

# **ENVIRONMENTAL INFORMATION REGULATIONS POLICY**

<p><b>Purpose</b></p>	<p>The purpose of this policy is to enable NWL to:</p> <ul style="list-style-type: none"> <li>• Comply with the Environmental Information Regulations 2004 (EIR).</li> <li>• Follow best practice in that compliance.</li> <li>• Treat environmental information appropriately in line with our EIR obligations.</li> <li>• Minimise the likelihood of a breach of its EIR obligations.</li> </ul> <p>Reduce the risk of:</p> <ul style="list-style-type: none"> <li>• Reputational damage.</li> <li>• Regulatory action.</li> <li>• Civil action or litigation against the company.</li> <li>• Criminal sanctions.</li> </ul>
<p><b>Scope</b></p>	<p>This policy applies to anyone who records environmental information on behalf of NWL or who receives requests for environmental information as part of their employment.</p> <p>It applies to all environmental information recorded by NWL or by anyone on behalf of NWL, and all related activities and systems.</p>
<p><b>Review</b></p>	<p>This policy will be reviewed by the Information Access Team every twelve months, or as required (e.g. by legislative change).</p>

## Policy statement

For the successful and efficient performance of our business, it is necessary for NWL to record information which is about, or which affects the environment.

When recording environmental information, we will comply with our EIR obligations and strive to achieve best practice in regard to protecting the public right of access to that information.

We will be open, honest, and ethical towards the environmental information we hold.

We will provide training and support to those employees required to handle environmental information so that they can act confidently and consistently to ensure that information can be disclosed to the public when necessary.

We will ensure that the public right of access to environmental information is established, respected, supported, and encouraged. This will include the progressive and proactive publication of environmental information, and the effective and efficient response to requests for access to that information.

We will be ethical in complying with the EIR principles to ensure that:

- The public is aware that we process environmental information.
- Our environmental information is progressively and proactively published via our website.

- Applicants seeking environmental information are offered the best advice and assistance to:
  - Understand what information we have.
  - Find the information they require.
  - Understand the information they receive.
- Requests for information are responded to promptly, and within the statutory timescales.
  - We inform the applicant of any charges that apply as soon as possible.
  - We presume in favour of disclosure for all such requests.
  - We only withhold information in exceptional situations (such as if required to do so in line with an EIR exception) and where the public interest in maintaining the exception outweighs the public interest in the information's disclosure, for example;
    - We don't hold the requested information
      - Or we do, but it is unfinished or in the course of being completed (in which case we should inform the applicant of the expected completion date).
    - The request is manifestly unreasonable because it:
      - Is vexatious (manifestly unjustified, inappropriate or improper use of the formal procedure)
      - Asks for too much information, or
      - Is too general
        - And in all cases we have attempted to help the applicant to refine or clarify their request.
    - The request involves the disclosure of internal communications.
    - Disclosure would adversely affect international relations, defense, national security or public safety.
    - Disclosure would adversely affect the course of justice.
    - Disclosure would compromise intellectual property rights covered by patents, trademarks, and unregistered designs that would not be protected before or after publication.
    - Disclosure would compromise the confidentiality of the proceedings of a public authority (where such confidentiality is provided by law).
    - Disclosure would compromise commercial or industrial confidentiality (where such confidentiality is provided by law, such as trade secrets, information supplied by contractors, information supplied as part of a tendering/procurement process, information held by regulators, etc.)
    - Disclosure would compromise the interests of the supplier of the information (where information was supplied on a voluntary basis in the expectation of non-disclosure and the supplier has not consented to disclosure).
    - Disclosure would compromise protection of the environment (e.g. information on the nesting site of a rare bird) or lead to the damage of a 'cultural site'.
    - Disclosure of the information involves personal data and would be unlawful under the Data Protection Act 1998.
  - We keep applicants informed of the progress of their request, including details of any delays.
  - We advise applicants of their right to:
    - An internal review.
    - Their right of appeal to the Information Commissioner if they are dissatisfied with the service received or the response to their request.
  - All requests are logged and monitored.

- Training, guidance, and support are made available to enable employees to comply with the requirements of this Policy.

## Definitions

We use terms in this Policy which come from EIR. The primary definition of interest concerns what is environmental information. This is as follows:

**Environmental information** is any information in written, visual, aural, electronic or any other material form on:

- a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- d) reports on the implementation of environmental legislation;
- e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

## Risks

The consequences of failing to meet our EIR obligations are:

- Reputational damage;
- Regulatory action;
- Civil action or litigation against the company; or
- Criminal sanctions.

Damage to NWL reputation may result in:

- Loss of customer trust;
- Loss of employee trust;
- Damage to customer relationships;
- Loss of business; or
- Damage to the NWL brand.

Regulatory action by the ICO includes:

- A *decision notice* which specifies if the ICO believe NWL have complied with the EIR;
- An *undertaking* that commits NWL to action in order to improve our compliance;
- An *enforcement notice* requiring NWL to take (or refrain from taking) compliance actions; and
- An *assessment notice* to conduct a compulsory audit on our EIR practices.

Civil law action may result in:

- A High Court decision which holds NWL in contempt of court if it is found that NWL have failed to comply with an ICO notice. This can result in a fine of up to £5,000 if convicted at Magistrate’s Court, or an unlimited fine if convicted at Crown Court.

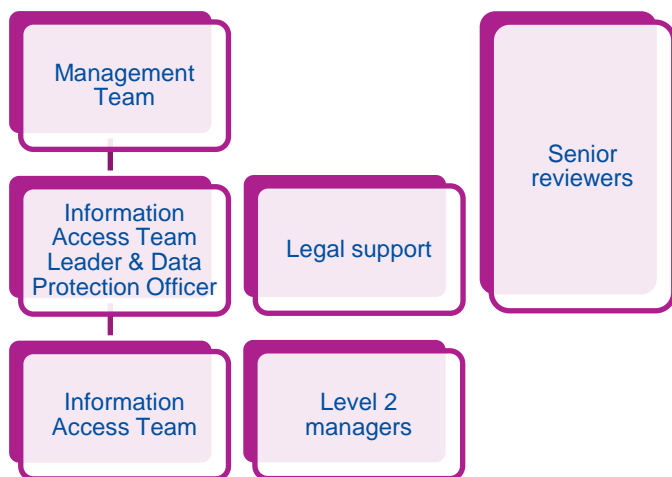
Criminal offences include:

- To alter, deface, block, erase, destroy or conceal any record held with the intention of preventing the disclosure of the information to which the applicant would have been entitled. This can result in a fine of up to £5,000 if convicted at Magistrate’s Court, or an unlimited fine if convicted at Crown Court

Any director, manager, secretary or similar officer will be *personally liable* where they commit such offences or allow them to be committed by consent, connivance, or negligence.

## Responsibilities

EIR compliance structure and responsibilities are outlined here:



## All employees

All employees are required to implement good practice in relation to any environmental information they process in carrying out their duties.

All employees will:

- Ensure that all environmental information they produce, capture, or process is suitable for publication to the public.

- The content is complete, accurate, and factual.
- The information is in a format and location that is secure, easily retrievable, and ready for publication.
- Ensure they understand our EIR obligations, can recognise a request for access to environmental information, and know when to;
  - Respond directly in an EIR compliant manner (informing the Information Access Team where appropriate), or
  - Refer the request to the Information Access Team to respond.
- Cooperate with the Information Access Team to ensure that environmental information can be:
  - Proactively published to our website.
  - Reactively provided to a requestor as soon as possible within 20 working days.

In addition, certain roles have extra responsibilities to ensure our EIR compliance is maintained.

## **Management Team**

The Management Team will ensure we are able to comply with our legal and ethical obligations as addressed by this policy.

The responsible director for EIR will:

- Ensure they have a working knowledge of EIR in order to fully understand issues that are escalated to them. Issues that are escalated are likely to relate to:
  - Requests with significant financial implications;
  - Requests likely to result in local or national media coverage; and
  - Requests where there are legitimate concerns about public health.
- Approve and sign off any sensitive or significant proactive environmental information publication.
- Act as an 'unblocker' where the Information Access Team experiences difficulty in obtaining information, or faces resistance to disclosure from another part of the business.
- Provide strategic oversight to the progressive proactive publication of environmental information.

## **Information Access Team Leader & Data Protection Officer**

The Information Access Team Leader & Data Protection Officer will:

- Identify requests which may have a significant impact on the business.
- Liaise with senior managers to ensure information is located promptly.
- Ensure the business understands the importance of supporting the Information Access Team.
- Determine, from the list of internal reviewers, who is most appropriate to undertake a review.
- Monitor compliance with deadlines.
- Ensure all responses are in line with regulator and legal guidance.
- Address and monitor resourcing.
- Lead and implement the EIR strategy.
- Liaise with the responsible director to understand the board's key concerns.
- Where appropriate escalate issues to the EIR board member.

- Update management team on EIR progress as requested.
- Update EIR on the ISLT scorecard monthly.

## Information Access Team

The Information Access Team will:

- Keep full and accurate records of any proactive or reactive EIR disclosure.
  - Log and coordinate the response to any EIR request.
  - Ensure any exceptions to disclosure are appropriately applied.
  - Ensure appropriate redactions are applied.
- Establish an appropriate EIR framework for the business to implement, including:
  - Secure technical processing of environmental information.
  - Policy, procedure, and other organisational measures relevant to our EIR compliance obligations.
  - EIR training.
- Advise and support the business in implementing:
  - EIR compliance best practice.
  - A proactive environmental information publication scheme.
    - This includes coordinating the progressive and proactive publication of environmental information to our website.
  - Efficient, effective, and customer-focused reactive environmental information request disclosure.
    - This includes an effective review process where an applicant makes representation that we have failed to comply with our EIR obligations in regard to a request.
- Brief Management Team on EIR performance.
- Identify and escalate relevant issues and requests to the designated responsible director.
- Liaise with the Information Commissioner's Office regarding EIR.
- Liaise with Water UK and other industry bodies, where relevant, regarding EIR.

## EIR Senior Reviewer

The EIR senior reviewer will:

- Conduct any review of a reactive environmental information request disclosure, where an applicant makes representation that we have failed to comply with our EIR obligations in regard to that request.
- Ensure all reviews are conducted independently of any individual involved in the original decision.

## Level 2 Managers

Level 2 Managers in areas where environmental information is recorded will ensure that in their area of responsibility:

- EIR compliance best practice is followed.
- The EIR compliance framework is fully implemented.
- Employees are trained and vigilant with regard to their EIR obligations.
- All environmental information is captured or created in a manner that is suitable for publication to the public.
  - The content can be collected in a verifiably complete, accurate, and factual way.
  - The information can be collected and stored in a format and location that is secure, easily retrievable, and ready for publication.

- Any EIR requests and disclosures are appropriately recorded, and that the Information Access Team is involved or informed.
  - Where disclosure of environmental information occurs at a local level (e.g. as part of a *business as usual* arrangement), the manager will ensure they are aware of, approve and sign off, and keep accurate records of any such disclosure.
  - Where disclosure is not part of business as usual, the manager will ensure that the issue is handed to the Information Access Team.
- Any EIR challenges or non-compliance is promptly identified and referred to the Information Access Team for attention.

## Non-compliance

Non-compliance with this policy may result in NWL failing to meet its EIR obligations and risks regulatory action from the ICO.

Any breach of this Policy will therefore be taken seriously and may result in disciplinary action.

<b>REFERENCES:</b>	EIR Strategy DPP001 Data Protection Policy
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