

MOD FOI/EIR Compliance Notes

Initial Handling of Requests for Information

CN2: Responsibilities for Handling FOI Requests within the MOD

<i>Version No</i>	<i>Reference</i>	<i>Date Issued</i>	<i>Review Date</i>
1	CIO-3-19-1-3	September 2012	September 2013

What this is about:

This note outlines the role and responsibilities of all the stakeholders involved in implementing the FOIA.

Detail:

Effective implementation of the FOIA depends on many people across the MOD, who need a clear understanding of their own role and the roles of others. The main stakeholders are:

The Secretary of State for Defence:

- Accountable to Parliament for the Department's FOI performance.
- The FOI Act empowers the Secretary of State to issue a ministerial certificate as evidence that requested information is exempt under s.23 or s.24 of the act although in practice certificates are not generally issued..
- The Secretary of State is also the "accountable person" who is permitted to give the Information Commissioner a certificate invalidating an enforcement or decision notice on the MOD if in his "reasonable opinion" there is no failure to supply information or to confirm or deny that it is held. This power has to date not been exercised by SofS although other Ministers have exercised the "Veto" with Government agreement.

The Permanent under Secretary:

- The recipient of any Information Notice, Enforcement Notice or Decision Notice the Information Commissioner may issue against the Department.

The Director General of Transformation/Corporate Strategy/Chief Information Officer:

- Are charged with promoting FOI in the Defence Management Board and across the Department.

The Head of Corporate Information in CIO's area:

- Is tasked with implementation of open government initiatives within the MOD. The post is responsible for:
- Managing the MOD Publication Scheme.
- Establishing the lead on pan-MOD requests for information.
- Liaising with the MOJ on FOI Policy and 'round-robin' requests.
- Eliciting clarification on any points of legal interpretation which cannot be resolved within the MOD.
- Monitoring Departmental performance on FOI/EIRs, maintaining statistics on the number of requests to MOD and performance in handling them.
- Maintaining and updating the MOD guidance on FOI/EIR and the Access to Information Toolkit (AIT).

MOD FOI/EIR Compliance Notes

- Considering initial appeals about the MOD's handling of, or response to, an applicant's request, and liaising with the Information Commissioner's Office on any subsequent appeals
- Co-ordinating the MOD response to any Information, Decision, or Enforcement Notice issued by the Information Commissioner
- Co-ordinating MOD appeals to the Information Tribunal and the MOD's defence at the Information Tribunal where appeals have been raised against the Department

Top Level Budget Holders, Agency and trading Fund Chief Executives: are responsible, through their letters of delegation, for FOI compliance. They are responsible for:

- Ensuring that all staff within their management area understand and comply with FOI policy and procedures.
- Nominating one or more officials of appropriate status and seniority to carry out the responsibilities of the FOI Focal Point.
- Providing the resources to establish and maintain the necessary local supporting infrastructure and processes.
- Ensure that the TLB's input into the Publication Scheme is maintained and extended as appropriate.

FOI Focal Points:

- Are responsible for providing expertise within their TLB (or business area) and form the core of a network of FOI specialists across the department. Main responsibilities include:
- Keeping up to date with changes in policy and guidance issued within the MOD or by the MOJ or ICO
- Promoting awareness of FOI policy and procedures
- Handling FOI requests in accordance with FOI policy and procedures.
- Arranging the prompt transfer, or receipt, of any request in accordance with the Department's policy and procedure
- Monitoring progress and, reporting to Head of Corporate Information any instance where the requirements of the Act have not been, or look likely to not be, met.
- Accurately updating case statuses on the AIT, uploading all relevant documentation and closing cases promptly.
- Ensuring ongoing compliance with MOD's Publication Scheme.
- Submitting any statistical returns required by CIO-SPP-Information Rights
- Arranging local training and ensuring they have undertaken appropriate AIT and FOI Practitioner training.
- Keeping up to date with changes in policy and guidance issued within the MOD or by the MOJ or ICO.

All Staff are responsible for ensuring that MOD as a whole is able to meet its legislative obligations under the FOI Act. This means:

- Ensuring that the receipt of the request is registered promptly on the AIT and informing their focal point.
- Handling all requests with the priority necessitated by the statutory 20 working day deadline for a response. In particular it will be necessary to:
 - Confirm receipt of the request with the requester.
 - Determine the scope of the request as appropriate, consult with the requester where appropriate to clarify a request.

MOD FOI/EIR Compliance Notes

- Establish whether the information requested is held, consulting other business areas where necessary.
 - Consider whether it would be prejudicial to confirm or deny that the information requested exists.
 - Consider whether the information is/may be covered by an exemption and, if so, whether it is absolute or qualified (i.e. it needs to be subject to the public interest test).
 - Inform the requester promptly if the information is subject to an exemption(s) and is being public interest tested giving notice of the timescale within which a definitive reply will be provided. Note: in all but exceptional cases a further 20 working days should be sufficient.
- Ensuring information requests which are subject to a qualified exemption are formally reviewed and determined, seeking the necessary 1 star authorisation to withhold information.
 - Providing the FOI Focal Point with a copy of any information released in response to a request in order to facilitate inclusion in the AIT and MOD's Publication Scheme where appropriate.

All staff also have a responsibility to ensure that they:

- Know who their FOI Focal Point is so that requests are passed on and logged without delay.
- Understand local procedures on how a request for information differs from routine correspondence.
- Ensure that all information they hold is filed in accordance with local procedures and JSP 441 (Defence Records Management Manual) so that it can be swiftly identified and retrieved to answer a request for information.

Prior to releasing information any person responding to a request must ensure that they have the necessary authority to do so. The release of all FOI responses must be authorised at no lower a grade than Band B or military equivalent. For further information please see the following [DIN](#). Heads of department or establishments must ensure that there are appropriate arrangements within his or her command for authorising the release of information.