

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)

UNDERTAKING

Public Authority: Wirral Metropolitan Borough Council
Wallasey Town Hall
Brighton Street
Wallasey
Wirral
CH44 8ED

Background

In December 2012 the Commissioner contacted Wirral Metropolitan Borough Council in relation to the timeliness of its handling of requests made under the FOIA and the EIR. The Commissioner expressed concerns that Wirral Metropolitan Borough Council was not displaying satisfactory performance in this regard and confirmed his intention to monitor its handling of requests received during a three month period.

The purpose of monitoring is to assess whether authorities are achieving satisfactory levels of compliance with the FOIA and the EIR. Where rates of compliance are low at the outset of the process, monitoring provides a structure and a focus for authorities to address any performance issues. At the end of the monitoring process, where an authority is able to demonstrate that rates of compliance have improved to a satisfactory level, there should be no need for the Commissioner to take further action.

Although, in this case, the Commissioner considers that more formal action at this stage would be disproportionate, he has the following concerns about Wirral Metropolitan Borough Council's performance and practice:

- At the close of the monitoring period there were a number of outstanding, overdue requests and internal reviews.
- Throughout the monitoring process less than 75% of requests were provided with a response within the appropriate timescales.

In view of the above, the Commissioner is concerned that Wirral Metropolitan Borough Council has not taken adequate steps to ensure it complies with its responsibilities under the FOIA and the EIR. The

Commissioner considers that an Undertaking, formalising Wirral Metropolitan Borough Council's commitment to openness and compliance with the legislation, is appropriate.

I, Graham Burgess, Chief Executive, for and on behalf of Wirral Metropolitan Borough Council, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. Wirral Metropolitan Borough Council is a public authority as defined in section 3(1) of the Freedom of Information Act 2000 (FOIA), and regulation 2(2) of the Environmental Information Regulations 2004 (EIR).
2. The Information Commissioner, having regard to the available evidence, considers that Wirral Metropolitan Borough Council need take steps to ensure that requests for information are dealt with appropriately. In particular he considers that a public statement of intent, facilitated by this Undertaking, will provide assurance that Wirral Metropolitan Borough Council has embraced the culture of openness and transparency the legislation seeks to promote.
3. The relevant provision of the FOIA is section 1 "*the general right of access to information held by public authorities*".
4. The relevant provision of the EIR is regulation 5 "*the duty to make available environmental information on request*".
5. Following consideration of Wirral Metropolitan Borough Council's performance during the monitoring period, the Commissioner will not exercise his powers under section 48 of the FOIA or regulation 16 of the EIR to issue a practice recommendation, or section 52 of the EIR to issue an enforcement notice, provided Wirral Metropolitan Borough Council undertakes the following:

Wirral Metropolitan Borough Council shall, as from the date of this Undertaking and for so long as similar standards are required by the FOIA, the EIR or other successor legislation, ensure that requests for information are handled in accordance with section 1 of the FOIA and regulations 5 and 11 of the EIR. Internal reviews are to be handled in accordance with part VI of the section 45 Code of Practice, or regulation 11 of the EIR as appropriate. In particular Wirral Metropolitan Borough Council shall:

- (1) provide the Commissioner with monthly updates about its request handling performance, accompanied by a list of any overdue requests, for a 3 month period, commencing with requests made on 1 July 2013 and ending with those made on 30 September 2013;**
- (2) ensure that, by the end of the monitoring period, at least 85% of requests are handled within the statutory time limits and 85% of internal reviews are handled within the timescales set in the Commissioner's guidance.**
- (3) take steps to ensure that appropriate resources are allocated to request handling and that these resources are regularly reviewed for effectiveness;**
- (4) take steps to ensure that all employees who deal with correspondence, or who otherwise may be required to provide information, are familiar with the requirements of the FOIA, the EIR and associated Codes of Practice, and that appropriate training is provided;**
- (5) by the end of the monitoring period ensure that all the overdue responses to requests and internal reviews identified in Wirral Metropolitan Borough Council's correspondence to the Commissioner of 25 June 2013 have received responses.**

Dated

Signed.....

Graham Burgess, Chief Executive

Dated

Signed.....

Gerrard Tracey, Principal Adviser