

## Internal Review – Standard Operating Procedure



*To document the Council's procedure to handle internal reviews of disclosures made under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.*

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Release

Version 1.2

## DOCUMENT CONTROL

This document is available from the following location:

Owner and approval route

Title	Name(s) / Board	Role / Responsibility
SOP owner	████████	Lead Information Management Officer
Change requests to	████████	Information Management Officer
Peer review	Information Management Team	Council leads for Information legislation including the Freedom of Information Act 2000
Key stakeholder review	Information Governance Working Group	Portfolio representatives to contribute and implement information governance policy, procedures and best practice
Formal acceptance	████████	Head of Information Management
Date of acceptance	26/10/2015	

## Version History

Review cycle: This document will be reviewed annually from the approval date.

Version	Issue Date	Comments / Summary of changes
1.0	22/09/2015	Initial version to be approved by Information Governance Working Group
1.1	26/10/2015	Review by the Information Management Team and sign off by the SOP owner
1.2	11/01/2019	Addition of Internal Review template email to Service and change of Information and Knowledge Management to Information Management

***Relevant policies and guidance***

<b>Title</b>	<b>Description</b>	<b>Location</b>	<b>Date updated</b>
Information Governance Framework	Sets council position	Information Management Hub: <a href="https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Information%20Governance%20Framework%20v1.0%20March%202014.docx">https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Information%20Governance%20Framework%20v1.0%20March%202014.docx</a>	25/03/14
Freedom of information web page	Information to customers about how to make a request and what they can expect from the Council	Internet: <a href="https://www.sheffield.gov.uk/your-city-council/policy--performance/how-we-will-deliver/other-strategies-plans-and-policies/freedom-of-information.html">https://www.sheffield.gov.uk/your-city-council/policy--performance/how-we-will-deliver/other-strategies-plans-and-policies/freedom-of-information.html</a>	27/02/15
Freedom of Information and Environmental Information Regulation requests	Brief introduction to the different type of requests that can be made	Intranet: <a href="http://intranet/ict/info-mgmt/foi">http://intranet/ict/info-mgmt/foi</a>	27/02/15  13/03/15
Freedom of Information exemptions	Brief details of when information might not be disclosed under the FOI Act	Information Management Hub: <a href="https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Freedom%20of%20Information%20Exemption%20Guidance.docx">https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Freedom%20of%20Information%20Exemption%20Guidance.docx</a>	13/03/15
Freedom of Information – Standard Operating Procedure	Procedure for dealing with FOI and EIR requests	Information Management Hub: <a href="https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Freedom%20of%20Information%20-%20Standard%20Operating%20Procedure%20v5.6%20Aug%202017.docx">https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Freedom%20of%20Information%20-%20Standard%20Operating%20Procedure%20v5.6%20Aug%202017.docx</a>	26/10/2015
Complaints Policy	Corporate policy for the handling of complaints to the Council	Internet: <a href="https://www.sheffield.gov.uk/your-city-council/how-to-contact-us/complaint.html">https://www.sheffield.gov.uk/your-city-council/how-to-contact-us/complaint.html</a>	12/01/15

## **Standard Operating Procedure for the processing of Freedom of Information Act 2000 - Internal Reviews**

### **1. Legislative framework**

- 1.1. Internal reviews are the process for reviewing disclosures by the Council under the Freedom of Information Act 2000 (FOIA) and the Environment Information Regulations 2004. Section 17(7) of FOIA and Regulation 14 EIR requires the Council to confirm in any response the Council process for handling complaints about of such requests, termed an internal review.
- 1.2. Part VI of the Section 45 Code of Practice for FOIA recommends that there is a process in place to ensure that applicants are able to ask us for an internal review if they are not content with our decision on release. This is the first review stage for applicants prior to an independent review by the Office of the Information Commissioner (ICO).
- 1.3. Due to the legislative framework of the internal review process for both FOIA and EIR any complaint focused on the processing of a request will be handled under this policy and not the Council's separate Complaints Policy. Where a wider complaint relates in part to an FOI or EIR disclosure a decision will be made with the Complaints Team, or manager processing the complaint, whether to split the complaint and internal review elements for separate response, or to collate into a single response.

### **2. Identification**

- 2.1. Any complaints, negative comments or dissatisfaction in regard to the processing or content of an FOIA or EIR disclosure will be considered as a request for an internal review. All emails will be marked as *Request for internal Review* for the Business Support Team to update the FOI SharePoint tracker accordingly and allocate to the FOI inbox for onward allocation.
- 2.2. Details of the recognition and processing of an FOI request are noted in the Council's FOI Policy and SOP.

### **3. Responsibility**

- 3.1. All internal reviews are undertaken by the Information Management (IM) Team on behalf of the Council, and in the role of FOIA lead for the Council.
- 3.2. Internal reviews will, wherever possible, be handled by an independent member of the IM Team, i.e. a team member who has no prior involvement in the decision making for the case. On occasion it may be considered that the team member who processed the initial FOI request is best placed to carry out the internal review due to knowledge of the case or capacity issues.

3.3. The majority of internal reviews will be handled by a Information Management Officer with primarily FOI responsibility, the remainder of requests i.e. those requiring independent review, will be handled on a rotational basis within the team taking capacity into consideration. Any concerns regarding the allocation and management of Internal Reviews should be raised with the Head of Information Management.

3.4. On receipt of an Internal Review, the Information Management Team may need to clarify the request with the relevant service. If so, then the Email template at Appendix A will be used.

#### **4. Timescale for response**

4.1. There is no statutory timeframe for the processing of FOIA internal reviews. Part VI of the Section 45 Code of Practice for FOIA recommends that public authorities set their own target for dealing with reviews and inform requestors where these timescales are exceeded.

4.2. Regulation 11 EIR notes that requests for internal review must be received by the Council within 40 working days after the date on which the requestor believe we have failed to comply with the regulations.

4.3. The Council is then required to provide the internal review response as soon as possible and no later than 40 working days after which the request has instigated their internal review.

4.4. The Council has set an indicative target date for completing internal reviews under both regimes at 20 working days in accordance with the primary right of access under both FOIA and EIR. Acknowledgement emails to requestors upon receipt and logging of an internal review will note that the Council we will endeavour to provide a response within 20 working days. Compliance to this target will be reported to the Information Governance Board annually.

#### **5. Outcomes of an internal review**

5.1. Internal reviews will usually result in one of the following findings:

- the original decision is upheld
- the original decision is partially upheld (e.g. some information is released)
- the original decision is amended (e.g. a different or additional exemption is applied)
- the original decision is reversed

5.2. An internal review will also confirm whether the response was provided within the statutory timescale for compliance (20 working days, unless an extension has been

applied in order to complete the public interest test for a qualified exemption) and that the internal review process has been communicated to the requestor in the initial response.

5.3. A response will be completed noting the stages and considerations of the internal review, confirming the reviewer's decision and noting the right of further review via the ICO.

5.4. Where applicable the reviewer will provide a response to specific issues raised by the requestor in their request for an internal review.

5.5. Internal reviews are a single stage process. Once a decision has been reached and communicated to the requestor the only further route for appeal is via the ICO. There is no requirement for the Council to enter any further correspondence with a requestor once the internal review has been completed. Under our Section 16 FOIA Duty to Assist the Council may reconfirm the right of independent review by the ICO.

5.6. If there are any issues raised in the processing of an internal review in respect to a potential Section 77 concern these will be raised to the Head of the Information Management Team for onward discussion with the Council's Monitoring Officer if appropriate.

## Appendix A – Internal Review Email Template for Service

We have received a request for an Internal Review of a FOI response we have sent out and need some information from you to help us carry out the review. Please find below a request which you have had dealings with:

Request: [INSERT]

FOI Response: [INSERT/OR ATTACH]

Could you answer the following:

[INSERT QUESTION]

*eg's Can you confirm that we do not hold any recorded information captured by this request? Can you confirm that to collate the information would take in excess of 18 hours and provide an explanation why (such as how your records are kept)? Can you confirm exactly what harm could be caused by the release of this information (for example, to the Council, to other third parties, to the general community?)*

Could you please respond to us before [DATE] to enable us to carry out the review in time to prevent ICO enforcement action.