

Internal Review procedure for Freedom of Information (FOI) and Environment 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 Gosport Borough 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.

If you are not satisfied with the way your request for information has been handled under the Freedom of Information Act, you can request a review using the Internal Review Process.

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.

The Freedom of Information (FOI) Act and the Environmental Information Regulations (EIR) provide you with the right of access to information held by Gosport Borough Council. We will make every effort to ensure that valid requests are answered promptly and professionally. However, if you are not satisfied, you have the right to request a review into the response that you have received regarding your request for information or to complain about our handling of your request.

Advice and informal resolution

All responses to requests for information should include the standard appeals paragraph which advises requestors that if they are dissatisfied with the response they have received or wish to complain about the handling of their request, they should contact the official replying in the first instance.

This period of informal resolution is to be encouraged in an attempt to clarify outstanding points or resolve any misunderstandings at an early stage rather than proceeding direct to a formal review. All officers responding to requests have a duty to provide advice and assistance to the requestor as far as is it reasonably practicable to do so.

Whilst informal resolution should be attempted where appropriate, a requestor has a right at any stage to apply for an internal review.

What you can request a review about

A request for a review may involve a:

- request for a review of a decision to withhold information
- complaint about the handling of a request for information
- complaint about the Council's publication scheme

An applicant is entitled to complain to the Council if:

- it is believed that the application was not dealt with within the 20 working day time limit
- we have not confirmed whether the information is held
- all the information requested is not received
- a reason for the request being refused is not received
- it is felt that exemptions have been wrongly applied
- it is felt that a fee has been wrongly applied

The Council reserves the right to ask the applicant for clarification of the grounds of their complaint, if the grounds are not clear.

What you can't request a review about

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.

If you are unhappy with the implications of the information provided to you, we will put you in direct contact with the department concerned.

Please note that abuse of the review procedure, such as repeated requests for reviews following every request made, may be treated as vexatious and refused.

How to request a review

You must put your request for an internal review or complaint about our handling of your request in writing.

Please send this to: Freedom of Information, Gosport Borough Council

Email: foi@gosport.gov.uk

Your request should be made within 40 working days after receipt of our response. Unless there are extenuating circumstances, requests made more than 40 days after the response will not be considered.

Please clearly explain the reasons why you disagree with our response or are dissatisfied with our handling of your request. You may provide supporting evidence if applicable, and any information provided will be used to help assess your request.

What you can expect

- your request for a review of our response, or the handling of it, will be considered free of charge
- it will be acknowledged promptly and within 5 working days of receipt by auto response email
- requests for reviews 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 guidance
- requests for reviews of responses to, or the handling of, FOI requests will be dealt with within 20 working days of receipt
- in exceptional circumstances (for example, when it is necessary to reconsider the public interest) it may be necessary to extend the deadline for response by a further 20 working days. If that is the case, you will be informed and given an explanation for the delay, which will not exceed a total of 40 working days
- the review of responses to, or the handling of, requests will be dealt with in a fair and impartial manner. As such the review will be undertaken by a reviewing officer (the reviewer) who will assess the merits of the review request and who did not deal with your original request
- the reviewer will be trained in / have an understanding of FOI and EIR legislation
- the reviewer will request copies of all material (documents, emails etc) connected with the processing of the request whether or not it was disclosed in the original response. Other staff may also be involved before reaching a decision
- the reviewer will make a fresh decision based on all available evidence at the date of your request. As part of this process, the reviewer may need to consult with the responding officer and the team(s) that provided the information originally
- the reviewer will make a decision about the validity of the exemptions applied, and whether the Council has complied with its statutory duties
- the reviewer will let the requester know, in writing, the outcome of the review, giving a full explanation

Possible outcomes of the internal review process and action that will be taken

Possible outcome	Action that will be taken
Information should be disclosed which was previously withheld	The information in question will be provided as soon as practicable and you will be informed how soon this will be An apology will be provided
Procedures have not been properly followed by the Council	Appropriate steps will be taken to prevent similar errors occurring in the future

Possible outcomes of the internal review process and action that will be taken

Possible outcome	Action that will be taken
	Any recommendations for improving our internal processes to prevent a future occurrence will be made to the Policy and Partnerships team and/or to the team holding the information
The initial decision to withhold information is upheld, or otherwise in the Council's favour	You will be informed of the decision and the reasons for this and told about your right to apply to the Information Commissioner

What you can do if you are not satisfied with our response

If your request for a review of our response, or handling of this, is not resolved to your satisfaction, you have the right of appeal to the Information Commissioner for a decision. Before doing so, you must exhaust this Internal Review Process.

The Information Commissioner's Office can be contacted as follows:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

www.ico.org.uk

casework@ico.org.uk

Telephone: 0303 123 1113

Role of the Information Commissioner

After an initial assessment of the complaint the Information Commissioner may attempt to settle the matter informally by contacting both parties to provide his views on how the dispute can be resolved without going through the full appeal process.

If the Information Commissioner elects to undertake a full investigation he can decide either that the Council has complied with the Act or that further action is necessary to comply. The nature of this action (eg to provide information previously withheld) will be set out in a Decision Notice or an Enforcement Notice. These notices are binding on the public authority although you and the Council can appeal the Information Commissioner's decision to the First Tier Tribunal (Information Rights) and thereafter, on a point of law only, to the Upper Tribunal.

If the Information Commissioner upholds a complaint and decides that the Council must disclose information a Decision Notice will be issued and served on the complainant and the Council. This will specify the information that must be disclosed and the time period for doing so.

If the Council receives a Decision Notice that over-rules previous action taken by the Council (eg to withhold information), we may either comply or we can appeal to the First Tier Tribunal (Information Rights).

Contact details:

- **Contact:** Freedom of Information
- **Email:** foi@gosport.gov.uk
- **Telephone:** [02392 545340](tel:02392545340)
- **Address:** Gosport Borough Council, Town Hall, Gosport, PO12 1EB