



# Access to Information

## Annual Report on Access to Information 2014/2015

## Introduction

This is the second annual report published by Natural Resources Wales (NRW) on our performance in respect of our handling of information requests from our customers.

The statistics in this report relate to the handling of requests for recorded information under the Data Protection Act 1998 (DPA), the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). The statistics cover only requests logged by Natural Resources Wales' Access to Information team and excludes "routine" requests and information given out during the normal course of business. As a result, the data is only an indication of Natural Resources Wales' experiences and performance when responding to customers.

Handling of information requests, along with complaint handling, was identified as a priority area for organisational development last year. New processes have been implemented throughout the year to improve our handling of requests. We expect to maintain and improve in some areas, our performance in 2015/16 and beyond.

One key area of development was to proactively publish information on our website through a disclosure log. This was developed part way through the year and is a big step towards openness and transparency to the public, however with technical restrictions on the old website our disclosure log only contained details of what had been requested and the legislation it was treated under (EIR/FOI).

We are developing a new and improved disclosure log which we hope will be live in the coming months, our aim is to provide a search facility on the NRW website to enable the public to search for a specific subject, site or exemption/exemption used. This search facility will also contain all our response letters and any information that has been released as part of an information request under the Environmental Information Regulations 2004 and Freedom of Information Act 2000. All response letters will be redacted in compliance with the Data Protection Act 1998 prior to being published.

This report sets out our performance, the key lessons we have learnt and the development work we have undertaken during the year designed to improve our performance.

## Customer Care and Request Handling

How an organisation deals with information requests is a key component of its overall customer care culture and ambition for continuous improvement. Our overarching aims are to integrate dealing with requests into routine business whenever possible, respond to all requests within the legal deadlines and to provide as much information as possible to put any information we provide into context.

## Our step by step process for information request management

Natural Resources Wales is committed to dealing effectively and efficiently with all information requests that we receive. We aim to respond as soon as possible and no later

than the legal deadlines. The below step by step process was introduced this year to improve the timeliness of our requests:-

- **Day 1 – Acknowledge and log**

The request is logged on the ATI (Access to Information) database, a case number allocated and an acknowledgment letter issued to the requestor. The ATI lead officer will then identify (and make a call to establish) the correct people in the business to prepare the response. They will then send the request to the relevant staff.

- **Day 3 – Follow up call**

The ATI lead officer will call the business lead in order to confirm that they are progressing with responding to the request. They will evaluate if the request is reasonable and clear, whether it is already in the public domain, familiarise themselves with any issues with the information such as commercial sensitivity, and consider the need to request an extension as it may either be complex or voluminous. Using the 20 day countdown calendar, the date should then be agreed for the return of the information from the business. This should be within 10 working days.

- **Day 7 – Automatic email reminder sent to the lead officer from the database**

- **Day 8 – Chase business lead**

If no response is received from the business with regard to the progress of the case, speak to the relevant team leader and discuss the problem in question.

- **Day 9 – Consider escalation to the ‘Secretariat & Information Governance Team Leader’**

- **Day 10 – Information received (email reminder issued to lead officer from the database)**

Once the information has been received the ATI lead officer needs to check for any redactions which need to be discussed with the team manager.

Discuss the Public Interest Test with the team manager.

Prepare package for release and check all information has been received. Check it answers the request and consider whether additional context is required or pro-active communication due to sensitivity etc.

- **Day 11 – If the information is not received, management should discuss the best way forward**

- **Day 15 – Case review**

Any cases which are withheld/refused should be brought to the attention of the line manager. Seek any legal advice required.

- **Day 20 – Deadline day**

The ATI support officer prepares weekly reports in order to monitor the timescales for information requests and in order to update the officers involved on the progress of handling the case. These reports are shared with the Secretariat & Information Governance Team Leader, ATI Team Leader and the ATI Lead Officer.

## Volume of Information Requests

Natural Resources Wales received 376 requests for recorded information in 2014-15. Since the commencement of the FOIA on 1 January 2005 the number of requests received each year has fluctuated. In 2013-14 NRW received 640 requests that fell under the Freedom of Information Act, Environmental Information Regulations and the Data Protection Act.

During the period of this report we have established a single team to deal with ATI requests falling under FOIA, EIR and DPA. We have developed policy and logging procedures for business staff dealing with re-use requests and normal business requests, this means that whilst the number of ATI requests we deal with has reduced, the number of re-use and other requests has increased. We are now confident that requests are logged and responded to under the correct piece of legislation. Therefore the number of requests we have recorded for EIR is as expected based on experiences gained from 2013/14.

It is pleasing to note that over 98% of the requests were completed within the legal deadlines of each legislation. This is an improvement of 25% on last year, this is mainly down to all FOI, EIR and DPA cases being dealt with by a dedicated team, the Access to Information team and the clarified process for working with the wider organisation. New team members have received training and continuous mentoring to help to improve and develop the knowledge within the team. We have also made use of communication cascade routes to raise awareness with all staff in NRW to help them to identify cases early and provide the information that is required.

Where we have received repeat requests from the same applicant, we have focused on customer care and not yet invoked vexatious guidance from the ICO. We have also not implemented the 'Manifestly Unreasonable' exception, instead we have worked with requestors to narrow down requests and worked with the business in order to gather the most relevant information. It may be necessary in the future to consider the number of issues (including number of questions) of repeat requests and the impact it would have on our resources. The aim is to balance complying with the legislation and delivering our core services.

We will also be refining our logging procedure to enable analysis of the category of requestor. We aim to provide statistics differentiating between Assembly Members (AMs), the media, staff, Members of Parliament (MPs) and members of the public. This functionality is not yet available and will be developed in the next financial year.

## Performance in responding to requests for information

The FOIA and EIRs both require public bodies to normally respond to written requests for information within 20 working days of receipt, with limited exceptions. The FOIA allows for a reasonable extension to the 20 working day deadline when considering a public interest tested exemption and the EIRs allow for an extension of a maximum further 20 working days if the request is complex or voluminous.

Overall, of the 399 ATI requests that were completed (this includes some cases logged in the previous financial year), 376 were completed within the statutory deadline. 11 cases were not pursued by the requestor, 10 after seeking clarity from the requestor and 1 after seeking £10 payment and identification for a subject access request in line with DPA guidance.

7 cases were responded to outside of legislation, due to information being received late leaving the ATI team with only a limited time to respond. We continue to work hard to embed knowledge of ATI requests within the business. Steps and processes have been introduced to prevent us breaching the legal deadline, in the 5 months since these processes have been in place only 1 request was responded to late. This is a significant improvement from an average of one case per month being responded to outside of the legal deadlines before the new processes were put in place in October 2014.

### **ICO Monitoring:**

The Information Commissioner's Office monitor Natural Resources Wales' timeliness when responding to requests for information and internal reviews.

Natural Resources Wales will always endeavour to consistently provide responses to requests within the statutory timescale. Natural Resources Wales will also ensure that all employees who deal with correspondence, or who otherwise may be required to provide information, are familiar with the requirements of the FOI Act, the Environmental Information Regulations and associated Codes of Practice. Natural Resources Wales will also ensure that appropriate training is provided

### **Use of Exemptions and Exceptions:**

Under the FOIA, a public authority can only refuse to provide requested information that it holds if the:

- request is considered to be vexatious or repeated;
- cost of compliance would exceed the 'appropriate limit' (£600);
- fee is not paid;
- information falls into one or more of the categories of exemptions/ exceptions listed in the FOIA, EIRs 2004 or DPA.

A full list of the exemptions and exceptions can be viewed on the Information Commissioner's Office website.

Where Natural Resources Wales has used exemptions and/or exceptions available to withhold information, full explanations will be provided and published in the Disclosure Log on the Natural Resources Wales internet site.

The exemptions most commonly applied were EIR 12.4(d) information in the course of completion, EIR 12.5(b) In the course of justice EIR 12.5(e) Commercial confidentiality.

### **ATI – Quarterly/Annual stats**

## Overall summary:

Period covered in this report:	1 <sup>st</sup> April 2014 to 31 <sup>st</sup> March 2015
Total ATI requests received (EIR,FOI, and DPA)	376
*Total number cleared within legislation:	392
% cleared within legislation	98.25
Total number cleared <b>outside</b> of legislation requirements	7
Total number of outstanding cases which are <b>outside</b> of legislation requirements	0
Period covered in this report:	1 <sup>st</sup> April 2014 to 31 <sup>st</sup> March 2015
Total ATI requests received- Reuse	1850
*Total number cleared within legislation:	1915
% cleared within legislation	95.23
Total number cleared outside of legislation requirements	96
Total number of outstanding cases which are outside of legislation requirements	3

## Breakdown of requests by legislation:

	Total received year to date	Total cleared year to date
EIR	338	346
EIR Appeal	13	13
FOI	29	26
FOI Appeal	1	1
DPA	12	13
Reuse	1850	1915

### \*Legislation:

FOI within 20 days

EIR within 20 days or an extension made to 40 days in line with legislation

FOI reviews within 20 days

EIR review within 20 days or 40 days

DPA request 40 days

Reuse request 20 days

Cases where clarification request made and closed no response within 60 days

\*\*Please note that these stats include some requests that were received in 2013/14 but completed in 2014/15 and is the reason why we have closed more cases than we have received this year.

## Breakdown of completed requests by Directorate:

Communications	0
Finance	16
Governance	21
Information Services (IT)	2
Knowledge, Strategy and Planning	36
National Services	70
ODPM	11
Operations North and Mid	120
Operations South	123

We recognise that it may not always be clear whether the ownership sits with one single directorate, in these cases one directorate will lead seeking technical and procedural input from relevant colleagues, demonstrating cross working across the organisation.

### Internal Reviews:

Natural Resources Wales' complaints process is in line with the Information Commissioner's process for handling access to information-related complaints. In effect the process was amended from a three stage to a one stage process.

Requestors can ask Natural Resources Wales to undertake an internal review if: i) they do not agree with the decision to withhold some or all of the requested information; ii) the request was not dealt with within 20 working days; or iii) they feel that a fee was wrongly charged.

Natural Resources Wales undertook 14 internal reviews in 2014-15. This equates to 3.85% of all completed requests. Of the 14 internal reviews 6 were upheld, 7 not upheld and 1 was partly upheld.

We have recently developed a new refusal process where a refusal panel will discuss any information that is considered for refusal. The panel will consist of the ATI Lead Officer, ATI Team Leader and a member of the legal team, if needed a member of the area team that the information relates to will be involved in the discussions to provide background and clarity on the information.

## Cases involving the Information Commissioner

If a requestor is not satisfied with the Welsh Government's response, then they can complain to the Information Commissioner's Office (ICO), which is the independent regulator of public authorities in relation to the handling of information requests. On receipt of a complaint, the ICO will decide whether to investigate and may subsequently issue a Decision Notice. A Decision Notice is the ICO's final view on whether or not the public authority has complied with the FOIA or EIRs, and what remedial action (if any) needs to be taken. Not all investigations will result in a Decision Notice. Some investigations are resolved informally.

In 2014-15 the ICO investigated one complaint against Natural Resources Wales, which was not upheld.

## **Lessons Learnt**

Our performance indicates a significant improvement in the handling of information requests; in 2013/14 only 73% of cases were completed within the legal deadlines set by the various legislations, whereas this year 97% of requests were completed within the legal deadlines. This is a significant improvement which has mainly been achieved by the new process' that we have implemented throughout the year, as well as having one team designated to respond to all information requests that fall under DPA, FOIA and EIR legislation.

## **Moving forward 2015-2016**

We aim to make further minor improvements to our Access to Information policy, and the supporting procedures. Once this is in place we will undertake further awareness raising for staff to help them gain a better understanding of the various legislations that we are required to follow