

# Information Rights Complaint Procedure

## Document Control

<b>Title</b>	Information Rights Complaint Procedure (Formerly, Access to Information – Complaint and Appeal Procedure)
<b>Document Type</b>	Policy
<b>Author</b>	Locum Information Governance Manager
<b>Owner</b>	Democratic Services Legal team
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<b>Approved by</b>	Head of Governance (acting under authorisation of the Interim City Solicitor)
<b>Date of Approval</b>	22 May 2018
<b>Review due</b>	22 May 2020 or earlier where there is a change in the applicable law

## Revision History

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Description of change</b>
V1.0	26/11/2014	Locum Information Governance Manager	New document version created and reformatted from the original web based version. Amended for Data Subject Access Request handling.
V2.0	November 2015	Marina Moss, Senior Lawyer	Scheduled review. Revision to bring into line with ICO guidance on complaints
V2.1	21/05/18	Stephen Hollard, Group Manager, Democratic Services Legal Team	Revised in preparation for implementation of GDPR
V3.0	22/05/18	Jacqui Dennis Interim City Solicitor	Approval

## 1. Introduction

The Freedom of Information Act 2000 (**FoIA**), the Environmental Information Regulations 2004 (**EIR**) and data protection legislation (including the General Data Protection Regulation (**GDPR**) and the Data Protection Act 2018 (**DPA**)) provide a right of access to information held by the Council. You have the right to complain about the response you have received regarding your request for information. In addition the Council must deal with personal information in accordance with requirements set out in data protection legislation.

## 2. How to complain

### 2.1 Complaints about requests under the Freedom of Information at 2000 (FoIA) and Environmental Information Regulations 2004 (EIR)

If you wish to complain, you must put your complaint in writing within 40 working days of receiving the Council's response or within 40 working days of the statutory due date.

Complaints made more than 40 days after the Council's response will not normally be considered. Any reasons offered for submitting a complaint outside this timescale will be considered when determining whether or not a late complaint will be investigated.

We would ask that you please explain which parts of the request handling and/or response you are unhappy with so that we can address your concerns in the internal review process.

You may also provide supporting evidence along with your complaint. Any information provided will be used to help assess your complaint. A full review of the response/decision you have received will be undertaken, taking into account the matters you have raised.

Your complaint should be addressed to:

Information Compliance  
Democratic Services Legal Team  
Legal Services  
PO Box 532  
Town Hall  
Manchester  
M60 2LA

Email: [informationcompliance@manchester.gov.uk](mailto:informationcompliance@manchester.gov.uk)

#### **Types of complaints under FoIA and EIR:**

You may complain about the way the request was handled and/or the response received. This may include:

- Failure to respond within 20 working days or explain why longer than 20 working days was required
- Failure to provide proper advice and assistance
- Failure to communicate information in the manner requested
- The grounds for refusing the request or any failure to properly explain any reasons for refusing the request
- Public interest considerations

This type of complaint will be investigated by a senior officer other than the officer responsible for the initial decision/response.

**The Publication Scheme:**

If you have any complaint about the publication scheme, for example, you have requested information from it and have not received what you were expecting, or have been advised the information is available online and cannot find it, please put your complaint in writing to Information Compliance at the above address.

**2.2 Complaints about subject access requests (or the exercise of other individual rights) under data protection legislation, or about other possible breaches of data protection legislation.**

**a) Complaints about subject access requests or other rights under data protection legislation**

If you are not satisfied with the response to a request for access to your own personal information or your exercise of another right under data protection legislation, whilst you have the right to contact the Information Commissioner directly, we ask that you contact the Council first. In practice the Information Commissioner will expect all complaints about subject access requests or the exercise of another right under data protection legislation to be raised with the Council before involving the Commissioner.

To complain to the Council, please contact:

Information Compliance  
Democratic Services Legal Team  
Legal Services  
PO BOX 532  
Town Hall  
Manchester  
M60 2LA

Email: [informationcompliance@manchester.gov.uk](mailto:informationcompliance@manchester.gov.uk)

You may wish to complain about, for example:

- Failure to respond to your request within a calendar month (or three calendar months in the case of a complex request)
- Any reasons given for refusing your request and/or withholding some or all of the information requested

This type of complaint will be investigated by a senior officer who will not be the officer who made the original decision. A full review of the original response to your request will be undertaken.

**b) Complaints about other possible breaches of the data protection legislation**

You can also complain if you feel that a breach of data protection legislation has occurred that is not related to a subject access request or the exercise of another individual right under data protection legislation.

In such a case, please contact:

Information Compliance  
 Democratic Services Legal Team  
 Legal Services  
 PO Box 532  
 Town Hall  
 Manchester  
 M60 2LA

Email: [informationcompliance@manchester.gov.uk](mailto:informationcompliance@manchester.gov.uk)

### 3. Dealing with your complaint

We will deal with your complaint in line with these principles:

- We will try to work with you to resolve matters
- Your complaint will be considered free of charge
- Your complaint will be acknowledged promptly and usually within 3 days of receipt
- The factors relevant to your complaint will be considered afresh
- You will be informed of the target date for determining the complaint
- Where it is apparent that determination of the complaint will take longer than the target time (for example because of the complexity of the particular case), you will be informed and provided with an explanation of the likely timescale
- You will normally be informed of the outcome of your complaint not more than 20 working days after we receive it in the case of a complaint in relation to a FOIA request and 40 working days after we receive it in relation to an EIR or data protection legislation request .
- If on review it is considered that information previously withheld should be released we will let you have the additional information as soon as practicable and let you know when this is likely to be.

### 4. Possible outcomes of your complaint

The table below shows a number of possible outcomes:

<b>Possible outcomes of your complaint</b>	<b>Possible actions</b>
Information should be disclosed which was previously withheld.	<i>The information in question will be disclosed as soon as practicable and you will be informed how soon this will be.</i>
An information right, other than one involving disclosure of information, should be complied with when it was previously refused.	<i>The right in question will be complied with as soon as practicable and you will be informed how soon this will be.</i>
Time limits/procedures have not been properly followed.	<i>An apology will be provided.</i>
The initial decision to withhold information is upheld for the same or other reasons.	<i>You will be informed of the decision and told about your right to apply to the Information Commissioner and, where appropriate, your right to seek a judicial remedy.</i>

<p>The initial decision to not comply with an information right, other than one involving disclosure of information, is upheld for the same or other reasons.</p>	<p><i>You will be informed of the decision and told about your right to apply to the Information Commissioner and, where appropriate, your right to seek a judicial remedy.</i></p>
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## 5. If you remain dissatisfied with the outcome of your complaint

If you are not satisfied with the outcome of your complaint, you may complain to the Information Commissioner about a FoIA, EIR or data protection legislation decision made by the Council.

The Information Commissioner will expect you to have raised your concerns about FoIA and EIR decisions with us to give us the opportunity to resolve them before you complain to them.

In relation to data protection legislation, although the Information Commissioner must consider your complaint, if you take your complaint directly to them without allowing us to consider it first, they will usually refer you back to us and point you to relevant advice that might help you.

Contact information for the Information Commissioner is:

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

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

Telephone: 0303 123 1113 (local rate) or 01625 545 745 (national rate)

Fax: 01625 524 510

Website: [www.ico.org.uk](http://www.ico.org.uk)