



## **The London Borough Of Hillingdon and the Freedom of Information Act 2000:**

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# **The London Borough Of Hillingdon and the Freedom of Information Act 2000:**

## *Introduction*

1. The Freedom of Information (FOI) Act 2000 received Royal Assent on 30 November 2000 and will be brought fully into force by 1 January 2005. The Act provides for a general right of access to information held by public authorities or by those providing services of a public nature.
2. The FOI Act will apply to some 100,000 public authorities, including Central and Local Government, Parliament, the National Assembly for Wales, the armed forces, the police, hospitals, GPs and dentists, schools, publicly-funded museums and many others. Northern Ireland has decided to adopt and operate the Act in line with England and Wales. The Scottish Parliament has enacted separate Freedom of Information legislation introduced by the Scottish Executive, which applies to bodies within the competence of the Scottish Parliament. The Scottish Act will also be fully in force on 1 January 2005.
3. The Act establishes a general statutory right of access to information. Once implemented, in January 2005, a person who writes to (or emails) a public authority and asks for information will have the right to be told whether or not the authority has the information and, if so, to have that information communicated to him, subject to clearly defined exemptions. Applicants do not have to specify that they are making the request under the Act. The Act is fully retrospective, i.e. it applies to all information held by an authority, not merely information created or acquired by it after 1 January 2005.
4. The Act contains Exemptions, which specify the circumstances in which information may be withheld. Many of the exemptions will be subject to a "public interest" test. Where the public interest test applies, the authority will still be required to disclose the information, unless it can demonstrate that the public interest in withholding the information outweighs the public interest in disclosing it. Other Exemptions are "absolute", which means that the public interest test does not have to be applied.

5. Any decision not to disclose information may be subject to an appeal to the independent Information Commissioner. Decisions of the Information Commissioner can be challenged by the applicant or the public authority to the Information Tribunal, free of charge, and then to the courts on a point of law. The Act gives Ministers at Cabinet level the ability to override the Commissioner's decision that a Department (or other public authority specified by Order) discloses exempt information in the public interest.
6. This Document will lay out how the London Borough Of Hillingdon will respond to the Challenge posed by the Freedom of Information Act. It contains, a policy and procedure for handling requests for information, a guide for staff on the legislation and a guide for members of the public.

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# **The London Borough of Hillingdon and the Freedom of Information Act 2000**

## **A Staff Guide to the Act**

### **How Does the Freedom of Information Act work?**

The Freedom of Information Act facilitates access to information held by public authorities in two ways:

1. By requiring public authorities to adopt and maintain publication schemes. A Publication scheme is list of the information routinely made publicly available. This should have the effect of improving the amount and quality of information routinely made available to the public.
2. By creating a right to make a request for information (effective from 1 January 2005).

### **Who has a right of access?**

Anyone, including people living abroad, non-UK citizens, journalists, political parties, lobby groups and commercial organisations, will have the right to ask public authorities for any information they hold.

### **Do they have to justify why they need access?**

No, the purpose for which they will use the information is irrelevant.

### **How does an individual make a request for information under the Act?**

- All requests must be made in writing (which includes transmission by electronic means i.e. fax and email).
- Must be made in a legible form.
- A request must state the name of the applicant and provide an address for communication.
- Describes the Information Requested.
- It is important to note that a requester does not need to mention the Freedom of Information Act; they may merely request access to information.

### **How do we respond to a Request?**

- We have a duty to either confirm or deny if the information exists.
- The applicant may express a preference for communication of the information by any one more of the following means;
  - Provide a copy in a permanent form or another form acceptable to the applicant.
  - The provision of a reasonable opportunity to inspect the record containing the information.

- A digest or summary of the information in a permanent form or another form acceptable to the applicant.
- We must, as far as is reasonably practical, give effect to the requester's stated preference.

### **Can we charge for the Information?**

The Act allows us to make a charge for responding to requests. How much we can charge is laid down in separate regulations (The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004).

We can make a charge for Photocopying, printing, postage and packaging costs, but we cannot charge for time taken to respond a request.

The Act and the Regulations do however, lay down a limit to how much a request can cost. If a request would cost us over £450 (equivalent to 2 ½ days of officer time), an authority is not obliged to respond to the request.

If a charge is to be made for a request, we must inform the individual of the necessary charge promptly. The individual then has three months to pay. Until such fee is paid we are under no obligation to provide the requested information.

The scale of fees that the London Borough Of Hillingdon charges for requests is laid out in our Freedom of Information Charging Policy.

### **How long do we have to respond to a request?**

We have to respond to a request within 20 working days of receiving it. This is regardless of the geographical location of the individual making the request.

If a fee is to be paid we have 20 working days to respond from the day the fee is received. In addition, where we reasonably require further information from the individual to fulfil the request, we do not have to respond until that information is provided. However, where we require further information we must contact the individual promptly.

### **Are there circumstances where we can refuse a request for information?**

Yes, there are exemptions under the Act. The exemptions fall into two categories; absolute and qualified exemptions. Qualified exemptions are subject to a public interest test, i.e. although an exemption may exist, if the public interest in disclosing the information is greater than the public interest in withholding the information then the exemption will not apply. A list of the exemption is available on the internal website.

In addition, we can refuse a request for information if the request is:

- vexatious,
- Where we have recently responded to a similar request from the same applicant,
- Where further information is not received from the applicant
- Where a fee has been requested but not paid, or
- In circumstances where we estimate that the cost of complying with a request would exceed the appropriate limit (£450 – 2 ½ days of officer time)

### **How do we refuse a request?**

If we not going to satisfy a request then we must communicate this to the individual by serving a refusal notice to the applicant. A refusal notice should contain:

- A statement to why the request is being refused, what exemption applies and why.
- Details of our complaints handling policy.
- The Details of an individual's right to complain to the Information Commissioner under section 50 of the Act.

### **Who has responsibility within the London Borough of Hillingdon for Freedom of Information?**

The Data Protection Officer based in Legal Services has responsibility for Freedom of Information within the Council. If you have any questions regarding the Act then do not hesitate to contact him.

Location: Legal Services, Chief Executives Office, Civic Centre 3E 04  
Email: [ringle@hillington.gov.uk](mailto:ringle@hillington.gov.uk)  
Ext: 6923

# **The London Borough Of Hillingdon and the Freedom of Information Act 2000:**

## **Policy for Responding to Requests For Information**

### **1. Advice and Assistance**

The London borough of Hillingdon will provide individuals with information on their right of access to information held by the Council under the Freedom of Information Act.

The Information will include:

- An explanation of the Publication Scheme, what information is on it and how to access it.
- How to make a request for information to the London Borough Of Hillingdon for information not included on the publication scheme.
- How the London Borough Of Hillingdon will deal with a request for information.

This Information will be made available to the members of the public via the website and leaflets in public libraries. Members of staff will also provide this information on request.

The London Borough Of Hillingdon will, where necessary, also assist individuals in making a request for information. The type of assistance we provide will depend on the circumstances of each case, but may include:

- Advice as to what types of information we hold and how it is filed.
- Advice as to other organisations who may be able to help them make a request.
- Provide a general response to the request setting out options for further information which may be provided on request.

It is important to note that this is not an exhaustive list, and that assistance of this nature is only available in certain circumstances.

### **2. Charging for Requests**

The Freedom of Information Act 2000 allows public authorities to charge a fee for access to information. The scale of charges is laid down in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

As the London Borough of Hillingdon has a duty to the Council taxpayer to ensure that public funds are spent appropriately, we will charge fees where allowed by legislation to cover the costs of responding to requests.

The fee regulations do not apply in circumstances where:

- The material is made available under the publication scheme.
- The information is reasonably accessible to the applicant by other means.
- Or where the fee that may be charged for information is set down in legislation other than the Freedom of Information Act or Fees Regulations.

In circumstances where the cost of fulfilling a request exceeds an 'appropriate limit' (£450), a public authority is not obliged to comply with the request.

Where a fee is required for a request this will be communicated to the applicant, as soon as is practicable, in a fees notice.

An applicant has three months from the date of the fees notice to provide the requested fee. Unless and until the fee is paid we are not obliged to comply with the request.

See the FOI Fees Policy for more information.

### **3. Handling requests that appear as part of an Organised Campaign**

If the cost of responding to a request exceeds the 'appropriate limit,' a Public Authority is not obliged to respond to the request.

Where the London Borough Of Hillingdon receives multiple requests for information that appear to be part of an organised campaign and where the costs of responding to each request exceed the appropriate limit, we will consider alternative arrangements for making the information available to all the applicants.

### **4. Transferring requests for Information**

If the London Borough of Hillingdon receives a request for information for which we only hold part or none of the information requested by the applicant and which we reasonably believe may be held by another public authority we will:

- Contact the applicant and inform them that another public authority may hold some or all of the information.
- Suggest that the applicant reapplies to that authority in regards to the information we do not hold.

- Provide them with the contact details for that authority, which we believe, may hold the information requested.

In some circumstances we may decide that it would be appropriate to transfer the request directly to the other public authority, which we believe may hold the information requested.

When we do this we, will firstly contact that public authority to ascertain whether they do hold the information requested. We will then contact the individual to inform them that we are transferring the request. The individual will be given the opportunity to object to the transfer before it takes place.

## **5. Consultation with third parties**

In certain circumstances, the London Borough of Hillingdon will not be able to fully respond to a request because to do so may affect the legal rights of a third party.

The two main circumstances will be:

- Information provided in confidence.
- Information constituting personal data as defined by the Data Protection Act 1998.

Where a duty of confidence exists in relation to any information covered by a request, the London Borough Of Hillingdon will take steps to consult the appropriate third party with a view to seeking their consent for the disclosure.

Where the information constitutes personal data, the London Borough of Hillingdon will consider the necessary parts of the Data Protection Act 1998 before determining our response. This process may also involve, where appropriate, seeking the consent of the individual involved.

Where the interests of a third party are at stake, but where we do not have a duty of confidence to the third party, we will consult the third party when:

- The views of the third party may assist us in determining whether an exemption under the Act applies.
- The views of the third party may assist us in determining where the public interest lies.

## **6. Refusal of requests**

Where a request for information is refused the London Borough of Hillingdon will serve a refusal notice. The refusal notice will

communicate to the applicant the decision and the reasons behind that decision. The reasons for which a public authority can refuse a requested are listed in the Freedom of Information staff guide.

Information regarding the London Borough of Hillingdon's Freedom of Information Complaints procedure will be included in any refusal notice.

A record will be kept of all requests that are refused. This record will include circumstances where only part of the request was refused.

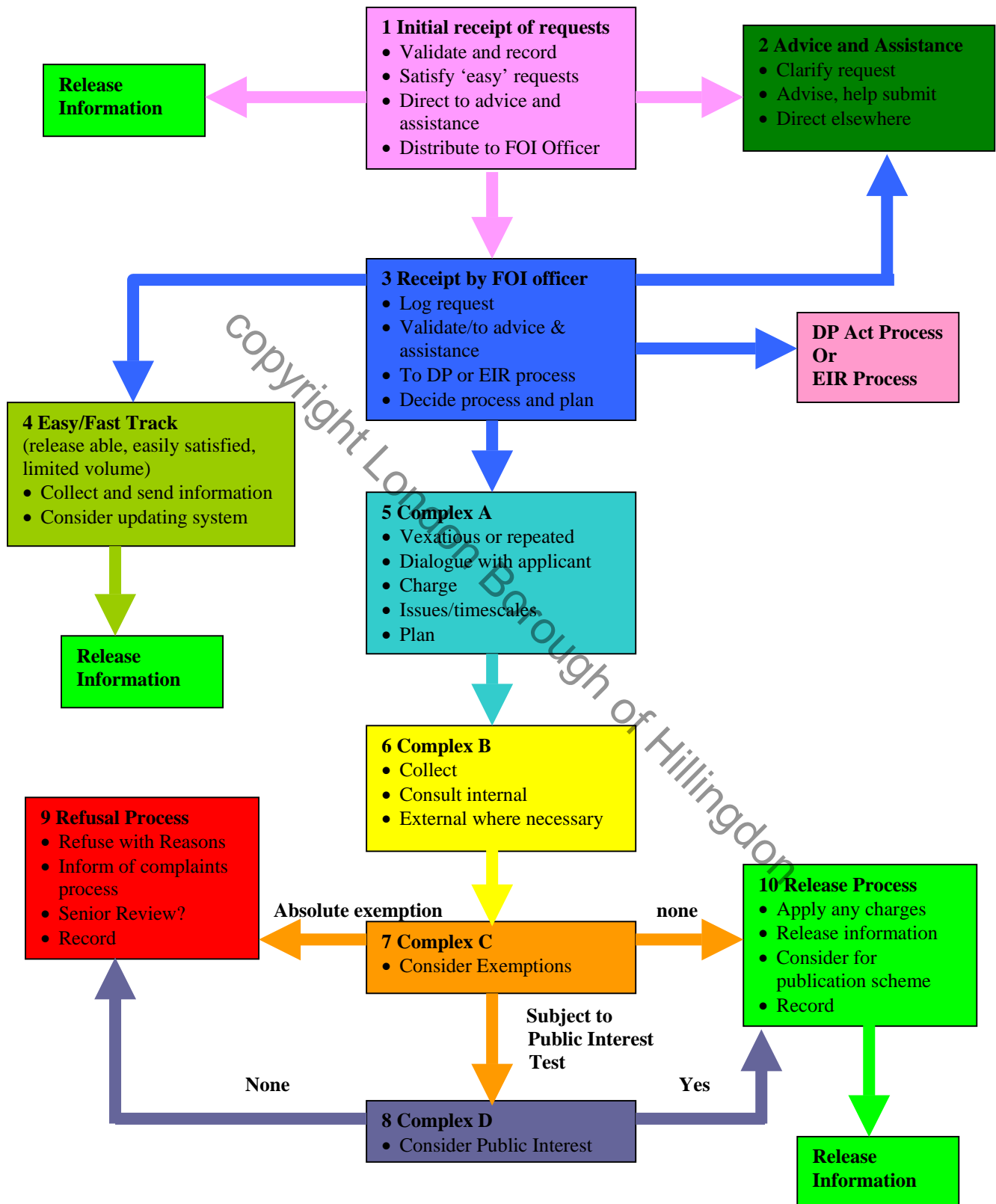
## **7. Complaints Procedure**

The London Borough of Hillingdon has put in place a complaints procedure to deal with cases where an applicant considers that their request has not been properly handled, or who are otherwise dissatisfied with the outcome of the consideration of their request.

Details of the complaints procedure will be provided to an applicant at the same time we communicate to them the decision regarding their request.

The Complaints Procedure will be available on the councils website or by contacting the FOI Officer.

## Handling Request under the Freedom of Information Act 2000 – Key Processes



## **1. Initial receipts of requests**

- All requests for Information under the Freedom of Information Act 2000 must be made in writing.
- A request for information can arrive in any part of the organisation.
- If you receive a request and the information requested is part of your normal business activity there is no need to take any further action – just respond to the request as you would normally. This would apply if the request was made verbally; if it was part of your normal business activity then supply the requested information.
- If the request for information is not what you would normally deal with either contact the Data Protection Officer (who is responsible for the Freedom of Information Act) or your department FOI Officer who will advise you on what to do next.
- If the request is for information about an individual – forward the request on to the Data Protection Officer.

## **2. Advice and Assistance**

- We have an obligation to provide advice and assistance to individuals seeking access to information.
- If an individual is trying to make a request then provide information on how to make a request for information under FOI
- Direct the individual to the Councils Website or send them an Access to Information Pack.
- If Hillingdon is not the correct organisation – either inform the individual of the correct organisation or pass the request to that organisation directly.

## **3. Receipt by FOI Officer**

- Majority of requests will be dealt with directly by front line staff. However if the request is outside their normal business activity, they should contact the FOI Officer.
- The FOI Officer may also receive requests directly.
- The FOI Officer will log all requests he receives either directly or from frontline staff.
- He will consider all requests.
- If the request is for Personal Information, he will deal with it under the Subject Access Policy and Procedure.
- If necessary at this stage, the FOI officer will ascertain whether the requested information exists.

## **4. Easy to fulfil Requests**

- It is likely that the FOI Officer will receive many requests which are simple to fulfil.

- In these cases it is just a matter of recording the request and providing the information. He will forward the request to the relevant department.
- If a large numbers of easy to fulfil requests are being received by the FOI Officer, he will consider;
  - a. Improving training at the front end to make sure these requests get dealt with straight away.
  - b. Making the information publicly available by putting it on the publication scheme.

## **5. Complex A – Preliminaries**

- The output part of this process is to ascertain a clear understanding of the request, the likely cost, the likely timescale and to develop a plan for meeting the request.
- If the request is complex then it is important to establish whether it necessary to pursue the request at this stage.
- Is the request vexatious? Has the person made the same request before? This needs to be resolved at this stage.
- Is the request clear? It may be necessary to contact the requesting individual to establish exactly what information they are after. It is important to note that the reason they want the information is irrelevant.
- Consider potential costs. If it is likely that the potential cost will exceed the fees limit then we do not have to respond. We should contact the applicant to discuss alternative arrangements.
- If the request is difficult to fulfil it may be necessary to notify the individual of the likely timescale.

## **6. Complex B**

- The requested information should now be collected from wherever it is held. This may involve either physically copying documents or just transferring them electronically.
- It may be necessary to consult in order to ascertain whether the information should be disclosed. This should be done to short, tight timescales.
  - Internally – consult officers who best understand the issues. (For example procurement officers in relation to contract information etc) The purpose is to understand if any of the exemptions may apply.
  - External – where third parties provided the information they should be asked whether they believe they would likely to be prejudiced by release in any way, and if so why exactly and how? It is important to establish whether any implicit duty of confidence applies to any of the information. If so, the third party should be asked whether they agree to its release.

**7. Complex C**

- The information has now being collected and all relevant parties have been consulted.
- Consider any relevant exemptions and whether the information should be provided.
- If the exemption is absolute, consider whether the information can be redacted.
- If the exemption is qualified, then consider the public interest test.

**8. Complex D**

- Go through the public interest test.
- Record decision
- Consider whether information can be redacted to remove exempt information.
- Either disclose or refuse

**9. Refusal process**

- If the request for information is to be refused, then this should be communicated formally to the individual along with the reasons for refusal.
- The individual should also be given the chance to appeal, so information on the complaints process should be provided.
- Details should be kept of all refusals

**10. Release process**

- Collect fees, unless they have already been provided
- Release the requested information
- Record the request.
- Consider whether requested information should be included on the publication scheme.

# **The London Borough Of Hillingdon and the Freedom of Information Act 2000:**

## **Freedom of Information Complaints Procedure**

If you are dissatisfied with a response to a request for information made under the Freedom of Information Act 2000, you can make a complaint. This document sets out how you should make your complain and how we will deal with it.

### **Introduction**

You can make a complaint in circumstances where information has been withheld because of an exemption or, you are not satisfied with the response you have received or when the time taken for us to respond is over 20 working days.

The London Borough of Hillingdon's FOI complaints procedure is designed to achieve three aims. Firstly, to inform you about the Act and your rights. Secondly, to review any decisions made regarding the application of exemptions and finally to rectify any errors made in the FOI procedure.

There are four stages to the complaints process

1. Informal Discussion
2. Write to the FOI Officer
3. Write to the Deputy Borough Solicitor
4. Information Commissioners Office

### **Informal Contact**

Before instigating a formal complaint in writing, you first contact the officer who dealt with your request or the Council's FOI Officer to voice your concerns. It may be that through a process of informal discussion, they can satisfy your concerns regarding the response by providing with you information regarding your application and your rights.

### **Freedom of Information Officer**

If you are unable to resolve the complaint informally, then you should write to the Freedom of Information Officer who will address your concerns formally within 15 working days.

### **Deputy Borough Solicitor**

If you are unhappy with the Freedom of Information Officer's response, then you should write to the Deputy Borough Solicitor. In your letter you should explain your concerns and give an explanation as to why you believe that the Freedom of Information Officer's response was unsatisfactory. The Deputy Borough Solicitor will then conduct an independent review of your application for information and your subsequent complaint. You will receive a response within 15 working days.

### **Information Commissioners Office**

If you are still dissatisfied, you can seek an independent, external review from the Information Commissioner although the internal review must normally be completed before such an appeal can be made. Requests for a review by the Information Commissioner should be made in writing directly to:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 01625 545 700  
Fax: 01625 545 510