



## **Freedom of Information Act 2000 & Environmental Information Regulations 2004 Complaints Procedure**

1. The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) gives a general right of access to information held by Public Authorities in electronic or paper records.
2. The Code of Practice issued by the Lord Chancellor under section 45 of the Act and EIR Code of Practice issued under Regulation 16 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. All requestors have the right to complain if they are dissatisfied with the handling of a request for information, made under the FOI or EIR. This could be because:
  - An exemption/exception was applied, meaning the request (or a part of it) was denied;
  - the 20 working day deadline was not met;
  - a full response was not provided;
  - fees/charges were applied
  - the request was not handled correctly
  - Council has not complied with Publication Scheme requirements.
4. Requesting an internal review

If you are dissatisfied with the response you have received under the FOI or EIR, please send your complaint reasons in writing within 40 working days of receiving the response to:

Information Governance Officer (FOI)  
Derby City Council  
The Council House  
Corporation Street  
Derby  
DE1 2FS  
Telephone 01332 640763  
Email [foi@derby.gov.uk <<<mailto:foi@derby.gov.uk>>>](mailto:foi@derby.gov.uk)

We will treat any communication by fax, e-mail or other electronic means as a written communication. In all cases the communication must include your name and a return address to send the response.



5. We may refuse to deal with a complaint in the following circumstances.
  - a. If the complaint is received more than 40 working days after you received the FOI or EIR response.
  - b. The FOI or EIR complaint received does not provide the reason(s) for 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.
  - c. If we consider the FOI or EIR complaint to be frivolous or vexatious.

You will be informed if any of these reasons apply to your complaint.

6. Our complaint procedure is as follows ...
  - a. When we receive a written complaint, you will be sent an acknowledgement confirming the response target date within 5 working days.
  - b. The complaint will be referred to the investigating officer (Deputy Data Protection Officer).
  - c. The Deputy Data Protection Officer will either deal with the complaint or nominate another senior officer to deal with it. 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.
  - d. The officer reviewing the complaint will undertake a full review of the matter and come to a fresh decision.



- e. The investigating officer will take into account the reasons provided by the complainant and may consult with other Council employees/departments or third parties and take legal advice as they consider appropriate.

As part of the review, the investigating officer will consider whether:

- the response provided was handled correctly under the FOI and EIR requirements;
  - there have been any developments since the original response;
  - the information contained within the response was correct and true, as of the date of responding;
  - any further information should be provided;
  - there are any lessons for handling requests in the future.
- f. **FOI** - The Information Commissioner's Office recommends that public authorities carry out internal reviews within 20 working days. However, in certain circumstances this can be extended to 40 working days. For example, if the request is complex, involves reviewing hundreds of records/documents, consulting external third parties.
  - g. **EIR** - Under Environmental Information Regulations internal reviews must be carried out within 40 working days.
  - h. The FOI team will advise the complainant should it be necessary for the investigating officer to take longer than the deadline stated to come to a decision.
  - i. The reviewing officer will notify the FOI Team of the outcome. The FOI Team will advise the complainant in writing about the outcome of the complaint process and give reasons for the decision on the complaint.
  - j. The decision notice sent to the complainant will also give details of the complainant's right to apply to the Information Commissioner for a decision under section 50 of the Act.
  - k. Where the decision is that some or all of the information requested should now be released the FOI Team will arrange for the department or departments to supply information and send it to the complainant or advise the complainant when they may expect to receive the information.
  - l. Where the reviewing officer opinion is that procedures or processes for handling information requests can be improved the FOI Team processes will be improved based on the investigating officer's recommendations.



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7. The FOI Team will keep a record of FOI and EIR complaints received, outcomes and performance against our target time. We will monitor and periodically review our complaint procedure.

8. Complaining to the Information Commissioner

If you are dissatisfied with the internal review decision, you have the right to appeal to the Information Commissioner's Office under Section 50 of the FOIA at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 0303 123 1113 (local rate)

Or you can visit the [ICO's website](#).