FOIA/EIR FREQUENTLY ASKED QUESTIONS

What is the main difference between FOIA and EIR?

The Freedom of Information Act 2000 (FOIA) applies to all recorded information held by public authorities, such as government departments and local councils. The Environmental Information Regulations 2004 (EIR) apply specifically to environmental information, such as data on pollution or planning. EIR also covers certain private bodies with public environmental functions, like water companies, whereas FOIA is limited to public authorities.

Do the Environmental Information Regulations apply to private companies?

Yes, the EIR apply to certain private bodies that exercise public functions relating to the environment. Examples include privatised water and energy companies. This is broader than FOIA, which generally only applies to public authorities listed in its schedule or designated under specific sections. If a private body holds environmental information and has these public functions, it must comply with EIR requests.

Is it easier to get information under EIR than FOIA?

The EIR have a stronger presumption of disclosure. All exceptions under the EIR are subject to a public interest test, meaning the authority must weigh the public interest in disclosure against the reason for refusal. In contrast, FOIA includes absolute exemptions, such as those for national security or court records, where the public interest test does not apply and the information can be withheld without this balancing exercise.

Which law applies if I request environmental information but mention FOIA?

Both regimes require public authorities to respond within 20 working days of receiving a request. However, the EIR take precedence over FOIA for environmental information. If you request environmental information but cite FOIA, the public authority should treat the request under the EIR because it provides stronger disclosure obligations. The Information Commission's (IC) provides guidance on when information is considered 'environmental'.

Who enforces these information access laws?

The Information Commission (IC) enforces both the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. If a request is refused or unanswered, you can complain to the IC. The IC has powers to issue information notices, decision notices, and enforcement notices, which are backed by contempt of court powers to ensure compliance.