



**ACCESS TO INFORMATION
INTERNAL REVIEW PROCEDURES
CUSTOMER GUIDE**

INTRODUCTION

Public authorities hold a vast quantity of information, most of which is accessible by a framework of legislation. Information is accessible, unless it is subject to an exemption which prevents its disclosure, under the Data Protection Act 1998 (DPA), Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). This is referred to as “Access to Information legislation” throughout this document.

Individuals are entitled to request information held by the Council under any of the above legislation. When a request for information is received, we will determine which legislation relates to the request and provide the information we have a duty to disclose within the necessary statutory time period.

If a customer is unhappy with our response to their request they have a right to make a complaint. These complaints will be processed as Internal Reviews in line with these procedures.

Although the Council only has a statutory duty to have an Internal Review Procedure in place for use with complaints about requests made under the Environmental Information Regulations 2004, we have also adopted these procedures for complaints about Freedom of Information Act Requests and Subject Access Requests under the Data Protection Act 1998.

WHAT IS AN INTERNAL REVIEW?

The Information Compliance Team considers an internal review will be where a customer advising us that they are unhappy about the Council’s decision to withhold information or about the way in which their request has been dealt including where the customer considers we have:

- failed to provide the information asked for;
- failed to tell them whether or not we hold information;
- failed to respond to their request within time limits;
- failed to give them proper advice and help;
- failed to give information in the form in which they requested it;
- failed to properly explain the reasons for refusing a request;
- failed to correctly apply an exemption under the relevant Act – in other words, we have refused to disclose information for the wrong reason

Where a complaint does not fall under the examples given above, we may deal with the complaint under the Council’s Corporate Complaint Procedures. For more information about our Corporate procedures visit www.torbay.gov.uk/complaints

HOW TO MAKE A COMPLAINT

If you have made a request for information under any Access to Information legislation and you are unhappy with the Council's response to your request and wish to make a complaint you should do so in writing, quoting the relevant reference number, using one of the following methods:

Post: Information Compliance Team, Torbay Council, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: complaints@torbay.gov.uk

Online: www.torbay.gov.uk/complaints

If you wish to complain about a response to a request which has been processed under EIR your complaint must be made within **40 working days** of the date of our response.

Although there is no statutory time period for making a complaint regarding an FOI or Subject Access Request (under the Data Protection Act 1998) we would encourage customers to make a complaint within 2 months of receiving their response.

DEALING WITH YOUR COMPLAINT

If possible, the Information Compliance Team will try to resolve your complaint **informally** and provide you with a response within 10 working days. However, where it is not possible for us to resolve the complaint informally, we will:

- acknowledge your complaint within 3 working days advising you that it will be dealt with as an Internal Review;
- provide you with a date for a response (either 20 working days or 40 working days depending on which piece of legislation your complaint falls under)
- pass the complaint to an officer who is senior to the original decision maker ("appointed officer")

The appointed officer will:

- thoroughly reconsider the original request and make their decision;
- provide a response informing you of their decision within the appropriate response time (see response times below)

RESPONSE TIMES

Freedom of Information Act 2000	20 working days *
Environmental Information Regulations 2004	40 working days
Data Protection Act 1998 (Subject Access Requests)	20 working days *

* In exceptional circumstances it may be necessary to extend the response time by a further 20 working days. If this is the case, we will notify you of the reasons why and provide a revised response date.

IF YOU ARE DISSATISFIED WITH THE COUNCIL'S RESPONSE

If after going through the Council's Internal Review Procedure you remain unhappy with our decision you can contact the Information Commissioner's Office

Information Commissioner	Helpline:	08456 30 60 60
Wycliffe House		01625 54 57 45
Water Lane	Switchboard:	01625 545700
Wilmslow	Fax:	01625 524510
Cheshire SK9 5AF	Website:	www.ico.gov.uk
	Email (general):	mail@ico.gsi.gov.uk

ROLE OF THE INFORMATION COMMISSIONER

FOIA, EIR and DPA are enforced by the Information Commissioner. The Information Commissioner is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

Complaints about decisions made by the Council relating to any of the Access to Information legislation can be made to the Information Commissioner who will make a decision as to whether the Council has dealt with the request in accordance with the relevant legislation.

The Information Commissioner can however refuse to investigate a complaint where a customer has not been through the Council's own Internal Review Procedure.

For more information about the Information Commissioner please visit www.ico.gov.uk