

FREEDOM OF INFORMATION ACT 2000

COMPLAINTS PROCEDURE

1. This document sets out our procedure for handling Freedom of Information Act - FOI complaints.
2. The Code of Practice issued by the Lord Chancellor under section 45 of the Act recommends that each public authority should have a procedure in place for dealing with complaints both in relation to its handling of requests for information and in relation to the authority's Publication Scheme.
3. Section 17 requires that where the Council is intending to refuse a request for information either wholly or in part it must include in the notice of refusal details of its procedure for dealing with complaints about the handling of requests for information. This particularly applies where the Council
 - is relying upon an exemption in refusing to confirm or deny that it holds information
 - is relying upon an exemption in refusing to supply information
 - has decided that the public interest is against release of the information
 - is refusing the request on the basis that the cost of meeting the request will exceed the prescribed cost limit
 - is refusing the request on the grounds that it is a vexatious or repeated request.
4. This procedure applies to:
 - any written reply from an applicant expressing dissatisfaction with the Council's response to a request for information
 - any written communication from a person who considers that the Council is not complying with its Publication Scheme.

For these purposes we will treat any communication by fax, e-mail or other electronic means as a written communication. In all cases the communication must include the name of the person and a return address for us to send our response.

The complaint should include the grounds or basis for the complaint.

5. We may refuse to deal with a complaint in the following circumstances.

- If after a reasonable opportunity to do so, the complainant has failed to provide details of the grounds or basis of the complaint.

We do not expect a detailed legal argument but the complainant should provide some explanation as to why they think our original decision or action is wrong.

- If there has been undue delay in submitting the complaint.

If the complaint is submitted more than 3 months after the decision or matter complained of we will ask the complainant to explain the reason for delay. In the absence of a satisfactory explanation we may reject the complaint on the grounds of undue delay.

- If we are of the opinion that the complaint is frivolous or vexatious
- If it appears to us that the complaint has been withdrawn or abandoned.

Any refusal to deal with a complaint on any of these grounds is without prejudice to any right of the complainant to apply to the Information Commissioner for a decision under section 50 of the Act.

6. Our complaint procedure is as follows

- Upon receipt of a written complaint we will promptly acknowledge receipt and advise the complainant of our target date for determining the complaint – within 5 working days.
- The complaint will be referred to the Head of Governance & Assurance or other senior officer nominated by the Monitoring Officer for allocation to a review officer.
- The Head of Governance & Assurance will either deal with the complaint himself or nominate another senior officer. In all cases the person determining the complaint will be different to the person who made the original decision that is the subject of the complaint and of at least the same level of seniority as the original decision taker.
- The officer reviewing the complaint will undertake a full review of the matter and come to a fresh decision. This review may include having regard to the cost of complying with an information request to the extent permitted by the Act.



- The reviewing officer will have regard to the submissions of the complainant and may consult with other persons and departments or third parties and take legal advice as they consider appropriate. The reviewing officer may confirm or reverse the original decision or otherwise revise the original decision.
 - The reviewing officer will make sure a decision is made within 20 working days or within 40 working days in exceptional circumstances.
 - The FOI team will proactively update the appellant should it be necessary for the reviewing officer to take longer than 20 working days to come to a decision.
 - The reviewing officer will notify the complainant via the FOI Team in writing of the outcome of the complaint process and give reasons for the decision on the complaint.
 - The notification of the decision will also give details of the complainant's right to apply to the Information Commissioner for a decision under section 50 of the Act.
 - Where the decision is that some or all of the information requested should now be released the reviewing officer will arrange for the department or departments to supply that information and give an indication to the complainant when they may expect to receive that information.
 - Where the reviewing officer is of the opinion that our procedures or processes for handling information requests can be improved they may make a recommendation to the Council's FOI Team accordingly.
 - The reviewing officer will forward a copy of the decision in all cases to the FOI Team and the relevant departments.
7. Records will be kept of complaints received, outcomes and performance against our target time. We will monitor and periodically review our complaint procedure.