

FOI Request Reference: FOI-2023-010

Schedule Of Records

Record No	Date of Record	Brief description	No. of Pages	Decision: Grant/Part Grant/Refuse	Section of Act if Applicable	Record Edited/Identify Deletions
1	05/10/2022	OIC Summary Procedures / Section 3	1	Granted		
2	13/09/2022	OIC / Procedures Manual / Section 4.5	2	Granted		

INFORMATION COMMISSIONER SUMMARY PROCEDURES

Section 3: Screening Applications - Admitting late Applications:

Admitting late applications

Section 22(4) of the FOI Act requires applicants to apply for a review within certain time limits. Applications for review must be made within six months of notification of the decision (or within two weeks of notification of a decision in a section 14 or section 38 case). The Commissioner may extend the time limit if there are reasonable grounds for doing so. The Commissioner decides each case on its merits. It is not possible to list all the possible reasonable grounds here. Examples of reasonable grounds are: illness; absence from home; failure by the FOI body to give the applicant details of his/her right of appeal to this Office; or evidence of genuine confusion by the applicant(s) about the appeal process. When we receive a late application, we invite the applicant to make a submission on why the Commissioner should extend the deadline.

OFFICE OF THE INFORMATION COMMISSIONER PROCEDURES MANUAL

4.5 Admission of late applications for review

Section 22(4) provides that applications for review must be made within the following time limits:

- In the case of decisions under section 14 to extend the time taken for consideration of a request - not later than 2 weeks after the notification of the decision to the relevant person concerned
 - In the case of a decision on a request to which section 38 applies - not later than 2 weeks after the notification of the decision to the relevant person concerned, and
 - not later than 6 months after the notification of the decision in other cases.
- However, in all three cases the Commissioner may extend this period if he is of the opinion that there are reasonable grounds for doing so.
 - This means that late applications should not be admitted as a matter of course. Apart from the clear provisions of the Act, there may well be good reasons why an application should be refused. For example, in the intervening period the views of the FOI body may have changed and it is possible that a fresh FOI request will yield a different result. In other cases, the requirements of certainty suggest that an FOI body should not continue to be at risk of review of its decision after the elapse of a reasonable period of time.
 - Among the grounds which might be considered reasonable in some cases are 'force majeure' situations, e.g. illness, absence from home, failure by the FOI body to give the applicant details of his/her right of appeal to this Office, or evidence of genuine confusion by the applicant(s) in relation to the appeal process. However, the Commissioner will decide each case on its merits and it

is not possible to set out in advance a comprehensive set of grounds that will be considered reasonable.

- In cases where the application is made outside the deadline, the applicant should be informed in writing that the application is out of time and that the Commissioner will only admit a late application if there are reasonable grounds for doing so. The applicant will be invited to make a submission regarding any reasonable grounds for extending the application deadline.

- If the applicant requests the Commissioner to exercise his discretion and puts forward grounds for doing so, the matter should be discussed with a Senior Investigator prior to making a decision to accept or reject the application for review. In certain cases, the Commissioner may invite the FOI body's comments on a late application.