

Environmental Information Regulations (The Regulations)

The FCA's Environmental Information Regulations (EIR) internal review process

Overview

1. You have the right to complain to us if your request for information is denied or partially denied or if you are otherwise unhappy with the FCA's response to your request for information made under the Environmental Information Regulations 2004 (EIR).
2. You also have the right to complain to the Information Commissioner but, before doing so, you must exhaust the FCA's internal review process.
3. The FCA's internal review process is intended to be as straightforward as possible; where practical, we will try to resolve your concerns informally by:
 - explaining in more detail the grounds for refusal to disclose any/all of the information requested;
 - clarifying the exceptions being relied on; or
 - by giving more details about the charging process and how we calculated the fee.
4. Where it is not possible to resolve the complaint informally, you will be notified of the right to have the decision reviewed, initially through the FCA's internal review procedure and then, if you are still dissatisfied, by the Information Commissioner.
5. If you ask us for an internal review of our decision, we will acknowledge your appeal, which will be treated as a formal complaint and will be subject to the internal review procedure.
6. A number of outcomes are possible, including:
 - the original decision is upheld; or
 - the original decision is reversed in part or in full.

Internal review

7. If you wish to exercise your right to an internal review you should contact us within 40 working days from the date of our response to your request. We will acknowledge the complaint and notify you of the date by which we will be in touch, with the outcome. In line with the Regulations, this must be no later than 40 working days after we receive your request for a review.

8. Requests for internal review will be handled by the FCA's Information Access Team who will be responsible for reviewing the decision and the material (if held). Other FCA staff may also be involved before reaching a decision.

9. The final decision will be made by the FCA's Internal Reviewer or another senior member of staff who was not involved in making the original decision.

10. As part of the process, we will consider whether:

- the Regulations have been properly applied, in particular, whether the information requested genuinely falls within the exception(s) cited and (where relevant) the public interest in maintaining the exception outweighs the public interest in disclosing the information;
- there have been any developments since the original response, including any points made by you when making your complaint, that should alter our approach;
- it is possible to provide any further information to you; and
- there are any lessons for handling future cases.

11. If the original decision is reversed, you will be informed and either sent the information requested or notified of the date by which you may expect to receive the information.

12. If the outcome of the review is that the original decision is upheld or to release more of the information requested, but not all of it, you will be notified in writing and we will explain why, referring to the relevant exception(s). A fee may be payable. We will also advise you of your right to appeal further to the Information Commissioner.

Role of the Information Commissioner

13. EIR is enforced by the Information Commissioner. The Information Commissioner is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

14. Complaints about decisions made under EIR by public authorities, including the FCA, can be made to the Information Commissioner (after internal review) for a decision on whether the FCA dealt with the request in accordance with EIR. In particular he will consider whether:

- an exception has been properly applied and (where relevant) the public interest exercise has been properly carried out;
- any fees were appropriately levied;

- the time taken by the public authority to comply was reasonable; and
- correspondence complies with statutory requirements.

15. After an initial assessment of the complaint, the Information Commissioner may attempt to settle the matter informally by contacting both parties to provide his views on how the dispute can be resolved without going through the full appeals process. If the Information Commissioner elects to undertake a full investigation he can decide either that FCA has complied with the Regulations or that further action is necessary to comply. The nature of this action (eg. to provide information previously withheld or revise any fees) will be set out in a Decision Notice or an Enforcement Notice. These notices are binding on public authorities although you and the FCA can appeal the Information Commissioner's decision to the First Tier Tribunal (Information Rights) and thereafter on a point of law only, to the Upper Tribunal.

16. If the Information Commissioner upholds a complaint and decides that the FCA must disclose information, a Decision Notice will be issued and served on the complainant and the FSA. This will specify the information that we must disclose and the time period for doing so.

17. If the FCA receives a Decision Notice that over-rules previous action taken by the FCA (eg. to withhold information) we may either comply or we can appeal to the First Tier Tribunal (Information Rights).