

1.2 Whilst similar in their purpose and goals, the processing and timelines set down in legislation are slightly different. **Appendix 1** outlines these processes and the application of the legislation which MDDC are obliged to follow. Information on our corporate responsibility is also published on the MDDC [website](#).

1.3 This report outlines how MDDC processes these public requests.

2.0 Processing

2.1 Whilst the intention of the regulations is for transparency to the public, in some instances information requested can be refused, withheld, or redacted within a response. When this is done, MDDC is obliged to inform any applicant for information of the exemptions (FOI) or exceptions (EIR) that have been applied.

2.2 Requests are administered by the Information Management (IM) team. On receipt these are forwarded to services to respond and the **requestor information is removed** prior to allocation.

2.3 Applicants are able under the legislation to request a review of an MDDC response and if they remain unhappy with any review outcome, can refer the matter to the [Information Commissioner's Office](#) (ICO). MDDC are unable to deviate from this approach.

2.4 Where MDDC believes that the original response should stand the requestor can then refer to the ICO. During this process, again the team will confer with colleagues and legal to provide a response. On any ICO decision a meeting is held with one or more senior officers to determine lessons are learned and ensure that we are continuously updating our understanding and practice and ensuring that we are responding to ICO requests for any action within the stipulated period.

2.5 Examples of some of the exceptions or exemptions that may be applied in the refusal/redaction of information are most commonly, but not limited to, commercial interests, personal data, legal confidentiality.

2.6 Once an initial request is responded to, the requestor can ask for a review. This is done by the Senior Information Officer, who may include a more senior manager, Subject Matter Expert (SME) or the Legal team as a check for reassessment, correcting errors, transparency, fairness, or potential improvements in response.

2.7 It is important to understand that exceptions/exemptions are applied at the point/date of the request and first response required within the initial 20 days. Commercial sensitivity of information can reduce or no longer be applicable

after a period of time. This can subsequently change the ICO/MDDC position on disclosure of that data during any challenge/ICO process and the decision to withhold is assessed at each check point.

- 2.8 The timeline of the challenge process once a review response is given is within the gift of the ICO, and the remainder of the process can take many weeks/months.

3.0 The Team

- 3.1 The team consists of 2 FTE whose responsibility it is to administer requests and collate responses from services and ensure that MDDC meets the regulatory requirements for transparency and timeliness. This team is overseen by the Head of Digital Transformation & Customer Engagement, who in turn is managed by the Deputy Chief Executive who also holds the role of Senior Information Responsible Officer (SIRO).
- 3.2 The team are qualified FOI and Data Protection practitioners. Depending on the nature and complexity of public requests for information the team also has access to SMEs in services and liaises regularly with the Legal team.
- 3.3 The two FTE are also responsible for working across the organisation with services around Information Management activities, data protection and ensuring that MDDC are meeting the regulatory requirements.

4.0 Record of Performance

- 4.1 Below is a summary of MDDC's recent performance in this area.

	2023/24	2024/25 to date
Requests	761	453
Reviews	15	6
Complaints	4	3
Upheld	2*	1
Not Upheld	2**	2

*One changed to partially upheld on appeal

**Over the above periods three of the cases were partially upheld on points of clarification. One to timeliness, one with an incorrect citation on first response and one where FOI was applied instead of EIR.

- 4.2 ICO complaints about responses to FOI/EIR requests are less than 1% of our overall response. That these requests result in a requirement for ICO

consideration indicates that there may be exemptions applied due to the sensitivity of the information.

- 4.3 It is not unique that MDDC have an even spread of outcomes on complaints. In the same period Devon County Council had the same number of complaints with a 4-3-upheld/not upheld ratio, Kent County Council 4-2, Somerset Council had 14, with a 7-4-3 ratio, and Exeter City Council had a 1-4 ratio. These are just a few examples but should highlight how outcomes of ICO complaints are relatively uniform between councils.

5.0 Timeliness

- 5.1 MDDC is committed to administering the FOI/EIR process in a timely manner and within the deadlines set out in the legislation. We also ensure that we adhere to any deadlines prescribed by the ICO in any decision it publishes.
- 5.2 This table shows our current key performance indicator on our responses:

Response to FOI/EIR Requests (within 20 working days)		
	Target	Actual
2023/24	97%	100%
2024/25 to date	97%	99%

- 5.3 The ICO has a standard expectation of 95%. We do not keep records of average time taken to respond; however, many requests are responded to within a 10-working day period. Information Management is reliant on busy departments to respond within this time and all staff should be commended on their continuing prioritisation of these public requests for information to meet the regulatory requirements consistently.

6.0 Publication and Transparency

- 6.1 Disclosure logs listing our responses to previous requests made under FOI/EIR are published quarterly retrospectively and can be found on our [website](#). MDDC are not obliged to publish full responses/data and do not do so due to the administrative overhead. Any member of the public can request a copy of the response/information if it falls within our retention period of 24 months. This is indicated on the [website](#).

A sample of the disclosure log is provided at **Appendix 2**. This identifies the subject matter of the request, what exemptions were applied, whether disclosed in full and the number of days to process.

- 6.2 The ICO publishes findings of all investigations as part of their [public register](#) which can be found on their website.

- 6.3 Officers would not be able to discuss requests/cases in open session until such time as they are resolved. The ICO and their decisions can be further challenged via First-Tier Tribunals so the entire process can take a considerable period of time.
- 6.4 The Scrutiny committee has requested quarterly performance figures for FOI requests. These can be provided to the clerk as a dashboard for noting and made up of tables at 4.1 and 5.2. **OR** published on our website.
- It is important to understand that unless there are significant performance issues which would need to be addressed the committee is unable to influence the process as this is set in legislation.
- 6.5 Given the limited impact that the committee can have on the process or influence on how the legislation is applied it is suggested that should there be a significant dip in response times or escalation in challenges being upheld Scrutiny could request an update report from the responsible officer.
- 6.6 The committee has requested an annual report to Scrutiny on MDDC's performance on the processing of FOI and EIR requests. It is suggested that this be scheduled to be brought before committee during first quarter 2025 as the monitoring is done by financial rather than calendar year.

Financial Implications - Failure to process or apply regulatory requirements to the provision of information under FOI/EIR may result in compensation claims.

Legal Implications - Failure to process or apply regulatory requirements to the provision of information under FOI/EIR may result in legal costs and enforcement action by the ICO.

Risk Assessment – Failure to process or apply regulatory requirements to the provision of information under FOI/EIR may result in reputational damage and operational impact.

Impact on Climate Change - None

Equalities Impact Assessment – None. Responders to FOI/EIR requests are not provided with personal information of requestor. Requests can be made verbally or in writing and if necessary alternative formats of information can be provided as per our Customer Standards.

Relationship to Corporate Plan – Community, People and Equalities – Involving and engaging our communities.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 4 December 2024

Statutory Officer: Maria de Leburne
Agreed on behalf of the Monitoring Officer
Date: 4 December 2024

Chief Officer: Stephen Walford
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 4 December 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 03 December 2024

Cabinet member notified: yes

Report: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. No

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Section 4 - Contact Details and Background Papers

Contact: Lisa Lewis, Head of Digital Transformation & Customer Engagement
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Telephone: 01884 234981

Background papers:

Appendix 1 – Outline of FOI/EIR processes.