

Representation against the decision of the Authority or against a failure to respond to a request

APPENDIX C(2)

Introduction

1. We have procedures in place to allow an individual¹ who is dissatisfied in any way with a decision taken by us on the provision of environmental information to require us to review the decision taken.
2. This note sets out the procedures we follow where someone is dissatisfied.
3. Under the Freedom of Information (Scotland) Act 2002, this procedure is known as a “Requirement for Review”.² Under the Environment Information (Scotland) Regulations 2004 this is known as a “Representation”. A requirement for review/representation can arise in circumstances where the applicant believes we have not complied with our obligations under the legislation, including (but not limited to):-
 - (a) where we indicate that we do not hold information, but the individual believes we do; or
 - (b) where the individual feels that we have not provided the advice and assistance we should have done; or
 - (c) where we have refused to provide information; or
 - (d) where we have failed to reply to a request for information; or
 - (e) where we have failed to respond to a request for information within the prescribed timescale; or
 - (f) where the individual feels the charge for providing information is higher than it should be.
4. If the applicant is dissatisfied in anyway he/she can require us to review the way the request was handled or the decision reached.
5. Whenever we reply to a request for information a copy of this Procedure must accompany the response. The response must also explain to the applicant their right to seek a review of any decision taken and the subsequent right of appeal to the Scottish Information Commissioner and the Courts (see paragraphs 14 to 16 below).

¹ Reference to an individual is to any person or organisation that makes a request for information.

² For our procedure under the Freedom of Information (Scotland) Act 2002 see our separate guidance.

Timescale

6. A representation should be submitted in writing (or other permanent form) within 40 working days of either:-
- the day the individual actually received a response from us; or
 - the end of the period within which we should have replied to a request; or
 - the date by which any other action should have been taken by us.
7. We have **no** discretion to consider representations received beyond this timescale. Applicants must ensure therefore that any representations are made within 40 working days of the event described in paragraph 6.

Submission of Representation

8. Where a response is made to a request for environmental information, the response must advise that any representation is submitted to:-

John Hamilton
Head of Board Administration
NHS Greater Glasgow & Clyde
Board Headquarters,
JB Russell House,
Gartnavel Royal Hospital,
1055 Great Western Road,
Glasgow G12 0XH

Telephone 0141 201 4608
E-mail john.hamilton@ggc.scot.nhs.uk

9. Should the person making the request submit their representation to another person within our organisation, the recipient must pass it immediately to the Head of Board Administration.
10. The person making a representation should provide their name and an address for correspondence. A statement explaining why the individual feels aggrieved at the decision taken (or the lack of response) by the organisation should accompany any representation. It is always helpful if the person making a representation is explicit as to their dissatisfaction in what they say to us and clearly sets out the grounds for making a representation. Where the applicant is seeking further information relating to his/her original request this will normally be treated as a new request.

Representation Procedure

11. The representation procedure is designed to be accessible, prompt, fair and impartial. It may result in a decision being made where no decision was made previously, confirmation of the original decision, or the making of a different decision to that originally taken being made. The decision will be binding on the organisation.
12. Consideration of representations has to be processed as soon as possible and within a maximum of 20 working days. During this period we will review

our previous decision and provide any further information required if the representation outcome requires this.

Our Timescale

Event	Action	Day
(a) On receipt of a representation.	Send acknowledgement within two working days of receipt.	2
(b) Identify person who was handling request.	Download relevant information about request and response (including search log) from Datix.	2
(c) Notify person who was handling request that a representation has been received and provide a copy of statement in support from applicant and seek comments on rationale for decision.	Receive comments from request handler.	2-3
(d) Selection of Review Person.	Head of Board Administration to contact Non-Executive Director and invite him/her to undertake review with support from nominated FOI Specialist who was not involved in the original decision.	4
(e) Supply all available information to Reviewer and FOI Specialist.	Head of Administration to check all information is to hand then issue.	5
(f) Undertake Review	Non-Executive Member in consultation with FOI Specialist who was not involved in the original decision, calling for further information if required.	10
(g) Write up of decision and sign off by Non-Executive Member.	Provide final report to Head of Administration.	15
(h) Notification of decision	Head of Administration to notify outcome of the representation and right of further appeal.	20
(i) If appropriate, provide any additional information recommended by review process	Head of Administration with original handler to provide any appropriate additional information.	20

13. If at stage (h) above it is concluded that the applicant has been unfairly treated, an apology should be offered on behalf of the organisation:

RIGHT OF FURTHER APPEAL

14. The applicant is to be advised of his/her right to raise the matter further with the Scottish Information Commissioner if he remains dissatisfied with the decision of the organisation. The right of appeal is to be exercised in writing (or some other permanent form) by the applicant who must provide an address for correspondence, specify the request for information to which the representation relates and the reason for dissatisfaction. An appeal to the Commissioner must be made within a period of 6 months from the date of any notice on the representation made to us or within 6 months from when a decision should have been notified by us.
15. In advising of this right, the applicant should be given details of the contact address and e-mail address of the Commissioner at:-

Rosemary Agnew
Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
ST ANDREWS
Fife KY16 9DS

Tel: 01334 464610

E-Mail: enquiries@itspublicknowledge.info

16. The applicant should also be advised of their right to make an appeal against any decision by the Scottish Information Commissioner³ on a point of law to the Court of Session.

Assistance to Applicants

17. Under the Environmental (Scotland) Regulations 2004⁴, the recipient of a representation should provide assistance, if required, to any applicant who seeks it. He should also ensure that the needs of persons with a disability within the terms of the Disability Discrimination Act 1995 are not unfairly disadvantaged as a consequence of the procedure described above and shall make appropriate adjustments to the procedure where appropriate under the terms of that Act.

Review of Representations and Decisions of the Scottish Information Commissioner

18. Our internal procedures will provide for decisions on representations and decisions by the Scottish Information Commissioner are reviewed to ensure that processes follow best practice in dealing with requests for information under the legislation.

³ Under Section 56 of the Act.

⁴ Regulation 9