

Freedom of Information Act 2000

Environmental Information Regulations 2004

Internal Review/Complaints Procedure

1. The Secretary of State for Constitutional Affairs has issued a Code of Practice on the discharge of public authorities' functions under Part I of the Freedom of Information Act 2000 (the Act) under section 45 of the Act. This Internal Review/Complaints Procedure is produced in accordance with paragraphs 36 to 46 of the Code.
2. These procedures also apply to complaints arising for requests for information under the Environmental Information Regulations 2004.
3. Each Department shall set up a departmental complaints process to deal with access request. Complaints can include :
 - Failure to comply with the Council's Publication Scheme
 - Failure to handle access requests properly under the appropriate legislation;
 - Dissatisfaction with the outcome of a request for access to information.
4. The Corporate Freedom of Information Officer (CFOIO) should be notified of all complaints/expressions of dissatisfaction and the progress of these complaints – for monitoring purposes. The CFOIO will keep a record of all complaints and their outcome. The CFOIO will also have responsibility for keeping the procedures under review in conjunction with the Corporate Complaints Officer in Democratic Services.
5. The Department should also nominate a person to maintain an overview of the progress of the complaint in order to ensure that it is being handled properly.
6. When an expression of dissatisfaction is received by the Department's Freedom of Information Officer (DFOIO), the DFOIO should assess whether the matter can be resolved "informally" without the need to go into a formal review. Informal resolution may be appropriate where the dissatisfaction relates to a matter that can

simply and easily be resolved by the original decision maker. For example if the matter relates to :-

- a simple oversight on behalf of the Department;
- a matter that requires the provision of a brief explanation;
- a simple misunderstanding.

7. In relation to expressions of dissatisfaction, the complaint must be acknowledged in 2 working days and the substantive matter dealt with in 10 working days.
8. When a complaint is received that cannot be dealt with informally – the Department must inform the CFOIO who will identify an independent Reviewing Officer (RO) to undertake a Review of the original decision.
9. Generally, the decision will be reviewed by the Chief Officer of another department with the assistance of the Chief Officer's DFOIO (and with legal advice from the Assistant Head of Law or Head of Law if necessary). The RO will be appointed from a panel on a rota basis.
10. If, however, the complaint/expression of dissatisfaction relates to a decision of the qualified person (i.e. the Monitoring Officer) under section 36 of the Act – the complainant will be directed to the Information Commissioner (without conducting an internal review).
11. In all other cases, the CFOIO shall notify the complainant of the appointment and the likely timescale for completion of the review within 2 working days of the receipt of the complaint.
12. The Review must generally be completed within 15 working days of the acknowledgement by the CFOIO. But if it appears to the RO that it is likely to take more time the RO will notify the complainant in writing accordingly and explain the reason for the delay.
13. In reviewing the decision, the task of the RO is to assess that procedures have been followed properly and that the original decision was reasonable and lawful.
14. In doing so the relevant file/papers must be read and the original decision maker interviewed. The RO should also discuss the matter with the complainant if clarification is required.
15. Consideration must be given as to whether the RO requires legal assistance in coming to this decision. In the early stages of the implementation of these procedures it is thought likely that the RO will err on the side of caution and seek legal assistance. The RO must always seek legal advice if he/she is considering disclosing information that had been the subject of a previous refusal.

16. The RO can recommend to the CFOIO the following:-
- to accept or refuse the complaint about procedural matters;
 - confirm the original decision relating to access to information;
 - change the decision relating to access to information in which case reasons must be given.
17. The CFOIO shall consider the RO's recommendations and make a decision based on these recommendations. Further legal advice can be sought at this stage if necessary.
18. The outcome can include the following :-
- an apology in relation to procedural failings and the authority should take appropriate steps to prevent similar errors occurring in the future;
 - provision of the information previously denied as soon as practicable;
 - confirmation of the original decision to refuse access to information
19. The CFOIO must inform the complainant of the outcome of the Council's review in writing with copies to :-
- the original decision maker;
 - the RO;
 - the Departmental overseeing officer.
20. Where the outcome of the complaint is that an original decision to withhold information is upheld or is otherwise in the Council's favour, the complainant shall be informed of his/her right to :
- apply to the Information Commissioner, and
 - be given details of how to apply to the Information Commissioner.
21. The CFOIO shall provide a report to the Corporate Complaints Officer of the total number of reviews and the outcomes of these reviews on a twice yearly basis.

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