



# Dissatisfied with our decision on a freedom of information or subject access request?

## Requesting a review of a freedom of information request or a subject access request

### A1. Introduction

This guidance explains how to ask for a review of a decision about what information we will provide you with under the Freedom of Information Act 2000 or Data Protection Act 1998 and how we will handle your application.

#### **Use this procedure if:**

You are unhappy with the response we gave to your recent freedom of information request or subject access request because information was kept back.

### A2. What is a freedom of information request?

A Freedom of Information request is any request for information you make which asks us to provide you with certain types of information, as set down in the Freedom of Information Act 2000. Your request does not have to say that it has been made under the Freedom of Information Act but it does have to be made in writing and it does have to ask for specific information which the Commission holds. Further information about the Freedom of Information Act can be found on our website.

### A3. What is a subject access request?

A subject access request is a request by a data subject which asks us to confirm whether we are holding or processing any personal data about them, and if so to provide them with the data in an intelligible form. A data subject is the individual who the personal data is about (ie the subject of the data). A request does not have to say it has been made under the Data Protection Act but it must be made in writing by the data subject or his/her legal representatives and contain sufficient information to enable the required information to be located.

## A4. What decisions can be challenged?

When you ask us for information under either the Freedom of Information Act or Data Protection Act, we will review your request and will provide you with all of the information which we are able to release. However, we may not always be able to release all of the information you have requested. This might be because certain information is exempt from release to the public. In Freedom of Information Act cases we may also decline to supply information if it would be too expensive for us to gather the information you are seeking in the form you have requested.

If you are dissatisfied about our response to your request for information you can request a review.

## A5. Use this procedure if we have not released all of the information you requested and you would like us to reconsider our decision

If you would like us to review any other kind of decision please check our [decision review guidance](#) to see if that procedure is appropriate for you.

## A6. Who can ask for a freedom of information or subject access request review?

Anyone who has asked for information under the Freedom of Information Act or a subject access request and is dissatisfied about the information we have released is entitled to request a review.

You cannot raise a complaint with the Information Commissioner unless you have asked for a review of our decision (see paragraph 10 below).

## A7. How to request a review of a freedom of information request or a subject access request

Your request for a review needs to be made in writing. You should email your request to us at [litigationandreview@charitycommission.gov.uk](mailto:litigationandreview@charitycommission.gov.uk) telling us why you are dissatisfied with our response, what information it is that you think we should release to you and why.

Please let us know if there is any reason why you are unable to provide your request for a review in writing as it may be possible for us to offer you assistance.

## A8. Time limits

There are time limits to requesting a review. You must tell us within three months if you want to challenge one of our decisions.

If for any reason you are unable to apply for a review within our time limit, please tell us as soon as possible. In exceptional circumstances we may be able to extend the time limit. You will need to say why you need more time so that we can decide whether it is possible to give you an extension.

If for any reason you cannot apply in writing, please contact us as soon as possible and we will consider other ways for you to make your application.

## A9. What happens next?

Once we have received your request we will allocate it to a member of staff who will consider whether the provisions of the relevant act have been applied correctly.

### Step 1 – the review

Your request for information will be considered afresh by another and more senior officer. This will usually be a Commission lawyer.

The person allocated to deal with your review will examine the information previously provided to you. He or she will consider:

- what information we provided you with when we responded to your original request;
- any information we withheld from our original response;
- whether we were entitled to withhold any information from our original response;
- whether our decision to withhold information from our original response was correct in the circumstances; and
- whether there are any factors that enable us to release to you the additional information you have requested, either in full or in part.

In most cases we will complete our review within the same statutory time limit that has been set for dealing with the original request (20 working days of receiving your request in freedom of information reviews and 40 days for subject access request reviews). However, the amount of time a review takes can vary a great deal, depending on the amount of information and complexity of the information you have requested. We will tell you at the outset how long we think the review will take and will let you know if that timescale changes.

### Step 2 – the final decision

Once we make our decision we will write to tell you the result of our review – this will be our final decision. We will set out exactly what our final decision is and the reasons for it.

### Step 3 – outcomes

When we review freedom of information and subject access request decisions, there may be different outcomes:

- we may decide that our original decision was correct and appropriate in the circumstances; or
- we may decide that the original decision may be varied and that the additional information that you have requested can now be released to you, in full or in part.

If we decide that additional information can be released to you, this does not necessarily mean that our original decision was wrong; circumstances may have changed or new information come to light which has changed our perspective.

If we agree to release further information to you, this will usually be included with our response to you. Occasionally, we may need to send you the information separately, and we will tell you if this is the case.

In most circumstances, the outcomes described above will be appropriate for resolving the points you have raised. If, in exceptional circumstances, we consider that other remedies may be necessary, we will refer these to our Business Assurance team.

## A10. Applying to the Information Commissioner's Office

If you remain dissatisfied with our decision, you may approach the Information Commissioner. The Information Commissioner's Office (ICO) is the independent statutory body which regulates the operation of the Freedom of Information Act as well as the Data Protection Act.

You can find further information about the ICO using the ICO contact details in Part B of this guidance.

You will need to have exhausted our internal reviewing procedure before you apply to the Information Commissioner's Office.

Your application should be made to the ICO within two months of the receipt of our final decision.

## A11. Feedback on our process

The Commission is committed to ensuring that its procedures remain fit for purpose and easy to use. To help us to improve the way in which we review our decisions, we will offer everyone who uses this procedure the chance to give us feedback once we have completed our review.

## A12. Help us to help you

You can help us to review our decision effectively, by:

- emailing us at [litigationandreview@charitycommission.gov.uk](mailto:litigationandreview@charitycommission.gov.uk) within three months if you are dissatisfied with our response to a freedom of information request or subject access request; and
- telling us why you think our decision is wrong and telling us exactly what additional information you would like us to release.

## A13. Standard of service complaint

This review process looks at whether a decision was the right one in the circumstances. If you are concerned about the way we have handled your case, rather than our decision, you may wish to use our complaints procedure. Further details are available on our website.

## B. Other sources of help and advice

Information Commissioner's Office

**Email:** [casework@ico.gsi.gov.uk](mailto:casework@ico.gsi.gov.uk)

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

**Write:** Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

**Telephone:** 0303 123 1113