

NORTH LINCOLNSHIRE COUNCIL

POLICY & RESOURCES CABINET MEMBER

**INFORMATION MANAGEMENT POLICY UPDATE:
FOI\DPA\EIR COMPLAINTS**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To update the Information Management Policy to reflect new requirements stipulated by the Information Commissioner's Office with regard to the handling of complaints relating to Freedom of Information, Data Protection and Environmental Regulations (FOI\DPA\EIR).
- Complaints relating to FOI are considered in accordance with an existing FOI complaints procedure introduced in 2005.
 - The Information Commissioner's Office has stipulated that they expect public authorities to handle complaints relating to DPA and EIR in a similarly formal and robust manner.
 - The information management policy has been updated to recognise the requirements.

2. BACKGROUND INFORMATION

- 2.1. Our Information Management Policy is an overarching policy setting out our responsibilities and activities in relation to information management in accordance with specified legislation and professional principles. It provides a framework that enables us to manage our information efficiently. It also promotes the effective management of this information across the organisation, recognising its value as a corporate asset for the delivery of efficient, appropriate, open and transparent services.
- 2.2. It also sets out to ensure the council complies with the Data Protection Act 1998, Freedom of Information Act 2000, and Environmental information Regulations 2004. It guides the specific operational procedures and activities connected with the implementation of these acts/regulations.
- 2.3. This framework houses a collection of different policies and from time to time legislation and regulation demand that we update or append new policies.
- 2.4 Where the complaint is not about a breach of the act or regulations we aim to resolve the issue informally. The Service co-ordinator(s) for FOI, DPA, EIR will do all they can to put things right.
- 2.5 Where the complaint is related to a perceived breach of the FOI Act or the EI Regulations the council is obliged by law to treat these in a particular way and apply a one stage approach.

- Formal Resolution: This will be investigated through a formal procedure, along the lines of the Customer Complaints process, but this will be carried out as a one stage internal review. The Information Management team will manage the process and monitor the outcomes.
- 2.6 The Data Protection rules for complaints are less stringent, however, to make these processes consistent for staff to follow we propose adopting a unified procedure across all three statutory areas.
- 2.7 It is recognised that dealing with FOI, DPA and EIR complaints is different to dealing with customer complaints and accordingly a separate policy forming part of the Information Management framework is recommended.

3. OPTIONS FOR CONSIDERATION

Option 1: Adopt the new policy

Option 2: Amend or Reject the new policy

4. ANALYSIS OF OPTIONS

- 4.1 Option 1 is recommended given the requirements stipulated by the Information Commissioner. The policy is endorsed by the council's Information Management Group.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial
None

5.2 Staffing
Internal communication methods will be used to notify staff of the requirements of the policy

5.3 Property & IT
None

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)

6.1 None

7. OUTCOMES OF CONSULTATION

- 7.1 Members of the Information Management Group have considered the policy and contributed to its development.

7.2 The Information Management Policy will be updated and re-published on the council's web site.

8. RECOMMENDATION

8.1 That the new information management policy relating to Freedom of Information, Environmental Information Regulation & Data Protection complaints is adopted.

DIRECTOR OF POLICY & RESOURCES

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Background Papers used in the preparation of this report:

ICO Guidance
NLC IM Policy
Relevant Legislation

Freedom of Information, Environmental Information Regulation & Data Protection Customer Complaints Policy

1. Introduction

North Lincolnshire Council is committed to delivering excellent customer service. Listening to our customers and learning from customer feedback enables the council to improve its services and meet the needs of customers more effectively.

We want to make it as easy as possible for customers to let us know their views, including how to make a complaint.

This policy sets out how customers can make a complaint about: -

- requests for information under Freedom of Information (FOI) Act or Environmental Information Regulations (EIR)
- requests for personal information under the Data Protection (DP) Act
- the way in which personal data has been handled in relation to the Data Protection (DP) Act

and how we will respond to and learn from complaints received.

2. Our Customers

This policy applies to any customer of the council, or a person or body acting on behalf of the customer who has a complaint about FOI, EIR or DP as detailed in section 1.

In this instance a customer of the council is anyone who: -

- contacts the council to seek information using the FOI, EIR or DP processes.
- contacts the council to report a concern about how personal information is being handled.

3. Complaints

Definition of an FOI, EIR or DP Complaint

An FOI, EIR or DP complaint is any expression of dissatisfaction about the council's handling of your request for information, or standard and quality of service in relation to FOI, EIR or DP – which requires a response. The response may be to put things right straightaway, or to investigate the matter further.

A complaint could include any of the following concerns:

- we **delay** or **fail to deliver** a request for information
- we **fail** to resolve a request to handle your personal information as we should
- a member of staff's **attitude** or **competence** causes concern
- we **fail to meet** our statutory responsibilities in relation to FOI, EIR or DP
- we **apply** an exemption or exception that you are not happy about.

A complaint **is not**:

- a first request for service
- a query about progress of a specific issue
- a request for clarification on information provided.

4. FOI, EIR & DP Complaints Procedure

Customers must make a formal FOI, EIR or DP complaint about the council in writing online, by email or by post. If assistance is required to put a complaint into writing the complaint can be made in person via a Local Link.

Informal complaints can be made in writing but can also be made verbally.

See Appendix 1 for ways to contact the council.

Informal Resolution

Where the FOI, EIR or DP complaint is of a general nature we aim to resolve the issue informally.

We encourage customers in this first instance to contact the FOI/EIR or DP Co-ordinator of the service they wish to complain about. The Co-ordinator will do all they can to put things right.

Formal Resolution

Where the FOI, EIR or DP complaint is related to a perceived breach of the FOI or DP Acts or the EIR Regulations the complaint will be investigated through the council's formal procedure. The formal complaint process will be carried out as a one stage internal review.

Please note – EIR complaints must be made within 40 working days of the alleged failure to apply the regulations.

Formal Process

The Head of Information Management will oversee the internal review of the complaint.

An acknowledgement will be sent to the customer within 5 working days and a response will be sent within 20 working days. This timescale for the sending of the response can be extended to within 40 working days for in depth internal reviews. The complainant will be informed about this extension and the reason for it.

How to appeal against the outcome of a FOI, EIR or DP complaint

Where the council has internally reviewed a FOI, EIR or DP complaint and the customer is still not satisfied, they may appeal to the Information Commissioner (see Appendix 1 for contact details).

For FOI and EIR complaints the appeal must be made to the Information Commissioner within 6 months of the outcome of the internal review.

5. Responding to FOI, EIR or DP Complaints

On receipt of a formal FOI, EIR or DP complaint we will:

- ensure it is recorded on the council's system for tracking complaints
- ensure it is forwarded to the Head of Information Management for action.

We will acknowledge and respond to the complaint or send a holding letter to the customer in line with the timescales indicated in section 4.

We will at all times deal with FOI, EIR or DP complaints courteously, openly and fairly.

FOI, EIR or DP Complaints – Upheld

Where we have made a mistake or failed to provide the expected standard or quality of service, we will acknowledge and apologise for this. We will also set out the actions we will take to put things right and improve our services. This could include:

- providing previously withheld information
- reviewing council FOI, EIR or DP policies or procedures
- reviewing how we handle personal data
- providing appropriate staff training and guidance

FOI, EIR or DP Complaints – Not Upheld

Where we have investigated and we still uphold the original decision we made, we will:

- explain the reasons for our decision clearly
- provide any relevant evidence to support the decision
- inform customers how to progress their complaint if they remain dissatisfied.

6. Persistent and Vexatious FOI, EIR or DP Complaints

We aim to respond to all FOI, EIR & DP complaints positively, and ensure that customers are satisfied with the way their complaint has been handled.

In a small number of cases customers may pursue a complaint in an unreasonable way, which impacts, on council resources and capacity to respond to the complaint effectively.

Ways in which a customer may be considered unreasonably persistent or vexatious in pursuing their FOI, EIR or DP complaint could include:

- changing the basis of a complaint during the investigation process
- refusing to co-operate with the complaints investigation process
- refusing to accept investigation conclusions and decisions
- repeatedly making the same or similar complaint

Continuing to respond to these complaints can take up a lot of time and reduce capacity to deal with other complaints effectively.

Where an officer considers that a FOI, EIR or DP complaint has become vexatious, the matter will be referred to the Head of Information Management. The Head of Information Management will seek legal advice and decide whether to pursue the complaint any further. If applicable, the Head of Information Management will inform the customer that the complaint has been closed and that the council will not enter into any further correspondence on the matter.

7. Learning from FOI, EIR & DP complaints

We collect and review feedback from our customers, and use this information to drive service improvement.

All FOI, EIR & DP complaints are recorded on the council's tracking system. Data about complaints is collated and shared across the council to identify performance trends and review how we handle and respond to customer feedback. This includes:

- how well we meet our target response times

- how effective we are in capturing complaints across the council

FOI, EIR & DP complaints are regularly reviewed across the council to identify how we can improve our FOI, EIR or DP processes. This includes:

- service managers or the Head of Information Management making operational improvements in response to specific complaints
- regular review of upheld complaints at directorate and corporate performance reviews to identify issues that need addressing
- development action plans to improve services based on specific issues or trends in complaints

The council will publish information about FOI, EIR & DP complaints – to inform customers about how we handle complaints and show how we make changes as a result of customer feedback.

8. Confidentiality

Any personal data provided to the council will be managed in line with the requirements of the Data Protection Act 1998. The council will use this information to respond to the customer and improve services.

Personal data will be kept anonymous in producing and sharing information about FOI, EIR or DP complaints with other services and partners.

Appendix 1 - Contact Information

How to contact the council

Telephone – informal complaints only

01724 297000

Website

On the council's website by clicking the 'Contact Us' link on the home page:

www.northlincs.gov.uk

Email

By email to customerservice@northlincs.gov.uk

Post

In writing to 'Customer Feedback' FREEPOST NEA 10154, Civic Centre, Ashby Road, Scunthorpe DN16 1AB

In Person

By contacting one of our advisors at a Local Link Office – listed below

Local Link Offices

Ashby Library & Local Link - Ashby High Street, Scunthorpe, DN16 2RY

Barton Local Link - Providence House, Holydyke, Barton, DN18 5PR

Brigg & District Local Link – The Angel, Market Place, Brigg, DN20 8LD

Crowle Community Hub - 52 – 54 High Street, Crowle, DN17 4DR

Epworth Library & Local Link - Chapel Street, Epworth, DN9 1HQ

Scunthorpe Local Link - Church Square House, 30 – 40 High Street, Scunthorpe, DN15 6NL

Winterton Library & Resource Centre - West Street, Winterton, DN15 9QJ

Information Commissioner

Address: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF; Telephone: 0303 123 1113 or 01652 545700; email: notification@ico.gsi.gov.uk;
Web: www.ico.gov.uk