasons for the delay.
- If the Council needs clarification from the applicant to understand the scope of the request. The request for clarification must be made within the initial 20 working days, and the "clock" is paused until the clarification is received.
- If a fee is lawfully required for an EIR request, the Council may request payment, and the 20-working-day period for responding to the request will be paused until payment is received by the Council (Regulation 7(8)). If the Council issues a fees notice, it is not obliged to comply with the request unless the fee is paid within a period of three months beginning with the day on

which the fees notice is given to the applicant. If the fee is not paid within this three-month period, the Council will consider the request closed.

If a request is deemed "manifestly unreasonable" (e.g. excessively broad or burdensome), the Council can refuse the request (Regulation 12(4)(b)). In such cases, the Council must still notify the applicant of the refusal within the initial 20 working days and, where possible, provide information about where the requested information might be found elsewhere.

3.5 Fees and Charges

Regulation 8 of the EIR allows public authorities to charge a "reasonable amount" for making environmental information available. Any charge must:

- **Not exceed the actual cost** of making the information available.
- Be **reasonable** and not act as a deterrent to accessing information.
- Typically cover costs for:
 - Staff time spent locating, retrieving, and extracting the information.
 - Putting the information into the requested format.
 - Disbursements (e.g. photocopying, printing, postage).
- The Council **cannot charge** for:
 - Allowing access to public registers or lists of environmental information.
 - Allowing the requester to examine the information on-site.
- If the Council intends to charge, it must notify the applicant of the amount required within 20 working days of receiving the request and provide a schedule of charges. Payment may be required in advance, and the "clock" is paused until payment is received.

3.6 Internal Reviews and Complaints

3.6.1 Internal review

If an applicant is dissatisfied with the Council's response to their request for environmental information, they have a statutory right under Regulation 11 to request an internal review of the decision.

- Applicants should submit their request for an internal review in writing to the Council, clearly stating their reasons for dissatisfaction. Reviews must be submitted within 40 working days of the date of the Council's response.
- The internal review will be conducted by the Monitoring Officer or their designated deputy, providing that they were not involved in the original decision. In such circumstances, the Monitoring Officer will appoint another senior officer.

- The Council has a statutory maximum timeframe of 40 working days from the date of receipt of the review request to complete the internal review and notify the applicant of its decision.
- The outcome of the internal review will be communicated to the applicant in writing, explaining the decision and their right to complain to the ICO if they remain dissatisfied.

3.6.2 Complaints to the Information Commissioner's Office (ICO)

If an applicant remains dissatisfied after the internal review, or if the Council fails to conduct an internal review within the prescribed timescales, under Regulation 18 they have the right to complain to the Information Commissioner's Office (ICO).

- Complaints to the ICO should usually be made within three months of the internal review outcome or the date when the internal review should have been completed.
- The ICO is the UK's independent regulator for information rights and will investigate the complaint, decide whether the Council has complied with the legislation, and may issue a decision notice requiring the Council to take specific action.

4. UK General Data Protection Regulation (UK GDPR) - Subject Access Requests (SARs)

4.1 Purpose of SARs

The UK General Data Protection Regulation (UK GDPR), supported by the Data Protection Act 2018 (DPA 2018), provides individuals with strong rights over their personal data. A Subject Access Request (SAR), as outlined in Article 15 of the UK GDPR, allows individuals to:

- Confirm whether their personal data is being processed.
- Access a copy of their personal data.
- Obtain supplementary information about that processing (e.g. purposes of processing, categories of data, recipients, retention periods, source of data).

The purpose of a SAR is to enable individuals to understand what personal data an organisation holds about them and how it is being used, fostering transparency and allowing individuals to verify the lawfulness of processing.

The Council has a formal arrangement with Hertfordshire County Council (HCC) for the management of Subject Access Requests. A defined process is in place for the handling of SAR requests, with detailed operational steps documented in the accompanying Procedures Guide.

4.2 What Makes a Valid Request?

A SAR can be made:

- **Verbally or in writing:** There is no specific form that a SAR must take.
- The individual **does not need to state that they are making a SAR or reference the UK GDPR/DPA 2018**. Any clear expression of an individual's desire to obtain their personal data will be treated as a valid SAR.
- HCC, on behalf of the Council, will ask for **proof of identity** to ensure that personal data is only disclosed to the correct individual.
- The Council will offer assistance, where appropriate, if a request is broad or unclear, to help locate the specific personal data required and ensure efficient processing, in line with its duty to facilitate data subjects' rights.

4.3 Responding to a SAR Request

When responding to a SAR, the Council's essential legal duties are:

- Confirm & Provide Data (UK GDPR Article 15):
 - Confirm if personal data is processed.

- If so, provide a copy of the personal data and key supplementary information (e.g., purpose, recipients, retention, rights).
- Communicate Clearly (UK GDPR Article 12):
 - Provide information in a concise, transparent, intelligible, and easily accessible form, using clear language.
 - If electronic request, provide in a commonly used electronic format unless otherwise requested.
- Lawful Refusal & Notification (UK GDPR Article 12(4) & DPA 2018 Exemptions):
 - Refuse only if manifestly unfounded/excessive or a DPA 2018 exemption applies.
 - If refusing, inform the individual within one month with:
 - Reasons for refusal.
 - Right to complain to the ICO.
 - Right to a judicial remedy.

4.4. Timescales for Responding

Under Article 12(3) of the UK GDPR, the Council must respond without undue delay and in any event within **one calendar month** of receiving the request. The one-month period starts from the day the request is received (or from the date identity is confirmed, or clarification is received, if applicable). However, there are specific circumstances where this timeframe can be extended:

- If the request is complex or numerous the response period can be **extended by up to two further months**. If an extension is needed, the individual must be informed within the initial one-month period, along with the reasons for the delay.
- If the Council genuinely needs to seek clarification from the data subject to identify the specific personal data they are requesting, the one-month 'clock' for responding to the SAR is paused until the necessary clarification is received.

4.5 Fees

Under Article 12(5) of the UK GDPR, SARs are generally **free of charge**.

- The Council can only charge a "reasonable fee" if a request is "manifestly unfounded or excessive," or if an individual requests further copies of information already provided. The fee must be based on the administrative cost of providing the information.
- If a fee is to be charged, the individual must be informed within the initial one-month period. The clock is paused until the fee is paid.

4.6 Internal Reviews and Complaints

4.6.1 Internal review

If a data subject is dissatisfied with the Council's response to their Subject Access Request (SAR), including concerns about how their personal data has been handled or the timeliness of the response, they have the right to lodge a complaint, however this is not explicitly mandated by the UK GDPR. Following best practice, the Council:

- Request all applicants to submit request to review and investigate their concerns and potentially rectify any errors before external escalation. The Council requests that such review requests are submitted within 40 working days of the date of the Council's response.
- The internal review will be conducted by Council's Data Protection Officer or relevant data protection team.
- The Council aims to respond to all complaints promptly.
- The outcome of the internal review will be communicated to the data subject in writing, explaining the decision and their right to complain to the ICO if they remain dissatisfied.

4.6.2 Complaints to the Information Commissioner's Office (ICO)

Under Article 77, if a data subject remains dissatisfied after the Council's internal handling of their complaint, or if they believe their personal data rights under the UK GDPR have been infringed, they have the right to lodge a formal complaint with the Information Commissioner's Office (ICO).

- Complaints to the ICO should usually be made within three months of the internal review outcome or the date when the internal review should have been completed.
- The ICO is the UK's independent regulator for information rights and will investigate the complaint, decide whether the Council has complied with the legislation, and may issue a decision notice requiring the Council to take specific action.

5. Vexatious, Manifestly Unreasonable, or Manifestly Unfounded/Excessive Requests

The legislation provides mechanisms to manage requests that place an unreasonable burden on public authorities.

5.1. Freedom of Information Act 2000 (FOIA) - Vexatious Requests

Section 14(1) of the FOIA allows a public Council to refuse to comply with a request if it is **vexatious**. This means the request is likely to cause a disproportionate or unjustifiable level of distress, disruption, or irritation. When considering if a request is vexatious, the Council will take into account factors such as:

- **Burden on the Council:** The request would impose a significant burden in terms of time and resources. This burden extends beyond the direct costs of locating and retrieving information, which are specifically quantified and limited by the 'appropriate limit' under Section 12. Instead, it encompasses the wider, disproportionate demands on the council's time and resources, including, but not limited to, the extensive effort required for reviewing, redacting, and preparing the information for release, or the cumulative impact of persistent or overlapping requests that disrupt normal operations.
- **Motive of the Requester:** The request is malicious, made to harass, or intended to disrupt the Council.
- **Lack of Serious Purpose:** The request is frivolous or trivial.
- **Abusive Language:** The request uses offensive or threatening language.
- **Unreasonable Persistence:** The requester is pursuing a long-standing issue that has already been addressed.
- **Repeated or Overlapping Requests:** Frequent or numerous requests from the same individual on similar topics.

If a request is deemed vexatious, the Council is not obliged to confirm or deny whether it holds the information, nor does it need to conduct a public interest test. The Council will issue a refusal notice.

Please refer to the Council's '**Persistent or vexatious customer policy and guidance**' for further information and guidance.

5.2. Environmental Information Regulations 2004 (EIR) - Manifestly Unreasonable Requests

Regulation 12(4)(b) of the EIR allows a public Council to refuse a request if it is **manifestly unreasonable**. The term "manifestly" means there must be an obvious or clear quality to the unreasonableness. This exception is similar to "vexatious" under FOIA and can apply if:

- The request would cause a disproportionate cost or burden.
- The request is vexatious in nature (e.g., intended to harass or disrupt).
- The request is too broad or general, making it impossible to identify the information.

Unlike FOIA's Section 14, refusing a request as manifestly unreasonable under EIR is subject to a **public interest test** (Regulation 12(1)(b)). This means the Council must weigh the public interest in withholding the information against the public interest in disclosing it. (See Section 6)

5.3. UK GDPR - Manifestly Unfounded or Excessive Requests

Article 12(5) of the UK GDPR allows the Council to either:

- **Charge a reasonable fee** (based on administrative costs), or
- **Refuse to act** on the request, if it is **manifestly unfounded or excessive**.
- **Manifestly Unfounded:** A request may be manifestly unfounded if:
 - The individual clearly has no intention of exercising their right of access (e.g. offers to withdraw the request in exchange for a benefit).
 - The request is malicious in intent and is used to harass the Council with no real purpose other than to cause disruption. This could involve unsubstantiated accusations or targeting specific employees.
- **Manifestly Excessive:** A request may be manifestly excessive if it is clearly or obviously unreasonable, taking into account whether it is proportionate to the burden or costs involved. Factors considered include:
 - The nature of the personal data.
 - Available resources of the Council.
 - Whether the request largely repeats previous requests from the same individual within a short period.
 - Whether it overlaps with other requests.

The Council must be able to **demonstrate** why a request is manifestly unfounded or excessive. If a request is refused, the individual must be informed of the reasons and their right to complain to the ICO.

6. Exemptions and Exceptions

For both FOIA and EIR there is a presumption that the Council should disclose information. However, the legislations contain provisions that allow public authorities to withhold information in certain circumstances. The UK GDPR also provides exemptions from SARs.

6.1. Freedom of Information Act 2000 (FOIA) Exemptions

Part II of the FOIA (Sections 21-44) lists various exemptions. These are categorised as:

- **Absolute Exemptions:** Where an absolute exemption applies, the Council does not need to consider the public interest in disclosure. The information can be withheld automatically. Examples include:
 - **Section 21:** Information accessible by other means.
 - **Section 23:** Information relating to security bodies.
 - **Section 40(1) applicant's own personal data, and 40(2) other people's personal data:** Personal data, where disclosure would breach data protection principles.
 - **Section 41:** Information provided in confidence, where disclosure would be a breach of confidence.
- **Qualified Exemptions:** For qualified exemptions, the Council must apply a **public interest test**. This involves weighing the public interest in maintaining the exemption against the public interest in disclosing the information. Disclosure should only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosure. Examples include:
 - **Section 22:** Information intended for future publication.
 - **Section 30:** Information relating to investigations and proceedings carried out by the public Council.
 - **Section 35:** Information relating to the formulation of government policy.
 - **Section 36:** Information which would, or would be likely to, prejudice the effective conduct of public affairs.
 - **Section 43:** Information relating to commercial interests, where disclosure would, or would be likely to, prejudice commercial interests.

6.2. Environmental Information Regulations 2004 (EIR) Exceptions

EIRs generally operate under a stronger presumption of disclosure than FOIA because all its exceptions (excluding certain personal data aspects) are subject to the public interest test. There are no direct equivalents of the FOIA's absolute exemptions under Regulation 12, although themes for

withholding information (such as national security or commercial interests) cross over between the two laws.

A specific rule applies to emissions information. If information relates to emissions, it must be released regardless of any grounds for refusal based on confidentiality of proceedings, commercial confidentiality, information supplied voluntarily, protection of the environment, international relations, defence, national security, or public safety. However, this specific rule does not override the exception for personal data (Regulation 13); if emissions information also constitutes personal data, it may still be withheld if its disclosure would breach data protection principles.

Regulations 12 and 13 of the EIR list exceptions to the duty to disclose environmental information. Unlike FOIA, **all EIR exceptions (except Regulation 12(3) which deals with personal data if its disclosure would contravene Regulation 13)** are subject to a **public interest test** (Regulation 12(1)(b)). This means the Council can only refuse to disclose information if the public interest in maintaining the exception outweighs the public interest in disclosure. Common exceptions include:

- **Regulation 12(4)(a):** Information not held.
- **Regulation 12(4)(b):** Manifestly unreasonable requests (see Section 5.2).
- **Regulation 12(4)(c):** Material in the course of completion, unfinished documents, or internal communications.
- **Regulation 12(4)(d):** Request too general.
- **Regulation 12(4)(e):** Information supplied voluntarily (without obligation) where the supplier did not want it disclosed.
- **Regulation 12(5)(d):** Confidentiality of commercial or industrial information.
- **Regulation 12(5)(f):** Adverse effect on the protection of the environment.
- **Regulation 13:** Personal data (disclosure would contravene UK GDPR/DPA 2018).

6.3. UK GDPR (SAR) Exemptions

The DPA 2018 (primarily Schedule 2) provides specific exemptions from the right of access under the UK GDPR. If an exemption applies, the Council may not have to comply with all aspects of a SAR. Common exemptions include:

- **Crime and Taxation (Schedule 2, Part 1, Paragraph 2):** Personal data processed for the purposes of the prevention or detection of crime, the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty.
- **Regulatory Activity (Schedule 2, Part 1, Paragraph 5):** Personal data processed for the purposes of discharging a regulatory function.
- **Confidential References (Schedule 2, Part 4, Paragraph 24):** A reference given in confidence by the Council for education, training, employment, or appointment purposes.

- **Legal Professional Privilege (Schedule 2, Part 4, Paragraph 19):** Information subject to legal professional privilege.
- **Management Information (Schedule 2, Part 4, Paragraph 16):** Personal data processed for management planning or forecasting purposes, where disclosure would prejudice the conduct of business.
- **Negotiations (Schedule 2, Part 4, Paragraph 20):** Information processed for the purposes of negotiations with the data subject where disclosure would prejudice the negotiations.

For most exemptions, the Council must consider the impact of disclosure and whether it would be likely to prejudice the purpose for which the exemption exists.

6.3 Neither Confirm Nor Deny (NCND) Responses

6.3.1 For Freedom of Information Act 2000 (FOIA):

In specific, limited circumstances, where confirming or denying the existence of information would itself reveal exempt information, the Council may issue a 'Neither Confirm Nor Deny' (NCND) response. This is permitted under various sections of the FOIA, including for national security (Section 24(2)), law enforcement (Section 31(3)), or where confirming or denying would breach data protection principles (Section 40(5A)).

6.3.2 For Environmental Information Regulations 2004 (EIR):

The use of a 'Neither Confirm Nor Deny' (NCND) response for environmental information is very limited. It may only be applied where confirming or denying that the information is held would adversely affect interests such as national security or public safety (Regulation 12(5)(a)), or would breach data protection principles (Regulation 13(5A)/13(5B)). This is always subject to a public interest test.

6.3.3 For Subject Access Requests (SARs) under UK GDPR / DPA 2018:

The Council generally has a duty to confirm or deny if it processes an individual's personal data. A 'Neither Confirm Nor Deny' (NCND) response is extremely rare and only applicable in very limited circumstances, primarily where confirming or denying would itself prejudice a relevant exemption, such as those related to national security (Section 26, DPA 2018) or the prevention/detection of crime (Section 31, DPA 2018).