



This memorandum of understanding sets out areas of shared responsibility in relation to the Freedom of Information (FOI) Act 2014 and European Communities (Access to Information on the Environment) Regulations 2007 to 2014 between the Environmental Protection Agency (EPA) and the Climate Change Advisory Council

Signed:

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on behalf of
Environmental Protection Agency

Date:

6/10/2016

Signed:

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on behalf of
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Date:

6/10/2016

1. Introduction

This Memorandum of Understanding (MOU) between the Environmental Protection Agency (EPA) and the Climate Change Advisory Council provides a framework for how the EPA and the Climate Change Advisory Council (the Council) will manage Freedom of Information (FOI) and Access to Information on the Environment (AIE) requests.

The Environmental Protection Agency

The EPA is an independent public body established under the Environmental Protection Agency Act, 1992. The Environmental Protection Agency (EPA) has responsibilities for a wide range of licensing, enforcement, monitoring and assessment activities associated with environmental protection and radiological protection. Primary responsibilities of the EPA include:

- Environmental licensing
- Enforcement of environmental law
- Environmental planning, education and guidance
- Monitoring, analysing and reporting on the environment
- Regulating Ireland's greenhouse gas emissions
- Environmental research development
- Strategic environmental assessment
- Waste management
- Radiological Protection

The EPA is subject to the Freedom of Information Act 2014 and European Communities (Access to Information on the Environment) Regulations 2007 to 2014.

The Climate Change Advisory Council

The Climate Change Advisory Council was established under the Climate Action and Low Carbon Development Act 2015. The Act outlines the Council membership, functions and obligations including the provision of:

- Annual Review and Report
- Periodic Review and Report

The functions of the Advisory Council shall be to advise and make recommendations to the Minister and Government in relation to:

- the preparation and approval of a national mitigation plan
- the preparation and approval of a national adaptation framework
- compliance with any existing obligation of the State under the law of the European Union or any international agreement referred to in section 2
- sectoral mitigation measures and plans
- policies in regards to:
 - the reduction of greenhouse gas emissions, and
 - adaptation to the effects of climate change in the State.

The Advisory Council shall be independent in the performance of its functions.

The Climate Change Advisory Council is subject to the Freedom of Information Act 2014 and European Communities (Access to Information on the Environment) Regulations 2007 to 2014.

Relationship

The Climate Action and Low Carbon Development Act 2015 requires that the EPA support the independent functioning of the Council through the provision of appropriate secretarial and administrative services. In response to this, and in consultation with the DECLG and the Council,

the EPA has provided expert and administrative staff to support the function of the Council. These are employed by the EPA, and therefore fall under the EPA governance, management and administrative structures but must also support and conform to the practices and procedures of the Council where necessary to ensure its independence.

Appropriate procedures must be established to ensure the integrity of the information and the most efficient practices to be established to ensure that FOI/AIE queries can be dealt with in a timely manner.

2. Objective of the Memorandum of Understanding

The purpose of this memorandum is to outline roles and responsibilities when addressing matters relating to the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 to ensure both bodies can meet their obligations prescribed under the relevant pieces of legislation consistently and efficiently. While this document aims to address the majority of situations and processes, circumstances may arise that fall outside of this memorandum and will have to be approached on an individual basis with both bodies involved in the resolution of the query or issue.

3. Structures and Processes

The EPA has robust structures and procedures in place to ensure the orderly processing of requests made under FOI and AIE.

The Council is responsible for maintaining their own FOI and AIE procedures and structures. The Council's FOI structure is:

- FOI Administration Support - Secretariat
- FOI Officer/Data Protection Officer – Ordinary Council Member
- FOI Decision Maker – Ordinary Council Member
- FOI Internal Reviewer – Chair of the Council

4. Processing Requests

When either party receives a request, the EPA and the Council will follow the recommended procedures outlined in the *Freedom of Information Decision Makers Manual*¹ or the *Guidance for Public Authorities and others on implementation of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011*² and adhere to the *Freedom of Information Act 2014* and the *European Communities (Access to Information on the Environment) Regulations 2007 to 2014*. Guidance on how to process the request can be sought from either party, and every effort between the two parties to coordinate and assist the other will be made.

5. FOI/AIE Training

It is the responsibility of the Climate Change Advisory Council Secretariat to arrange necessary training for the FOI Administration Support, the FOI Officer/Data Protection Officer, FOI Decision Maker and the FOI Internal Reviewer.

6. Records Management

Records belonging to the Climate Change Advisory Council are held by the Secretariat and should also be treated as independent of the EPA. Records are currently stored in a restricted location hosted by the EPA, with only the Council Secretariat and relevant IT Administrators having access to these records.

¹ Freedom of Information Decision Makers Manual Part 1: Processing an FOI Request, FOI Central Policy Unit, Department of Public Expenditure and Reform.

² Guidance for Public Authorities and others on implementation of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011, Minister for the Environment, Community and Local Government under Article 14 of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011.

The Climate Change Advisory Council is responsible for maintaining and updating the records contained on this server. Should the EPA request operational information from the Secretariat, the Secretariat will oblige so long as the independence of the Council is not compromised.

7. Resolving FOI/AIE conflicts

Should an issue arise between the EPA and the Climate Change Advisory Council in how to respond to a request or in the provision of operation information, the FOI Officers from each party will communicate to try and resolve the issue in the first instance. If agreement cannot be reached, the issue will be escalated to the next appropriate level within each party, who should then agree on any steps that are necessary to resolve such a conflict. Ultimate responsibility will remain with the party that has received the request.

8. Publication Scheme

Section 8 of the Freedom of Information Act 2014 requires FOI bodies to prepare and publish as much information as possible in an open and accessible manner on a routine basis outside of FOI, having regard to the principles of openness, transparency and accountability as set out in Sections 8(5) and 11(3) of the Act. The EPA and the Climate Change Advisory Council will each publish a publication scheme pursuant to its own activities.

9. FOI/AIE Statistics

Should statistics from the Climate Change Advisory Council in relation to FOI or AIE queries be requested, the Council will oblige and provide the data necessary.

10. Engagement with the Office of the Information Commissioner

The Council will liaise directly with the Office of the Information Commissioner when required.

11. Memorandum of Understanding Review

The EPA and the Climate Change Advisory Council will review this memorandum annually to ensure it remains operationally effective. Recommendations ahead of the review will be submitted for consideration and will be decided by the respective signatories. Should an urgent revision of this memorandum be required, the signatories to this memorandum may meet to discuss the revision outside of this yearly review pattern.