

## *Disclosure and exemptions (cont'd)*

Certain exceptions will be of particular relevance to third parties providing information to public bodies. For example, under the EIRs disclosure may be refused where this would:

- Damage commercial interest
- Breach intellectual property rights
- Harm the interests of a person who supplied information voluntarily or
- Adversely impact on international relations, defence, national security or public safety.

Where information relates to emissions, there are only very limited exceptions under which it can be withheld.

Third party personal data will not be released, if releasing it would breach the 6 Data Protection Principles outlined in the Data Protection Act.

## *Consultation and disclosure decisions*

The decision about where the balance of public interest lies, and whether information should be released, rests with the public body that holds the information, not the supplier of the information. However, AFBI will, wherever practical, consult with the relevant third party before reaching a decision on disclosure of the information which they have supplied. This will enable the third party to highlight any harm which might arise from disclosure, and AFBI will take careful account of this when deciding whether to release or withhold such information.

### *Rights of appeal*

If those who are requesting information disagree with a decision by AFBI to withhold information, they can appeal directly to a senior officer in AFBI, and if they remain dissatisfied, to the Information Commissions Office (ICO). There is also a right of appeal against the Commissioner's decision for both the requester and AFBI, to the Information Tribunal.

### *For further information*

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# ***ACCESS TO INFORMATION***

## **How will it affect information you supply to AFBI?**

## *Access to information*

The purpose of this leaflet is to advise stakeholders, businesses and other organisations who provide information and services to the Agri-Food & Biosciences Institute (AFBI), about the implications of the Information Access legislation which has been in force since 1st January 2005.

## *Background*

Information Access legislation includes three main pieces of legislation:

- Freedom of Information Act 2000 (FOIA);
- Environmental Information Regulations 2004 (EIRs); and
- Data Protection Act 2018 (DPA).

This legislation creates a new system of fully enforceable rights of access to information held by all public authorities and demonstrates the commitment to openness in government.

## *Right of access*

These new rights apply to all information no matter how recent or how old and it makes no difference who holds the information. Requests for information can be made under this legislation as follows:

- Environmental Information Regulations 2004, provide a right of access to environmental information, subject to certain exceptions;
- Data Protection Act 2018, incorporating the EU General Data Protection Regulation (GDPR), provides access for individuals to their own personal data; and
- Freedom of Information Act 2000, provides a right of access to all other information held by public authorities, subject to certain exemptions.

## *Disclosure and exemptions*

Whilst the legislation makes provision for the disclosure of information, certain types of information are protected from release. Exemptions (under FOIA) and exceptions (under EIRs) protect information from disclosure:

- Under FOIA, exemptions are either absolute, in which case the information requested is exempt as a matter of course, or qualified, in which case the release of information has to be considered in the context of the wider public interest (the 'public interest test').
- Under the EIRs, all exceptions are subject to the 'public interest test'\*
- Under the DPA, an exemption for third party personal information can be claimed under the 6 Data Protection Principles.

\* The 'public interest test' means that if the public interest in disclosure outweighs the public interest in withholding the information, it must be disclosed.