

# **Department for Employment and Learning**

## **Freedom of Information Act 2000 & Environmental Information Regulations 2004**

### **Procedures Manual**

Revised  
Review

November 2015  
May 2015

## CONTENTS

Part 1 -	<a href="#">Introduction</a>
Part 2 -	<a href="#">The Freedom of Information Act</a>
Part 3 -	<a href="#">Processing a Request</a>
Part 4 -	<a href="#">Time Limit for Replies: Points to Note</a>
Part 5 -	<a href="#">Consultation Procedures</a>
Part 6 -	<a href="#">The Schedule</a>
Part 7 -	<a href="#">The Use of Crown Copyright</a>
Part 8 -	<a href="#">Internal Review Process</a>
Part 9 -	<a href="#">Review by the Information Commissioner</a>

Appendix A –	<a href="#">Standard Letters</a>
Appendix B –	<a href="#">Request Handling Flow Charts</a>
Appendix C –	<a href="#">Schedule of Records Template</a>
Appendix D –	<a href="#">Public Information Leaflet</a>
Appendix E –	<a href="#">MOJ/ICO Memorandum of Understanding - National Security Exemptions</a>
Appendix F –	<a href="#">FOI Retention Periods</a>
Appendix G –	<a href="#">Round-Robin Requests: NICS Handling Protocol</a>

### Revision History

This document is reviewed annually. It is also reviewed following any major policy or procedural changes.

Issue	Date	Author	Description
Version 1	February 2011	IMU	ICO Guidance on disclosure of staff names
Version 2	October 2011	IMU	Clearance Procedures Complaints Procedure in Letter Templates New Template for Repeated Request
Version 3	July 2012	IMU	Changes to approval process and Round-Robin Requests: NICS Handling Protocol
Version 4	March 2014	IMU	Removal of the Local Information Manager Role Open Government Licensing Update New ICO guidance on Vexatious and Repeated requests
Version 5	October 2014	IMU	Changes to response approval process New Fees Refusal Notice

Version 6	April 2015	IMU	3 <sup>rd</sup> Party consultation with the PSNI New version of the Open Government Licence
Version 7	November 2015	IMU	Bi-annual review

# 1. Introduction

This handbook is intended to support those who are responsible for dealing with Requests for Information ('RFIs'). Its aim is: -

- To encourage consistency and best practice in the operation of the Freedom of Information Act ('the FOIA') and the Environmental Information Regulations ('EIRs') across the Department for Employment and Learning (DEL); and
- To answer frequently asked questions about RFIs.

The handbook sets out the Department's approach to managing RFIs made under the FOIA and the EIRs. **It does not deal with the management of Subject Access Requests (SARs) under the Data Protection Act (1998) (DPA).** Guidance on dealing with SARs is available on the DEL Intranet [Data Protection Guidelines](#).

While only one EIR request has been received by the DEL since 2005, FOIA has become a staple part of our work since its full implementation in January 2005. Case law continues to develop and the Information Commissioner's Office (ICO) regularly publishes guidance and Decision Notices which can be used to inform responses to FOI Requests. Information Management Unit (IMU) staff will support business areas and should be contacted immediately on (028 902) 57442, if clarification or guidance on any aspect of FOIA is required.

## 2. [The Freedom of Information Act 2000](#) and [Environmental Information Regulations 2004](#)

Since the full implementation of the FOIA in January 2005, all public authorities are required to respond to **RFIs**.

### 2.1 What do these pieces of legislation do?

These **legislative provisions**, which are **totally retrospective**, established new statutory rights:

- To be told whether the requested information is held by the Department; and
- To access that information (where possible, in the manner requested e.g. a photocopy)

These rights are subject to certain **exemptions (FOI)** and/or **exceptions (EIRs)**.

All recorded information held by a public authority is covered by the right of access. "Holding" information includes holding a copy of a record produced or supplied by someone else.

The legislation also establishes arrangements for **enforcement and appeal**.

FOIA places a statutory obligation on the Department to provide advice and assistance, as far as it would be reasonable to expect it to do so, to persons who propose to make, or have made, RFIs to the Department.

Examples of what is reasonable may include:

- Keeping an applicant advised of progress with regard to his or her request;
- Advising a potential applicant of his or her rights under the Act;
- Assisting an applicant to narrow down his or her request, perhaps advising of information available within the requested category; and
- Advising an applicant if information is available elsewhere, and explaining how to access this (for example via the authority's publication scheme or website).

### 2.2 Response Times for RFIs

All RFIs must be responded to promptly and certainly within the legislative requirement of **20 working days** from receipt. For **EIR requests** the deadline may be extended to 40 days if the Department reasonably believes that the complexity or volume of the information requested means that it is impractical either to comply with the request within the earlier period or to make a decision to refuse to do so].

## 2.3 What are working days?

'Working Days' are all days except Saturdays, Sundays, Christmas Day, Good Friday, and Bank Holidays anywhere in the UK, as set out in the [Banking and Financial Dealings Act 1971](#).

### Note: Privilege Holidays

It should be noted that Civil Service 'privilege days' do not count as working days. If the Department is closed for a privilege day, this should be built into the timetable for response.

Current NICS Privilege Holidays include 13<sup>th</sup> July and the 3<sup>rd</sup> day at Christmas – for further information, please see [Section 3.06](#) of the HR Handbook which can be accessed through your HR Connect Account.

## 3. Requests for Information (RFIs)

### 3.1 Who can make a request?

Anyone can make a request for information under the FOIA or EIRs. The legislation makes no distinction between requests from citizens or residents within or outside of the UK. All requests must be treated in the same way.

Requests from overseas may be in a foreign language. If a request is received in a foreign language and the Department regularly makes printed material available in that language, it is best practice to use the recognised translation service to translate the request into English and then deal with the request as normal.

Requests received in a language in which the Department does not generally provide written material should be replied to in English, asking that the request be re-submitted in English.

### 3.2 What is a request for information?

Any request for recorded information is a request to which FOIA or EIRs procedures potentially apply. Applicants may request information that is included in minutes of meetings, e-mails, maps, audio recordings, video recordings and information held in any format by the Department.

However, branches also need to consider whether the request can be dealt with as "**normal business**" as not every request for information needs to be handled under the formal FOIA/EIR process. For example:

- Where the information is provided as part of normal business processes it should not be recorded as an RFI request i.e. requests for leaflets, general reports etc; or

- Routine requests. These are the straightforward requests for information which were dealt with as a matter of course before the FOI Act came into force. Examples include:
  - asking for copies of documents produced by the Department;
  - asking for contact details; and
  - asking for opening hours or details of services that the Department provides to the public.

These kinds of requests will continue to be dealt with under normal business.

Examples of situations where a request for recorded information should be treated as an RFI are:

- details of contracts;
- the tendering process;
- decision making with regard to DEL policies, including documents relating to public consultations; and
- unpublished statistical information.

Requests for information may be in any form and **need not mention** FOIA or EIRs. The only restrictions are that FOIA requests:

- must be in writing (includes e-mail);
- must give the applicant's name and return address (which includes the option of an e-mail address); and
- must describe the information that is requested.

Requests for EIR may be made in **writing** or **orally**. This contrasts with FOIA requests which must always be in writing

**Note: all DEL staff must take steps to ensure FOIA requests are managed without delay.**

All staff should ensure that their Outlook mailbox is accessible during periods of planned leave, to ensure that any requests for information can be acknowledged and processed within the legislative timeframe. It is good practice for at least one other person to have access to your inbox at all times. Guidance regarding [Delegate Access To Outlook](#) can be found on the Intranet.

In the case of unplanned leave (e.g. sick absence), line managers should send a request for change form to [ictservices@delni.gov.uk](mailto:ictservices@delni.gov.uk) with the name(s) of the staff to have delegate access to the account.

The process of delegating responsibility also applies to the opening and handling of post during any period of absence.

### 3.3 How to deal with RFIs

As soon as a request arrives in the Department it should be passed to the business area contact and cc'd to the relevant Information Asset Owner (IAO). Should there be any doubt regarding appropriate referral, or in the absence of the business area contact, IMU should be contacted immediately for further assistance.

**Note: it will not necessarily be the responsibility of the business area contact to answer the request.**

The business area contact will forward the request to the most appropriate person within the relevant business area. Any member of staff could have the responsibility for dealing with a request. IMU will offer advice and guidance in relation to FOIA/EIR legislation and assist with the administrative function of responding to the request.

When does the 20 working day 'clock' start?

The 20 working day clock starts:

- The day the Department receives the request; or
- The day the Department receives further information, if reasonably required, in order to identify and locate the information requested.

### 3.4 Business Area Action

On receipt of a request, the business area contact should determine if the information can be made available under normal business or if it should be treated as an RFI under FOIA or EIRs.

From time to time DEL will receive requests for information which it does not hold, but which is held by another department or public authority. In such cases, the applicant should be informed that the information requested is not held by DEL but may be held by another party. They should be advised to re-apply to the relevant department or public authority, if known.

In certain circumstances, it may be appropriate to transfer the request to another department or public authority. Before transferring a request, the business area contact should contact the applicant to obtain their agreement for this action.

Prior to formally transferring the request, it is essential that confirmation be obtained from the other department/public authority that:

- a) It does hold the requested information; and
- b) It is willing to accept the transfer.

The transfer must then take place as soon as possible.

**Note: The business area contact should consult with their IAO if there is any doubt regarding the status of the request.**



### 3.5 Logging RFI requests on the NICS Tracking System

Once an RFI has been identified, IMU must be informed **immediately**. IMU will enter the detail of the request onto the FOI Tracking System. This system will automatically create a container within TRIM which can be used for all papers relating to this request.

IMU will save a draft acknowledgement letter into this container and inform the business area contact as soon as it is available. TRIM Container DL1-09-9436 'FOI Letter Templates' contains copies of all FOI Standard Letters.

The RFI should be logged and the acknowledgement posted/forwarded to the applicant by **no later than 5:00 pm on the day following receipt of the request**.

#### **Note: Recording the Management of RFIs**

If a request has been received by a branch which does not have access to TRIM, each request should be placed on an RFI registered file which will allow for the retention of all supporting documentation. RFI registered files should be named as follows:

[Branch name] - Freedom of Information - Requests for Information

### 3.6 Round Robin Requests

The business area contact should also consider the nature of the information request in relation to the possibility of it being a potential **Round Robin** request.

#### What is a Round Robin Request?

Round Robin requests are those which have been received by more than one NICS Department. These requests often require central co-ordination and advice, normally at inter-Departmental level, examples being:

- Application of NICS policies e.g. Managing Attendance; and
- NICS Initiatives e.g. HR Connect and Account NI projects.

Whilst it is anticipated that such requests will be identified centrally, the business area contact should also be vigilant with regard to potential round robin requests. All potential round robin requests should be reported immediately to IMU. See Para. 3.8 and [Appendix G](#).

### 3.7 Allocating the Request

The business area contact will allocate the request to the relevant member of staff in their business area.

#### **Note: Split Requests**

In cases where the RFI is a "split" request i.e. it covers more than one business area and it is not obvious which branch should take lead responsibility, the request should

be forwarded to IMU. Split requests will be considered by IMU who will allocate the request to a branch for lead responsibility action, in a similar manner to the current Assembly Question procedures in operation within the Department. In exceptional circumstances, if there is no clear lead, IMU will co-ordinate inputs to the response.

### **3.8 Clarify nature of request if necessary**

If the request is unclear or is very broad, the applicant should be contacted to seek clarification or a narrowing of the request by issuing [Standard Letter 3 – Clarification of request](#). **Where clarification is required from the requester, the business area contact must advise IMU BEFORE clarification is sought.**

Where clarification is required in respect of round robin enquiries, IMU are required to consult with OFMDFM's Information Management Central Advisory Branch **BEFORE clarification is sought.**

**If the requester is a journalist, the business area contact must also advise the DEL Press Officer. Also, contact with the requester should ideally be via the Press Officer.**

If the RFI has been made by e-mail, the clarification request should be forwarded to the applicant by e-mail, for purposes of expediency. Similarly, if the applicant has included a telephone contact number, then consideration should be given as to whether a telephone contact would be more appropriate than adopting the standard letter contact process.

**Care should be taken not to give the applicant the impression that clarification is being sought to determine their aims and motives.** It should be explained to the applicant why clarification is required in relation to their request, and assistance provided. Appropriate assistance in this instance might include:

- providing an outline of the different kinds of information which might meet the terms of the request;
- providing access to detailed databases, where available, to help the applicant ascertain the nature and extent of the information held by the Department; and
- providing a general response to the request setting out options for further information which could be provided on request.

When a request for clarification has been issued, the business area contact should immediately contact IMU who will record the request for clarification on the FOI Tracking System. **It is essential that any request for clarification is promptly notified and recorded as the 20 day time limit restarts following receipt of clarification.**

If clarification has not been received within three months the request will be considered to have been withdrawn. The FOI Tracking System will automatically close the request.

### **Note: Recording Request for Clarification**

In the course of DEL providing advice and assistance, it is important that a detailed record of all letters, e-mails and telephone conversations with applicants is retained in the relevant TRIM container or on the RFI Registered File.

### **3.9 Assessing the complexity of a request to identify the correct process**

The steps laid out above will apply in most cases. However, some RFIs can be more complex than others and it can be difficult to assess at first glance the complexity of the request. Alongside the procedures outlined, it will be necessary to use judgement to identify those that need more careful handling.

#### More complex and sensitive requests

Requests may be complex for a variety of reasons. For example:

- requests may involve consultation with other public bodies or with third parties;
- it may be unclear as to whether or not the information sought is exempt;
- requests may involve the personal data of the requester or third parties;
- requests may be about issues which have a high public profile;
- requests may relate to financial interests; and
- requests may be part of an orchestrated campaign.

In all such cases, it will be important that IMU be consulted. Some particularly complex requests are considered in greater detail below.

#### "Mixed" requests

A mixed request is a case in which an applicant requests information which needs to be considered under more than one 'access to information' regime. The most important access regimes, apart from FOIA, are SARs under the DPA, and access to environmental information under the EIRs. The key similarities and differences between these three regimes are set out in Table 1 below.

#### Vexatious and Repeated requests

The Act has made special provision to assist public authorities with the handling of vexatious and repeated requests.

**Vexatious requests:** A vexatious request can be defined as the "manifestly unjustified, inappropriate or improper use of a formal procedure". You should note that it is the request rather than the person making the request to which this applies. A person could make many requests for information without being labelled as vexatious - each request must be handled on its own merits.

A vexatious request is one that is likely to cause a disproportionate or unjustified level of disruption, irritation or distress to the work of DEL or staff.

**Repeated requests:** When the Department has previously complied with a request for information, it does not need to comply with another request from the same person for the same information (i.e. an identical or substantially similar request).

Such a repeated request need only be considered when a reasonable period of time has elapsed between compliance with the first request and receipt of the second. If a branch is uncertain as to whether a reasonable amount of time has elapsed, it should contact IMU for advice.

**Note: The Information Commissioner has published separate advice on these issues entitled [“Dealing with vexatious requests”](#) and [“Dealing with repeat requests”](#).** These outline the factors to consider in defining a request as repeated or vexatious and should always be considered before any decision on the nature of a request has been taken. Again IMU should always be consulted where there is suspicion that a request may be ‘repeated’ or ‘vexatious’.

Table 1

Access Regime	Subject Matter	Time Limit	Cost	Exemptions	Is citation of the Act needed in the request	Coverage
Freedom of Information	All information not accessible under the Data Protection and Environmental Information Regulations	20 working days from receipt of request	No fee for information requests which cost less than £600 (central government), or £450 (local government) – but can charge for disbursement i.e. photocopying, posting	23 exemptions, two different types: i) Qualified - subject to a public interest test ii) Absolute exemption	No	UK Government Departments plus public authorities in England & Wales and Northern Ireland  Scotland has separate Act
Data Protection	Applicant's own personal data	40 calendar days from receipt of request	Subject Access Requests cost £10	Limited range of exemptions, not subject to the public interest test. Some vary considerably from those in the FOI Act.	No	UK Application
Environmental Information Regulations	Environmental Information	20 working days from receipt of request	Fees may be charged. There is no upper limit for the cost of meeting a request beyond which the request may be refused.	Limited range of exemptions, all of which involve Public Interest Test	No	One set of regulations for England & Wales and Northern Ireland, similar regulations for Scotland

When considering a mixed request it may be necessary to consider the **same** piece of information under different access regimes.

For example information provided under an expectation of confidentiality which contains personal data would have to be considered firstly under FOIA (Section 41 – Information Provided in Confidence) and then under the DPA if the information is the applicant's personal data. Any response issued in such a case should explicitly state that the request was considered under both regimes and the reasons, under both regimes, why any information was withheld.

These are complex requests to handle. For instance, a number of requests received may ask for "all the information the Department holds about my case" and, in certain applications, this may well give rise to the need to consider the request and different parts of it under all three regimes. If there is any uncertainty regarding how to proceed with a request, IMU should be contacted.

If the decision is taken to respond to a mixed request, it is essential that the request be dealt with within the relevant statutory time limit. For example, a request which contains both personal information under the DPA and information to be considered under FOIA should aim to be dealt with within 20 working days. If this is not possible, it is vital that the information falling under the FOIA is provided within 20 working days. The issuing response should advise the requester that consideration is being given to the release of his or her personal information under DPA. The response should also include the date by which this further response will be provided.

### **3.10 Fees**

#### Charge Fee

The FOIA states that fees can be charged for requests for information that exceed the appropriate limit, which has been defined as £600 by the Secretary of State **i.e. if a request costs less than £600 to answer, DEL cannot charge the applicant.**

The £600 limit is for costs known as **prescribed costs**, which include the cost of finding, sorting, editing or redacting material. Fees **cannot** be charged for the time taken to consider the application of exemptions, the public interest test or accessing legal advice.

A standard hourly rate of £25 must be used when estimating costs, regardless of the grade of the staff involved.

### Disbursement Costs

DEL can charge a fee to cover the cost of **disbursement**, which includes printing, photocopying and postage. Disbursement costs can be charged in **all** cases, regardless of whether the appropriate limit is met.

### Requests for Information Exceeding the £600 Limit

Where the request for information is estimated to exceed the £600 limit, consideration should be given to advising the applicant as to what information can be provided within the cost ceiling of £600. Alternatively, it may be suggested to the applicant that he or she reform the request, which may result in the fee being lowered or the fee falling below the £600 limit.

**All requests which are estimated to exceed the £600 limit for prescribed cost must be dealt with on a case-by-case basis.** There are three choices available when the request exceeds the £600 limit and the applicant does not wish to redefine the request. The three choices are:

1. Not to provide the information, on the grounds that it would cost too much;
2. Agree to provide the information on receipt of the prescribed cost of the request; or
3. Agree to provide the information and waive the fee.

When an RFI potentially exceeds the £600 limit, advice should be sought from IMU.

### **Note: Fees for EIR Requests**

There is no upper limit when responding to EIR requests i.e. a request cannot be refused on the grounds that the request exceeds the £600 limit.

### Charging Process

If, after the initial review, it is established that a fee is appropriate, the appointed business area representative must calculate the amount and advise the business area contact who will contact IMU **immediately**. IMU will arrange for the issue of the [Standard Letter 4](#) – Fee Request.

On issue of the Fees Letter IMU will update the FOI Tracking System to ensure the 'clock is stopped' on the request. The applicant has three months from issue of the letter to pay the required fee.

IMU will advise the business area contact when the Fees Request has been paid, at which stage IMU will update the FOI Tracking System and the clock will restart. The business area contact should immediately issue [Standard letter 5](#) – Fees Receipt to the applicant.

Once any fee has been received, proceed to 3.11. If the fee has not been paid within 3 months the FOI Tracking System will alert IMU. IMU will notify the business area contact who should update the RFI Request File or TRIM container, and issue [Standard Letter 6](#) – Non Payment of Fees to the applicant.

### **3.11 Retrieve records and Prepare schedule**

The appropriate business area representative should, ***as soon as possible***, arrange for the search and retrieval of the relevant records (this search should cover **all recorded information** e.g. paper files, PC and Network drives, CCTV, TRIM).

Departmental Records Unit will retrieve Registered Files stored in Adelaide within 24 hours.

A schedule of information items, in the form of an index and a brief description of the records covered by the request, should be prepared. **More information on the [schedule](#) can be found in Section 6 of this guidance.**

### **3.12 Information Not Held by the Department**

DEL not only has an obligation to provide information held but must also clearly identify which information is not held (subject to a limited right to refuse to confirm or deny the existence of information). When carrying out the search for information the business area contact should record the requested information which is **not** held by DEL and clearly identify this in the final response to the applicant.

### **3.13 Review information / Consult any third parties**

In conjunction with relevant business area representatives, the business area contact should carry out a detailed review of all information covered by the request to ensure that it does not contain any potentially exempt material. If necessary, other public authorities or third parties affected by disclosure of the information should be consulted.

If the business area(s) or the consulted groups wish to consider withholding any information, they should consider the advice in 3.14. If the business areas or consulted groups are happy to disclose all requested information, they should follow the advice in 3.15.

### **3.14 Considering possible exemptions – convening a DEL Exemption Panel**

Each item of information listed on the schedule should be examined to evaluate whether any of the FOIA exemptions and/or EIR exceptions potentially apply (see Addendum to Procedures Manual – Exemptions Guidance). The business area contact should carry out this evaluation. If none of the exemptions applies, the item is considered disclosable. However, if one or more exemptions potentially apply, the business area contact should advise the business area IAO, who should contact IMU to arrange an



Exemption Panel meeting. This panel will be convened within five working days.

The DEL Exemption Panel should comprise:

- business area IAO;
- one other branch representative (possibly the business area contact);
- a representative from IMU; and
- a representative from Communications Branch where the requested information might attract publicity, or the applicant is a journalist.

This panel will establish whether the exemption is absolute or is subject to a public interest test (PIT) (see Addendum to Procedures Manual). If the exemption is absolute, or withholding the information on the basis of the particular exemption is supported by the PIT, the item should be withheld. If information is being withheld, the Exemption Panel should review which exemptions are engaged and decide whether it is appropriate to confirm that the information is held by DEL.

### **Legal Advice – Departmental Solicitor’s Office**

When the Exemption Panel is considering the disclosure of information, it may become evident that legal advice is required prior to reaching a final decision. The Business area will draft the request for legal advice, which should contain relevant background information, the apparent rationale for exemption and PIT considerations; this should be forwarded to IMU.

IMU will issue the request to the Departmental Solicitor’s Office (DSO), and liaise with all parties to help ensure that RFIs are responded to within the legislative timeframe. DSO will respond to IMU, who will forward the advice to the relevant business area and re-schedule a meeting of the Exemption Panel, if appropriate.

The legal advice communication system has been designed to enable IMU to develop a databank of legal advice and decisions taken, in order to facilitate consistency of approach within DEL. The system also enables DEL and the DSO to monitor the extent to which compliance with FOIA requires internal legal advice.

If the Exemption Panel requires more time to reach a decision as to the balance of the public interest, it must:

- (a) [Issue Standard Letter 7](#) (Extension of Time Limit) as soon as possible;
- (b) Notify IMU who will update the FOI Tracking System to reflect that additional time is required to consider the Public Interest Test; and
- (c) Inform IMU of the new target date for response.

**Where the Exemption Panel cannot reach a decision within 20 working days, it must make its decision within a reasonable period, keeping the applicant informed of progress made.**

### Disclosure of Personal Information relating to staff

The Department must consider, on a case-by-case basis, whether it is fair to release personal information relating to individual members of staff, including their names. This can cover situations where people are mentioned in documents as decision makers, advisers, meeting attendees or signatories or provide any other information.

In deciding whether to disclose or withhold staff information or names, a number of factors should be considered. This will include the rights of the individual under the DPA, their rank, role, responsibility, and whether the individual has a public profile. This list is not exhaustive; the ICO has published guidance on the issue and advice should be sought from the IMU on such matters.

Staff must be advised by the business area contact or IAO whenever a FOIA request is received for information that includes their personal data. It is important that staff understand that the release of their personal data, in response to the request, is into the public domain. Staff processing such requests must take account of DPA obligations. To ensure that DEL complies with these obligations, it is recommended that advice be sought from IMU.

### **3.15 Issue schedule - Disclosed information and/or explanation for withholding to applicant**

A schedule showing those items being released and, where appropriate, those items being withheld should be drawn up. If RFIs are made where the duty to confirm or deny is not applicable, there is no need to refer to these records in the schedule. The information being released and the schedule, should be issued to the applicant. [Standard Letter 12](#) (withholding all information) or [Standard Letter 13](#) (withholding some information) **must contain the correct legislative reference to the Exemptions, if any apply, and explain why it is in the public interest to withhold each item not being released. As noted at 3.12, the response letter should also clearly identify any information which is not held by DEL.**

The business area contact should advise IMU that the response has been issued to allow them to update the FOI Tracking System. A copy of the schedule of information covered by the request should be added to the relevant TRIM Container or Registered File.

### **3.16 Approval Process**

It is the responsibility of the business area IAO to make the final decision as to whether or not the information should be withheld or released. The IAO may need to assess whether responses to more complex and sensitive requests require the Director's approval e.g.

- requests that involve consultation with other public bodies or with third parties;

- requests that are unclear as to whether or not the information sought is exempt;
- requests that involve the personal data of third parties;
- requests about issues which are controversial;
- requests relating to financial interests; and
- requests that may be part of an orchestrated campaign.

This list is not exhaustive and the IAO will need to use their judgement.

Where staff's personal data have been requested, the IAO must ensure, at the authorisation stage, that the member of staff is aware of the request and the response. Confirmation of this action must accompany the approval and be retained for the record.

When a Minister indicates that he or she wishes to clear a response, Private Office will advise IMU accordingly. IMU will advise the relevant official that the draft response should be sent to Private Office for clearance **5 working days before the statutory response deadline**. Officials should ensure that draft responses sent to Private Office are cleared by the G3 and Permanent Secretary beforehand.

#### **Note: Records Management**

A file note must be placed on the front of any Registered File(s) involved in the RFI request to state that the original documents, which are the subject of the RFI request, must be retained for at least 1 year after the last action taken in relation to that request (the one year time limit is determined by the FOI legislation as the allocated timescale for the completion of the appeal process, if invoked by the applicant).

#### Redactions

Information which should not be released can be "redacted" from any document, by 'black-penning' the information to be protected. If an applicant has requested all the information in a particular document but it is necessary to redact some of that information because it is exempt, it must be made clear that redactions have taken place, and the relevant exemption cited as to why the information has been redacted.

#### **Note: PRONI Redaction Guidance**

Public Record Office of Northern Ireland (PRONI) guidance advises that, when redacting a paper document, best practice is to photocopy the original document, tippex or black pen out the relevant text and then photocopy the redacted document again. This is the copy which should then be released to the applicant.

**It is important to bear in mind, however, that FOIA applies to information and not documents.** Whilst the information requested will more often than not be contained in a document, this does not mean that the document has to

be released with exempt material redacted from it. Rather, it may be more appropriate to release solely the information that can be released by creating a new document with only that information contained. This is likely to be particularly relevant where the majority of the information contained in the document does not fall within the scope of the applicant's request.

When considering making redactions from electronic documents, it must be recognised that technological advances may allow redactions to be reversed. Therefore DEL policy is to adhere to the PRONI guidance above.

## 4. Time Limit for Replies: Points to Note

The FOIA states that all RFIs should be dealt with promptly and, in any event, within 20 working days of receipt. The 20 working day deadline is the **maximum**, not the **minimum**, time limit.

**NB: A request is received when it is delivered to DEL, or when it is delivered to the inbox of a member of staff. The date of receipt is not the date the request is passed to the appropriate person for processing.**

The commencement of the 20 working day time limit may only be delayed where **the RFI contains insufficient detail to identify the records concerned**. Where this is the case:

- (a) [Standard letter 3](#) requesting written clarification must be issued ***immediately\****,
- (b) The business area contact should notify IMU when Standard Letter 3 has been issued to allow them to update the FOI Tracking system. The business area contact should update the RFI Request file or TRIM Container: -
  - 1) date clarification sought
  - 2) date clarification received

Note: where only minor clarification is required, and the applicant has provided a telephone number, it is permissible to phone the applicant. An accurate description of this clarification must be recorded and put on file.

- (c) When the applicant has responded to Standard Letter 3, the request details should be updated to indicate the revised wording of the RFI.

## 5. Consultation Procedures

**Please read this section of the manual in conjunction with Part VI of the [Secretary of State's Section 45 Code of Practice](#)**

## **5.1 Identity of the applicant (during formal or informal consultation)**

During the consultation process, informal or formal, **the identity of the applicant should not normally be disclosed to the third party.** If a third party wishes to know the identity of an applicant against the applicant's wishes, the third party should be advised to submit his/her request **in writing** to DEL for consideration. (i.e. as an FOI request).

## **5.2 Informal Consultation**

The business area representative should consult informally with:

- applicants and/or third parties where dialogue may improve understanding;
- colleagues and senior management; and
- other Departments or public bodies (including NDPBs).

Informal consultation can be very helpful in terms of:

- (i) obtaining supporting views on the application of an exemption;
- (ii) supporting the basis for a decision;
- (iii) identifying the context of records which may be helpful in terms of establishing the sensitivity or otherwise of the records;
- (iv) assisting in a decision regarding the possible need for formal consultation;
- (v) refining the exact nature of a request for information; and
- (vi) discussing potential disclosure of third party information.

An informal consultation should be carried out prior to the meeting of the Exemption Panel meetings.

## **5.3 Formal Consultation**

Formal consultation should be carried out when the release of records covered by the following exemptions is being considered on public interest grounds:

- a) Section 40: Third party personal information; or
- b) Section 43: Commercial interests.

When dealing with such requests for information the Exemption Panel should bear the following points in mind:

1. The consideration of these exemption provisions is important. They require that the relevant business area shall only disclose information in response to a request of a personal, commercially sensitive or confidential nature after having carefully considered whether disclosure of the information sought would be in the public interest, bearing in mind the

strong privacy rights of individuals who supply personal or other sensitive information to a public body.

2. Consideration must be given to relevant public interest factors for and against release of the information. The case for each must be clearly recorded as and set out.
3. Where such release is contemplated in the public interest, formal consultation **must** take place prior to any decision to release being taken.

If, following such consultation, the consultee remains opposed to the disclosure of the information, then **the final decision rests with the public authority**.

4. In all cases where formal consultation is being initiated, [Standard Letter 8](#) (Third Party Letter) **must** be used.
5. Following consideration of the response to the third party consultation letter, [Standard Letter 9](#) (Third Letter Response) must be issued to advise the third party of the decision of the Department i.e. the decision to release/withhold the third party information.
6. Formal consultation must be initiated **as soon as possible** following receipt of the request.
7. There is no requirement for such formal third party consultation at the Internal Review Stage.

#### **5.4 Information Relating to the PSNI**

It is essential to consult with the PSNI on any information that alludes to the PSNI or identifies officers no matter how harmless it appears.

The contact e-mail address is [FOI@psni.pnn.police.uk](mailto:FOI@psni.pnn.police.uk).

## **6. The Schedule**

### **6.1 Why a schedule should be prepared.**

It is best practice to use a schedule to list and describe the records identified as being within the scope of the request. During both the initial decision-making process and at any subsequent internal review, the schedule assists DEL to discharge its duties under the FOIA by:

- providing a means of indexing the records under consideration;
- setting out clearly the considerations attaching to each; and

- providing an essential reference source for an internal reviewer or the ICO.

A version of the schedule – minus any information that is considered exempt and where there is no duty to confirm or deny the existence of this exempt information (exemptions 22-24 and 26-44) – should be attached to the response letter issued to the applicant. It will assist him/her by giving a clear overview of the records considered and the decision made in relation to each one.

## 6.2 What a schedule should contain.

The level of detail contained in a schedule will depend to a large extent on the nature of the RFI request under consideration. It is recommended, however, that every schedule list each record sequentially by number and contain the following information:

- (a) the date of the record;
- (b) the author of the record and **either** the person to whom it is addressed **or** the title of the record if it is a report or a submission of some kind;
- (c) a brief but sufficient description of the record or its contents;
- (d) any specific exemption claimed; and
- (e) [**if appropriate**] any public interest considerations.

A Schedule of Records template is attached at Appendix C and also available on the DEL Intranet. There may be occasions when records can be grouped rather than listed individually, primarily where the number of records is particularly large. This approach **must not** deprive the applicant of any specific information that he/she might need to make an informed decision about seeking a review.

## 6.3 When a schedule is not required.

The FOIA allows public bodies to respond to requests on the basis of refusing to confirm or deny the existence of such records. These provisions are necessary because in some instances merely confirming the existence of information will directly or implicitly disclose **withheld** information.

The use of the refusal to confirm or deny provision will be justified **only in certain situations**. IMU can offer advice on this matter.

## 7. Use of Crown Copyright

Most documents produced by a government department or agency will be protected by Crown Copyright. Most Crown copyright information can be re-used under the Open Government Licence <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>.

For information about the OGL and about re-using Crown Copyright information please see The National Archives website - <http://www.nationalarchives.gov.uk/information-management/uk-gov-licensing-framework.htm> .

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the Intellectual Property Office's website at [www.ipo.gov.uk](http://www.ipo.gov.uk).

Where the business area has any concerns about the re-use of the information being released, or when copyright rests with a third party, [Standard Letter 18](#) (Crown Copyright Advice) must be used.

## **8. Internal Review Process**

When an applicant requests a review of DEL's response to their RFI, the internal review process must be initiated.

The Departmental Information Manager or a Grade 5, trained in the application of the review process, will assume the role of Appeals Officer and carry out the review. The Appeals Officer must not have been involved in the original decision making process and should not have responsibility for the division which originally considered the request.

### **8.1 What constitutes an Internal Review?**

Internal reviews should not be overly bureaucratic, but must be a fair and impartial means of reviewing decisions made during the original consideration of whether to release information and whether all aspects of the FOIA were complied with.

As a minimum, all internal reviews must consider the information released against the information requested and make a full review of the papers associated with the original application. It is also best practice that the internal reviewer discuss the decisions made with the staff member or members who dealt with the original application, in order to build up a full picture as to how decisions were made.

After concluding the internal review, the reviewer should discuss the conclusions with a representative of IMU in order to ensure that any internal processes which may need to be altered are fully reviewed.

The applicant **must** be fully informed of the outcome of the internal review.



It is important that full records are kept on the progress of the review, including a detailed record of the consideration and any outcomes as a result of the review. This will assist in any possible further investigations by the ICO.

## **8.2 Procedures to be followed by IMU on receipt of a review application**

1. register the request on the FOI Tracking System;
2. acknowledge the request, indicating the target completion date;
3. open a container in TRIM;
4. obtain the relevant RFI file from the business area if appropriate; and
5. pass the RFI file and sub-folder, or print a copy of all relevant papers held in TRIM, to the nominated Appeals Officer within a maximum timescale of 2 working days.

## **8.3 What are the timescales?**

Internal reviews have to be completed in a reasonable timescale. The ICO considers that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances this may take longer; in those circumstances, DEL should, as a matter of good practice, notify the applicant and explain why more time is needed.

## **8.4 The Outcome**

An internal review can have three outcomes:

- The original decision is reversed;
- The original decision is partly upheld; or
- The original decision is upheld.

Where the original decision is reversed, the applicant **must** be told and made aware of when they can expect the information originally requested to be provided to them.

Where the original decision is partly upheld, the applicant must be told and made aware of when they can expect to receive the information which can now be released and the reason why the rest of the information has been withheld.

When upholding the original decision in full or in part, the letter notifying the applicant of the decision must explicitly state the reason for maintaining the exemption(s) applied **even if this information has already been supplied** with the initial response issued to the request.

All internal review responses to the applicant, regardless of the outcome, should advise of the right to appeal to and contact details for the ICO.

After completion of the Internal Review, the Appeals Officer will return the RFI File and the Review Sub-folder, if relevant, to IMU, for onward transmission to the relevant business area for retention.

## **9. Review by the Information Commissioner**

An independent review may be sought from the ICO if an applicant is not satisfied with the decision of the internal reviewer or if the original decision was made by a high level official in the Department and no internal review is possible.

The applicant should be advised that such a complaint

- must be made in writing;
- should include copies of all relevant correspondence; and
- should be sent to:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

### **9.1 Procedures to be followed by IMU on receipt of a complaint from the ICO**

IMU will acknowledge receipt of the complaint and open an appeal case on the FOI Tracking system. IMU will collate all associated papers which should be saved within the system-generated TRIM Container.

The Departmental Information Manager (DIM) will consider the complaint together with the working papers collated by IMU, assess DEL's handling of the response and internal review, and prepare a response to the ICO.

The response will be cleared at Director level before issue.

It should be noted that the ICO has the statutory authority to access all documents, including those where an exemption has been claimed. Therefore the complete set of records coming within the scope of the request may be requested and should be sent to the Information Commissioner, showing what information has been withheld, grounds for non-disclosure and specifying the exemption(s) that apply.

When the ICO communicates the Decision Notice, IMU will update the FOI Tracking System and ensure any remedial action recommended by the Information Commissioner is promptly implemented.

### Standard Letter Templates

Letter	Purpose
1	<a href="#">Acknowledgement</a>
2	<a href="#">Information Readily Accessible Elsewhere</a>
3	<a href="#">Clarification of Request</a>
4	<a href="#">Fee Request</a>
4a	<a href="#">Fees Refusal Notice</a>
5	<a href="#">Fee Receipt</a>
6	<a href="#">Non-payment of Fees</a>
7	<a href="#">Extension of time limit</a>
8	<a href="#">First third party letter</a>
9	<a href="#">Departmental third party response</a>
10	<a href="#">Third Party appeal to the Information Commissioner</a>
11	<a href="#">Response to Applicant - Issuing information</a>
12	<a href="#">Response to Applicant – All information sought is being withheld</a>
13	<a href="#">Response to Applicant – Some information withheld</a>
14	<a href="#">Response to Applicant – Information not held/cannot locate/destroyed</a>
15	<a href="#">Transfer the request to another Public Authority</a>
16	<a href="#">Transfer the request to PRONI</a>
17	<a href="#">No duty to either confirm or deny the existence of the information requested</a>
18	<a href="#">Response to Applicant – Crown Copyright Advice</a>
19	<a href="#">Response to Applicant – Repeated Request</a>

## Standard Letter 1: Acknowledgement

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number

Email: Email Address

Our Reference:

Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

Thank you for your request for information about [*subject*]. Your request was received on [*date*] and I am dealing with it under the terms of the above legislation.

**[FOR FOI ENQUIRIES ONLY** - *The leaflet enclosed tells you about the legislation and the procedures I will follow in handling your request.*]

In some circumstances a fee may be payable but, if that is the case, I will let you know the likely charges before proceeding.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

# DEPARTMENT FOR EMPLOYMENT AND LEARNING

## Public Information Leaflet

on

### The Freedom of Information Act 2000

Note: **This guide is an overview of some of the main provisions of the Act and should not be regarded as a legal interpretation.**

**1. What does the Freedom of Information Act do?** The Freedom of Information (FOI) Act 2000 gives everyone the right to request information from public authorities. The FOI Act means that, from 1<sup>st</sup> January 2005, you are able to get information to help you to understand better how this Department works, how we spend public money, and how and why we make our decisions.

**2. You can also get information under:**

- **The Data Protection Act 1998 (DPA)** which, amongst other things, gives individuals access to their own personal information. The DPA applies to private enterprise as well as public authorities.
- **The Environmental Information Regulations 2004 (EIRs)**, which give people access to environmental information. EIRs apply to “environmental information” held by organisations that perform functions of a public nature.

**3. How do I get information about the Department for Employment and Learning under the FOI Act?** If you have access to the Internet you can get information on the Departmental website ([www.delni.gov.uk](http://www.delni.gov.uk)), or visit [www.nidirect.gov.uk](http://www.nidirect.gov.uk) for further information on accessing the websites of all Northern Ireland Government Departments. Alternatively you can write to us at Department for Employment and Learning, Adelaide House, 39-49 Adelaide Street, Belfast, BT2 8FD.

**4. How long does it take to get information?** In most cases, a public authority must respond to your request within 20 working days of receiving it and, if it cannot, it will explain why and let you know when you will receive a reply. This can arise where:

- A “qualified” exemption applies and we need to consider the public interest;
- or
- We are awaiting payment of a fee by you.

Sometimes we might need to contact you in order to clarify exactly what information you are interested in. It will help us to process your request more quickly if you can be as specific as possible about what information you want. Please make sure that you provide us with your name and address and a contact telephone number.

**5. Is there a cost for getting information?** This depends on a number of factors including the volume of material requested. Responses to enquiries that cost the Department less than £600 to process<sup>1</sup> will normally be provided free of charge, although there may be a small charge for disbursement<sup>2</sup>. The Department has the right to refuse to respond to a request that is estimated to cost more than £600 to process unless the request is for information covered by EIRs, in which case the Department has to process the request if you are prepared to pay the costs.

**6. What happens if the information I want is not available?** The FOI Act does not require us to gather information that is not already there. However, we are required to assist you with your request. We will contact you and tell you what information we do hold that might help to answer your query or suggest another public authority that may hold the information you are looking for.

**7. What information can I have?** The FOI Act allows you access to almost all information that a public body holds. However, there are some things that cannot be given to the public such as information about national security, law enforcement or personal information about others. You can obtain your own personal information under the Data Protection Act DPA, however (see point 2).

**8. What if I am refused information?** We will tell you if information is being withheld and why. We will also tell you whom you should contact to request an internal review if you are not happy with our decision. If you are still not happy after the internal review, you can request a review by the Information Commissioner (see details below). Please contact us first if you are not happy with our response and tell us why you believe that we are wrongly withholding information from you.

**9. Where can I get more information about the FOI Act?** You can get more information about FOI from the regional Northern Ireland office of the Information Commissioner. The Commissioner's details are:

Website: <https://ico.org.uk/>  
Phone: 01625 545 700  
Email: <mailto:casework@ico.gsi.gov.uk>  
Post: **Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

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<sup>1</sup> Includes the cost of finding, sorting or editing the material. A standard hourly rate of £25 must be used when estimating costs, regardless of the seniority of the staff involved.

<sup>2</sup> The Department can charge a fee to cover the cost of **disbursements**, which include printing, photocopying and postage. Disbursement costs can be charged in **all** cases, regardless of whether the appropriate limit is met.

Most documents produced by a government department or agency will be protected by Crown Copyright. Most Crown copyright information can be re-used under the Open Government Licence (OGL)

(<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> ).

For information about the OGL and about re-using Crown Copyright information please see The National Archives website -

<http://www.nationalarchives.gov.uk/information-management/uk-gov-licensing-framework.htm> .

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the Intellectual Property Office's website at [www.ipo.gov.uk](http://www.ipo.gov.uk).

## Standard Letter 2: Information Readily Accessible Elsewhere

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### Freedom of Information Act 2000

Thank you for your request for information about [*subject*]. Your request was received on [*date*] and I am dealing with it under the terms of the above legislation.

The leaflet enclosed tells you about the legislation and our procedures in dealing with requests for information.

Under the legislation the Department is not required to provide information that is already available in a form accessible by the public. The information you requested is available [<sup>1</sup>*from the Stationery Office, price £XX*] [*on the Department's website (url)*]. *If you do not have access to the Internet at home, you may be able to use facilities at your local public library, or you can request a paper copy by contacting me*].

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter.

If you wish to do so, please write to:

Information Management Unit  
Department for Employment and Learning  
39- 49 Adelaide Street  
BELFAST  
BT2 8FD

The Departmental Information Manager will arrange for the Department's Appeal Officer to review the decision.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF



If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

### Standard Letter 3: Clarification of Request

Name and Address of Applicant	Name and Address of Officer
	Tel: Telephone Number
	Email: Email Address
	Our Reference:
	Date: Date

Dear

**[Freedom of Information Act 2000] or  
[Environmental Information Regulations 2004]**

I am writing regarding your request for information, which I received on *[date]*. In that request, you asked us for *[outline of request]*

*[As discussed by email/telephone]* I will be unable to proceed with your request without clarification of the information you wish to receive. To this end, I would like to know *[specific question]*. Please note that the [20] working days time limit for responding to your request is suspended until I receive clarification.

Please note that, if I do not receive appropriate clarification of your information requirements by *[date]*, which is three months from the date of this letter, then I will consider your request closed.

If you wish to discuss any of the above, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Standard Letter 4: Fee Request

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing regarding your request for information about [*outline of request*], which I received on [*date*]. In this case a fee is payable to the Department before I can provide you with the information.

The estimated cost of processing your request is £[xx]. An explanation of how this fee was calculated is enclosed. Payment should be made by [*cheque etc*] payable to [*Department/Agency account name etc*]. If the actual cost of complying with the request is less than the estimate, the balance will be returned to you. Please note that the [20] working days time limit for responding to your request is suspended until I receive payment.

If I do not receive your payment by [*date*], which is three months from the date of this letter, I will consider your request closed.

**[IF THE FEE IS ABOVE £600** - *It may be possible to provide you with a portion of the information you requested for a lesser fee than the one quoted above, if you are prepared to limit the scope of your request. If you would like to do this, please contact me*].

If you are unhappy with the decision to charge a fee, you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do so, please write to:

Information Management Unit  
Department for Employment and Learning  
39- 49 Adelaide Street  
BELFAST  
BT2 8FD

The Departmental Information Manager will arrange for the Department's Appeal Officer to review the decision.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Standard Letter 4a: Fees Refusal Notice

Name and Address of Applicant  
Name and Address of Officer  
Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing regarding your request for information about [*outline of request*], which I received on [*date*].

To process your request, I estimate that it will cost more than the appropriate limit of £600 that is specified in the legislation. This represents the estimated cost of one person spending 24 working hours in determining whether the Department holds the information, and locating, retrieving and extracting the information.

The estimated cost of processing your request is £[xx ] and an explanation of how this fee was calculated is detailed below. Consequently the Department is not obliged, under Section 12 of the Freedom of Information Act 2000, to respond to your request and it will not be processed further.

*However, it may be possible to provide you with a portion of the information you requested for a lesser fee than the one quoted above, if you are prepared to limit the scope of your request. If you would like to do this, please advise me accordingly.*

If you are unhappy with the handling of your request, you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do so, please write to:

Information Management Unit  
Department for Employment and Learning  
39- 49 Adelaide Street  
BELFAST  
BT2 8FD

The Departmental Information Manager will arrange for the Department's Appeal Officer to review the decision.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane

Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Standard Letter 5: Fee Receipt

Name and Address of Applicant	Name and Address of Officer
	Tel: Telephone Number
	Email: Email Address
	Our Reference:
	Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing to confirm that on [date] I received £xx in respect of your fee payment.

The search and retrieval work to be carried out will now begin and you can expect to receive my response by [date]. If you do not receive my response by then, please contact me and I will investigate the matter.

If the actual cost of complying with the request is less than the fee you have paid, the balance will be returned to you.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Standard Letter 6: Non-Payment of Fees

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number

Email: Email Address

Our Reference:

Date: Date

Dear

**[Freedom of Information Act 2000] or  
[Environmental Information Regulations 2004]**

I wrote to you on [*date*] indicating that, under the terms of the above legislation, a fee was payable before the Department could process your request for the information further.

As I have not received the fee, I am writing to advise you that your request is now considered closed.

If you still wish to receive the information, you should make a fresh application.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely



## Standard Letter 7: Extension of Time Limit

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### Freedom of Information Act 2000

I refer to your request for information which was received on *[date]*. I can confirm that the Department for Employment and Learning holds the information you have requested.

I am writing to advise you that the following [exemption/exemptions] apply to the information that you have requested:

- [state exemption and state why it applies]
- [state exemption 2 etc and why it applies]

[This exemption/These exemptions] are subject to the balance of the public interest. By virtue of section 10(3), where public authorities have to consider the balance of the public interest in relation to a request, they do not have to comply with the request until such time as is reasonable in the circumstances. The Department has not yet reached a decision on the balance of the public interest. Due to the need to consider, in all the circumstances of the case, where the balance of the public interest lies in relation to the information that you have requested, the Department will not be able to respond to your request in full within 20 working days. In these circumstances, I consider that it will take approximately [x] additional days in order to respond to your request.

I hope to let you have a response by *[date]*. If you do not receive my response or further information by then, please contact me and I will investigate the matter.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the way the Department has handled your request you have the right to request a formal review within 40 working days of the date of this letter. If you wish to do so, please write to:

Information Management Unit  
Department for Employment and Learning  
39- 49 Adelaide Street  
BELFAST  
BT2 8FD

The Departmental Information Manager will arrange for the Department's Appeal Officer to review the decision.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Yours sincerely

## Standard Letter 8: Third Party Consultation

Name and address of 3<sup>rd</sup> party

Name and Address of Officer

Tel: Telephone Number

Email: Email Address

Our Reference:

Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing to you in connection with a request for information received by the Department under the above legislation. Part of the information requested [was supplied by/relates to] you and a [copy of this/description of the information] is enclosed.

Also enclosed is a leaflet which tells you about the legislation governing the disclosure of information.

The Department will normally disclose information unless the public interest is better served by withholding it.

If you consider that the information supplied by you should not be disclosed, please let me have written details of how, in your view, disclosure of the information would be harmful to your interests.

Your response must reach me by [*date*] to enable the Department to take your views into account in deciding whether to disclose the information. If you do not make a submission by that date, the Department will assume you have no objections to the information being disclosed.

The final decision on whether the information should be withheld rests with the Department, however we will take into account your views when making this decision. We will write to you to let you know if the information will be released.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Standard Letter 9: Third Party Response

Name and Address of Applicant	Name and Address of Officer
	Tel: Telephone Number
	Email: Email Address
	Our Reference:
	Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I refer to my letter of [date] [and your response of (date)]. I am writing to advise you that, [having taken your comments into consideration], the Department has decided [to /not to] disclose the information concerned.

After consulting you as to your views on the harm that would be caused by releasing the information, the Department made an assessment of the associated public interest. In making the assessment of the public interest the Department took the following factors into account:

- Brief list of factors taken into account

**[(REMOVE THIS LINE IF DISCLOSING)]** You should note that the applicant has the right to seek a review of this decision. I will advise you if the applicant requests such a review.]

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Standard Letter 10: Third Party – Appeal to the Information Commissioner

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

In my letter of [date] I advised you that, in relation to a request for information [relating to you / supplied by you], the Department had decided not to disclose the information. The applicant subsequently appealed this decision to the Department and, following an internal review, the original decision not to disclose the information concerned was upheld.

The applicant has now appealed to the Information Commissioner who will undertake an independent review. The Information Commissioner has the right to inspect the information [relating to you / supplied by you] and make an independent assessment of the public interest test.

If the Information Commissioner comes to the conclusion that the information should be released, he will issue an enforcement notice which will set out the steps which the Department must take and the date by which they must be taken. This may lead to the disclosure of the information which was previously withheld, including the information [relating to you / supplied by you]. If the Department considers that the information should continue to be withheld, against the decision of the Information Commissioner, we will be able to appeal to the Information Tribunal.

You will be advised of the outcome of the review in due course.

Yours sincerely

## Standard Letter 11: Response to Applicant Issuing All Information

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing to confirm that the Department has now completed its search for the information which you requested on [date].

*[A copy of the information is enclosed.]*

**or**

*[A copy of the information is enclosed in the format you requested].*

**or**

*[As you have asked to view the records in which the information is contained, please telephone me to make the necessary arrangements.]*

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do so, please write to:

Information Management Unit  
Department for Employment and Learning  
39- 49 Adelaide Street  
BELFAST  
BT2 8FD

The Departmental Information Manager will arrange for the Department's Appeal Officer to review the decision.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Standard Letter 12: Response to Applicant – Withholding All Information

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing to advise you that the Department has decided not to disclose the information you requested on [date].

The information you requested is being withheld as it falls under the [exemption/exception] in section [xx] of the [Freedom of Information Act/Environmental Information Regulations]. In applying this [exemption/exception] we have had to balance the public interest in withholding the information against the public interest in disclosing the information [but this will obviously not apply where the exemption is absolute]. The attached annex to this letter sets out the [exemption/exception] in full, as well as the factors the Department considered when deciding where the public interest lay. It also includes a list of the types of documents analysed by the Department when considering your request.

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do so, please write to:

Information Management Unit  
Department for Employment and Learning  
39- 49 Adelaide Street  
BELFAST  
BT2 8FD

The Departmental Information Manager will arrange for the Department's Appeal Officer to review the decision.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF



If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

**Annex A**

Exemption in full	
Factors for disclosure	Factors for withholding
<ul style="list-style-type: none"><li>•</li></ul>	<ul style="list-style-type: none"><li>•</li></ul>
Reasons why public interest favours withholding information	
<ul style="list-style-type: none"><li>•</li></ul>	

## Standard Letter 13: Response to Applicant Withholding Some Information

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing to confirm that the Department has now completed its search for the information you requested on [date]. I wish to advise you that some of the information cannot be disclosed for the reasons given in the annex attached to this letter.

*[A copy of the information which can be disclosed is enclosed.]*

**or**

*[A copy of the information which can be disclosed is enclosed in the format you requested].*

**or**

*[As you have asked to view the records in which the information is contained, please telephone me to make the necessary arrangements. Access to records will, of course, be limited to those containing the information which can be disclosed.]*

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do so, please write to:

Information Management Unit  
Department for Employment and Learning  
39- 49 Adelaide Street  
BELFAST  
BT2 8FD

The Departmental Information Manager will arrange for the Department's Appeal Officer to review the decision.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

## Annex A

Exemption in full	
Factors for disclosure	Factors for withholding
•	•
Reasons why public interest favours withholding information	
•	

Type of Document	Applicable Exemption
eg. – Submission	Section 35 – formulation of government policy
eg. – letter	Section 42 – legal professional privilege

## Standard Letter 14: Response to Applicant – Information Not Held

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I refer to your request under the above legislation for information about [*subject*].

I am writing to advise you that following a search of our paper and electronic records, I have established that the information you requested is

*[not held by this Department/Agency]*

**or**

*[cannot be located]*

**or**

*[has been destroyed in accordance with records management best practice]*

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do so, please write to:

Information Management Unit,  
Room 103, Adelaide House,  
39-49 Adelaide Street,  
Belfast,  
BT2 8FD

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

**Standard Letter 15: Transfer the Request to Another Public Authority**

Name and Address of Applicant  
Name and Address of Officer  
Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

**[Freedom of Information Act 2000] or  
[Environmental Information Regulations 2004]**

I refer to your request under the above legislation for information about [*subject*].

I am writing to advise you that, having reviewed your request for information, we have identified that this could more appropriately be responded to by [*Name of Public Authority*]. However, before we transfer the request, I am seeking your permission to notify the recipient organisation of your name and contact details.

If you are agreeable to this, please sign and return the declaration below.

Thank you.

Yours sincerely

.....

Our Reference: [*Ref No*]

I [*Applicant's Name*]  
hereby authorise the Department for Employment and Learning  
to transfer my information request to [*Name of other Public Authority*]

Signature: .....

**Standard Letter 16: Transfer the Request to PRONI**

Name and Address of Applicant  
Name and Address of Officer  
Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

**[Freedom of Information Act 2000] or  
[Environmental Information Regulations 2004]**

I refer to your request under the above legislation for information about [*subject*].

I am writing to advise you that, having reviewed your request for information, we have identified that this could more appropriately be responded to by The Public Record Office of Northern Ireland (PRONI). However, before we transfer the request, I am seeking your permission to notify PRONI of your name and contact details.

If you are agreeable to this, please sign and return the declaration below.

Thank you

Yours sincerely

.....

Our Reference: [*Ref No*]

I [*Applicant's Name*]

hereby authorise the Department for Employment and Learning  
to transfer my information request to The Public Record Office of Northern Ireland

Signature: .....

## Standard Letter 17: Neither Confirm Nor Deny

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing in response to your letter of *[date]* requesting information regarding *[subject]*.

The [Department] can neither confirm nor deny that it holds the information you requested as the duty in s.1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of s.XX of that Act. However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do this please write to:

Information Management Unit  
Room 103, Adelaide House,  
39-49 Adelaide Street,  
Belfast,  
BT2 8FD

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,



## Standard Letter 18: Response to Applicant – Crown Copyright Advice

Name and Address of Applicant

Name and Address of Officer

Tel: Telephone Number  
Email: Email Address  
Our Reference:  
Date: Date

Dear

### **[Freedom of Information Act 2000] or [Environmental Information Regulations 2004]**

I am writing in response to your letter of *[date]* requesting information regarding *[subject]*.

The information you requested is enclosed.

The supply of information in response to a freedom of information request does not confer an automatic right to re-use the information. Under UK copyright law you can use any information supplied for the purposes of private study and non-commercial research without requiring permission. Similarly, information supplied can also be re-used for the purposes of news reporting. An exception to this is photographs.

For other forms of re-use, for example publishing the information, you would need the permission of the organisation or person who owns the copyright. In the case of information produced by government departments and agencies you can re-use the information under the Open Government Licence. For information about this please see <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>.

If, however, the copyright is identified as belonging to somebody else, you will need to apply for permission. For information about how to obtain permission from a third party, please go to Intellectual Property Office's website at

<http://www.ipo.gov.uk/types/copy/c-other.htm>

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do this please write to:

Information Management Unit

Room 103, Adelaide House,  
39-49 Adelaide Street,  
Belfast,  
BT2 8FD

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

## Standard Letter 19: Response to Applicant – Repeated Request

Name and Address of Applicant	Name and Address of Officer
	Tel: Telephone Number
	Email: Email Address
	Our Reference:
	Date: Date

Dear

### Freedom of Information Act 2000

I refer to your request which was received on *[date]* for information relating to *[subject]*.

On receipt of your request, the Department has conducted a thorough evaluation of an enquiry you submitted on *[date]* (Reference XXXXX) and considers that your subsequent request of *[date]* is a repeated request as defined under Section 14(2) of the Freedom of Information (FOI) Act 2000.

Section 14(2) of the FOI Act states

“Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request”.

The Department does not have a statutory duty to comply with requests for information which are deemed to be “repeated”, and for this reason has decided not to respond to the request referenced above.

You should note too that the Department will not process any further correspondence or requests from you on the same theme. No further refusal notice shall be issued. Any further correspondence on this matter will be treated as a request for an internal review of the decision.

If you are unhappy with the way the Department has handled your request you have the right to request a formal review by the Department within 40 working days of the date of this letter. If you wish to do this you should contact:

Information Management Unit  
Adelaide House  
39/49 Adelaide Street  
BELFAST  
BT2 8FD

Email - [foi@delni.gov.uk](mailto:foi@delni.gov.uk)

If you are not content with the outcome of the internal review, you then have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at –

Information Commissioner's Office  
Wycliffe House  
Water Lane  
WILMSLOW  
Cheshire  
SK9 5AF

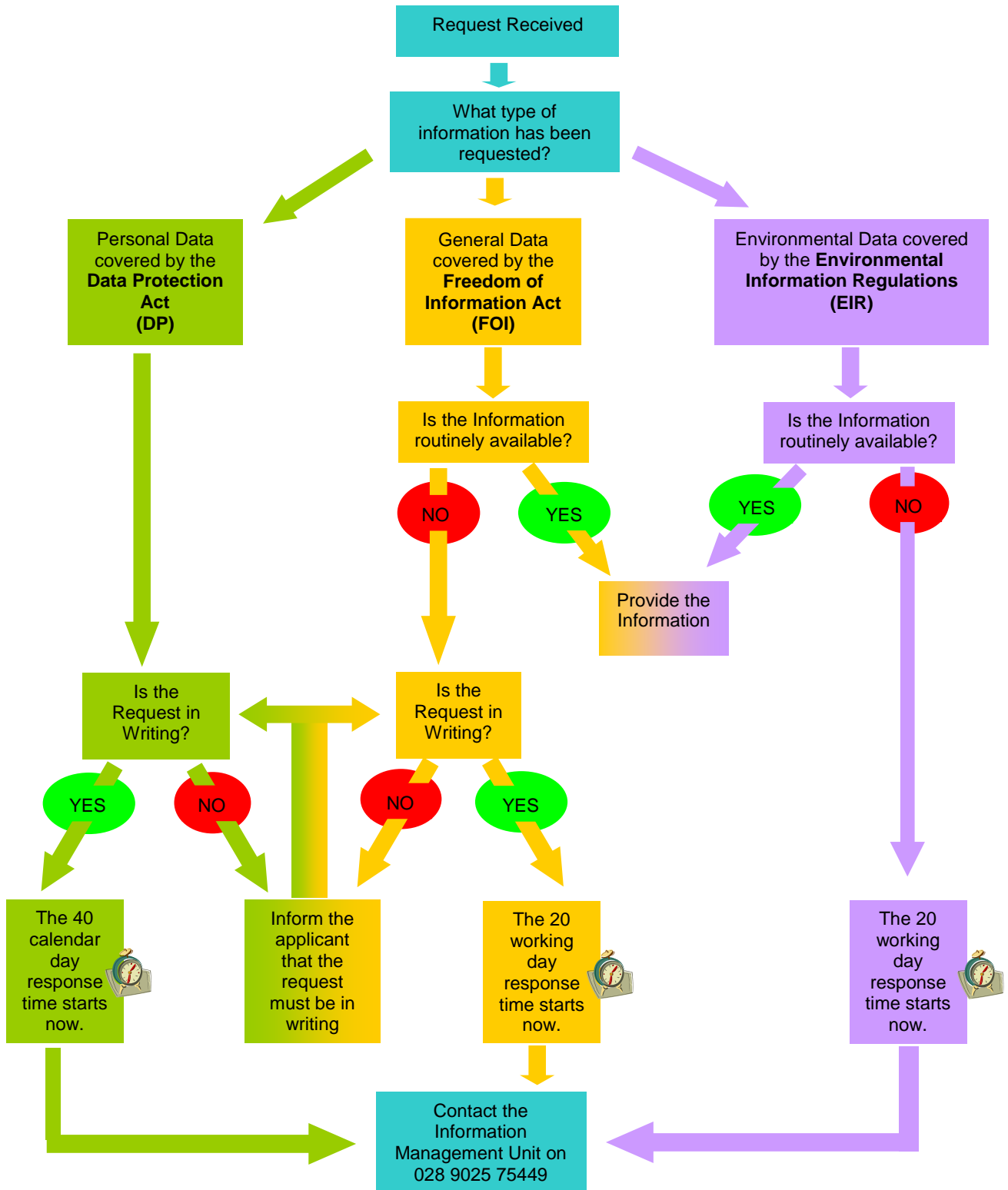
The Information Commissioner will not investigate a complaint unless the internal review procedure outlined above has been completed.

Yours sincerely

# Appendix B

## Freedom of Information Act 2000

### Request for Information Process Map



## Appendix C

### Request for Information – Schedule of Records

Date of Record	Author	Title (or Addressee)	Brief Description	Exemption claimed, if any (indicate if applies to whole record or only part/s e.g. “lines 2-14 on page 3”)

## Appendix D

### DEPARTMENT FOR EMPLOYMENT AND LEARNING

#### Public Information Leaflet

on

#### The Freedom of Information Act 2000

Note: **This guide is an overview of some of the main provisions of the Act and should not be regarded as a legal interpretation.**

**1. What does the Freedom of Information Act do?** The Freedom of Information (FOI) Act 2000 gives everyone the right to request information from public authorities. The FOI Act means that, from 1<sup>st</sup> January 2005, you are able to get information to help you to understand better how this Department works, how we spend public money, and how and why we make our decisions.

**2. You can also get information under:**

- **The Data Protection Act 1998 (DPA)** which, amongst other things, gives individuals access to their own personal information. The DPA applies to private enterprise as well as public authorities.
- **The Environmental Information Regulations 2004 (EIRs)**, which give people access to environmental information. EIRs apply to “environmental information” held by organisations that perform functions of a public nature.

**3. How do I get information about the Department for Employment and Learning under the FOI Act?** If you have access to the Internet you can get information on the Departmental website ([www.delni.gov.uk](http://www.delni.gov.uk)), or visit [www.nidirect.gov.uk](http://www.nidirect.gov.uk) for further information on accessing the websites of all Northern Ireland Government Departments. Alternatively you can write to us at Department for Employment and Learning, Adelaide House, 39-49 Adelaide Street, Belfast, BT2 8FD.

**4. How long does it take to get information?** In most cases, a public authority must respond to your request within 20 working days of receiving it and, if it cannot, it will explain why and let you know when you will receive a reply. This can arise where:

- A “qualified” exemption applies and we need to consider the public interest; or

- We are awaiting payment of a fee by you.

Sometimes we might need to contact you in order to clarify exactly what information you are interested in. It will help us to process your request more quickly if you can be as specific as possible about what information you want. Please make sure that you provide us with your name and address and a contact telephone number.

**5. Is there a cost for getting information?** This depends on a number of factors including the volume of material requested. Responses to enquiries that cost the Department less than £600 to process<sup>3</sup> will normally be provided free of charge, although there may be a small charge for disbursement<sup>4</sup>. The Department has the right to refuse to respond to a request that is estimated to cost more than £600 to process unless the request is for information covered by EIRs, in which case the Department has to process the request if you are prepared to pay the costs.

**6. What happens if the information I want is not available?** The FOI Act does not require us to gather information that is not already there. However, we are required to assist you with your request. We will contact you and tell you what information we do hold that might help to answer your query or suggest another public authority that may hold the information you are looking for.

**7. What information can I have?** The FOI Act allows you access to almost all information that a public body holds. However, there are some things that cannot be given to the public such as information about national security, law enforcement or personal information about others. You can obtain your own personal information under the Data Protection Act DPA, however (see point 2).

**8. What if I am refused information?** We will tell you if information is being withheld and why. We will also tell you whom you should contact to request an internal review if you are not happy with our decision. If you are still not happy after the internal review, you can request a review by the Information Commissioner (see details below). Please contact us first if you are not happy with our response and tell us why you believe that we are wrongly withholding information from you.

**9. Where can I get more information about the FOI Act?** You can get more information about FOI from the regional Northern Ireland office of the Information Commissioner. The Commissioner's details are:

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<sup>3</sup> Includes the cost of finding, sorting or editing the material. A standard hourly rate of £25 must be used when estimating costs, regardless of the seniority of the staff involved.

<sup>4</sup> The Department can charge a fee to cover the cost of **disbursements**, which include printing, photocopying and postage. Disbursement costs can be charged in **all** cases, regardless of whether the appropriate limit is met.



Website: <https://ico.org.uk/>  
Phone: 01625 545 700  
Email: [casework@ico.gsi.gov.uk](mailto:casework@ico.gsi.gov.uk)  
Post: **Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

Most documents produced by a government department or agency will be protected by Crown Copyright. Most Crown copyright information can be re-used under the Open Government Licence (OGL)

<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

For information about the OGL and about re-using Crown Copyright information please see The National Archives website -

<http://www.nationalarchives.gov.uk/information-management/uk-gov-licensing-framework.htm> .

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the Intellectual Property Office's website at [www.ipo.gov.uk](http://www.ipo.gov.uk).

## Appendix E

### MEMORANDUM OF UNDERSTANDING ON NATIONAL SECURITY CASES (FOIA/EIRs)

The [Memorandum of Understanding](#) (“the National Security MoU (FOIA/EIRs)”) between the Secretary of State for Justice (on behalf of Government Departments) and the Information Commissioner (ICO), sets out guidelines on the handling of national security cases in the context of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

## **Appendix F**

This link will take you to the National Archives, where you can access advice on the retention period for various types of Freedom of Information records:

<http://www.nationalarchives.gov.uk/information-management/guidance/r.htm>

## Appendix G

### FREEDOM OF INFORMATION

#### NICS ROUND-ROBIN REQUESTS: HANDLING PROTOCOL

##### Definition

1. A request for information from the same applicant received by more than one Department is known as a 'round-robin' request.

##### Identification of Round Robin Requests

2. Staff in Information Management Units (IMUs) are usually best placed to identify potential round-robin requests, as they will have had sight of such requests before, and will be alert to their corporate NICS nature.
3. On receipt of a potential round-robin request, the Department should forward it via e-mail to the Central FOI Team (OFMDFM), which will contact the other Departments to find out if they have received the same (or a similar) request.

##### Procedures for the handling of Round-Robin Requests

4. The procedures for handling round-robin requests set out in para. 2.3 of the 'NICS FOI Co-ordination Arrangements' document remain valid. However, Departments should also take note of the following:
  - Does the request appear to be a round-robin? If so, contact the Central FOI team (OFMDFM). If business areas receive directly a request, which appears to be a round robin, they should inform their IMU immediately.
  - No Department should seek clarification from an applicant submitting a round-robin request without first consulting the Central FOI team. There may be aspects of the request which may raise issues with other Departments, even though it does not raise any for your Department.
  - If officials need to seek clarification from a journalist submitting any FOI request (i.e., not just round-robins), this should be undertaken by the respective Press Office, who should consult with the Departmental FOI team in advance. Officials should consider carefully what advice and assistance can be given to the applicant – the aim is to clarify the nature and scope of the information sought.
  - Please note that the Information Commissioner advises: *'If, following the provision of such assistance, the applicant still fails*

*to describe the information requested in a way which would enable the authority to identify and locate it, **the authority is not expected to seek further clarification.***

- No Department should contact or respond to a round robin requester prematurely or unilaterally, as this may hinder the consultation process between Departments. **It is important that business areas take note of, and adhere to, this point.**
- Departments receiving a request for information which may be held by other Departments should consider carefully whether they should seek to transfer it to them. The FOI Act's Section 45 Code of Practice outlines various handling options, including the provision of contact details for such bodies.
- Once a round-robin request has been confirmed, Central FOI team will consider what level of co-ordinated action is appropriate. If the request is straightforward (e.g. information is 'not held' or is 'reasonably accessible to the applicant by other means'), then basic written advice will be provided to Departments. If the request is more complex or from a 'high profile' source or potentially precedent-setting, then the Central FOI Team will arrange a case conference.
- When considering a response to a request, a key question which arises often concerns the **creation of information**. Departments do **not** have to create new information to respond to requests. However, Departments should take note of the Information Commissioner's views:
  - (i) 'Where it is possible to extract the information requested and present it in the form of a list or schedule, this does not amount to the creation of new information.'
  - (ii) 'The simple manipulation of information contained in separate sources is not the creation of new information.'
  - (iii) 'Any query that can be made of a database amounts to retrieval and extraction of information and not the creation of new information.'
- Whatever approach Departments adopt following the provision of Central FOI advice, responses to high profile or potentially precedent-setting round-robin requests (e.g. requests triggering Departmental liaison with Central FOI team) should be approved/signed off at Assistant Secretary level. If this is not possible, Deputy Secretary or Principal alternatives should be considered.

### Other points

5. It is acknowledged that homogeneity of response may not always be achievable nor desirable. However, a more controlled handling of round-robin requests should result in greater consistency of approach among the Departments, and a better service to the public.
6. Listed below are some of the subject matters that should 'trigger' communications and formal consultation between Departments, and between Departments and the Central FOI team (OFMDFM).

### **'Triggers' for Departmental liaison with Central FOI team**

#### Requests involving:-

- Executive agenda, minutes and associated papers;
- Details of meetings involving Ministers, Special Advisers, Permanent Secretaries and other Senior Civil Servants;
- Briefing and policy advice for Ministers;
- Appointment, remuneration and role of Special Advisers/SCS;
- Travel details/expenses involving Ministers, Special Advisers, Permanent Secretaries and other Senior Civil Servants;
- Public appointments;
- North-South (including dealings with N-S Implementation bodies), and East-West (dealings with Whitehall Departments and the other devolved administrations) issues;
- Topical issues of cross-departmental concern (e.g., Flooding).

#### **Note:**

**(i) The list is not intended to be exhaustive but highlights issues that have come up regularly in previous round-robin-type requests, and which have required Central FOI team involvement.**

**(ii) On occasion Central FOI team may proactively alert Departments to subject matter that may generate round-robin requests. Similarly, the Central team would expect Departments to reciprocate such action.**