



Environmental Information (Scotland) Regulations 2004 (EIR)

These Regulations create a self-standing system to provide public access to environmental information held by a range of public bodies. They are similar in structure to the [Freedom of Information \(Scotland\) Act 2002](#) (FOI). In general, if someone requests environmental information then unless an "exception" applies (these are similar to FOI exemptions), then they are entitled to be given the information within the applicable timeframe. As with FOI a fee may be charged and the enforcement machinery is identical. There is also a duty to advise and assist applicants as is the case with FOI.

Environmental information is any information whether in written, visual, aural, electronic or any other material form on:

- a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements
- b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a)
- c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements
- d) reports on the implementation of environmental legislation
- e) costs-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

Technically all information covered by the Environmental Information Regulations is exempt from FOI requests, but in practice this simply means that the request must be processed under the Regulations rather than under the Act. The distinction only has practical significance in relation to operational timescales and the discretionary fee charging system.

Fees and Charging

As with FOI, it is possible to charge a fee for providing environmental information on request, although the specific charging rules are different. In particular, in marked contrast to FOI, there is no upper or lower limits to the fee which may be charged. Instead the Regulations merely state that the fees shall not exceed "a reasonable amount" and must not exceed the actual costs of producing the information requested. It is possible (as with FOI) to require payment in advance of providing the information, but written notice of this fact (equivalent to an FOI fees notice) must be given to the applicant, who then has 60 working days to pay. The compliance timescale clock is stopped during this time. The public body is obliged to publish a Schedule of Fees and information on circumstances in which a fee may be charged, waived or required to be paid in advance. It is not permitted to charge for allowing access to registers of environmental information, or for allowing an applicant to examine information at School offices (as opposed to being given a copy of it).

The following is Jordanhill School's Schedule of Fees for purposes of the Environmental Information (Scotland) Regulations 2004:

Costs of locating, retrieving and assembling information:

- Chargeable elements will be included in the calculation in accordance with the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004, but without any disregard for the first £100 and without any discount on the elements above £100
- Staff costs will be charged on the basis of the actual cost to the School of employing the staff in question for the time spent.

This means the School will calculate the fee for an environmental information request on the basis of the same elements as can be included in the fees for compliance with FOI requests. However in contrast to mainstream FOI fees, actual staff time is not capped at a maximum of £15 per hour but is charged at the actual cost. The lowest grade member(s) of staff available to carry out the task (being of an appropriate grade to be dealing with the information in question and having the requisite skills and knowledge) will be used. In addition the fee will include any costs associated with putting the information into a particular format, copying and postage costs.

Situations requiring payment in advance:

- All fees for environmental information requests require to be paid in advance. This is to maintain consistency with the FOI rules.

Situations where the fee may be waived:

- The School may elect to waive the fee if satisfied that there is a genuine and widespread public interest in the publication of the information in question. This is unlikely to be the case where a request appears to be driven by commercial interests or is highly specific in terms of focus or geographical area.
- The School may elect to waive the fee if satisfied that it would be uneconomical to issue a fee notice and process payment.
- The School may elect to waive the fee where information is requested which consists of a mixture of environmental and non-environmental information, and the non-environmental information would not be subject to a fee in terms of the FOI legislation
- The School may elect to apply a disregard of the first £100 of any fee and charge only 10% of the marginal costs between £100 and £550 if it has processed an environmental information request as a mainstream FOI request. This should not be taken as an indication that the same disregard will be applied to any similar requests in future.

A fee may be charged in all other cases based on the full chargeable elements.