

# Independent Complaints Reviewer

## Information Access

### **1 Introduction**

- 1.1 The ICR accepts complaints from customers of HM Land Registry (HMLR).
- 1.2 Information relating to referrals and complaints will be shared with team members involved in the review of a complaint.
- 1.3 Recognising the sensitivity of information provided to the ICR for the purpose of carrying out complaint review, the ICR and her staff will not publicly disclose, verbally or in writing, nor publicise by any other means, personal information given to her for the purpose of seeking advice or to advance her review, without the express permission of the parties concerned.
- 1.4 The ICR is committed to the general principles of openness. We will respond to requests for information or data from our office files in accordance with legislation and best practice guidelines for public bodies. Our approach is a positive one; based on the assumption that information will normally be made available unless it is specifically exempt and where disclosure is not in the public interest. Information may only be withheld if the public interest in withholding it is greater than the public interest in releasing it. Each request for information will be considered on its own merits, taking into account all circumstances and the sensitivity of the information at the time of the request.

### **2 Policy**

- 2.1 Whilst adhering to general principles of openness, we recognise the importance of maintaining personal confidentiality regarding complaints referred to the ICR.
  - (i) The ICR team will be sensitive to the fact that the subject matter of many complaints touches issues that both the complainant and those being complained about may not wish to become common knowledge.
  - (ii) We encourage all parties to be frank and open with us and to provide whatever evidence or information they believe is necessary in order to achieve a fair outcome. We handle all such information in a personally confidential manner

- (iii) We will not release information from our files nor discuss individual named cases with representatives of the media or with any other third party, unless given express authority to do so.
- (iv) We will treat referrals to the Parliamentary and Health Service Ombudsman following our closure of a complaint as implied consent to release any information requested by the Ombudsman's office.
- (v) The ICR acknowledges that case files are loaned to us by public bodies for the sole purpose of facilitating the investigation of complaints. The ICR has no authority to release files or copies of documents within them to any other parties.

### **3 Implementation**

- 3.1 Any information or data access requests will be considered by the ICR, or in her absence by the Office Manager, in accordance with our Policy – Dealing with FOI and GDPR requests.
  - (i) We will respond to such requests within 20 working days from the date of receipt.
  - (ii) In cases where this is not possible because of the amount of information or the need for redaction we will inform the requestor that there will be a delay and the date by which we expect to respond.
- 3.2 The ICR acknowledges a duty of confidentiality in relation to our handling of files and other documentation.
  - (i) Papers provided by complainants will not be copied to other parties without the express permission of the complainant. Case files provided for the sole purpose of review will remain confidential as part of the state records.
  - (ii) Any member of the public, or organisation wishing to see or obtain original or copy documents from the files loaned to or seen by this office for the purpose of review, will be advised to make a request for this information to HMLR. Where necessary we will return the files, in order for consideration to be given to this request in a timely manner.
- 3.3 The ICR will send copies of complaint reports only to the complainant and to HMLR.
- 3.4 In order to share lessons learned from complaints and to give example of the kinds of complaints reviewed, we may refer to the general detail of complaints

in presentations, reports and publications. Should this happen, none of the parties involved will be named.

- 3.5 The ICR has an agreement with HMLR that any requests made to them for the disclosure of ICR reports will be discussed with the ICR before a decision is made about disclosure.

## **Our commitments**

We will:

- Keep all our office files in safe custody.
- Keep all HMLR information secure.

## **Procedure for Dealing with FOI and GDPR requests**

### **Introduction**

The Freedom of Information Act was fully implemented on 1 January 2005. It superseded the Code of Practice on Access to Government Information, known as the Open Government Code. The Freedom of Information Act introduced a statutory framework on dealing with requests for information.

The General Data Protection Regulation 2016/679 is a regulation in EU law on data protection and privacy for all individuals within the European Union and the European Economic Area. This was implemented in the UK on 25 May 2018.

Our approach is, subject to the policy above, to supply information to the public on request. On occasions when we receive a verbal request to provide information that would not normally be made available, we will explain that such information is not normally available. However, if the requestor wishes to pursue matters the request should be made in writing and will be considered in line with the legislation.

Our approach to the release of information is a positive one; based on the assumption that information will normally be made available unless it is specifically exempt and where disclosure is not in the public interest.

Each request for information will be considered on its own merits, taking into account all circumstances and the sensitivity of the information at the time of the request.

### **Request for information under FOI**

Upon receipt of a request for information, the designated Freedom of Information Officer will send a simple acknowledgement letter to the applicant:

- to advise that we have 20 working days to supply the information

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Document status: LIVE

Document version: 1.0

Last amended: 17.09.2019

- to provide their contact name and telephone number

If further information is needed to clarify what is being requested, the Freedom of Information Officer will contact the applicant to ask them to be more specific. There is an obligation under the Act to provide advice and assistance to the applicant and speaking to them can do this more easily. Although telephone is our preferred method of contact, we will take account of how the applicant wishes to deal with us.

The Act permits the applicant to express a preference as to how the information requested may be communicated. The Act obliges us, where possible, to respond to the request in the manner requested, which may mean provision of a specific document or extracts from it.

### **Vexatious Requests**

These are requests, which may be the latest in a series of requests, would impose a significant burden **and**:

- clearly do not have any serious purpose or value;
- are designed to cause disruption or annoyance;
- have the effect of harassing the public authority; or
- can otherwise fairly be characterised as obsessive or manifestly unreasonable.

### **Information that is due for destruction**

If the information is contained within a record that is due for destruction within 20 days of the request being received, there is no requirement under the Act to release the information. However, in the interest of customer service the following points of best practice apply:

- delay destruction until disclosure has taken place
- under the duty to offer advice and assistance, identify whether another authority holds the information, and inform the applicant accordingly
- offer to provide similar or related information if this is appropriate

### **Fees**

The Act permits us to charge a fee for dealing with a request if the cost exceeds £600. An example of costs could include staff time to deal with the request, photocopying costs, postage etc. However, it is our policy not to charge other than in very exceptional cases.

### **Public Interest**

Public interest lies at the heart of the Freedom of Information Act and, with this in mind, the default position is that the public interest is best served by disclosure. Our application of the Public Interest test will involve:

- subjective judgement of all the factors relevant to a particular request
- consideration of all the circumstances of each particular case, and,

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- consideration of the exemption that is believed to justify withholding the information.
- making the distinction between matters which are in the public interest from things in which the public are merely interested.

Public interest may change over time and will be different in relation to each request. Therefore, it is necessary to weigh the factors for and against disclosure in each case. We will review the position on public interest in response to renewed requests for the same information.

Factors that we will **not** take into account when assessing the public interest include:

- possible embarrassment of government or other officials
- possible loss of confidence in government or public authority
- seniority of persons involved
- risk of applicant misinterpreting or misunderstanding the information e.g. because it is incomplete
- complexity of the information

### **Refusal to disclose**

Where it is considered that the public interest in refusing access to the information outweighs the public interest in releasing it, the ICR will inform the applicant of the reason(s) for this decision. The applicant will be advised of:

- why we are not providing information if we decide to withhold some or all of it
- which exemption we are relying upon to justify a refusal to disclose
- if appropriate, why the public interest test favours the use of the exemption rather than disclosure
- whether the information requested exists even if it is exempt
- their right for an internal review of the decision, carried out by another ICR.

### **Internal Review**

If an individual has a complaint about our decision to refuse to disclose information, they can contact us for an internal review.

If the decision remains that we refuse to disclose, the complainant will be sign posted to the Information Commissioner:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **The Information Commissioner**

A complainant who remains dissatisfied with our final response can contact the Information Commissioner. The Commissioner administers and oversees compliance with both Data Protection and Freedom of Information legislation. Failure to comply with the provisions of either act (including failure to meet the set deadlines for replies) may result in the Commissioner taking enforcement action. This is only likely if such failure is deemed to be systemic rather than a one-off incident.

If the Commissioner issues a decision notice to release information and we disagree with it, we have a right of appeal through the Information Tribunal. However, the expectation is that reaching this stage would be exceptional.