

Freedom of Information Policy

Produced by the Business Support Unit
Regulation and Quality Improvement Authority

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1. Introduction

- 1.1 The Freedom of Information Act 2000 (FOI) gives the public a general right of access to information held by a public authority, subject to certain conditions and exemptions. FOI promotes greater openness and accountability across the public sector, therefore facilitating a better understanding of how public bodies carry out their business and how they spend public money.
- 1.2 FOI places a statutory obligation on the Regulation and Quality Improvement Authority (RQIA) to publish details of all recorded information that it holds, except where an exemption applies. FOI is wholly retrospective and applies to all information held by public authorities regardless of its date.
- 1.3 The Environmental Information Regulations 2004 (EIR) gives the right to access 'environmental information' held by public authorities, and therefore requires similar measures for all environmental information held by RQIA.

2. Purpose

- 2.1 RQIA acknowledges its obligations as set out under FOI and EIR, and is committed to the principles of openness, transparency and accountability.
- 2.2 This policy establishes a framework which underlines the commitment. The purpose of this policy and related procedures is to ensure that RQIA is compliant with the FOI and EIR, and sets out the procedures for dealing with requests for information in an efficient manner.

3. Supporting Legislation

- 3.1 This policy has been written to support staff in compliance with the following legal requirements and best practice guidance, as set out within RQIA's Information Governance Assurance Framework.

4. Scope

- 4.1 The scope of this policy is to support the control and management of information. The policy will cover all information held by RQIA and is concerned with all information systems, electronic and non-electronic information. It applies to all directorates, services and departments, all permanent and temporary staff, all agency staff, and as appropriate to contractors and third party service providers acting on behalf of RQIA.
- 4.2 This policy covers all forms of information held, including personal data as defined in data protection legislation, as well as organisational, business and operational information.

5. Responsibilities

- 5.1 Responsibilities are as set out within RQIA's Information Governance Assurance Framework, which is available on request.

6. Defining a valid request

- 6.1 As defined in Section 8 of the FOI Act, to meet all the requirements of a valid FOI request, a request must:
- Be in writing;
 - State the name of the applicant and a valid address for correspondence;
 - Describe the information requested; and
 - Be received in a legible form.
- 6.2 The term ‘in writing’ covers requests submitted by letter and electronic form, including those sent via Social Media. The request does not have to make any direct reference to the Act, or be the sole or main theme of the requester’s correspondence.
- 6.3 Requests made under the EIR can be made verbally or in writing.
- 6.4 A request is deemed as ‘received’ when it is delivered to RQIA (for example, to the inbox of a member of staff or, in the case of a request made under EIR, at the point in which a verbal request is received), and not the date the request is forwarded for onward processing¹. Any requests for information under FOI must therefore be forwarded to BSO’s Information Governance Team² upon receipt by RQIA staff, for onward processing.

7. ‘Business As Usual’ Requests

- 7.1 In line with ICO guidance³, where information can be quickly and easily sent to the applicant, RQIA should endeavour to process the request in ‘the normal course of business’ rather than as a formal FOI request. The Code of Practice⁴ defines such requests as “standard responses to general enquiries”.
- 7.2 If staff are in doubt as to whether a request is to be processed via normal course of business or via formal FOI, they should contact RQIA’s Office of the Chief Executive and Chair to discuss in the first instance.
- 7.3 The BSO Data Protection Officer (DPO), Head of Business Support Unit or Directors have the authority to direct requests that should be actioned as a standard response to general enquiries.

¹ In respect of emails, however, where an automated ‘out of office’ message provides instructions on how to re-redirect a message, the request would not be ‘received’ until it was re-sent to the alternative contact.

² foi.bso@hscni.net

³ <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

⁴ Section 1.14 of the [Code of Practice](#)

8. Identity of the applicant and reasons for the request

- 8.1 The ICO has advised that, as FOI enables disclosure on grounds of public interest, responses should be applicant and motive blind. RQIA will therefore assess all requests on the understanding that applicant identity is not a relevant consideration. Possible exceptions to this include:
- to be satisfied that an FOI request is valid under Section 8 of FOI;
 - a request is deemed to be repeated;
 - if disclosure would be contrary to Data Protection principles or would be likely to endanger the health and safety of any other person; and
 - aggregated costs in line with Fees Regulations.

9. Time Limits for Compliance with Requests

- 9.1 RQIA has, and continues to develop, systems and procedures to ensure that it complies with its duties to provide a response to requests within the statutory timeframe of twenty working days from the point of a valid request being received.
- 9.2 Section 10.3 of FOI gives provision for extension of the twenty working day deadline in consideration of a qualified exemption. In line with best practice⁵, RQIA should not extend this beyond an additional twenty working days.
- 9.3 If it becomes clear at any stage that the above timescales cannot be met (i.e. the statutory deadline or extended deadline), RQIA, via BSO, will inform the applicant in writing, in advance of this deadline, and give a revised deadline for completion.

10. Means by which Information will be Conveyed

- 10.1 When an applicant expresses a preference for communication by particular means, RQIA so far as is reasonably practicable, will give effect to that preference.
- 10.2 In determining what is reasonably practicable, RQIA will consider all the circumstances, including the cost of doing so. If it is determined that it is not reasonably practicable to comply with any preference expressed by the applicant, the applicant will be notified of the reasons for its determination and will provide the information by such means as which is deemed reasonable.

11. Refusing Requests

- 11.1 The duty to confirm or deny is excluded or modified to the extent set out in the relevant section in FOI which sets out the applicable exemption.
- 11.2 There are 24 exemptions from the right of access under FOI, and 2 exceptions within EIR. RQIA will apply exemptions / exceptions appropriately, and include public interests tests where applicable. RQIA will consult with

⁵ Refer to 'Public Interest Test Extensions' with the [Code of Practice](#)

appropriate individuals (for example, legal advice or the opinion of the qualified person⁶) as required, in the application of exemptions.

- 11.3 RQIA will take into account appropriate guidance from the ICO⁷ in determining whether it believes a request is vexatious or repeated under Section 14 of FOI, or manifestly unreasonable as per Regulation 12 of EIR.
- 11.4 RQIA will follow the appropriate Regulations⁸ in determining cost of complying with a request. No 'appropriate limit' is set by EIR. However, RQIA reserves the right to refuse to comply with requests under Section 12(4) of EIR which are 'manifestly unreasonable' or 'too general'.
- 11.5 In considering any exemption and public interest test, RQIA may consult with appropriate third parties. Consultation with third parties will principally, but not exclusively, concern issues of confidentiality (i.e. personal data or commercial interests). However, while the view of any third party will assist in the assessment of any exemptions, RQIA will make any final determination on release or withholding of information it holds.
- 11.6 In calculating cost, RQIA will only take into account the time taken to determine whether it holds the information, and to locate, retrieve and extract it. It will not take into account the time taken to consider and apply exemptions (as per 10.1 – 10.4 of this policy), or time taken to seek and obtain advice.
- 11.7 In all circumstances where an exemption or exception applies, RQIA will as appropriate, within the response:
 - advise the applicant of this, and the reason(s); or
 - provide a refusal to confirm or deny the information is held.
- 11.8 For requests refused under provision of cost exemption, and in keeping with its obligations to provide advice and assistance, RQIA will insofar as it is reasonable, seek to refine the request with the applicant in order to provide relevant and useful information within the appropriate limits.
- 11.9 Where RQIA is intending to charge a fee, BSO, on behalf of RQIA, will issue a fees notice to the applicant. In the event of a fees notice being issued, the twenty working day compliance period is placed 'on hold' from the date of issue until the fee is received. If no fee is received, the request will be closed three months from the date of fees notice.

⁶ In determining whether disclosure would be likely to prejudice the effective conduct of public affairs (Section 36 of FOI), the designated Qualified Person will decide on the exemption's engagement. In RQIA's case, this is the Chief Executive.

⁷ <https://ico.org.uk/media/1198/dealing-with-vexatious-requests.pdf> and <https://ico.org.uk/media/for-organisations/documents/1195/dealing-with-repeat-requests.pdf>

⁸ The Relevant Fees Regulation is The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

12. Internal Review

- 12.1 In line with Section 17 of FOI, RQIA will advise all applicants within a response of their right to seek an internal review of its handling of a request.
- 12.2 Internal review panels will consist of two RQIA members of staff with no involvement in the original handling of the request, and preferably:
- An Executive Director; and
 - A Non-Executive Director.
- 12.3 The panel will be facilitated by the Office of the Chief Executive and Chair.
- 12.4 The panel will consider decisions made, rationale, public interest, timeliness and all other relevant aspects of the request.
- 12.5 RQIA will conduct internal reviews and relay the outcome to the applicant within 20 working days of receipt of such a request, or a maximum of 40 working days⁹ where a review is shown to be particularly complex.
- 12.6 Applicants will be advised that they may exercise their right to appeal to the ICO should they remain dissatisfied with the outcome of the internal review.

13. Transferring Requests for Information

- 13.1 RQIA will not contact another public authority on the applicants' behalf to transfer the request. However, in circumstances where RQIA believes that the information requested is held by another public authority, it will:
- advise the applicant that RQIA will not be taking the request further; and
 - provide contact details of that authority, where possible.

14. Publication Scheme

- 14.1 RQIA will adopt and maintain an 'approved model' Publication Scheme introduced by the ICO.
- 14.2 RQIA will maintain an online disclosure log that lists responses to requests made to RQIA under FOI and EIR.

15. Performance and Review

- 15.1 This policy will be reviewed no later than 2 years from approval, to ensure its continued relevance to the effective management of Information Governance within RQIA.
- 15.2 The effectiveness of this policy will be assessed against compliance with FOI and EIR legislation.

⁹ In line with Section 5 of the [Code of Practice](#)

16. Non-Compliance

- 16.1 A failure to adhere to the relevant legislation¹⁰, this policy and any associated procedures may result in disciplinary action. In relation to the use of ICT equipment, including the use of the Internet and email, staff should be aware that they may be personally liable to prosecution if their actions are found to be in breach of the law.

Serious breaches may be reported to the PSNI, ICO or other public authority for further investigation.

17. Equality Statement

- 17.1 This policy has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998. The screening has identified no specific equality impacts for all section 75 groups. The equality screening has been published and can be accessed here <https://hscbusiness.hscni.net/services/3231.htm>

¹⁰ It should also be noted that Section 77 of FOI and Regulation 19 of EIR states that “any person ... is guilty of an offence if he alters, defaces, blocks, erases, destroys or conceals any record held by the public authority, with the intention of preventing a disclosure ... of all, or any part, of the information to the communication of which the Applicant would have been entitled”.