

**FREEDOM OF INFORMATION ACT 2000 (SECTION 52)
ENFORCEMENT POWERS OF THE INFORMATION COMMISSIONER
ENFORCEMENT NOTICE**

DATED: 26 August 2026

To: Derby City Council

Of: Council House, Corporation Street, Derby, DE1 2FS

1. Derby City Council (the "council") is a "public authority" listed in Schedule 1 and defined by section 3(1)(a)(i) of the Freedom of Information Act 2000 ("FOIA"). FOIA provides public access to information held by public authorities.
2. The council's obligations as a public authority under FOIA include –
 - a. Being obliged to publish certain information about its activities;
 - b. Responding to requests for information from members of the public.
3. The Information Commissioner (the "**Commissioner**") hereby issues the council with an Enforcement Notice (the "**Notice**") under section 52 FOIA. The Notice is in relation to the council's
 - a. Continuing non-compliance with section 1(1) FOIA;
 - b. Continuing breach of section 10(1) FOIA.
4. This Notice explains the Commissioner's decision to take enforcement action. The specific steps that the council is required to take are set out in **Annex 1**

5. The Commissioner expects the council to ensure that it continues to meet its obligations to comply with subject access requests under the UK GDPR whilst actioning the steps in **Annex 1**.

Terms of this Notice

6. The Commissioner exercises his powers under section 52 of FOIA to serve an Enforcement Notice requiring the council to take specified steps to comply with FOIA. The specified steps are set out in **Annex 1** of this Notice.
7. The consequence of failing to comply with an Enforcement Notice is that the Commissioner may make written certification of this fact to the High Court pursuant to section 54 of FOIA. Upon consideration and inquiry by the High Court, the council may be dealt with as if it had committed a contempt of court.

Legal Framework for this Notice

8. A person requesting information from a public authority has a right, subject to exemptions, to be informed by the public authority in writing whether it holds the information, and to have that communicated to them, if the public authority holds it. This is set out in section 1(1) FOIA–

"(1) Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him."*

9. Section 10(1) FOIA specifies that public authorities must respond to requests within 20 working days:

"... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following receipt."

10. There is provision under FOIA for a public authority to claim a reasonable extension to this limit in certain circumstances but in all cases, the public authority must give the requestor a written response within the standard time limit for compliance.

11. The Commissioner has various powers under FOIA. One of these is the issuing of an Enforcement Notice. Section 52(1) of FOIA states –

"If the Commissioner is satisfied that a public authority has failed to comply with any of the requirements of Part I, the Commissioner may serve the authority with a notice (in this Act referred to as an "enforcement notice") requiring the authority to take within such time as may be specified in the notice, such steps as may be so specified for complying with those requirements."

12. Section 52 FOIA has effect subject to section 53 FOIA, which provides details of the exceptions from the duty to comply with a decision notice or enforcement notice.

Background

13. The Commissioner became aware of concerns regarding the council's compliance with FOIA following information provided about the council's timeliness in responding to FOI requests and the scale of its

outstanding caseload.

14. The council provided information about its performance for FOI requests due between 1 January 2026 and 24 July 2026. Of those requests, 226 were completed on time, representing 29% of the total; 90 were completed outside the statutory timeframe, representing 11%; and 463 were open and overdue, representing 59%.
15. The council also provided a spreadsheet setting out individual outstanding FOI requests. The spreadsheet contains 1,018 entries and records request statuses, received dates and statutory request deadlines. The oldest recorded request was received on 24 October 2022 and had a request deadline of 21 November 2022.
16. On the basis of the recorded request deadlines in the spreadsheet, 891 of the listed requests had request deadlines before 27 July 2026. The same spreadsheet records 662 requests that had been received more than three months before 27 July 2026, 512 requests that had been received more than six months before that date, and 335 requests that had been received more than 12 months before that date.
17. The spreadsheet records requests across a number of statuses. The council explained that some status categories require further action even where work has already been undertaken. For example, requests marked "Open - Response and sign off received" are described as ready to send, while requests marked "Open - Response received, sign off pending" are awaiting approval by a senior manager. The Commissioner considers that this demonstrates delay at multiple points in the request-handling process, including allocation, service response, clearance and issue.

The Contravention and Reasons for this Notice

18. FOIA requires a public authority to inform applicants whether it holds requested information and, if it does, to communicate that information within 20 working days of receipt, unless a valid exemption or other FOIA provision applies.

19. The Commissioner is satisfied that the council has failed to consistently comply with these obligations. The information provided by the council demonstrates a substantial and sustained backlog of open and overdue FOI requests. The council's own 2026 performance data shows that, for FOI requests due between 1 January 2026 and 24 July 2026, 59% were open and overdue.

20. The Commissioner considers that the figures indicate more than isolated instances of delay. The number and age of outstanding requests demonstrate systemic weaknesses in the council's request-handling arrangements. Those weaknesses have resulted in persistent non-compliance with the statutory timescales imposed by FOIA and have the potential to undermine the rights conferred on applicants by section 1(1).

21. The volume of overdue and long-running requests, together with the council's reported in-time rate of 29% for requests due in 2026 to 24 July 2026, demonstrates that the council's arrangements were not sufficient to secure consistent compliance.

22. The Commissioner further notes that the backlog includes requests where the recorded status suggests that no substantive service response has been received, as well as requests where a response appears to be ready or substantially ready but has not been issued. This supports the Commissioner's view that delay arises at several

stages of the council's process and requires a structured remedial response rather than case-by-case recovery alone.

23. Public authorities are required to organise their affairs so as to ensure compliance with FOIA. Operational pressures, staffing constraints, service dependencies or clearance arrangements may explain how a backlog has arisen, but they do not remove the council's statutory obligations.

24. Taking these factors into account, the Commissioner considers it a proportionate regulatory step to issue an Enforcement Notice requiring the council to comply with section 1(1) FOIA in respect of the substantial backlog of overdue requests and to ensure that future requests are handled in accordance with the council's obligations under sections 1(1) and 10(1) FOIA.

25. The Commissioner also considers it a proportionate regulatory step to require the council to devise and publish an action plan, supported by a lessons learned exercise, which formalises measures to mitigate delays. The action plan should examine the root cause of delay from receipt and validation through allocation, service input, drafting, approval and issue, with specific mitigations for recurring problems addressed in the plan.

26. The Commissioner has grave concerns about the exceptional level of systemic non-compliance demonstrated by the council's performance. The information provided to the Commissioner indicates not merely a backlog of individual requests, but a sustained failure to meet the statutory requirements imposed by FOIA across a substantial proportion of the council's request-handling function.

27. The Commissioner recognises that the council has engaged constructively with the ICO, has identified the causes of its non-compliance and has begun implementing measures intended to improve performance. Nevertheless, the council's own evidence demonstrates an exceptional level of systemic non-compliance, including a substantial backlog of overdue requests, many of significant age.
28. In the Commissioner's view, the scale, age and persistence of these delays are wholly incompatible with the access rights conferred by sections 1(1) and 10(1) of FOIA and amount to an exceptional level of systemic non-compliance, indicating that the council's existing arrangements have failed to secure effective compliance with its statutory obligations

Other Matters - Internal Review

29. The Commissioner cannot require remedial steps in an Enforcement Notice solely in respect of the time taken to complete internal reviews because internal review timescales are not a formal requirement of FOIA. They are matters of good practice addressed in the Code of Practice issued under section 45 FOIA.
30. The status information provided by the council includes a number of entries marked "Internal Review". The council's note explains that this status covers cases where an internal review request has been received and, where there is no closed date, may include cases in which no original response has been sent and the internal review is therefore, in substance, a complaint about non-response.
31. The Commissioner expects the council to take appropriate steps to

ensure that internal review requests are handled in accordance with the [section 45 Code of Practice](#) and that internal review processes do not obscure or delay the council's outstanding obligation to issue a lawful response to the original request where no response has been provided.

32. The Commissioner considers that the council may benefit from using the Commissioner's [FOI self-assessment toolkit](#), particularly the topic dealing with timeliness, when devising and implementing its action plan.

Right of Appeal

33. By virtue of section 57 of FOIA there is a right of appeal against this Notice to the First-tier Tribunal (Information Rights). If an appeal is brought against this Notice, it need not be complied with pending determination or withdrawal of that appeal.

34. Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
General Regulatory Chamber
PO Box 11230
Leicester
LE1 8FQ

Tel: 0203 9368963

Email: GRC@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

35. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Enforcement Notice is sent.

Phillip Angell
Head of Freedom of Information & Transparency
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex 1

TERMS OF THE ENFORCEMENT NOTICE

THIS NOTICE REQUIRES DERBY CITY COUNCIL TO TAKE THE FOLLOWING STEPS BY THE DATES SPECIFIED BELOW:

WITHIN 30 CALENDAR DAYS OF THE DATE OF THIS NOTICE:

- (i) Publish on its website an action plan, supported by a lessons learned exercise identifying the root causes of delays in handling FOI requests and formalising measures to mitigate those delays.
- (ii) The action plan must include, as a minimum, measures addressing receipt and validation, allocation to services, service response times, chasing and escalation, drafting and clearance, sign-off, issue of responses, monitoring of older cases, and governance reporting to senior management.
- (iii) Provide a copy of the published action plan to the Commissioner and identify the senior officer accountable for delivery of the plan.

WITHIN 6 MONTHS OF THE DATE OF THIS NOTICE:

- (iv) In respect of each information request where the response is outside 20 working days as at the date of this Notice, comply with section 1(1)(a) FOIA and, if information of the description specified in the request is held, either communicate it pursuant to section 1(1)(b) FOIA or issue a valid refusal notice under section 17 FOIA, unless section 17(6) FOIA applies.