



# FOI Staff Handbook

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THE DEFINITIVE VERSION**

**0. Document Control Sheet**

**0.1 Document Status**

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**0.3 Document Distribution History**

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**0.4 Associated Documents**

Available as adjoining items on the intranet FOI Toolbox:

Appendix 5 – FOI Process Chart

Appendix 6 – FOI Review Process Chart

Appendix 7 – FOI Database Guide

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## 1. PURPOSE

To outline the practical steps needed to deal with information requests under FOI. This handbook is relevant to all NHS QIS staff, including secondees and contractors.

## 2. BACKGROUND

The Freedom of Information (Scotland) Act 2002 Act gives people stronger rights to access recorded information held by public authorities. The Act came fully into force on 1 January 2005.

To help NHS QIS meet the requirements of the Act, an FOI Group was formed to help with training, practical support, and to co-ordinate handling of non-routine requests. A list of FOI Group members is contained within Appendix 1. [\[Return to Contents\]](#).

## 3. SCOPE

NHS QIS receives many requests for information as part of its normal business. The FOI Act says that we must provide advice and assistance to applicants and potential applicants as far as it is reasonable to do so. The general advice for handling routine, everyday information requests is therefore 'business as usual'.

This handbook will help you make decisions about which requests should be handled as 'business as usual', and how other requests should be identified and directed.

You may find the NHS QIS A-Z guide on FOI useful for desk reference. A flow chart summarises the FOI processes. Both can be found in the intranet's FOI Toolbox. [\[Return to Contents\]](#).

## 4. REQUESTS

### 4.1 Receiving an information request

Any person making an information request is known as an 'applicant'.

FOI requests must be made in some recordable form capable of being used for reference. This would normally mean in writing. However, examples of other methods include voice mail recordings and videos etc. Where applicants make a verbal request for information you should note down what is being sought and ask the applicant to confirm accuracy.

All 'recorded' communications seeking information from NHS QIS must be considered as FOI requests and should be dealt with within 20 working days. The 20 day clock starts ticking on the day after receipt of the request.

In the event that the information requested is already accessible by being covered in the NHS QIS publication scheme, staff should check in what format

the applicant would like to receive the material, providing a copy of or a link to the item(s).

Please refer any requests from journalists to the Communications team.

## 4.2 Identifying a routine request

A routine request is one where the information desired is readily available and would be covered by the Publication Scheme. The request should be handled informally and efficiently at team or unit level. The *very great* majority of information requests to NHS QIS under FOI will be routine and so will not need to be logged on the FOI database.

Please note that the 20-working day rule applies to routine requests as much as to those that do go on to be logged.

The Publication Scheme is simply a list of the information we routinely publish or make available. It helps both the public and ourselves know what requests can be met straightforwardly.

[Publication Scheme](#) (MPS) – summary of information listed and what the scheme is for.

### [The full Publication Scheme](#)

If information requested is not routinely given out/listed in the Publication Scheme, then the request goes on to become a logged FOI application.

## 4.3 Clarifying a routine request

If the applicant is unclear about what they require, though it seems the appropriate information will be routine, it may help to ask about their purpose. Knowing purpose may bring the relevant types of information into focus. However, the reason for this enquiry should be given along with a statement that there is no obligation to reveal purpose. Purpose should only be asked after in these circumstances.

## 4.4 Information held by other organisations

If requested information is not held by NHS QIS, but covered by the Publication Scheme of another NHS Board or public authority, the DO or FOI officer should identify which. Providing that the applicant has no objection, he/she should be directed appropriately.

## 4.5 Problems with the 20 day timescale

This should not apply to information covered by the Publication Scheme unless there are exceptional circumstances. If it appears unlikely that the requested information can be provided within time scale, the applicant should be notified as *soon as possible* and sent an initial response, providing the information currently available and an estimated time for a more complete response.

**The above information covers virtually all information requests you will deal with.**

## 4.6 What to do with a 'non-routine' request

Recipients should direct any requests which do not appear to be routine and the response entirely clear to the FOI officer for assessment – using the [FOI Group email address](#). Requests that relate to SIGN business or processes should be referred initially to the SIGN FOI lead.

The FOI officer should consider the content of the request and if satisfied that the request is non-routine should log it on FOI database. Appendix 7 contains guidance on the FOI Database [available through the Freedom of Information Toolbox].

In the absence of the FOI officer, an FOI lead from the FOI Group will assess and log the request. A list of Group members can be found in the intranet's FOI Toolbox. [\[Return to Contents\]](#).

## 5. PROCESSING A NON-ROUTINE REQUEST

### 5.1 Clarifying a non-routine request

If it is not clear what information is required by applicant, the FOI officer or FOI lead should contact them promptly. The approach is as in 4.3.

### 5.2 Checking previous responses on a topic

The FOI officer or FOI lead should check the FOI database to see whether requested information has been asked for before to ensure that responses are consistent. The database will also help determine whether the request could be considered vexatious (see section 23 of the [Code of Practice](#)). In 'vexatious' circumstances, there is no obligation to provide the requested information and the applicant should be notified of this. Such decisions should be taken in consultation with the FOI Group.

### 5.3 Delegation

While the FOI officer or responsible FOI lead have overall responsibility for dealing with FOI requests and decision making, responsibility for research, consultation and production of information can be passed to a delegated officer (DO) within NHS QIS. This should be done in consultation with the appropriate team manager.

Examples of appropriate delegation:

- request for information about a recent NHS Board assessment against a set of standards – operational responsibility for obtaining and summarising the necessary information is delegated to the relevant review team via the team manager.
- request for information about what is being done to promote race equality within NHS QIS – responsibility for obtaining and summarising necessary information is delegated to the Patient Focus and Public Involvement unit.

## 5.4 Locating information

The delegated officer (DO) will make sure that all relevant records and documents are obtained. This will include reviewing corporate and electronic files and may involve conferring with other staff to see if there is other directly relevant information not held by NHS QIS. If it is thought that further information is held elsewhere, either by Scottish Executive or external bodies, this should be flagged up for the applicant.

In instances where the information has been transferred to National Archives of Scotland (NAS), it is likely that the relevant file will already be open to the public. If after consulting NAS this is found to be the case, the applicant can be directed to them and they will provide the necessary information. Should NAS indicate that the file is not open to the public, responsibility for assessing the information will remain with NHS QIS although the response will be provided by NAS.

If the information sought has been destroyed, the DO will have to check whether this has been done in line with the NHS QIS records management policy so that an explanation can be provided to the applicant.

On locating all relevant information held by NHS QIS, the DO should refer to the FOI officer or responsible FOI lead to assess and respond.

## 5.5 Information held by other organisations

If requested information is held by another NHS Board or public authority, the DO or FOI officer should identify which. Providing that the applicant has no objection, he/she should be directed appropriately.

## 5.6 Third-party information held by NHS QIS

For example, an applicant is interested in finding out how much work a training consultancy has done for NHS QIS, and what the costs were. After an assessment, the FOI Officer or an FOI lead reach agreement with the consultancy about what to disclose. For OSIC guidance on commercial confidentiality please click [here](#).

If the applicant asks to see information belonging to another NHS Board or public authority where that material is held by NHS QIS, the views of the other authority should be sought but the decision on disclosure remains with NHS QIS.

## 5.7 Problems with the 20 day timescale

If it appears unlikely that the requested information can be provided within time scale, the applicant should be notified *as soon as possible* and sent an initial response, providing the information currently available and an estimated time for a more detailed response.

## 5.8 Costs

The FOI officer should make an initial assessment of costs if providing the information is likely to exceed the upper fees limit of £600. In line with SE policy, NHS QIS will not charge for providing information where costs would not exceed

£600. If the FOI officer calculates that the costs would significantly exceed this figure, he/she should liaise with the applicant in order to provide advice about what could be given within the cost-free boundaries. Please note that if an

applicant asks for unrelated items in one request, each item should be treated as an individual request. [\[Return to Contents\]](#).

## 6. ISSUING THE REPLY

### 6.1 Exemptions - consult and refer

The FOI officer or responsible FOI lead from the FOI Group should consider potential exemptions before responding, bearing in mind exemptions principally apply to information that will threaten national security, so will not generally apply to NHS QIS. However, we are allowed to temporarily withhold information that is due to be published within [12 weeks](#). A full set of guidance on interpreting the exemptions has been produced by OSIC and can be accessed [here](#).

### 6.2 Final assessment

To recap, before releasing the requested information, the FOI officer or an FOI lead must:

- consider whether any of the exemptions apply to all or part of the information requested.
- If it is thought that some or all of the information falls into any of these categories, a decision should be reached in consultation with the Director of Planning and Resource Management.
- Consult the FOI database to ensure that response is consistent with same previous requests for information about the same subject.
- Ensure that the request has been handled in line with the best practice guidance outlined in the Scottish Executive's [Code of Practice](#).
- Update the record logged on the FOI Database, indicating what information is being released and summarising any key decision making process.

### 6.3 Final assessment

Once a decision on how to respond has been made, the FOI officer or FOI lead should formally reply to the applicant, explaining the decision making process. The FOI officer must also ensure that the response is issued in the format requested by the applicant.

Where information is covered by third party copyright (whether or not published or commercially published) the release of such information under FOI does not infringe copyright. For that reason, when providing information the FOI officer should always remind applicants that re-using information may infringe copyright and that they should obtain permission from copyholder (whoever owns the material) before doing so.

If a request has been refused because an exemption has been applied, the response should explain:

- that the information is held
- which exemptions apply and why
- basis for decision to withhold (if public interest test applies).

The responses must inform the applicant that if they are not satisfied with any aspect of our handling of the request, they can have the decision reviewed via the internal review procedure. The internal review contact details should be provided. These procedures are explained in appendix 3. If following the review the applicant remains dissatisfied they are entitled to ask the Scottish Information Commissioner to investigate. Referrals to the Commissioner should be made within 6 months of the review.

Guidance for wording correspondence can be found by in appendix 4.

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## **7. Liaison with Other FOI Bodies/support Groups**

### **7.1 Joint Inspectorates FOI Group**

Contact:

June Weir  
Project Officer - Information Governance Project  
Care Commission  
Compass House  
11 Riverside Drive  
Dundee  
DD1 4NY

Email: [June.Weir@carecommission.com](mailto:June.Weir@carecommission.com)  
Directline: 01382 207144  
Mobile: 07789 617145

## APPENDIX 1

### FOI Group Members as at 25 January 2006

Stephen Ferguson	Communications Unit
Paul Gibbons*	Consultant, Records Management
Eleanor Lewis*	Director, Planning and Resource Management
Colin McAllister*	Head, Communications Unit
Patrick Maitland-Cullen	Communications Unit
Jonty Simmons	IT Unit

\* Participates ad hoc/as desires.

A list of FOI Group members can also be found in the intranet's FOI Toolbox.

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## Key Responsibilities

Please note that all staff have a general responsibility for ensuring that the law on FOI is fulfilled.

- DRM has overall responsibility for overseeing all aspects of reviews, and appeals referred to the Scottish Information Commissioner.
- Freedom of Information officer (FOI lead named in MPS) has overall responsibility for dealing with all aspects of non-routine requests, including operational responsibility for handling external contacts, arranging consultations with advisors or third parties, interpretation of guidance, delegation, issuing responses, and updating guidance and promoting FOI principles in conjunction with the other members of the FOI Group.
- FOI leads, as members of the FOI Group, share the same responsibilities as the FOI officer, as agreed individually, or when the former is unavailable. FOI leads also provide input to internal reviews and cases referred to OSIC where the FOI officer has been involved in the original request.
- A Delegated Officer (DO) is responsible for ensuring that all available information relevant to an FOI request is provided to the FOI officer or FOI lead and for providing informed advice about subject matter.
- All staff members who receive a request are responsible for ensuring that FOI requests which are not routine and therefore not covered by the Publication Scheme are directed to the FOI Group group email address within one working day of receipt.
- The FOI officer and FOI leads are responsible for logging requests on the FOI database, monitoring deadlines, recording and electronically filing responses issued.

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## Review Process

If an applicant is dissatisfied by the way a FOI request has been dealt with, they can request that an NHS QIS FOI review. This process must be exhausted before the matter can be taken to the Scottish Information Commissioner.

When responding to non-routine requests for information, NHS QIS will outline the right to seek an independent NHS QIS review, and provide contact details for the Director of Planning and Resource Management, the channel for such requests.

Review requests must be made, in writing or another permanent form such as email, within 40 days of either (a) the 20th day after the submission of the request or (b) the date on which the applicant receives the information which is the subject of the review request, or a notice of fees payable, of refusal, or that the information requested is not held by NHS QIS. The applicant must ask for a review and detail the nature of their complaint. Our legal obligation is to respond to this requirement for review promptly, and by no later than 20 working days.

The Director of Planning and Resource Management (DPRM) will acknowledge the request and inform the applicant of the date for the review. The DPRM will then request a full history of the case from the FOI officer involved in responding to the original request for information, and will be supported by a member of the FOI Group not involved in the original process.

The review process allows a fresh look at the case and checks that the procedures followed and the decision making process were correct. The DPRM will consider:

- how the request was originally processed
- all factors previously taken into consideration
- any exemptions applied, including the public interest test
- if there were any failings in the original decision making process

The review process must be as transparent as possible and be recorded so that it can be shown in what way the request has been fully reconsidered and how conclusions have been reached.

Where the outcome of a complaint is that an initial decision to withhold information is upheld, or is otherwise in favour of NHS QIS, the applicant will be informed of his or her right to take the matter to the Information Commissioner.

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**FoI Non-routine Response Template [letter or email]**

Dear XXXX

Further to your FoI request of [Day] [Month], you asked for [one / two...] item[s] of information:

1. "I would like to have the...[Quote the key element of the recorded request]."
2. "I would also like a [Quote any additional elements of the recorded request]."

**In answer to point 1:** [Set out the information required and/or identify and explain the nature of any attached documents]

**In answer to point 2:** [Set out the information required and/or identify and explain the nature of any attached documents]

[You should also explain what constraints there may have been on passing information, for example a staff member withholding consent to pass out their direct line telephone number, or if NHS QIS does not, after all, generate a particular type of information].

Please note that if you are not satisfied that the information above is an adequate response to your enquiry, you are entitled under the Freedom of Information (Scotland) Act to ask for an independent review within NHS QIS. Review requests must be made within 40 days of either (a) the 20th day after the submission of the request or (b) the date on which the applicant receives the information which is the subject of the review request, or a notice of fees payable, refusal, or that the information requested is not held by NHS QIS. In addition to asking for a review, you should outline the nature of your complaint. Our obligation is to respond to this requirement for review promptly, and by no later than 20 working days.

In order to ensure that a review request is handled independently within NHS QIS, you should direct it to:

Eleanor Lewis  
Director of Planning and Resource Management  
Elliott House  
8-10 Hillside Crescent  
Edinburgh EH7 5EA

Tel: 0131 623 4300

If you are not satisfied with the outcome of such a review, you are entitled to refer the matter to the Scottish Information Commissioner ( [www.itspublicknowledge.info](http://www.itspublicknowledge.info) ), telephone 01334 464 610.

Please do not hesitate to contact me if you require clarification on this response to your request.

Yours sincerely.

XXXXXXXXXXXXXXXX [name]

XXXXXXXXXXXXXXXX [job title]

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**APPENDIX 5**

FOI Process Chart – Please see intranet toolbox

**APPENDIX 6**

FOI Review Process Chart – Please see intranet toolbox

**APPENDIX 7**

FOI Database Guide – Please see intranet toolbox\*

\* The Database Guide is not yet available (February 2006) as it is being 'anonymised'. Database screen dumps must not show any applicant details.

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<b>Action</b>	<b>Lead</b>	<b>Timing</b>
FOI Group to sign off document	N/A	Jan 2006
Submit document to Director of Planning and Resource Management	PMC	Jan 2006
Disseminate	PMC	Jan 2006
Review	FOI Group	Jan 2007
Review completed	N/A	