

Guidance on making a Freedom of Information request to the Utility Regulator

The Utility Regulator is an open and transparent organisation, publishing a great deal of information about what we do on our website. However there may be other issues on which you would like information. This guide provides you with the steps you should take when making a Freedom of Information (FOI) request to the Utility Regulator.

What is a FOI request?

Everyone has the right to request information held by public sector organisations under the Freedom of Information Act 2000 (FOI). The FOI Act means that you have the right of access to information to help you understand:

- how the Utility Regulator works;
- how we spend public money; and
- how and why we make our decisions.

Any written FOI requests will be responded to in line with the requirements set out by the FOI Act. However, you should note that environmental information and information about yourself, that we might hold, are exempt under the FOI Act as these types of information have their own access regimes. If your request relates to environmental information it will be handled instead under the requirements of the **Environmental Information Regulations 2004**. If you are seeking information about yourself (known as a 'subject access request') this will be handled under the **Data Protection Act 1998**. However you do not have to quote or specify which legislation you are making a request under.

What am I entitled to?

You have a legal right to request any recorded information held by the Utility Regulator. You are entitled to be told whether or not we hold the information you have requested. This is sometimes referred to as the duty to 'confirm or deny'. If we do hold it, you are also entitled to be advised accordingly. The Act is fully retrospective and gives you a right to request any recorded information held by the Utility Regulator. However, there are some exemptions to these rights.

Why is some information not available?

Whilst the FOI Act creates a right to request information it also recognises that certain types of information may need to be protected from disclosure - by defining a number of **Exemptions**. This means that we may be entitled to withhold some information requested. Exemptions fall into two categories, absolute and qualified

Absolute and qualified exemptions

Some exemptions are **absolute**, which means that information falling within the definition of these exemptions does not have to be disclosed under the FOI request process. Where an exemption is **qualified** the Utility Regulator must, if seeking to apply the exemption, consider whether the public interest in maintaining the exemption outweighs the public interest in disclosure before making a decision. This is known as the **Public Interest Test**.

Where information has been withheld we will inform you which exemptions have been applied and why, unless to do so would in itself reveal exempt information.

The following list is a summary of the FOI exemptions (the number refers to the relevant section of the Act):

21. Information accessible to applicant by other means.
22. Information intended for future publication.
23. Information supplied by, or relating to, bodies dealing with security matters.
24. National security.
25. Certificates under sections 23 and 24 (as above.)
26. Defence.
27. International relations.
28. Relations within the United Kingdom.
29. The economy.
30. Investigations and proceedings conducted by public authorities.
31. Law enforcement.
32. Court records, etc.
33. Audit functions.
34. Parliamentary privilege.
35. Formulation of government policy, etc.
36. Prejudice to effective conduct of public affairs.
37. Communications with Her Majesty, etc. and honours.
38. Health and safety.

39. Environmental information.
40. Personal information.
41. Information provided in confidence.
42. Legal professional privilege.
43. Commercial interests.
44. Prohibitions on disclosure.

For further information about these exemptions please see the guidance published on the Information Commissioner's Office website www.ico.gov.uk

How do I make a request?

To ask for information under the FOI Act your request must:

- be in writing (this includes fax or email);
- state your name and an address for correspondence; and
- describe the information you require.

To enable us to locate the specific information you require it will be helpful if you can define your request as clearly as possible, including, for example, any dates or timescales that may help identify that information. Please also include a daytime telephone number, if possible. This will help speed up the process should we need to contact you to clarify details of your request. You should send your request to:

Greg Irwin
Utility Regulator
Queens House
14 Queen Street
Belfast, BT1 6ED

Or e-mail your request to: greg.irwin@uregni.gov.uk and please copy to info@uregni.gov.uk

What does it cost?

The FOI Act sets an 'appropriate limit' on the cost of processing a request below which public authorities are required to provide requested information free of charge. We will not charge where the cost of locating, retrieving and extracting the information you request is less than this limit, which is currently set at £600.

Where the estimated cost of providing information exceeds £600, the Utility Regulator is not obliged to proceed with the request. However we may be able to provide some of the information requested if it can be supplied within the 'appropriate limit' and in these circumstances we will contact you and assist you in redefining your request.

No charges will be made for any information accessed via our website. For any information which is provided in hard copy and where there is no statutory provision for charges our rates for photocopying, reformatting and postage will be as follows:

- Photocopying and re-formatting @ 10p per single A4 Page – Postage at full Royal Mail charge (Pricing in Proportion) depending on the applicant's preference for 1st or 2nd Class post.

What happens when I make a request?

When we receive a request for information, we will respond as soon as possible and no later than 20 working days from the date of receipt. If we are unclear from your initial request what information you are asking for, we will contact you to try to clarify what you are seeking.

If your request is very broad in scope and we estimate that the cost of complying would exceed the appropriate limit, we may contact you to see if you can be more specific about what you are seeking. This may enable us to answer your request within the appropriate limit and therefore provide a response.

If the requested information is subject to a qualified exemption, and we need more time to weigh up public interest considerations relating to disclosure, we will write to you within the 20 working days to tell you when we estimate we will be able to provide a final response to your request.

What happens if the information I requested is not held?

The Utility Regulator will contact you and advise that the information requested is not held. If the Utility Regulator is aware that the information you have requested may be held by another public authority we will advise as such in our response and provide the necessary details to assist you.

In some cases, the Utility Regulator may automatically transfer the request on your behalf to the appropriate public authority, in these circumstances we will contact you to advise what has been done.

If we are unable to advise which public authority holds, or may hold the information requested, the Utility Regulator may try to provide alternative assistance to facilitate you in pursuing your request if appropriate.

Consultation with Third Parties

Where a request is received under the FOI Act for information concerning the details of a third party or a document that has been provided by a third party including another public body, individual or business, the Utility Regulator is required to take reasonable steps to contact and consult with the third party regarding the release of the information.

During consultation with the third party the identity of the requestor is not generally released unless we have your permission. Although the third party will be consulted, the decision as to whether or not to release the information will be taken by the Utility Regulator alone on a case by case basis.

What happens if my request is refused or I am unhappy with the response?

If your request is refused, in full or in part, we will reply explaining why and identify what exemption(s) have been applied.

If you make a request and are not satisfied with the way in which we deal with it, you may ask us to review any decision we make. If you wish us to undertake such a review you should write to:

Jim Oatridge (FOI and EIR appeals chairman),
Queens House,
14 Queens Street,
Belfast, BT1 6ED

You must do this within 60 days from the date of the response to your request.

If, after the internal review, you remain dissatisfied, you have the right to appeal to the Information Commissioner's Office whose contact details are contained in our response.

How many requests am I permitted?

The Act does not specifically limit the number of requests you can make. However, it does give public authorities the right to refuse vexatious or repeated requests. Where a number of requests have been received from an individual for the same or similar information we are also allowed to aggregate the costs of these in estimating whether or not the cost limit would be exceeded.