



National Lottery
Commission

Freedom of Information
Internal Review Policy

Policy

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Freedom of Information Policy

Internal Reviews

1. Introduction

- 1.1 The National Lottery Commission (Commission) is a public authority under the terms of the Freedom of Information (Fol) Act 2000. As part of its policy on Fol, and in accordance with the section 45 Code of Practice, the Commission has a procedure for reviewing the way Fol requests, decisions regarding the release of information and the application of exemptions or any other matter relating to Fol have been handled.
- 1.2 The internal review procedure will involve a review of the entire decision made in the first instance. This review will be conducted by an officer independent of decisions made previously.
- 1.3 This system of internal review is described in this document. If complainants remain unhappy with the way the Commission has dealt with their Fol request they can contact the Information Commissioner. Details of the Information Commissioners complaints procedure can be found at http://www.ico.gov.uk/complaints/freedom_of_information.aspx .

2. Basis for Internal Review

- 2.1 All responses to requests made under the Fol Act sent by the Commission will contain standard paragraphs notifying the requester of their right to complain or request a review of any part of the decision relating to the release or withholding of information. These paragraphs cover both internal review and the right of appeal to the Information Commissioner.
- 2.2 Where a requester either wishes to complain about the way their request has been handled on procedural grounds (for example the request has not been dealt with within the 20 working day time limit) or they wish to seek a review on substantive grounds (for example the decision to withhold information) the matter will be dealt with in the same way. The procedure for handling complaints or internal reviews is referred to as the Internal Review Procedure and is detailed below.

3. Internal Review Procedure

- 3.1 The Chief Executive has been designated as the contact for requests for internal review for all Fol decisions. The letter responding to the request informs requesters that any application for internal review should be addressed to Mark Harris, Chief Executive. All complaints or requests for internal review must be made in writing (letter, email or fax).
- 3.2 On receipt of the complaint or request for internal review the Chief Executive will decide whether to carry out the review himself or whether to delegate the internal review to his Deputy, or to another Director. The internal review will not be delegated to any officer who has participated in the original decision to release or withhold information.

- 3.3 The Chief Executive will provide a copy of any correspondence to the Freedom of Information Officer who will:
- Log the request.
 - Provide a written acknowledgement to the correspondent with an indication of the timescale for completing the internal review and notifying the outcome.
 - Prepare a pack of information that provides the reviewer with all the relevant information they will need to consider.
- 3.3 Unlike responses to an FoI request there is no statutory timescale for conducting a review and informing the complainant. However, the Information Commissioner has recommended that reviews should be dealt with within twenty working days from the date of the request for the review, where possible. The Commission will endeavour to deal with requests for review within this timescale.
- 3.4 The pack of information provided to the reviewer will include:
- A copy of the original FoI request
 - Copies of (or details of if there is a great deal of information) the information located and considered in responding to the request. This information will be provided to the reviewer whether or not it has been released.
 - A copy of the response, with copies of any information released, sent to the requester.
 - Copies of the FoI Act and the S45 Code of Practice
 - Copies of any email correspondence or other correspondence, notes of meetings or conversations between the Director of Resources and the Director/Head of Division who was identified as the owner of the information under consideration.
 - Copies of any email or other correspondence between the Commission and third parties (such as Camelot or DCMS) who have an interest in the information requested.
 - Copies of any legal or other specialist advice sought in considering the Commission's response to the request.
 - Copies of any relevant guidance on exemptions issued by the Department of Constitutional Affairs or the Information Commissioner.
 - Copies of relevant previous decisions of the Information Commissioner and the Information Tribunal.
- 3.5 The internal reviewer should be satisfied that all the relevant information was located in considering the request and was provided to him. The reviewer can and should request a further search of electronic and paper files and any other records if he is not satisfied that all the relevant information has been provided to him.
- 3.6 In conducting the review the Chief Executive may find it helpful to speak to the Director that made the initial decision, the Freedom of Information Officer and any other Director/Head of Division who was involved in making the decision. This discussion will be for the officer making the initial decision to explain what factors s/he took into account and why they reached their decision, they should not argue for their decision or try to influence the reviewer.

- 3.7 The reviewer may also wish to seek legal advice or other specialist advice. Any advice requested and received should be documented by the internal reviewer.
- 3.7 External reviewers: The internal reviewer may decide, for example due to pressure of time or due to the sensitive nature of the information being considered, to appoint an external reviewer to consider the request for internal review. If this is the case the external reviewer may not make a decision, but can only make a recommendation to the internal reviewer. The request for external assistance in conducting the review and the advice received should be documented by the Internal Reviewer.

4. Review of S36 decisions

- 4.1 Under the legislation only the designated qualified person may decide to withhold information under S36 Prejudice to Effective Conduct of Public Affairs of the FOIA. In the Commission the Chief Executive is the qualified person. If a request for internal review is received which involves a S36 decision the Chief Executive or nominated reviewer will conduct the review as set out in this procedure.
- 4.2 In considering the part of the review relating to the application of the S36 decision the Chief Executive will request the Deputy Chief Executive to consider the application of this exemption. The Deputy Chief Executive will make a recommendation in writing to the Chief Executive on whether the exemption should stand or whether the Chief Executive, as the qualified person, should reconsider the application of the exemption. The Chief Executive will then review his initial decision on the basis of this independent review conducted by a senior member of staff.
- 4.2 In undertaking a review of a S36 decision the Deputy Chief Executive should apply the test that would be applied on a judicial review of a decision. That is whether the decision was in the range of decisions which it would have been open to a reasonable person faced with the facts to make.

5. Conclusion of the review

- 5.1 Once the Chief Executive has concluded his review he will do the following:
- Write to the complainant informing him/her of his decision. If the decision is made to release previously withheld information that information will be sent with the reviewer's letter.
 - The letter sent by the reviewer must include details of how the complainant can escalate the matter to the Information Officer if they remain dissatisfied at the outcome of the internal review. The standard wording for this is as follows:
"If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner (ICO) for a decision. The ICO can be contacted at: The Information Commissioners' Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. "
 - Provide the Freedom of Information Officer with a copy of the letter to the complainant and copies of any papers generated as part of the review. This should include:
 - A report on the review and how the decision was reached.
 - Any additional advice sought in relation to the review.

- Any observations or recommendations for improvement regarding the way the initial decision was made or communicated to the requester.

The Freedom of Information Officer will log the response and note the closure of the review and retain the papers on file.

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