



**Internal Review
Procedure**

Data Protection Act 1998

Freedom of Information Act 2000

Environmental Information Regulations 2004

Note

The term *information compliance* referred to throughout this document covers the following:

- Data Protection Act 1998;
- Freedom of Information Act 2000;
- Environmental Information Regulations 2004

Introduction

Both Regulation 11 of the [Environmental Information Regulations](#) (EIRs) and the [EIR Code of Practice](#) specifically require that the Council has an internal review process in place.

Although it is not a legal requirement to have an internal review process under the Freedom of Information Act 2000 (FOIA), the [Section 45 Code of Practice](#) does require the council to have a complaints procedure.

With the Data Protection Act 1998 (DPA) the Information Commissioner's Office expects the council as the responsible organisation to deal with complaints about the handling of personal data. The council should respond to any concerns, clarify how requests have been processed and explain how any errors will be rectified. A complainant can report their concern to the ICO at any time during this process so all efforts should be made to resolve complaints quickly.

It follows that anyone who has submitted a request for information has the right to request an internal review if they are dissatisfied with the Council's decision or the way their request has been handled.

When communicating any decision made about a request the Council is obliged, under section 17(7) of the [FOIA](#) to notify the requester about the Council's Internal Review Process (or to state that it does not have one). In doing so, the Council should provide full details of the process, including how to request an internal review.

Any written reply from the requester (including one transmitted by electronic means) expressing dissatisfaction with the Council's response to a request for information will be treated as a request for an internal review. This also applies to any written communication from a person who considers that the Council is not complying with its publication scheme.

The internal review process provides a fair and thorough review of handling issues and of decisions taken pursuant to the Act, including decisions about where the public interest lies in respect of exempt information. It enables a fresh decision to be taken on a reconsideration of all the factors relevant to issues raised by the requester. The internal review process should be as clear and simple as possible.

This internal review procedure should be put into operation immediately on receipt of a request from any person, who expresses dissatisfaction with:

- the Council's handling of a request for information (e.g. a late response to a request);
- the Council's decision whether to release information; or
- the Council's compliance with its Publication Scheme

Main Principles

The following points apply to all internal reviews:

- it is important to be aware that the internal review stage is an opportunity to consider a request completely afresh. An internal review should not be treated as an appeal, but as a chance to ensure that the Council made the right decision on the original request, in the light of all the relevant information;

- the review process may be a trigger for the first time involvement of senior managers, members or the Information Commissioner's Office;
- internal reviews do not need to be overly bureaucratic, but must be a fair and impartial means of reviewing decisions made during the original consideration of whether or not to release information;
- as a minimum, all internal reviews must consider the information released against the information requested and make a full review of the papers associated with the original application. The person leading the review should also discuss the decisions made with all parties involved with handling the request, to build a full picture as to how and why previous decisions were made. A case meeting may be the best way to hold these discussions, enabling the person leading the review to ask questions or request further papers, as necessary;
- the person leading the review should not feel bound by any views on the internal review expressed by those who dealt with the original request. These views should simply be treated as background information, rather than a suggestion of how to handle the internal review.

Requests submitted under the FOIA or EIRs

The Freedom of Information Act 2000 and Environmental Information Regulations 2004 give a requester the right to ask for official information from the Council.

A requester can request an internal review if the Council has failed:

- to provide the information requested;
- to tell the requester whether or not we hold information;
- to respond to a request within the permitted time limits (normally 20 working days);
- to give proper advice and help;
- to give information in the form in which it was requested;
- to properly explain the reasons for refusing a request;
- to correctly apply an exemption under the Act or an exception under the Regulations – in other words,
- refusing to disclose information for the wrong reason;
- to charge the correct fee for providing information

Requests submitted under the DPA

Requesters or data subjects have a right to complain about decisions related to disclosures made under the Data Protection Act 1998 if:

- they have been denied any of their rights, including the right to see personal information the Council holds about them
- personal information about them is used, held or disclosed:
 - unfairly
 - for a reason that is not the one it was collected for, or
 - without proper/adequate security
- personal information about a requester is:
 - inadequate, irrelevant or excessive
 - inaccurate or out of date, or
 - kept for longer than is necessary

It is worth noting that the Council should make all reasonable efforts to resolve issues relating to the handling of subject access requests internally but the requester has the right to contact the ICO at any time.

Benefits

There are several benefits of establishing a robust Internal Review process, namely:

- it enables compliance with the s.45 Code of Practice;

- if a request is submitted to the ICO as a complaint, the Commissioner will take into account the position at the time of completion of the internal review,
- the review process provides the Council with
- an opportunity to correct most breaches, mistakes or errors;
- it allows the Council to correct any internal systemic problems;
- it will enhance the Council's reputation;
- by providing a mechanism for the requester's concerns to be addressed at an early stage, it may result in fewer complaints being made to the Information Commissioner about the handling of the request.

Requesting an internal review

There are a number of reasons why a requester will apply for an internal review, namely:

- they are dissatisfied with the decision taken by the Council;
- they dispute the accuracy/quality of the disclosure;
- they disagree with the way their request has been handled

When communicating any decision about a request the Council should notify the requester about the Council's Internal Review Process. In doing so, the Council should provide full details of the process, including how to request an internal review. The Complaints and Information Governance Team currently include the following wording on all disclosure letters:

If you are dissatisfied with the way the council has responded to your request you can request an Internal Review. If you would like to request a Review please contact the Information Governance Team using the details at the top of this letter.

Receipt of internal reviews

All requests for internal reviews relating to information compliance requests will be sent to the Complaints and Information Governance Team using the address above. Upon receipt an acknowledgement letter will be sent to the requester stating the timescale for response. In all cases, internal review requests will be acknowledged promptly and the requester informed of the Council's target date for making a response.

Who completes the review?

The impartial internal review will be conducted by a designated officer who has knowledge of the information compliance regime and who has not been involved in the provision of the original disclosure. When a request for review is received full details and a copy of the acknowledgement letter will be sent to the designated officer. The designated officer will undertake a full investigation of the case, taking into account the matters raised by the requester.

Timescales for response

In accordance with the Code of Practice under Section 45 of the Freedom of Information Act the Council is responsible for setting their own target times for dealing with internal reviews; these should be reasonable, and subject to regular review.

The Information Commissioner's view is that a reasonable time for completing an internal review is 20 working days from the date the request for review is received.

Where it is not possible to complete the internal review within this time the requester will be informed in writing within the 20 day deadline and told when they can expect a full response.

The deadline will only be extended beyond 20 working days in exceptional circumstances where more time is required to achieve a full, fair and impartial review. In such circumstances the deadline may be extended up to a maximum of 40 working days.

Where a deadline is extended the Council must be able to show that an internal review is underway and every effort is being made to meet any revised completion dates. Subsequently, if it becomes apparent that the internal review will take longer than the target time (for example because of the complexity of the particular case), the Council will inform the requester. The requester will always be informed of the outcome of their internal review.

Responsibilities

Actions required by Complaints and Information Governance Team

The Complaints and Information Governance Team will be responsible for ensuring that the designated officer is provided with:

- a copy of the request for an internal review;

A complete case history and support documentation including:

- a copy of the original request;
- details of information supplied by Directorates;
- a copy of any disclosures made (including an explanation for any withheld information);
- details of concerns raised by employees regarding disclosure of information;
- any other relevant correspondence with the requester

Actions required by the designated officer

Following receipt of the request for an internal review, the designated officer will, having taken account of the main principles, carry out the following actions:

- conduct the appropriate type of internal review within 20 working days, taking into account any views expressed by the requester;
- where complex issues are involved and it becomes apparent that the time required to conduct the internal review will take longer than the target time of 20 working days, the designated officer must notify the requester regarding the delay, explain the reason(s) for it and set a secondary deadline by which to respond;
- ensure that the Chief Executive, Members and senior management are consulted and the Media Team are involved, where appropriate;
- ensure that proper records are kept during the internal review, once complete these records should be returned to the Complaints and Information Governance Team to assist in any investigations by the Information Commissioner, should the requester complain to him;
- communicate the outcome of the review to all parties involved with handling the original request, including Legal Services and the Complaints and Information Governance Team, highlighting any issues/learning which may be of wider application to the Council;
- communicate the outcome of the review to the requester, as set out below, and ensure that any information is supplied

Outcomes

Once the internal review is complete the designated officer will report the findings, including any recommendations to the Complaints and Information Governance Team and a decision letter will be sent to the requester. The decision letter will clearly explain any recommended courses of action and could include any of the following:

- *Request handling procedures have not been properly followed*

The designated officer should apologise, on behalf of the Council, to the requester in writing, and then liaise with the parties responsible for handling the request, to ensure that steps are taken to prevent similar errors occurring in the future. If any issues of wider application to the Council arise, then the designated officer should make the Complaints and Information Governance Team aware of them.

- *Information which was withheld should be released*

The designated officer should inform the requester in writing of this determination and enclose the information. If the information cannot be enclosed at that time, the designated officer should inform the requester when the information will be released to them. (The information must be released as soon as practicable);

- *Upholding an earlier decision to withhold information*

The designated officer should inform the requester in writing of this and the reasons behind the decision and provide details of their 'right to appeal' to the Information Commissioner, under section 50 of the FOIA details of how to appeal (including full contact details for the Information Commissioner's office) must be provided to the applicant.

- *The Council's Publication Scheme has not been complied with*

The designated officer will apologise in writing (on behalf of the Council) to the requester. The designated officer should then ask the Complaints and Information Governance Team to ensure that steps are taken to ensure compliance with the scheme in future. In all cases the requester should also be informed about their right to complain to the Information Commissioner's Office. Contact details for the Information Commissioner's Office are to be included on all letters.

Training and Awareness

All employees who may be involved in conducting internal reviews will be expected to complete the relevant eLearning module prior to undertaking a review.

The eLearning module will complement the Internal Review Policy and Internal Review Procedure.

Monitoring

All monitoring activity in relation to Internal Reviews and complaints to the Information Commissioner's Office will be reported to the Corporate Governance Group annually.

Recordkeeping

The Complaints and Information Governance Team will maintain a record of all requests for information compliance related internal reviews, including: date received, any decisions made and date closed.

Records will be kept of all internal reviews and of their outcome as prescribed below:

DESCRIPTION	RECORD/DOCUMENT TYPES	RETENTION PERIOD	AUTHORITY
Internal Review Papers	<ul style="list-style-type: none"> • request for review • details of investigation • outcome(s) 	6 years from date of case closure	Statutory - Freedom of Information Act 2000 National Archives

Further Information

If you would like any advice about any aspect of this document please contact:

Complaints and Information Governance Team
Resources & Transformation Corporate Governance
Cumbria House ,
117 Botchergate,
Carlisle
CA1 1RD
Telephone: (01228) 221234
Email: information.governance@cumbria.gov.uk
Website: <http://www.cumbria.gov.uk/council-democracy/accesstoinformation/default.asp>

Translation services

If you require this document in another format (e.g. CD, audio cassette, Braille or large type) or in another language, please telephone 01228 606060.

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如果您希望通过母语了解此信息，
请致电 01228 606060

Jeigu norétumète gauti šią informaciją savo kalba,
skambinkite telefonu 01228 606060

W celu uzyskania informacji w Państwa języku proszę
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