

# Wakefield Metropolitan District Council

## Complaint and Appeal Procedure for requests processed under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

### 1. Publication of the Complaint and Appeal Procedure for Freedom of Information Act and Environmental Regulations Requests.

- 1.1 This Complaint and Appeal Procedure shall be published on the Internet and on the Council's Intranet.
- 1.2 This Complaint and Appeal Procedure shall be included in the Council's Publication Scheme.
- 1.3 A copy of this Complaint and Appeal Procedure shall be supplied to any member of the public on request.
- 1.4 When the Council has refused to supply information (or part of the information), the notification letter will include a clear explanation of the position and information about their right to appeal to the Council in the first instance and how to apply to the Information Commissioner if the appeal fails.

The Information Commissioner may be contacted at:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow, Cheshire  
SK9 5AF  
Telephone: 0303 123 1113 Website: [www.ico.org.uk](http://www.ico.org.uk)

### 2. Definitions of a Complaint and of an Appeal

2.1 A complaint is:

- i) **a written expression of dissatisfaction with the way in which the Council has processed a valid Request under the Freedom of Information Act or Environmental Information Regulations.**

**ii) a written expression of dissatisfaction from any person who believes the Council is not complying with its Publication Scheme.**

2.2 An appeal is a written expression of dissatisfaction with the Council's decision about the release of information in response to a valid Request under the Freedom of Information Act or the Environmental Information Regulations,

providing that the complainant / appellant makes representation to the Council no later than 40 working days from the date of receiving the decision from the Council.

**3. Receipt of a Complaint and/or of an Appeal**

3.1 A complaint and/or an appeal will be accepted in the form of a letter or by facsimile or by e-mail.

3.2 Where a complainant/appellant is unable to frame a written complaint and/or appeal, the Council will offer advice and/or assistance.

3.3 All complaints should be directed to the Council's Customer Relations Officer, Wakefield Metropolitan District Council, Customer Services, Wakefield One, PO Box 700, Burton Street, Wakefield WF1 2EB.

3.4 All requests for appeals should be sent to the Council's Freedom of Information Officer, Wakefield Metropolitan District Council, Information Management Team, Room 118, County Hall, Wakefield WF1 2QW.

3.5 Both complaints and appeals will be acknowledged in writing within three working days of their receipt by the Council. The acknowledgement will advise the complainant/appellant of the target date for the determination of their complaint and/or appeal, which will be no later than within twenty working days of its receipt by the Council.

3.6 If it proves impossible to meet the target for the determination of a complaint or appeal, the complainant will be informed of the delay as soon as possible. They will also be given an explanation of the delay and a revised target for the determination of their complaint.

**4. Consideration of Complaints**

4.1 A complaint shall be determined by the Customer Relations Officer, in conjunction, as and when appropriate, with the Service Director, Legal and Governance.

- 4.2 Complaints will be upheld or be partially upheld or not upheld. The complainant will be informed by the Customer Relations Office in writing and within twenty working days of the receipt of the complaint by the Council, of the decision that has been reached.
- 4.3 The complainant shall be given a reason(s) for the decision.
- 4.4 If the outcome of a complaint is that Officers have not properly followed the procedures within the Council, the complainant will be informed in writing and given an apology.
- 4.5 Whatever the outcome of the complaint, the complainant will be informed of their right to apply to the Information Commissioner's Office and of how to make an application for a decision on whether the request for information and the complaint have been dealt with in accordance with the requirements of the legislation.

## **5. Consideration of Appeals**

- 5.1 In the event that a request for information is denied in whole or part, the applicant will be issued a refusal letter by the FOI officer, stating the reason(s) for not releasing the requested information, and advised that he/she may request reconsideration of the decision.
- 5.2 A Senior Legal Officer, who was not party to the original decision, will review the decision and determine the appeal accessing appropriate legal advice. The Freedom of Information Officer will provide the Legal Officer with administrative support.
- 5.3 Appeals will be upheld or be partially upheld or not upheld. The appellant will be informed by the Freedom of Information Officer in writing and within twenty working days of the receipt by the Council of the appeal of the decision that has been reached.
- 5.4 The Council will ensure that the review of the decision will be completed within twenty working days of the receipt of the appeal. In exceptional cases it may be appropriate to take longer but the review will never exceed 40 working days.
- 5.5 If an appeal is upheld or partially upheld, with the result that the previous decision is reversed or amended, the Senior Legal Officer, in consultation with the Freedom of Information Officer, shall record a brief explanation of his/her decision.
- 5.6 The appellant shall be given a reason(s) for the decision.
- 5.7 Whatever the outcome of the appeal, the appellant will be informed of their right to apply to the Information Commissioner and of how to make an application for a decision on whether the Request for Information and the appeal have been dealt with in accordance with the requirements of the appropriate legislation.

## **6. Recording and Monitoring of Complaints and of Appeals**

- 6.1 The time taken to acknowledge the receipt of complaints, the time taken to resolve them and their outcomes will be recorded and monitored against their respective targets by the Complaints Officer.
- 6.2 The time taken to acknowledge the receipt of appeals, the time taken to resolve them and their outcomes will be recorded and monitored against their respective targets by the Freedom of Information Officer.

## **7. Complaint/Appeal Procedure Review**

- 7.1 The operation of this Complaint and Appeal Procedure will be reviewed in the light of complaint and appeal decisions and in the light of any other relevant matter as and when required.

Last updated December 2012