

# Freedom of Information Policy

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<b>Name of Originator/Author</b>	<b>Nicola Kelly</b>
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# Freedom of Information Policy

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## 1 Policy Statement

- 1.1 This document defines the Freedom of Information Policy for the BSO.
- 1.2 The purpose of this policy is to ensure that the provisions of the Freedom of Information Act 2000 (the Act) and the Environmental Information Regulations 2004 (the 2004 regulations) are adhered to. Both regimes have been in force since the 1st January 2005.
- 1.3 The policy should not be read in isolation and regard should be given to Codes of Practice on “Handling Requests for Information” and “Management of Records” respectively. The BSO further recognises that although it is not legally binding, failure to comply with the codes may lead to the failure to comply with the Act.
- 1.4 This policy is a supporting policy of the BSO Information Governance Policy and forms a part of the Information Governance Framework of the organisation.

## 2 Principles

- 2.1 The aims of the policy are to ensure timely access to information held by the BSO in order to promote greater openness, provide increased transparency of decision making and to build public trust and confidence. These aims will be balanced against the need to ensure the confidentiality of some information relating to such areas as personal privacy, commercial sensitivity and where disclosure would not be in the public interest.
- 2.2 The policy and procedure will be reviewed periodically by the BSO Senior Management Team (ref. paragraph 6.2). Where review is necessary due to legislative change this will happen immediately.
- 2.3 In accordance with the BSO's Equal Opportunities policy, this policy will not discriminate, either directly or indirectly, on the grounds of gender, race, colour, ethnic or national origin, sexual orientation, marital status, religion or belief, age, union membership, disability, offending background or any other personal characteristic.

### 3 Scope of this Policy

- 3.1 This policy applies to all information the BSO holds regardless of how it was created or received. It applies no matter what media the information is stored in and whether the information may be on paper or held electronically. The Act is fully retrospective.

### 4 Policy

- 4.1 The BSO regards the lawful and correct management of all its information as critical to successful service delivery, and to maintaining the confidence of those with whom we work.
- 4.2 We must ensure that at all times the BSO manages this resource lawfully and correctly. The BSO acknowledges its obligations as set out under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. It fully endorses the requirement to provide greater accessibility to all information, thereby promoting a culture of openness, enabling greater public scrutiny.
- 4.3 The BSO accepts that the right to access any of the information it holds, may be exercised by anyone (the applicant). The following rights of access will therefore be maintained (as set out within the Act):
- The right to be informed whether or not the information requested is held by the Organisation.
  - The right to have that information communicated (to the applicant) subject to the exemptions of the Act.
  - The right for the applicant to receive advice and assistance to help them make and frame their request.
- 4.4 The BSO may not release information to which any of the exemptions set out below (as defined within the Act) apply.

#### Procedural Exemptions (no requirement to consider the test for public interest):

- Section 12 – Exemption where cost of compliance exceeds appropriate limit.

#### Absolute Exemptions (no requirement to consider the test for public interest):

- Section 21 - Information accessible to the applicant by other means.
- Section 23 - Information supplied by, or relating to, bodies dealing with security matters.
- Section 32 - Court records.
- Section 34 - Parliamentary privilege.
- Section 40 - Personal information of the applicant and third party information in some cases. The Data Protection Act 1998 covers this type of information; reference may be made to the BSO Data Protection Policy.
- Section 41 - Information provided in confidence.
- Section 44 - Information whose disclosure is prohibited in law.

#### Qualified Exemptions (consider whether it is in the public interest to disclose the Information):

- Section 22 - Information intended for future publication.
- Section 24 - National Security.
- Section 26 - Prejudice defence or armed forces.
- Section 27 - Prejudice international relations.
- Section 28 - Prejudice relations between parliaments / assemblies in the UK.
- Section 29 - Prejudice the economic interests of the UK.
- Section 30 - Investigations and Proceedings.
- Section 31 - Law Enforcement.
- Section 33 - Audit functions.
- Section 35 - Formulation of government policy.
- Section 36 - Prejudice the effective conduct of public affairs.
- Section 37 - Communications with her Majesty.
- Section 38 - Health & Safety.
- Section 39 - Environmental Information.
- Section 40 - Personal Information of a third party in some cases.
- Section 42 - Legal professional privilege.
- Section 43 - Commercial Interests.

4.5 If access to information is refused because of an exemption, the applicant has a right to a review of the decision. Reviews will be conducted by a panel including a non-executive director of the organisation and administered by the Freedom of Information Officer of the BSO. If the appeal is not resolved, the applicant will have the right to appeal to the Information Commissioner for an independent review.

The BSO also has the right to appeal to the Information Commissioner in regard to a complaint or appeal from an applicant.

**NB** A requester can appeal to the Information Commissioner's Office at any time during the processing of their request, but it is unlikely that the Information Commissioner will accept the appeal unless the requester has exhausted all the BSO's internal appeal processes.

4.6 Information that can be downloaded from any of the BSO's websites will be free of charge. It is the aim of the BSO to publish as much information on its websites as possible. There may be additional charges for work undertaken to obtain and provide the information requested, where information is not included in the publication scheme. These will not exceed the level prescribed by the relevant Fees Regulations.

## 5 Freedom of Information Responsibilities

### Overall Responsibilities

- 5.1 The BSO Senior Management Team has delegated adherence to the provisions of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 to the Freedom of Information Officer.
- 5.2 The Freedom of Information Officer responsibilities have been allocated to the Administrative Services Manager.

### Freedom of Information Officer's Responsibilities

- 5.3 The Freedom of Information Officer's responsibilities includes:
- Ensuring that the appropriate Freedom of Information policy for the BSO is produced and kept up to date.
  - Ensuring that the appropriate procedures and practices are formulated and adopted by the Organisation.
  - Representing the Organisation on Freedom of Information Act 2000 and the Environmental Information Regulations 2004 matters.
  - Providing the appropriate leadership and direction for the Freedom of Information team operating within the Organisation.
  - Setting the standard of Freedom of Information Act 2000 and the Environmental Information Regulations 2004 training for staff across the Organisation.
  - Ensuring that the requirements of the Model Publication Scheme are met as required by the Information Commissioner.
  - Ensuring that there is a management of the procedures to be followed for the management of requests.
  - Acting as a central point of contact on Freedom of Information Act 2000 and the Environmental Information Regulations 2004 within the Organisation.
  - To establish KPIs for FOI/EIR and to report these to DHSSPS and SMT.
  - Implementing an effective framework for the management of Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
  - Ensuring that there is a Records Management Retention and Destruction Policy in place to support compliance with both the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and the Code of Practice to be followed for the management of records.

### Freedom of Information Officer's Responsibilities (as delegated)

- 5.4 The Freedom of Information Officer also carries out the duties below for all business areas, bar those identified below, where these daily responsibilities have been delegated to a number of Freedom of Information Managers, whose responsibilities include:
- Assisting in the preparation of policies, procedures, protocols and guidance in compliance with Freedom of Information and the Environmental Information Regulations 2004.
  - Ensure staff training and awareness of their responsibilities regarding Freedom of Information and the Environmental Information Regulations 2004.
  - Providing advice and guidance to all enquiries from internal and external sources.
  - Monitor compliance with the Freedom of Information and the Environmental Information Regulations 2004, timescales for processing requests for information.

## Line Manager's Responsibilities

5.6 Line Managers are directly responsible for:

- Ensuring that their staff are made aware of any Freedom of Information and the Environmental Information Regulations 2004 notices.
- Ensuring that their staff are aware of their Freedom of Information and the Environmental Information Regulations 2004 responsibilities.
- Ensuring that their staff have had suitable Freedom of Information and the Environmental Information Regulations 2004 training.

## General Responsibilities

5.7 All BSO employees, including temporary, contract and agency staff, are subject to this policy.

5.8 All BSO employees have responsibilities to ensure that any request for information they receive is dealt with under the Act and in compliance with this policy. They are also responsible for good information handling practice and implementing records management policies and procedures as appropriate to their post.

5.9 All staff should be aware that there is the potential for criminal charges against an individual under the Act, in accordance with Section 77, which states as follows:

*“any person to whom this sub-section applies is guilty of an offence if he alters, defaces, blocks, erases, destroys or conceals any record held by the public authority, with the intention of preventing a disclosure by that authority of all, or any part, of the information to the communication of which the Applicant would have been entitled”.*

## 6 Validity of this Policy

6.1 This policy has been screened in accordance with the BSO's statutory duty and is not considered to require a full impact assessment.

6.2 This policy should be reviewed bi-annually under the authority of the Senior Management Team. Associated Freedom of Information and the Environmental Information Regulations 2004 procedures and Guidelines are subject to an on-going development and review programme by the Information Governance Management Group (IGMG).