



MOD FOI/EIR Compliance Notes

Initial Handling of Requests for Information

CN8: Section 16 - Duty to Provide Advice and Assistance

Document history

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What this is about:

This note provides an overview of the Section 16 (duty to provide advice and assistance to requesters) under the FOIA, normally when their request exceeds the appropriate cost limit under section 12 of the FOIA. It outlines advice on how you can help refine requests so that they can be processed under the appropriate limit.

Detail:

Under section 16 of the FOIA, public authorities are required to provide the requester with advice and assistance while processing their request. This is especially important where a request for information exceeds the appropriate cost limit.

- You are required to provide advice and assistance, so far as it would be reasonable to expect your public authority to do so, to people who have made or who propose to make requests for information.
- This is provided for in sections 1(2) and 16 of the FOIA. This assistance should enable the requester to describe more clearly the information they seek.

The Section 45 Code of Practice in FOIA gives detailed guidance on providing advice and assistance to applicants. The Code gives examples of where the duty may arise and how public authorities might comply with it.

- Providing advice and assistance does not normally affect the 20 working days deadline (for more information see related guidance on time-limits for responding and Fees and aggregation).
- However, if you are providing advice and assistance because you need further information to identify the information requested, you are not obliged to comply with the request until you receive this.

Providing advice and assistance will be especially important where a request for information exceeds the 'appropriate limit' and is therefore refused. When providing advice and assistance in this context you should try to provide suggestions that will, if followed, result in a request that can be processed under the appropriate limit.

It is generally helpful, where possible, to identify specific pieces of information that the requester might be able to access within the 'appropriate limit'. To do this you may need to contact the requester to clarify precisely what information they are seeking. It may be helpful to suggest refining the request in relation to:

- A shorter date range

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- A more specific subject matter

If you have to contact requesters to find out precisely what information they are requesting, then you should consider the most appropriate way of obtaining it. It may be quicker to email or, as a matter of good customer service, telephone the requester. A phone call may be less time consuming for the requester and may yield greater clarity about what the requester is seeking. Writing a letter or email confirming the content of the conversation and setting out clearly your understanding of the outcome of that conversation is an effective way of avoiding misunderstandings and maintaining the integrity of audit trails.

It is important that you keep a detailed record of any letters, emails and telephone conversations you have with requesters in the course of providing advice and assistance. This should form part of any records management system that your business unit uses when handling requests for information.

For further information – see the ICO's detailed guidance:

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