

HORMEAD PARISH COUNCIL

FOI Requests and Complaints procedure

Adopted 18 September 2014

WHEN REPLYING TO AN FOI REQUEST

The following statement should be added when answering an FOI request:

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the Clerk of Hormead Parish Council.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

INTERNAL REVIEWS

If someone has requested information under the Freedom of Information Act (FOIA) or Environmental Information Regulations (EIRs) and is not satisfied with the way the request has been handled, they can ask the public authority to review what has happened.

Legal position under FOIA

- No legal requirement under FOIA to conduct an internal review
- Public authorities are expected to comply with section 45 code of practice

Legal position under EIR

- Regulation 11 EIR – a requester can make representations in writing within 40 working days, if they are not satisfied with the way the request has been handled
- The public authority must respond as soon as possible, and no later than 40 working days after receipt.

Codes of practice

- Freedom of information – under the section 45 code of practice all public authorities are expected to have a complaints procedure
- Environmental Information Regulations – the code of practice supports the legal requirement

FOIA and EIR codes of practice

- Any complaint should result in an internal review
- Acknowledge receipt with target date for completion
- Consideration by person senior to the original decision maker
- Prompt determination
- Keep records and monitor

Section 50 FOIA

- Both FOIA and EIR complaints to the ICO are made under section 50 FOIA.
- The ICO can refuse a complaint until the internal review procedures of the public authority have been exhausted.

SINGLE STAGE INTERNAL REVIEW (COMPLAINTS) PROCEDURE

As set out and required by the Information Commissioner's Office (ICO)

The ICO's expectations

- All public authorities should have an internal review procedure for both FOIA and EIR requests
- It should be a single stage review procedure
- Public authorities are required to conduct an internal review under EIR and in all but very exceptional circumstances under the FOIA
- Reviews should normally be completed within 20 working days
- All reviews should be completed in 40 working days

Conducting an Internal Review

- Independent of original decision
- By someone senior to the original decision-maker
- Thorough reconsideration of the issue

Training requirements

Those conducting internal reviews need to be aware of:

- the statutory provisions
- the codes of practice
- current guidance; and
- important decisions.

Notifying the result

- If procedures have not been followed correctly, apologise.
- If further clarification should have been requested, ask for it.
- If information is to be disclosed, provide it immediately.
- If information is to be withheld, explain the reasons fully and mention the right to complain to the ICO.

Monitoring

- Keep records of the time taken to conduct reviews
- Are there lessons to be learned...
 - about request handling generally?
 - about internal review procedures?

The following should be published:

- number and types of complaints;
- target times for completion of reviews;
- actual times for completion of reviews; and
 - • (if required) how you are going to improve.

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FOI: Standard template for outcome of an Internal Review

[name]
[address]

Ref No:

[Date]

Dear [applicant's name]

Thank you for your letter/fax/email [delete as appropriate] of [date of letter from applicant] where you requested information about [insert type of information request by the applicant].

The Parish Council has now conducted a review and the decision is upheld/upheld in part /overturned [delete as appropriate] for the following reasons:

[The reviewer to insert the reasons]

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Yours sincerely,

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Clerk to Hormead Parish Council

REVIEWED: Annual Parish Council Meeting, 17 May 2018

NEXT REVIEW DUE: Annual Parish Council Meeting 2019