

Freedom of Information Act 2000 and the Environmental Information Regulations 2004
When and how to complain



Promoting public access to official information
and protecting your personal information



Information Commissioner's Office

contents

Freedom of Information Act	2
Environmental Information Regulations	2
When can I complain about a public authority?	3
Who should I complain to?	4
What information do I need to provide?	5
How will you deal with my complaint?	6
When would you refuse to take formal action?	7

Would you consider taking formal action even if my complaint falls within the 'robust complaint-handling' criteria?	9
What if the public authority ignores a decision notice?	10
How do I know what information public authorities hold?	10
Can I complain about publication schemes?	11
How to contact us	12
Freedom of Information Act 2000 and the Environmental Information Regulations 2004	
Complaint form	

The Information Commissioner's Office (ICO) is the UK's independent public body set up to promote public access to official information and protect personal information.

We do this by promoting good practice, ruling on eligible complaints, giving information to individuals and organisations, and taking action when the law is broken. The relevant laws include:

- Data Protection Act 1998
- Freedom of Information Act 2000 in England, Wales and Northern Ireland
- Environmental Information Regulations 2004 in England, Wales and Northern Ireland
- Privacy and Electronic Communications Regulations 2003.



Freedom of Information Act

This Act gives you the right to ask public authorities for information they hold. For more about this right, please read our leaflet 'Freedom of information – your guide to openness', or visit www.ico.gov.uk. If you feel that a public authority has not handled your request properly, you can complain to the Information Commissioner's Office.

Environmental Information Regulations

These Regulations give you the right to ask public authorities for information they hold about the environment. If you feel that a public authority has not handled your request properly, you can complain to the Information Commissioner's Office.

If you would like more details about your rights visit www.ico.gov.uk.

When can I complain about a public authority?

You can complain about a public authority if:

- they have failed to provide the information you asked for;
- they have failed to tell you whether or not they hold information;
- they have failed to respond to your request within time limits (normally 20 working days);
- they have failed to give you proper advice and help;
- they have failed to give information in the form in which you requested it;
- they have failed to properly explain the reasons for refusing the request;
- they have failed to correctly apply an exemption under the Freedom of Information Act or exception under the Regulations – in other words, they have refused to disclose information for the wrong reason;
- they have overcharged you for providing information.

By law, all public authorities must maintain a 'publication scheme' listing the type of information available and explaining how to get it. You can also complain to us if a public authority fails to do this.

Who should I complain to?

First, you should complain directly to the public authority itself, asking it to review what has happened. It should have its own complaints procedure.

You can complain to us if:

- the authority tells you it does not have a complaints procedure; or
- you don't think it has dealt with your complaint properly.

You should do this as soon as possible and within two months of receiving the public authority's final response.

Please remember that we only deal with freedom of information and environmental information relating to public authorities in England, Wales or Northern Ireland. The Scottish Information Commissioner deals with freedom of information matters in Scottish public authorities. For more information on the Scottish Information Commissioner visit www.itspublicknowledge.info or telephone 01334 464610.

What information do I need to provide?

To enable us to deal with your complaint, send us a completed complaints form, available at the back of this leaflet or from www.ico.gov.uk.

The form will ask you for:

- a copy or details (where a copy is not available) of your initial request for information to the public authority;
- a copy of the public authority's first response – the refusal notice (unless your complaint is about the lack of a response);
- a copy of the letter of complaint or the complaint form you sent to the public authority as part of its internal review or complaints procedure;
- a copy of the public authority's response to your complaint (unless the public authority did not respond);
- any other information you think is relevant;
- your contact details.

How will you deal with my complaint?

Your complaint will be assessed by our Case Reception Unit. If they can deal with it, they will do so. They will aim to send you a response within 14 days. If we need more information, our case reception staff will ask you to provide it.

Your complaint may need to be considered by a specialist team. If so, we'll send you a case reference number and notify the relevant public authority that we've received the complaint.

Your complaint will then be given to a complaints resolution team who will deal with it in line with our published service standards (shown on our website www.ico.gov.uk).

We will usually try to resolve your complaint informally by discussing it with you and the public authority.

If we cannot resolve your complaint informally, we may issue a **decision notice**.

A decision notice outlines our final assessment of whether the public authority has complied with the Freedom of Information Act or the Regulations. We will send the decision notice to you and the public authority.

If we decide the public authority has not given you information you are entitled to, we will order it to do so.

At the same time as issuing a decision notice, we will send you and the public authority details of the right of appeal to the Information Tribunal.

When would you refuse to take formal action?

We would not take formal action in the following situations:

1. You don't give us enough information or documents to support your complaint, or the information you give is unclear. If we need more information from you, we will write to ask for it. We'll close your complaint until we receive the information we have asked for.
2. Your complaint is not eligible for consideration, under section 50 of the Freedom of Information Act. This could be because, for example:
 - you have delayed too long in complaining; or
 - you have not yet asked a public authority to review its decision.
3. Your complaint contains all the relevant evidence but falls within our 'robust complaint-handling' criteria. These criteria are set out below. In this case we would decide that issuing a formal decision notice would not serve any public interest – even if we upheld your complaint – because the issues have already been resolved.

These are the main criteria for treating cases in this way:

- There has been a delay in responding to a request for information, but the public authority has now provided it.

- Following our intervention, the public authority has provided the information you wanted.
- The public authority was right to refuse a request, even if its refusal notice was technically faulty.
- A public authority has made only a mistake of procedure (such as failing to give advice or help) which it has now acknowledged.
- The complaint is about a minor breach of the rules that would not cause further problems.

(For a full explanation of these criteria, go to www.ico.gov.uk.)

We don't ignore such cases. We contact the public authority and advise it how to respond to future information requests. We then explain our approach to you and tell you what advice we have given to the public authority. We then close the case.

Normally our Case Reception Unit will identify these types of cases. However, sometimes we find at a later stage that a complaint meets one or more of the above criteria, so we may then reject it and close the case. If we can't take a complaint further, we'll always write to explain why.

Would you consider taking formal action even if my complaint falls within the 'robust complaint-handling' criteria?

Yes, in the following cases:

- A public authority appears to have deliberately delayed its response to a request or deliberately failed to meet other obligations.
- The public authority gained some advantage through not complying with the Regulations, for example by delaying giving you the information or avoiding giving certain facts about itself at a critical time. In this situation we would decide that the public authority deserves the censure of a decision notice against it.
- A public authority did eventually disclose the requested information, perhaps after we intervened, but it would be right in the circumstances to issue a decision notice, for example to make a formal record of the outcome.
- A public authority has in the past delayed responding or has failed to meet its obligations in other ways in similar circumstances.
- There are sound reasons of principle for issuing a decision notice, or we believe it would be beneficial to set a precedent.
- It would be clearly unreasonable in the circumstances to close the case.

What if the public authority ignores a decision notice?

If a public authority ignores a notice, we can apply to the High Court. The court will investigate and may deal with the authority as if it had committed contempt of court.

How do I know what information public authorities hold?

Each public authority must produce a publication scheme – this is a public commitment to make certain types of information available and a guide to how to get it. All publication schemes have to be approved by the Information Commissioner. Authorities should review them periodically to ensure they are accurate and up to date. They will often be available in print or on the authority's website.

Can I complain about publication schemes?

Yes. You can complain to us about a public authority's obligations to adopt a publication scheme and to publish things in accordance with it; for example, complaints about the failure to adopt a scheme, or the failure to publish information that falls within the types stated in the scheme. You should first complain to the public authority itself. However, if it fails to resolve the matter, you may complain to us.

We can look into the matter. If we are satisfied that the public authority is not complying with its duties under the Act, we can make the authority adopt a scheme or disclose information that falls within the types stated in the scheme.

How to contact us

FOI/EIR Case Reception Unit
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

www.ico.gov.uk



You should use this form to report only complaints about possible breaches of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. **Do not fill in this form until you have read the 'Freedom of Information Act 2000 and the Environmental Information Regulations 2004 - When and how to complain' leaflet.**

If you need help to fill in this form, or you need a copy of our 'Freedom of Information Act 2000 and the Environmental Information Regulations 2004 - When and how to complain' leaflet, contact our helpline on 08456 30 60 60 or 01625 545 745.

Please write clearly in BLOCK CAPITALS.

1. Your details

Title:

First name:

Other name:

Last name:

Address:

Postcode:

Daytime telephone:

Fax:

Email:

2. Previous contact with the ICO

Please provide any reference number we have already given you. This will help us to process your complaint.

Reference number:

I do not have a reference number. This is the first time I have contacted you.

I have contacted you before in writing but do not have the reference number.

5. Details of the problem

Please give details of your complaint by ticking the relevant box below and using the space provided to explain what you think the public authority has done wrong. Please attach extra sheets if necessary, and provide the relevant supporting documents (see 6 below).

- I requested information but I have not received any response. (Please provide a copy of your request.)
- I received information but not within 20 working days.
- I was charged too much.
- The information I received was not what I requested.
- I requested information but this was refused.
Normally we will not deal with complaints where information has been refused unless you have first been through the public authority's internal complaints process. However, we may consider your complaint if you were not offered an internal review or if there is exceptional urgency.
- Other complaint. Please provide relevant supporting documents.

6. Supporting documents

We will not be able to investigate your complaint unless you give us all relevant documents including the following. Please tick the boxes to confirm that you have enclosed these documents.

- a copy of your information request or, if this is not available, evidence that you made the request
- a copy of the initial response and refusal notice from the public authority
- a copy of your request for an internal review
- a copy of the public authority's internal review decision

If for any reason you do not have copies of documents you have sent to the public authority, you must give us an accurate description of their contents.

Please list any other documents you are sending to support your complaint except those in the list above.

This will help us check we have all the information you sent us. Do not just write 'see attached'.

7. Important information about your supporting documents

Your documents will be scanned and held as electronic records. In most cases, we will destroy the paper documents you send us after six months. You should send us only **copies** of these documents and make sure you keep the originals in case we need them later.

If you cannot provide us with copies and you would like us to return your documents, please tick here.

Each time you send us something, you will need to make it clear if you would like us to return it to you.

8. What happens next?

- Our Case Reception Unit will consider your complaint and respond within 14 calendar days.
- If we need more information to consider your complaint, the Case Reception Unit will ask you to provide it.
- The Case Reception Unit may be able to deal with your complaint. But if further investigation is needed, we will allocate your complaint to a complaint resolution team and give you a case reference number.
- Our complaint resolution teams deal with complaints in date order. As we receive a large number of complaints, there may be a delay before your complaint can be given to a case officer. You can find out more about our response times from the service standards information in the complaint section of our website at www.ico.gov.uk.

9. Declaration

I understand that during any necessary investigations, you may need to disclose the details I have provided to the organisation or person I am complaining about to enable them to respond properly.

- I have clearly indicated any information that I do **not** want you to pass on.
- To the best of my knowledge I have given you accurate information about this complaint.
- I understand that your policy is to destroy documents relating to complaints after six months. I have clearly indicated those documents that you should not destroy and should return to me.
- I have listed all the documents I am sending with this form.
- I have read the leaflet '**The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 - When and how to complain**'.

Signature

Date

This declaration should be signed by the person making the complaint. If this is not possible, please explain why.

10. Please now send your form and supporting documents to:

FOI/EIR Case Reception, The Information Commissioner's Office,
Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Notes:

If you would like to contact us please call 08456 306060, or 01625 545745 if you would prefer to call a national rate number.

e: mail@ico.gsi.gov.uk

w: ico.gov.uk



June 2007

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

DP/FOI-EIR-HTC/0607/100K



Information Commissioner's Office