

Internal review procedure for Freedom of Information (FOI) and Environmental Information Regulation (EIR) requests

The Freedom of Information (FOI) Act 2000 and the Environmental Information Regulations (EIR) 2004 provide you with the right of access to information held by public authorities, including Herefordshire Council. It does this in two ways:

- Public authorities are obliged to publish certain information about their activities, via their Publication Scheme.
- Members of the public are entitled to request recorded information held by public authorities.

The council makes every effort to ensure that information requests are answered promptly and professionally, and that the [Publication Scheme](#) is kept up-to-date. However, if you are not satisfied, you have the right to request a review into the response that you have received, or, to complain about our handling of your request or our Publication Scheme.

There is a legal requirement under the EIR for public authorities to have an internal review procedure in place. The Freedom of Information Code of Practice recommends that public authorities also have a procedure in place for dealing with disputes about FOI requests and consequently Herefordshire Council has adopted the same procedure for dealing with reviews or complaints about requests dealt with under both the EIR and FOI Act. This procedure also applies to complaints concerning the Publication Scheme.

In this procedure, 'complaint' refers to an expression of dissatisfaction with Herefordshire Council's compliance with the above legislation, or a request for an internal review which seeks to challenge the request handling process or the outcome of a request to access recorded information held by the council.

What can I request a review about?

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| <p>Complain about the way we have handled your request -</p> | <p>Our failure to respond within permitted time limits (up to 20 working days) or to explain why longer than 20 working days was required.</p> <p>We did not provide proper advice and assistance.</p> <p>Our failure to provide information in the requested format.</p> <p>Our failure to explain whether or not we hold the information requested.</p> <p>We did not properly explain reasons for refusing the request or correctly apply an exemption under the Act or an exception under the Regulations i.e. we refused to disclose information for the wrong reason.</p> <p>If you disagree with our interpretation of your request.</p> |
| <p>Request an internal review about a decision to -</p> | <p>Refuse access to information, withholding some, or all, of the information requested.</p> <p>Charge a fee for providing information.</p> |
| <p>The council's compliance with its Publication Scheme -</p> | <p>Our failure to include information or the inclusion of out-of-date information.</p> |

What can't you request a review about?

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| <p>Not liking the answer you have received – for example, a report shows that some repairs have been undertaken but you don't think the work has been completed properly.</p> | <p>If you are unhappy with the implications of the information provided to you, we will put you in direct contact with the department concerned.</p> |
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How can I request a review?

You must put your request in writing. Please send this to:

Information Governance Team
Herefordshire Council
Plough Lane
Hereford
HR4 0LE

Email: foi@herefordshire.gov.uk

Your request should be made within 40 working days after receipt of our initial response. We are not obliged to accept an internal review request after this date and unless there are extenuating circumstances, requests made more than 40 working days after the response will not be considered.

Please explain clearly the reasons why you disagree with our response, or are dissatisfied with the handling of a request or with our Publication Scheme. You may provide supporting evidence if applicable, or give your own reasons for why you should have the information if you don't think these have been considered. Any information you provide will be used to help assess your request.

What happens next?

- Your request for a review of our response will be considered free of charge.
- It will be acknowledged promptly, usually within 5 working days of receipt.
- Our acknowledgement letter will confirm the target date for a response.
- Requests for a review of responses to, or the handling of, EIR requests will be dealt with as soon as possible, and in any event, within 40 working days of receipt, in accordance with the Information Commissioner's Office (ICO) guidance.
- Requests for a review of responses to, or the handling of, FOI requests will be dealt with within 20 working days of receipt.
- Complaints about our Publication Scheme will be dealt with within 20 working days of receipt.
- If an internal review into an FOI request is complex, requires consultation with third parties or the relevant information is of a high volume, it may be necessary to extend the deadline for a response by up to a further 20 working days. If that is the case, you will be informed and given an explanation for the delay, and a new deadline will be confirmed (which will not exceed a total of 40 working days).
- In the event that clarification of an internal review or complaint is required we will seek this from you e.g. it is not clear what you are dissatisfied with in particular. The normal 20 working day response period will not begin until the clarification is received.
- Reviews will be dealt with in a fair, through and impartial manner. As such the review will be undertaken by a panel of officers who did not deal with your original request.
- The officers on the review panel will be trained in or have an understanding of FOI and EIR legislation.
- The review panel will aim to take a fresh look at the request, based on all available evidence at the date of your request. They will re-evaluate the handling of the original request reviewing whether the council made the correct decision originally, and particular attention will be paid to any concerns raised by you. As part of this process the panel may need to consult with the original responding officer and teams that

provided the information originally, to build a full picture as to how and why previous decisions were made. However, the panel is not bound by any views on the internal review expressed by those who dealt with the original request, their views will simply be treated as background information, rather than a suggestion of how to handle the review.

- The review panel will make a decision about the validity of any exemptions / exceptions applied. This includes decisions taken about where the public interest lies if a qualified exemption / exception was used or whether the council has complied with its statutory duties. The panel may also apply different or additional exemptions / exceptions. The panel will let you know the outcome of the review, in writing, giving a full explanation of the decision reached.

| Possible Outcome | Action that will be taken |
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| Information that was previously withheld should be disclosed | The information in question will be provided, usually at the same time as the review decision, or, if that is not possible, you will be informed how soon this will be provided. |
| Procedures have not been properly followed by Herefordshire Council | Complaint upheld and an apology will be offered. Appropriate steps will be taken to learn lessons and prevent similar errors occurring in future. Any recommendations to improve our internal processes to prevent a future occurrence will be made to the Information Governance Team and / or the team holding the information. |
| Information should be included in the Publication Scheme or should be updated | Complaint upheld and an apology will be offered. The scheme will be updated to include the information / update information. Appropriate steps will be taken to learn lessons. |
| The initial decision to withhold information is Upheld, or otherwise, in Herefordshire Council's favour. | You will be informed of the decision and the reasons for this. |

- Please note that abuse of the review procedure, such as repeated requests for review following every request made, may be treated as vexatious under the council's unreasonable behaviour policy.

What can I do if I am not satisfied with the response?

You have the right to appeal to the ICO and ask them to review our responses. The ICO are the UK's independent body that oversees information rights including those set out in the FOI Act and EIR.

The ICO can be contacted as follows:

[Information Commissioner's Office](#)

Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

[ICO complaints portal](#)

Telephone: 0303 123 1113

Review:

This procedure will be reviewed as deemed appropriate by the Information Governance Team, in light of learning from conducting reviews and appeals to the ICO, but no less frequently than every 2 years.