



ENVIRONMENTAL INFORMATION REGULATIONS POLICY

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EXECUTIVE SUMMARY

This Policy, based on similar work undertaken by Imperial College in relation to the Freedom of Information Act 2000, and guided significantly by the Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations 2004 (SI 2004 No. 3391)¹, and by the provisions of the Information Commissioner's Office publication, Guide to Environmental Information Regulations².

UEA commits to complying with the EIR and all associated Codes of Practice issued pursuant to the EIR. This includes a commitment to proper records management processes and procedures.

Not all valid requests for environmental information that fall within the EIR will be treated with the EIR response handling process. For example, those received as normal course of business will continue to be treated in that manner.

Responsibility for the process of dealing with requests for information made under EIR rests with the Registrar & Secretary. The Director of Information Services has delegated authority to act on behalf of the Registrar in all aspects of the management and implementation of those processes unless the Registrar, determines otherwise. Primary operational responsibility for the administration of EIR will rest with the Information Policy and Compliance Managers (IPCM). The IPCMs will be assisted by other members of the ISD Strategy, Policy and Compliance team, and Faculty/Unit Contacts will be consulted on the location of information and applicability of exceptions. Deans of Faculty and the Registrar will be responsible for compliance with EIR in their Faculties/Divisions.

UEA will encourage receipt of requests via a webpage specifically designed for that purpose but will have in place procedures for the receipt of oral requests as allowed by the EIR. UEA will accept all requests and commits to complying with the requirement to assist requesters. UEA will acknowledge receipt of all requests with the UEA IPCM cooperating with Faculty/Unit Contacts to locate documents, estimate time of recovery and establish the need to assess fees. A tracking system records all requests, inclusive of time to respond and outcome.

UEA has twenty (20) working days to respond to any request under the EIR. The UEA IPCMs will inspect all information and make a determination in relation to possible exceptions from disclosure. The IPCMs will take into account the need to consult 3rd parties where necessary, consult with the Press Office as appropriate, and will sign off on release of information. Where appropriate, authority for release will be exercised on behalf of the University by the Registrar & Secretary or the Director of Information Services acting on his or her behalf.

¹https://ico.org.uk/media/for-organisations/documents/1641/guide_to_environmental_information_regulations.pdf

²<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/>

Where any information is not disclosed, UEA will inform the applicant of his/her right of complaint under the UEA complaints procedures, and will also inform the applicant of the reason for non-disclosure.

ACKNOWLEDGEMENTS

The format of this Policy is based on work undertaken and published by Imperial College, London in relation to the Freedom of Information Act 2000 and UEA wishes to thank Imperial College for permission to liberally use the structure and wording of their Policy as the model for the UEA Policy.

DEFINITIONS

1. Terms. Throughout this document the following terms are used:

- a. "The EIR" means the Environmental Information Regulations 2004.
- b. "Information Commissioner's Office (ICO)" refers to the regulatory body for the EIR.
- c. "DPA" means the Data Protection Act 1998, relating to the processing of personal data, and applying in the UK up to 25 May 2018.
- d. "GDPR" mean the General Data Protection Regulation, regulation 2016/679 of the European Parliament, relating to the processing of personal data, and applying in the UK from 25 May 2018.
- e. "The FOIA" means the Freedom of Information Act 2000.
- f. "Formal Request" means a written or oral request for information under the provisions of the EIR.
- g. "UEA" means the University of East Anglia.

INTRODUCTION

2. Purpose of Policy. This Policy provides guidance on the handling of requests for information submitted under the Environmental Information Regulations 2004 ('the EIR').

3. EIR Obligations on Institutions - General. The EIR requires that institutions implement and maintain an effective system for responding to requests for information. UEA will comply fully with the EIR and it will place in the public domain as much information about its activities as is practicable, and, subject to the exceptions permitted under the EIR will make all other information available on request. In particular, it will conform to the Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations 2004 (SI 2004 No. 3391).

4. UEA Publication Scheme. UEA has a publication scheme³ which details the classes of information that it is required to make publicly available, together with details of how the information can be obtained and any associated cost. This tool will be part of the strategy to comply with our obligation to proactively disseminate environmental information.

5. Application of Policy

a. UEA regularly receives requests for information as part of the normal course of business. Members of staff will be expected to continue dealing with these requests as normal. Standard business requests for confidential information or personal data should be considered in consultation with the heads or managers of relevant departments.

b. This Policy relates to requests for information where a member of UEA is unable to respond to the request, the request is exceptional and the information requested is not covered in the UEA's Publication Scheme, or not subject to release as business as usual. All requests of this nature must be passed to the appropriate FOI/EIR Contact⁴ as a matter of urgency. The appropriate FOI/EIR Contact will then contact the IPCMs who will consider the request and work with the appropriate faculties or divisions to locate the information. The IPCMs will also consider any exceptions that might apply to releasing the information and determine any associated fees.

6. Summary of information. The EIR mandates public authorities to provide the information requested, but does not specify the content or form of the information to be provided. Therefore, it is permissible to prepare and provide a summary that contains the requested information.

7. Documents. Following ICO guidance, requests for documents are understood to be requests for all the information contained within those documents.

DATA PROTECTION

8. Interaction with DPA. Personal information must always be obtained, processed, stored and disclosed in accordance with the Data Protection Act and successor legislation the GDPR⁵. The University offers guidance on our obligations under privacy legislation⁶.

RECORDS MANAGEMENT

9. Requirement for Records Management. EIR provides the public with wide rights of access to UEA's records and therefore requires UEA to implement and maintain a comprehensive records management system. There is a duty under

³ <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/freedom-of-information/publication-scheme>

⁴ <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/freedom-of-information/foi-eir-contacts>

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

⁶ <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/data-protection>

the Secretary of State Code of Practice⁷, issued pursuant to s.46 of the FOIA, to have certain records management policies and practices in place, and the Code of Practice explicitly adopts these policies and practices as the standard for authorities subject to EIR. Additionally, Regulation 4 requires organisations holding environmental information relevant to its functions to disseminate actively and systematically that information to the public. While it is essential that UEA complies with the EIR in implementing a Records Management system, good record keeping practice is important in its own right.⁸

10. UEA Records Management Commitment. UEA commits to the creation and maintenance of a systematic and planned approach to the management of all records within the organisation that ensures, from the moment a record is created until its ultimate disposal, that the organisation can control both the quality and quantity of information it generates; can maintain that information in a manner that effectively services its needs and those of its stakeholders; and it can dispose of the information appropriately when it is no longer required. This commitment extends to both paper-based and electronic records.

RESPONSIBILITIES

11. The Registrar and Secretary. The Registrar or his delegate will review complaints where the Director of Information Services has been materially involved in any decision which is the subject of a complaint. The Registrar retains final responsibility in determining whether or not information is released or is subject to exceptions.

12. Director of Information Services. The Director of Information Services, acting on behalf of the Registrar of UEA, has delegated authority for the overall management of EIR administration and procedures, and their implementation, unless determined otherwise. In circumstances where there are issues surrounding the release of information which cannot be resolved by the IPCMs, particularly where the application of exceptions is contentious with those holding the information, the Director will become involved. In exceptional circumstances matters may be referred to the Registrar for resolution, either at the request of the Director or the Registrar.

The Director is also responsible for reporting EIR activities to the University by way of submission of an Annual Report via the formal UEA Committee structure. The Director has the responsibility for conducting formal internal reviews of release decisions that are appealed (see Annex E), unless the Director has been materially involved in the decision being reviewed.

Management of the administration of requests may be delegated to the Assistant Director Strategy, Policy and Compliance.

⁷ <https://ico.org.uk/media/for-organisations/research-and-reports/1432475/foi-section-46-code-of-practice-1.pdf>

⁸ Further information on records management is available from <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/records-management>

Finally, the Director is ultimately responsible for liaising with other units and Faculties within the University to ensure compliance with our obligation to progressively make environmental information available via electronic means. The Director may well delegate some of these functions to persons reporting to him where the nature of the work is such to merit such delegation.

13. Information Policy and Compliance Managers. The Information Policy and Compliance Managers are responsible for:

- a. Working with Faculties and Units to ensure they are aware of their responsibilities under the EIR by way of training, promotion and awareness activities and materials.
- b. Ensuring all requests under the EIR are handled in accordance with the all statutory obligations under the EIR, the Secretary of State Code of Practice, associated EIR, ICO guidelines, and UEA policies.
- c. Determining at first instance whether the EIR is the appropriate legislative regime or mechanism under which to consider any request for information.
- d. Assisting and advising individuals and organisations making requests under the EIR.
- e. Ensuring that, in considering requests for information and accepting or refusing them, the public interest is properly assessed and exceptions are properly applied.
- f. Ensuring information is released within the timescales specified within this Policy (see Para. 25).
- g. Maintaining the Publication Scheme.
- h. Keeping the UEA's EIR Policy under review.
- i. Maintaining the information request management database.
- j. Maintain the UEA Environmental Information Regulations web pages.
- k. Alerting the Registrar or Press Office of cases where required.

14. UEA Faculties/Units. Faculties/Units are responsible for:

- a. Ensuring that they comply with these procedures and that local arrangements are in place to this end.
- b. Retrieval of information in any form of storage upon request from the IPCMs.
- c. Liaising with their own and other Faculties & Units to retrieve information.

d. Ensuring that adequately trained and aware staff are available to act as FOI/EIR Contacts.

15. Faculty/Unit FOI/EIR Contacts. Faculty/Unit Contacts are responsible for:

a. Ensuring that all requests for information are passed on promptly to the IPCMs and systems are in place for checking and, if necessary, redirecting the post and electronic mail of staff absent from UEA.

b. Assisting the IPCMs in locating and retrieving information.

c. Assisting the IPCMs in drafting the UEA's response to a request, inclusive of advising on potential exceptions, and preparing the information in a suitable form, electronic or physical, for disclosure to the applicant.

d. Informing the IPCMs of changes to any environmental information covered by the Publication Scheme, including changes to URL addresses.

16. Members of UEA. Individual Members of UEA are responsible for:

a. Knowing their responsibilities under the EIR.

b. Ensuring that, when they are absent from UEA for any reason, arrangements are in place for their post, electronic mail and voicemail to be checked or redirected (for example by means of an out of office message) to someone who can deal with it promptly.

c. Responding to requests for information within the normal course and scope of their duties, and, where a request is outside this scope, or they are unable to do so, referring the request to the Faculty/Unit FOI/EIR Contact.

d. Seeking advice when they are uncertain on how to respond to a request.

17. The Vice-Chancellor. The Vice-Chancellor is ultimately responsible for the strategic approach to compliance with the EIR.

PROACTIVE DISSEMINATION OF INFORMATION UNDER EIR

18. General. Regulation 4 of the EIR places an obligation on every institution subject to the EIR to progressively make the information available to the public by easily accessible electronic means and to take reasonable steps to organize environmental information with a view to the active and systematic dissemination to the public of the information. The UEA website will be the primary vehicle by which UEA meets its Regulation 4 obligations.

19. Means of Proactive Dissemination. UEA commits to the provision of simple, clear, accessible access to environmental information via the UEA website by use of search functionality, clear hierarchies of information, and provision of other finding tools. UEA will endeavour, as much as possible, to take a holistic and coordinated approach to the dissemination of environmental information. All

units within the University holding environmental information will be made aware of their obligations under the EIR and will comply with Regulation 4. Each unit will be responsible for ensuring that this information is made proactively available.

20. Information to be Proactively Disseminated. The UEA will not limit itself to the minimum requirements as demanded by the EU Directive but will seek to disseminate frequently requested information, information of current and wide interest, and adding such information as is requested under the EIR as appropriate.

21. Organising Environmental Information. Regulation 4 places an obligation on organisations to organise information with a view to its proactive dissemination. For general provisions relating to records management, see sections 11 and 12 above. Both administrative and research generated environmental information not otherwise subject to an exception under the EIR will be identified and organised according to UEA records and data management policies. Priority will be placed on organising information specifically mentioned referenced in Regulation 4, and information most likely to be of interest to the public.

RESPONDING TO REQUESTS FOR INFORMATION UNDER EIR

22. General

- a. UEA will offer a web interface as the means by which requests are submitted to UEA but acknowledges that any written or oral communication received at any level of the institution is potentially an EIR request.
- b. Where requests are not sent via the web interface the IPCMs and relevant FOI/EIR Contact will determine how each request is to be handled.

23. Initial Request - Assisting the Applicant

- a. There is an obligation on UEA to provide advice and assistance to those making requests under the EIR. The duty on UEA is to provide advice and assistance "so far as it would be reasonable to expect [it] to do so"⁹.
- b. Not all potential applicants will be aware of the EIR, or further amendments made to it. Members of UEA receiving requests must draw these to the attention of potential applicants who appear to be unaware of them.
- c. A request for information under the EIR does not need to be made in writing. Where a person is unable or unwilling to submit a written request, the member of staff must undertake such actions as noted below to assist the requester in making a request that we can respond to.

⁹<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/>

d. Further details on assisting applicants and dealing with requests can be found in Annex A.

24. Initial Request – Initial Actions

a. Determination of request status - UEA regularly receives requests for information as part of the normal course of business. Members of staff will be expected to continue dealing with these requests as normal. Requests for information where:

(1) a member of UEA is unable or unsure if it is appropriate to respond to the request, or

(2) the request is explicitly made under the EIR,

(3) the request is out of the normal course of business AND

(4) the information requested is not covered in the UEA's Publication Scheme, should be considered and treated as a formal EIR request.

The IPCMs will also determine whether the request is valid based on the requirements of the EIR, and will determine the appropriate legislative regime under which to consider the request (EIR or FOIA).

b. Handling of oral requests - As noted above, a request does not have to be in writing to be valid under the EIR and special provisions must be in place to ensure that such requests are not overlooked.

(1) UEA cannot, and will not insist that the request be made in writing, but to suggest and encourage the requester to do so via the means provided by our website.

(2) If the requester does not wish to submit their request in writing, it is our policy that the person receiving the request will, in all cases make a written note of the request, inclusive of the date of the request and contact details, and confirm its accuracy with the requester at that time. Additionally, if they so wish and it is agreed with the requester, a written copy of the request will be provided to the requester for confirmation of the content of the request.

(3) Whenever an oral request is made, whatever staff member that has received it will immediately contact their FOI/Unit Contact.

c. Initial Handling of Request – A valid request will be logged within the request tracking system and a pro forma acknowledgement of the request will be sent to the contact details provided by the requester. The request documentation will be filed and the request administration assigned to a member of the ISD Strategy, Policy and Compliance team.

d. Identifying If and Where Information is Held

(1) Documents and information stored electronically will be accessed and obtained from centralised and distributed sources: document archives, email mailboxes, filestores, and so on, and work will be done in cooperation with the

individuals, Faculties and/or Units concerned. This work will be coordinated by the Faculty/Unit FOI/EIR Contact.

(2) Paper documents will be identified and recovered by staff within the relevant Faculty or Unit.

e. When UEA does not hold the Information - In addition to providing the information which UEA does hold as part of the request where it believes another public authority holds some or all of the information it must redirect the applicant to enable him or her to pursue his or her request.

25. Timescale for Responding to Requests

a. The EIR requires that replies to requests for information be made within 20 working days.

b. The 20 day period starts the day after a request is received by an institution, regardless of whether the institution recognises that it is, in fact, a request.

c. The IPCMs aim to make all decisions within 20 working days, including those where it needs to consider where the public interest lies in respect of an application for exempt information.

d. The EIR allow for extra time, up to a maximum of 40 working days to be taken in responding to a request and it is the responsibility of the IPCM, in consultation with Faculty/Unit EIR Contacts to determine if an extension is warranted.

e. In those instances when it is not possible for UEA to deal with an application within 20 working days we will:

(1) Give an estimate of the date by which we expect to reach such a decision.

(2) Ensure that our estimates are realistic and reasonable in the circumstances of the particular case, taking account, for example, of the need to consult third parties where this is necessary. A record should be maintained detailing how any such estimates were arrived at.

(3) Comply with our estimates unless there are good reasons not to do so. If we exceed our estimate, we will apologise to the applicant and explain the reason(s) for the delay. If the IPCMs find, while considering the public interest, that the estimate given is proving unrealistic, he/she must keep the applicant informed. A record of instances where estimates are exceeded will be kept, and where this happens more than occasionally, the IPCMs will take steps to identify the problem and rectify it wherever possible.

26. Retrieval of Requested Information. The Faculty/Unit contact will:

a. Assist the IPCM to locate and retrieve the information requested.

- b. Advise the IPCMs if they believe there are any reasons under the EIR why the information should be withheld pursuant to an applicable exception.
- c. Advise the IPCMs if they believe there are any reasons why third parties may need to be consulted.
- d. IPCMs may if necessary and with departmental agreement conduct central searches for information following an agreed protocol.

27. Release of requested information. Unless directed otherwise by the Registrar or the Director of Information Services, the IPCMs will respond to all requests. Subject to such approvals as may be required by this Policy, the information will be released where the IPCMs are first satisfied that:

- a. The release of any information complies with the privacy legislation.
- b. The information requested or any part thereof is not subject to an exception under the EIR.
- c. Where appropriate that the public interest is better served by disclosure, than non-disclosure.
- d. Where appropriate, that consultation has taken place with third parties. Further details can be found in Annex B.
- e. Where appropriate, the Press Office, Director of Information Services or Registrar has been informed of any information that is being released.
- f. Any release of datasets will conform to the provisions of the Protection of Freedoms Act (2012).¹⁰

28. Fee Charging. UEA has discretion to charge applicants a fee in accordance with the fee regulations in respect of requests made under the general right of access. It is not the policy of UEA to charge fees for requests for environmental information under EIR.

29. Refusal of Request. UEA will exercise, as appropriate, its statutory right to refuse the release of information under the EIR subject to the following conditions:

- a. Where UEA relies on an exception to refuse a request for information, the IPCMs must inform the applicant which exception has been claimed, and why that exception applies.
- b. The EIR also requires UEA, when withholding information to state the reasons for claiming that the public interest in maintaining the exception outweighs the public interest in disclosure. The IPCMs will consider and specify the public interest factors (for and against disclosure) taken into account before reaching

¹⁰ <http://www.legislation.gov.uk/ukpga/2012/9/section/102>

the decision. Further details on the application of exceptions under the EIR are available in Annex C.

c. The IPCMs must provide details of the complaints procedure, including how to make a complaint, and must inform the applicant of his or her right to complain to the Information Commissioner if he or she is still dissatisfied following the UEA's review.

30. Transfer of Requests under EIR. There are limited situations in which it is appropriate for the UEA to transfer a request to another institution. Where UEA

- does not hold the requested information
- is aware another institution holds the information
- has secured consent of the requester of the transfer, and
- has informed the holding authority of the transfer

UEA may transfer the request to other authority. The IPCMs will determine whether a formal transfer, or simply providing the requester with details of the holding authority and letting them contact the holding authority themselves is the best course of action.

31. Contracts and 3rd Party Confidence.

UEA will not enter into contracts that purport to restrict the release of environmental information unless the information would otherwise be subject to a valid exception under the EIR. UEA will make clear in our dealings with third parties of our obligations under the Regulations. Further details are given in Annex B and in Annex D.

COMPLAINTS PROCEDURE

32. Applicability. The complaints procedure may be used by any person who considers that UEA is not complying with its Publication Scheme, or who wishes to complain about the handling or outcome of their request under the EIR. Further details are in Annex E.

TRACKING AND REVIEW OF EIR ADMINISTRATION

33. Tracking Requests.

For monitoring purposes the IPCMs will keep a record of all requests. This will include requests where all or part of the requested information is withheld. Information to be gathered includes identity and category of requester, categorisation of request itself, exceptions claimed, and any other metadata that is relevant and required for the analysis and administration of the EIR.

The IPCMs will also keep a record of all complaints and of their outcome.

34. Disclosure Log. The IPCMs will ensure that a disclosure log¹¹ of the last five years of completed requests under both EIR and FOIA is maintained and available for public view on the UEA website. The IPCMs will also ensure that any information available in the disclosure log meets the requirements of the Data Protection Act 1998.

35. Disclosure and Proactive Dissemination. Where information is released, UEA will endeavour to ensure that the released information is published, either within the institutional Publication Scheme, or more generally on the UEA website so as to comply with its obligations under Regulation 4 of the EIR. The IPCM will encourage Faculties/Units to proactively disseminate any material that is the subject of repeated requests.

36. Policy Review Process. The Policy and Procedures will be reviewed every two years by the Information Strategy and Services Committee. The review will also monitor appropriate statistics, complaints and be responsible for reviewing, and, if necessary, amending, procedures for dealing with requests for information where such action is indicated by more than occasional reversals of initial decisions.

UEA CONTACTS

37. Enquiries and complaints. Any enquiries or complaints about this Policy, the Publication Scheme, or a request for information should be directed to:

Information Policy and Compliance Manager
University of East Anglia
Norwich Research Park
Norwich
NR4 7TJ

Tel: 01603 59 3523/2431
Fax: 01603 591010
E-mail: FOI@uea.ac.uk

38. Information Commissioner's Office¹². The official regulator for the Environmental Information Regulations is:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113, Web: <http://www.ico.org.uk>

¹¹ <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/freedom-of-information/disclosure-log>

¹² <https://ico.org.uk/global/contact-us/postal-addresses/>

ANNEXES

ANNEX A – ASSISTING APPLICANTS & DEALING WITH REQUESTS

1. When a person is unable to submit a valid request, the IPCMs and/or Faculty/Unit Contact will provide further assistance as appropriate

Where the requester does not wish to provide the request in writing, offering to take a note of the application over the phone and then either reading back the note to the requester, or sending the note to the applicant for confirmation.

2. Where the request is vague or ambiguous UEA should, as far as practicable, assist the applicant in clarifying the request in order to allow UEA to respond with the desired information. There is, however, no obligation under EIR, as under FOIA, for the request to be clear enough to be understood. The purpose of this is to clarify the nature of the information sought, not to determine the aims or motivation of the applicant.

3. If, following the provision of such assistance, the applicant is still unable to describe the information requested in a way that would enable UEA to identify and locate it, UEA may choose to apply the exception under Regulation 12(4)(c), citing the request as too general. This exception can only be applied, however, if our obligation under Regulation 9 to provide advice and guidance has been fulfilled.

4. The EIR itself places a time limit on the ability of requesters to respond to a request for clarification in that a response from UEA must be given within 20 working days of receipt of the request. If we have not received clarification within that time frame, the IPCM will determine whether, in all the circumstances, the request should be refused forthwith pursuant to Reg. 12(4)(c), or whether it would be reasonable to extend the time limit for response to the ultimate limit of 40 working days.

Any response to a request for clarification received after the expiry of any set deadline will be handled as a new request.

5. UEA is expected to provide assistance to applicants whose requests would fall within the exception within Regulation 12(4)(b) as 'manifestly unreasonable' in order to allow the requester to modify the request so as to allow the UEA to provide some information.

ANNEX B – CONSULTATION WITH THIRD PARTIES

1. In some cases the disclosure of information pursuant to a request may make mention, or affect the legal rights of a third party. Members of staff must always remember that, unless an exception provided for in the EIR applies in relation to any particular information, it will be obliged to disclose that information in response to a request.

2. In some cases, a disclosure of information cannot be made without the input of a third party. In such instances, the IPCM must consult that third party with a view to seeking their opinion on the disclosure where practicable. In such cases,

the UEA must make clear to the third party that UEA alone has the responsibility and authority to approve release or non-disclosure of information and that the input of the third party, although important, is not determinative to the question of disclosure.

3. Consultation should take place where:

a. The views of the third party may assist UEA to determine whether an exception under the EIR applies to the information requested; or

b. The views of the third party may assist UEA to determine where the public interest lies under Regulation 12(2) of the EIR.

c. The legal rights of the third party would be affected by the disclosure of requested information.

4. Consultation will be unnecessary where:

a. UEA does not intend to disclose the information relying on an exception or some other legitimate ground under the terms of the EIR;

b. The views of the third party can have no effect on the decision of the authority, for example, where there is other legislation preventing or requiring the disclosure of this information;

c. No exception applies and so, under the EIR's provisions, the information must be provided.

However, the IPCM reserves the right to consult with a third party even if one of the above conditions exists.

5. Where the interests of a number of third parties may be affected by a disclosure and those parties have a representative organisation which can express views on behalf of those parties, UEA may, if it considers consultation appropriate, consider that it would be sufficient to consult that representative organisation. If there is no representative organisation, UEA may consider that it would be sufficient to consult a representative sample of the third parties in question.

6. The fact that the third party has not responded to consultation does not relieve UEA of its duty to disclose information under the EIR, or its duty to reply within the time specified in the EIR.

7. In all cases, it is the responsibility of UEA, not the third party (or representative of the third party) to determine whether or not information should be disclosed under the EIR. A refusal to consent to disclosure by a third party does not, in itself, mean information should be withheld.

ANNEX C – REFUSAL OF REQUEST

1. Some of the information held by UEA may be regarded as information not subject to disclosure and will not be provided in response to a request. UEA will not refuse any request for information, or element thereof, unless it believes a valid exception applies to that information. It is the responsibility of the IPCMs in consultation with the departmental FOIA/EIR contact to determine which exceptions apply to the requested information.

The EIR exceptions are listed within [Regulation 12\(4\) and 12\(5\)](#) of the EIR. Regulation 12(4) exceptions are based upon the nature of the request or of the material requested, whilst, on the other hand, Regulation 12(5) exceptions are based upon the 'adverse effect' the disclosure will produce.

2. Before relying on an exception, the IPCMs may be obliged to consider two further points. First, some of the exceptions can only be claimed if the release of the information would 'adversely affect' the purpose to which the exception relates. This is roughly equivalent to the prejudice test within the FOIA. Secondly, all of the exceptions under the EIR also require the IPCM to apply the "public interest" test before making a final decision as to whether or not to release the information. The public interest test requires UEA to consider whether the public interest in withholding the exempt information outweighs the public interest in releasing it.

3. Many of the exceptions will require the IPCMs to consider both the test of 'adverse effect' and the public interest test. However, care must be taken to determine if a specific exception can be relied upon. It should be noted that only the information to which an exception applies will be withheld. Thus, if a particular document had been requested which contained some excepted information, only those specific items of excepted information should be withheld. The rest of the document would still have to be released.

4. Where a refusal notice is warranted, the IPCMs will specify each and every exception that has been claimed in precise detail and will give a full explanation of what information is subject to the exception and why the exceptions applies to the noted information. If an exception is based upon adverse effect to the interests of any party, the University will define the nature and extent of the effect resulting from the release of the information. Where the public interest test is required, the IPCM will state the reasons why the public interest in non-disclosure outweighs that in favour of disclosure.

5. A record will be kept of all requests where information is withheld and of the reasons for the refusal in each and every case.

6. Any refusal notice will include details of the complaints procedures of the University in relation to requests under the EIR, and will advise the requester of their right of subsequent appeal to the Information Commissioner's Office.

7. If information is not held by the University, the University will invoke the appropriate exception, Reg. 12(4)(a), stating that the information was not held when the request was received.

8. If information is publicly available elsewhere, UEA will guide the requester to that source and will invoke Regulation 6(1)(b), noting that the information is easily accessible to the requester in another format.

ANNEX D – CONTRACTING PRACTICE

1. When entering into contracts UEA should minimise the use of contractual terms which purport to restrict the disclosure of information held by UEA and relating to the contract beyond the restrictions permitted by the EIR. UEA cannot "contract out" its obligations under the EIR.

2. When entering into contracts with non-public authority contractors, UEA will discourage, wherever possible, the inclusion in any contract confidentiality clauses that unjustifiably restrict the release of information relating to the terms of the contract, its value and performance from disclosure. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, UEA will explore the option of agreeing with the contractor a schedule of the contract that clearly identifies information which should not be disclosed. UEA recognises that, when drawing up any such schedule, any restrictions on disclosure provided for could potentially be overridden by its obligations under the EIR.

3. UEA will ensure that third parties are aware that any information received described as in confidence will not be excepted from release unless it is, in law, truly received in confidence. It should be aware that the exception provided for in the EIR only applies if information has been obtained by UEA from another person, and the disclosure of the information to the public, other than under the EIR, would constitute a breach of confidence actionable by that, or any other, person.

4. It is for UEA to disclose information pursuant to the EIR, and not the body with whom UEA contracts. However, UEA may wish to protect from disclosure by the contractor, by appropriate contractual terms, information which it has provided to the contractor, which would clearly be exempt from disclosure under the EIR. In order to avoid unnecessary secrecy, any such constraints should be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, UEA will not impose terms of secrecy on contractors.

5. The University, as standard practice, will take appropriate steps to ensure that any third parties with whom we contract, or who supply the University with information, are aware of the University's duty to comply with the EIR, and that therefore information will have to be disclosed upon request unless an exception applies.

ANNEX E – COMPLAINTS PROCEDURE

Receipt of complaint

1. Any written correspondence from an identifiable applicant expressing dissatisfaction with the UEA's response to a valid request for information, or that UEA is not complying with its Publication Scheme, will be treated as a complaint.
2. For a complaint to be valid, it must, pursuant to Regulation 11(2), be received within 40 working days of the issuance of the response to the requester. Any complaint received after that date will neither be acknowledged nor actioned in any way. This time limit will be posted on the University website and will be made clear to the requester in any response letter.
3. Complaints will be handled in accordance with the procedure outlined below, even if the applicant does not state a wish for UEA to review its decision or its handling of the application.
4. Complaints will be acknowledged and the complainant will be informed of the UEA's target date for determining the complaint. Where it is apparent that determination of the complaint will take longer than the target time (for example because of the complexity of the particular case), UEA will inform the applicant and explain the reason for the delay.
5. UEA's target time for a response is no longer than twenty (20) working days from the receipt of the complaint, and in no case will exceed the statutory limit under Regulation 11(4) of 40 working days.
6. Target times for response to an appeal will be kept under review and the University will follow best practice and ICO guidance in this matter.
7. When acknowledging the complaint, the IPCMs will inform the complainant about its internal complaints procedure, and of their right to contact the Information Commissioner should they be dissatisfied with the response to their complaint.

Outcome of Complaint

8. Where the outcome of a complaint is that information should be disclosed which was previously withheld, the information in question will be disclosed as soon as practicable.
9. Where the outcome of a complaint is that UEA staff has not properly followed the procedures within UEA, UEA will apologise to the complainant. UEA will also take appropriate remedial measures to prevent similar errors occurring in future.
10. Where the outcome of a complaint is that an initial decision to withhold information is upheld, or is otherwise in the UEA's favour, the requester will be informed of his or her right to apply to the Information Commissioner, and will be given details of how to make an application, for a decision on whether the request

for information has been dealt with in accordance with the requirements of the EIR.

Processing of Complaint

11. General. The University will have in place a procedure for dealing with complaints in relation to the handling of requests under the EIR as set out below.

12. Informal resolution. There may be instances where the matter can be resolved quickly by the IPCMs and without recourse to a formal review; for example providing information inadvertently omitted, or correcting a misunderstanding.

13. Formal review. Where an informal resolution of a complaint is neither possible nor advisable, a formal internal review of the complaint will be conducted as follows:

a. The review will be conducted, where practicable, by a staff member who played no material role in the original decision. Additionally, any such person will have sufficient training and knowledge of the EIR to undertake the review. In most instances the Director of Information Services will conduct the review with assistance from the IPCM who did not handle the original request. Where appropriate, the review may be undertaken by another senior member of staff; normally the Registrar, a Pro-Vice-Chancellor, or the Vice-Chancellor.

b. The review will consider afresh the reasonableness of the decision and handling of the request.

c. The review will be impartial and will be free to substitute a different decision on a reconsideration of all factors relevant to the issue.

d. The outcome of the review will include the reasons for outcome of the review, details of any changes to the original decision, including precise citation of any exceptions added, and where appropriate an explanation of any reconsideration of the public interest.

e. The outcome of the review will be communicated to the complainant promptly and any action required to be undertaken by the University as a result of the review will be carried out as soon as practicable.

f. The University will keep records of all complaints and their outcome and monitor their own performance in handling complaints.