

## **INFORMATION REQUESTS POLICY**

### **Background**

1. As a public authority, Monitor must comply with the Freedom of Information Act 2000 (FOIA) which gives every person a general right of access to 'recorded information' held by Monitor (subject to limitations/exemptions provided for within FOIA). More information on FOIA can be found at [www.ico.gov.uk](http://www.ico.gov.uk)
2. Under FOIA, there are two main responsibilities for public authorities:
  - (i) To process the written requests for information that it receives; and
  - (ii) To adopt the relevant model publication scheme developed and approved by the Information Commissioner's Office (ICO) (the ICO is the UK's independent authority responsible for administering FOIA).
3. Anyone – including, for example, journalists, political parties, MPs, lobby groups and commercial organisations - can request information from Monitor. The request must be in writing and the requester must provide a name and contact details for a response.
4. Where the requested information is the requester's own 'personal data', i.e. information that relates exclusively to themselves, then such data is exempt from disclosure under FOIA because, by law, the requester is required to make a Subject Access Request (SAR) for this personal data, under section 7 of the Data Protection Act 1998 (DPA).
5. So, whilst SARs are made under a different piece of legislation (the DPA) to FOI requests (FOIA), Monitor's handling of both types of requests is broadly the same (except that an SAR has a longer deadline by which Monitor must respond than that for an FOI request). Therefore, whilst this policy focuses on the administration of FOI requests, it applies equally to SARs.

### **FOI Requests**

6. Monitor is not under a duty to create information in order to respond to a request. The FOI Act extends only to recorded information that is already held by Monitor on the date of receipt of the FOI request.
7. The request for recorded information must be in writing, which means that email requests are permissible. A request for information does not need to mention the FOI Act for the legislation to apply.
8. Monitor must comply with a written request for recorded information promptly and, in any event, no later than the twentieth working day following the date of receipt of the FOI request. In exceptional circumstances, e.g. the absence of staff who are critical to

the handling of the FOI request, it may be that Legal Services will liaise with the requester in order to seek to extend the deadline.

9. A public body cannot charge a fee for handling an FOI request. However, the FOI Act does provide a 'cost limit' (described as an exemption which applies when the cost of compliance with a request exceeds an appropriate limit) in respect of each individual FOI request. For Monitor this limit is £450, which equates to a nominal 18 hours' work. Therefore, if it is reasonably believed that it would take more than 18 hours to determine if Monitor holds the requested information, to find and retrieve it and, if appropriate, to extract it from larger records/documents, Monitor can invoke the cost limit in order to decline the FOI request.
10. If it is decided that an FOI request is to be refused on the basis that it will exceed the cost limit, Monitor will seek in its response to encourage the requester to narrow the scope of their request in order to bring it beneath the cost limit. We might suggest, for example, that the request is limited to cover a shorter period of time or to a more specific category of information. This helpful approach accords with our legal duty to provide advice and assistance to requesters.
11. Both as a matter of law and in order to promote good relations, Monitor will endeavour to be helpful to all FOI requesters, even when it does not hold the requested information, e.g. by re-directing the requester to another potential holder of the information if we are aware of one.

### **SARs**

12. An SAR must be responded to promptly and within forty calendar days of its receipt.
13. Generally, the maximum fee that can be charged by a public body to undertake an SAR is £10. Monitor does charge this fee and so if an SAR is received without an accompanying cheque, Legal Services will write to the requester to acknowledge receipt of the SAR and to request payment of the fee. The forty calendar days to respond to an SAR will not begin until Monitor has received the fee.
14. An individual is entitled only to their own personal data and not to information relating to other people (unless they are formally acting on behalf of that other person, e.g. a solicitor on behalf of their client).

### **The Administration of FOI Requests**

15. All information requests are administered by Legal Services. [FOI@monitor.gov.uk](mailto:FOI@monitor.gov.uk) is the dedicated FOI email address to which the public are advised to make their requests and which is checked by Legal Services at least twice a day. If, however, a written request for information is sent to some other part of Monitor and it is felt by that department that this request cannot be addressed as part of its standard, day-to-day business, it should be treated as an FOI request (irrespective of whether or not it explicitly references FOIA) and forwarded immediately to Legal Services. Legal Services will then determine if it should be dealt with as an FOI request or if it is better addressed as a general enquiry by Complaints and Enquiries.

16. Legal Services will email the requester to acknowledge receipt of the FOI request and, within two days of its receipt, will allocate it to an appropriate person (the client) within Monitor.
17. Legal Services will also email other outward-facing departments within Monitor to determine if they have an interest in the FOI request and the extent to which they wish to be involved in its handling. These departments are:
  - (i) Parliamentary and Stakeholder Relations;
  - (ii) Media Relations;
  - (iii) Complaints and Enquiries; and
  - (iv) Private Office (if appropriate).This is to ensure that there is a consistent approach across Monitor, both substantively and stylistically, in its release of information to the public.
18. The client will then be the 'owner' of the FOI request and will have ten working days to identify, locate and collate all information which falls within the scope of the request. Legal Services will place a reminder of this ten-day deadline in the client's calendar and will also ensure that, where relevant, the client is aware of the interest of any of the Monitor departments detailed above (paragraph 17). The client will also need to form a preliminary view as to whether they are content for the information to be disclosed and, if they want to withhold some or all of the information, the reason(s) why.
19. By the end of this ten-day period the client will provide Legal Services with electronic copies of all relevant information. This timescale will then leave at least eight working days for the client to liaise with Legal Services about the approach to be taken and the applicability of any exemptions. Legal Services will then arrange for any agreed redactions to be made to documents and will draft a letter to be sent to the requester. It is the responsibility of the client to determine who the appropriate signatory of the letter is, to liaise with that signatory and to advise Legal Services of such.
20. Once both Legal Services, the client and any other Monitor department with a stated interest in the FOI request are content, Legal Services will email the letter of response to the requester, along with electronic copies of information that is being disclosed.
21. If the requester is dissatisfied with Monitor's response, they may request an internal review of the decision. If so, the same procedure will be followed for the internal review as for the initial FOI request, although the internal review will require a senior member of staff to consider the approach adopted initially and to decide, in consultation with Legal Services, if the position adopted in the original response should be maintained. The response letter following the internal review will also require a senior signatory.
22. If the requester remains dissatisfied after Monitor has conducted its internal review, they can then make a formal complaint to the ICO. The ICO would then write to Monitor to advise us of this, at which point Legal Services will liaise with the appropriate staff within Monitor to determine what approach we wish to take.

23. Release of information to an FOI requester is effectively the release of that information to the world at large. In recognition of this and in order to show its commitment to transparency, Monitor will also publish the FOI request (without disclosing the requester's identity) and the released information on a dedicated page on the Monitor website.