



MOD FOI/EIR Compliance Notes

Initial Handling of Requests for Information

CN1: Overview of the Freedom of Information Act (FOIA) 2000

Document history

<i>Version No</i>	<i>Reference</i>	<i>Date Issued</i>	<i>Review Date</i>
1	CIO-3-19-1-3	September 2012	September 2012

What this is about:

This note provides a general overview of the Freedom of Information Act (FOIA) and the basic obligations placed on public authorities such as MOD. This note also outlines what information is covered by the Freedom of Information Act 2000 (FOIA), who is able to make a request for information, and the time limits for responding.

Detail:

The FOIA came into force in 2005 and enables the public to access information held by public authorities. The FOIA does this in two ways;

- public authorities are obliged to publish certain information; and
- members of the public are entitled to request information from public authorities.

What types of Information does the FOIA Cover?

- The FOIA covers all recorded information held by public authorities, including printed documents, computer files, letters, emails, photographs, and sound or video recordings.
- It is not limited to official documents and also covers drafts, notes, recordings of telephone conversations and CCTV recordings.
- It is not limited to information held which was initially created by MOD, it also covers information received from others as well as information that is held by others on the behalf of a public authority.

What types of Information are not included?

- However, the FOIA does not cover information that is in someone's head. If a member of the public asks for information, you have only to provide the information you already have in recorded form.
- **You do not have to create new information or find the answer to a question from staff that may happen to know it.**
- You should not respond to a request which is couched in the form of a question (or a series of questions) by interpreting recorded information held and answering in different terms. Always provide all of the recorded information held in scope of a request unless it is covered by an exemption(s) in the Act. ([See Section 3 – FOI Exemptions](#)).

The FOIA does not give people access to their personal data, if a member of the public wants to see information that a public authority holds relating to themselves they should make a subject access request under the Data Protection Act 1998 (DPA 98).

MOD FOI/EIR Compliance Notes

Who can make a FOI Request?

- Anyone can make a Freedom of Information (FOI) request. They do not have to be a UK citizen or resident in the UK.
- FOI requests can also be made by organisations or companies, or by one person on behalf of another (such as solicitor on behalf of a client). However, public authorities cannot make FOI requests to other public authorities.
- Requests can be made by employees, although good internal communications and staff relations should normally avoid the need for this.

What obligations must we comply with when answering FOI requests?

Anyone has a right to request information from a public authority. The FOIA specifies that as a public authority we are obliged to respond to FOI requests, in each response we must comply with Sections 1, 16 and 17 of the FOIA. In each response we must:

- tell the applicant whether we hold any information falling within the scope of their request and provide that information;
- provide advice and assistance to the requester where necessary; and
- explain why information is exempt from release, specify the exemption(s) engaged and state why the exemption is engaged.

You normally have 20 working days to respond to a FOI request. However, you may take longer if you need to conduct a Public Interest Test (PIT) this is normally an additional 20 working days. ([See Section 4 – The Public Interest Test](#))

This guidance will now take you through the MOD's internal procedures for dealing with a FOI request. This guidance is not intended to be extensive or exhaustive. For further information and detailed guidance please refer to the Information Commissioner's Office (ICO) or the Ministry of Justice (MOJ) extensive guidance on the FOIA. Their websites can be found at the following links:

ICO

http://www.ico.gov.uk/for_organisations/guidance_index/freedom_of_information_and_environmental_information.aspx

MOJ

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners>

MOD's Compliance Notes (CNs)

<http://defenceintranet.diiweb.r.mil.uk/DefenceIntranet/Admin/RespondToRequestsForInformation/UseTheFOIGuidance/>