

Procedure

Processing Requests for Information

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Processing Requests for Information**1 Purpose and Scope**

The purpose of this procedure is to ensure that RWM fulfils its legal obligation under the Freedom of Information (FOI) Act and Environmental Information Regulations (EIR) by handling requests for information promptly and effectively.

RWM seeks to respond positively to all requests for information, whether made through the formal mechanisms of FOI or the EIR or as more general enquiries. The presumption is in favour of disclosure. Requests for information can offer opportunities for further engagement and to better understand public and stakeholder interests and concerns. So in addition to timely formal response to information requests, RWM may also invite discussion with those requesting information.

This procedure applies to all requests for information received from any external organisation or individual, other than those received in the course of day to day business, e.g., from suppliers, customers, the NDA and its subsidiaries and site licence companies. If a day to day request comes through a general route the request should be directed to the relevant function or individual that manages the relationship with that organisation.

2 Definitions

The table below defines certain terms used in this procedure and related arrangements.

Term	Definition
Data Protection Act	Data Protection Act 2018 UK law on the processing of data on identifiable living people. It is the main piece of domestic legislation that governs the protection of personal data in the UK.
EIR	Environmental Information Regulations The Environmental Information Regulations 2004 (EIR) provide public access to environmental information held by public authorities. The Regulations do this in two ways: <ul style="list-style-type: none"> • public authorities must make environmental information available proactively • members of the public are entitled to request environmental information from public authorities (See Annex 1 for EIR exemptions)
FOI	Freedom of Information The Freedom of Information Act 2000 (FOI) is an Act to make provision for the disclosure of information held by public authorities or by persons providing services for them. The Act grants a general right of access to information held by public authorities within certain parameters and allowing for a series of exemptions to be applied where appropriate, as set out in the Act (see Annex 2)
Information Commissioner's Office	The UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. It covers various legislation including the FOI Act, EIR and Data Protection Act.
Livelihood	The RWM Electronic Document and Records Management System
Qualified Person	The individual designated by government to approve the use of the Section 36 exemption of the Freedom of Information Act (see Annex 2)
Redaction	The preparation for publication of a document, involving the editing or removal of certain information

Processing Requests for Information**3 Responsibilities**

FOI Manager (or Deputy)	<p>Manages and oversees RWM compliance with the EIR and FOI Act</p> <p>Checks the FOIA inbox on a regular basis</p> <p>Records requests for information and responses to the requests on the Master Tracking Sheet</p> <p>Works with Information Asset Owners to develop responses to requests for information in a timely manner</p>
Information Asset Owners	<p>Advise/approve release of information that they are responsible for</p> <p>Work with FOI Manager to develop responses to requests for information</p>
RWM Managing Director	<p>Is the designated Qualified Person who can apply Section 36 exemption of the FOI Act (see Annex 2) on behalf of RWM</p>
NDA Information Access Team	<p>Provides advice on the application of the FOI Act and EIR exemptions</p>
RWM Head of Legal/Legal Function	<p>Provides support to the process, in particular on the application of the Public Interest Test, any exemptions and the preparation of any non-standard responses</p>
Directors	<p>Are responsible for ensuring that their directorates are fully compliant with this procedure and provide support to the process</p>
RWM Employees	<p>Responsible for ensuring requests for information are processed appropriately in line with this procedure. If an employee's assistance is required to answer a request they must fully cooperate with the FOI Manager within the timescales set</p>

4 References

- Data Protection Act 1998 (DPA)
- Data Protection (Appropriate Limit and Fees) Regulations 2004 (SI 2004 no.3244)
- Environmental Information Regulations 2004
- Freedom of Information Act 2000
- General Data Protection Regulations (GDPR) (EU) 2016/679
- Information Commissioner's Office s.36 form LL: 24052988
- Master Tracking Sheet, LL: 21605017
- RWM Publication Scheme, LL: 22884224
- Templates (acknowledgement, refusal and other letters)
(<http://ndahgewc01/livelink/livelink.exe?func=ll&objId=21763856&objAction=browse&viewType=1>)
- RWPR57 Customer Complaints Procedure
- RWPR74 Internal Review of Information Request Complaints

5 Procedure

The flow chart below shows the steps to follow when handling a request for information.

FOI and EIR requests must, with certain exemptions, be answered within 20 working days from receipt. However, RWM is required to respond as 'promptly' as practicably possible.

You must contact the FOI Manager or Deputy upon receipt of any FOI/EIR enquiry.

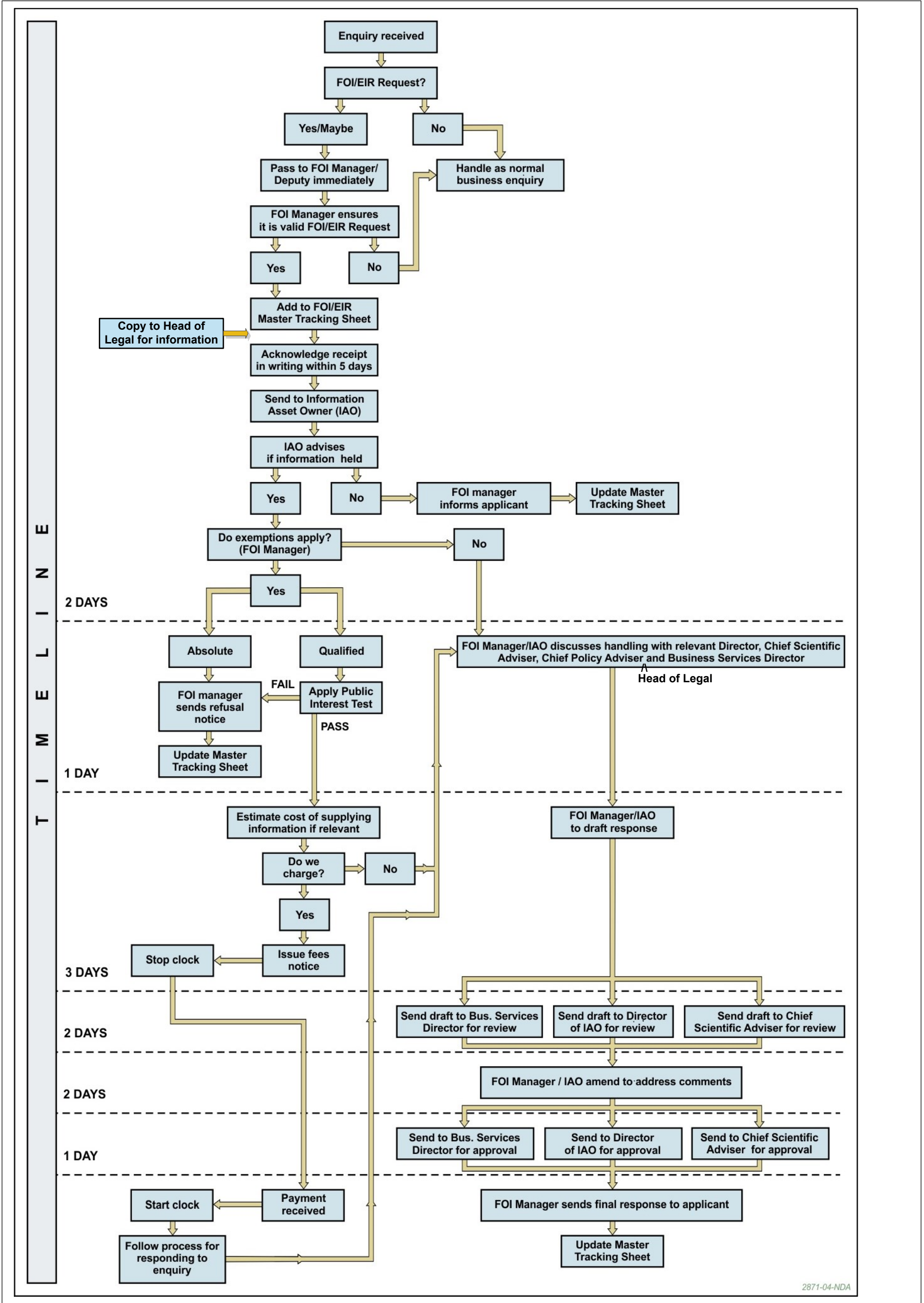
If you are in any doubt as to whether a request falls within FOI or EIR regimes, contact the FOI Manager / Deputy or the RWM Head of Legal for advice.

5.1 Requests from the Media

Requests from the media must be referred to the Communications Department immediately. **Never respond directly** to media or journalist enquiries.

5.2 Recording Requests

- all requests must be forwarded to the FOI Manager via the rwmfeedback@nda.gov.uk mailbox
- all FOI/EIR requests must be logged on the 'Master Tracking Sheet' (LL 21605017) by the FOI Manager or Deputy



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5.3 Answering Requests

The flowchart above shows the overall process for handling information requests which will be followed by the FOI Manager or Deputy and includes review and approval.

If the FOI Manager requests assistance from any member of RWM staff, they must cooperate fully and in a timely manner as RWM is legally obliged to meet the timescale deadlines set out in the EIR and FOI Act.

The following are the key steps in the process:

- receipt of all FOI/EIR requests must be acknowledged to the applicant within 5 days. An acknowledgement email should be sent by the FOI Manager when a request is logged. If no email address is provided the FOI Manager must send an acknowledgement letter ([template](#))
- if it isn't clear what the requestor wants, the FOI Manager must contact the applicant to seek clarification of what is required. While RWM is waiting for a response the 20 day count stops
- the FOI Manager will send the request for information to the relevant Information Asset Owner (IAO) who will advise whether RWM holds the information requested
- if RWM does hold the information the FOI Manager will consider if any exemptions apply and if necessary apply the public interest test mindful of the context set out in the purpose and scope section
- if the information should be released RWM will consider whether to make a charge for the provision of the information
- once any relevant payment has been received the FOI Manager will work with the IAO to draft a response to the request
- the FOI Manager will ensure that a response to a request is drafted, approved and returned to the enquirer within the 20 day limit
- responses to requests for information will be reviewed and approved by the Business Services Director, with input from the relevant Departmental Director, the Chief Scientific Adviser and/or Head of Legal, as required

If the enquiry cannot be responded to within the 20 day limit, the FOI Manager will write to the enquirer explaining why this is not possible and providing an estimated date for the response. The maximum time for responding to requests is 40 days and applicants should be informed of any potential delays and ideally provided with estimated completion dates i.e. "We hope to be in a position to provide a final response by ..."

5.4 Recognising FOI and EIR Requests

Most of the enquiries received by RWM will be routine business enquiries. However, it is important that requests that could fall within the scope of the EIR and FOI Act are recognised and handled in line with this procedure. This requires recipients to recognise what constitutes an EIR or FOI request.

5.4.1 Valid FOI requests

Have to:

- be received in written format (email, fax, letter etc.)
- contain contact information
- adequately describe the information required. If the description is not adequate then RWM should contact the applicant and ask them to provide more information or clarification

Processing Requests for Information

5.4.2 Valid EIR requests

- can be received in verbal or in written format
- relate specifically to the environment e.g. soil, air, water
- or anything which affects the environment such as emissions and discharges

5.4.3 Distinction between FOI or EIR requests and business enquiries

The key distinctions between an FOI or EIR request and everyday business enquiries are that:

- the information requested is not in the public domain
- RWM would be the only source of this information
- RWM does not currently publish the information requested, or intend to do so in the future

5.5 Invalid Requests

Applicants do not need to be aware of their rights under the EIR or FOI Act. RWM is obliged by the EIR and FOI Act to inform applicants of their rights and to assist them in making valid requests.

RWM must also have consideration for disability discrimination legislation and assist anyone with a disability to make their request valid e.g. by offering to write down a request and send it to them for verification.

What would constitute an invalid request:

- **requests for information which do not meet the criteria set out above** do not have to be handled in line with this procedure, but RWM does need to ensure that it has satisfied its duty to “assist and advise” requestors to make “invalid requests” valid if possible
- **information reasonably accessible by other means** - cannot be requested under FOI. Requestors should be redirected to suitable sources of this information
- **information which RWM has a stated an intention to publish** at a future date cannot be the subject of FOI requests. Requestors should be informed when and how they may obtain this information
- **requests for personal information** - if someone asks to see all the information RWM holds about them, this falls under the Data Protection Act (DPA). The requestor will need to submit what is known as a “subject access request” to the HR Manager. Their identity will need to be checked before RWM provides any information
- **vexatious requests** - if the same person asks for the same or very closely related information within a short space of time, this would be considered a vexatious request. These requests will require a refusal notice

PLEASE NOTE: It is a criminal offence to destroy information once a FOI or EIR request has been made for it.

5.6 Supplying Information

Refer to Annex 3 ‘Guidance on information discovery for the FOI Manager’.

If no fee is to be charged (see Annex 3) and no exemptions apply (see Annexes 1 and 2) the information must be supplied to the requestor.

If the requestor has stated a format preference, RWM is required to comply with this as far as practicably possible. If it isn’t possible, the information can be supplied in another, suitable format with an explanation to the requestor about why it wasn’t possible to comply with their preference.

Processing Requests for Information**5.7 Completion**

Once all transactions are complete (the requestor has been informed of RWM's decision or supplied with the information requested), the [Master Tracking Sheet](#) must be updated. This must be done as soon as the work is complete to stop the 20 working day count.

5.8 Review and Monitoring

The FOI Manager will monitor performance and ensure requests, wherever possible, are dealt with within 20 working days from receipt.

6 Documentation and Records

Records of all FOI and EIR requests must be maintained within Livelink. A spreadsheet is used to log requests ([Master Tracking Sheet](#)). A case file should be created in Livelink ([case file folder](#)) into which copies of all relevant information supplied and copies of correspondence with the applicant must be saved.

Recording requests is the responsibility of the FOI Manager / Deputy.

Records of requests received and outcomes will be kept for a minimum of 10 years.

Document/Record	Responsible	Location
Master Tracking Sheet	FOI Manager, or Deputy	Permanent
Case file folder	FOI Manager, or Deputy	Minimum of 10 Years

7 Annexes

- Annex 1 – Exemptions under the EIR
- Annex 2 – Exemptions under the FOI Act
- Annex 3 – Guidance on information discovery for the FOI Manager

Annex 1 - Exemptions Under the EIR

Exemptions to the duty to disclose environmental information	
Regulation no.	Description of exemption
12 (3)	Information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.
12 (4) (a)	The public authority doesn't hold the information.
12 (4) (b)	The request for information is manifestly unreasonable.
12 (4) (c)	The request for information is formulated in too general a manner and the public authority has complied with regulation 9.
12 (4) (d)	The request relates to material which is still in the course of completion, to unfinished documents or to incomplete data.
12 (4) (e)	The request involves the disclosure of internal communications (includes communications between government departments).
12 (5) (a)	Adversely affect international relations, defence, national security or public safety.
12 (5) (b)	Adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.
12 (5) (c)	Adversely affect intellectual property rights.
*12 (5) (d)	Adversely affect the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law.
12 (5) (e)	Adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
12 (5) (f)	Adversely affect the interests of the person who provided the information.
*12 (5) (g)	Adversely affect the protection of the environment to which the information relates.
To the extent that the environmental information to be disclosed relates to information on emissions, a public authority shall not be entitled to refuse to disclose that information under an exemption referred to in paragraphs (5)(d) to (g).	

Processing Requests for Information**Annex 2 - Exemptions Under the FOI Act**

Detailed guidance on exemptions and how they should be applied can be found in the Information Commissioner's Office (ICO), FOIA "Awareness Guidance" series (available from the ICO website). Please also refer to the Freedom of Information Act 2000, part II.

Exemptions where the public interest test applies (qualified exemptions)	
When a public authority considers that the public interest in withholding the information requested outweighs the public interest in releasing it, the authority must inform the applicant of its reasons, unless to do so would mean releasing the exempt information.	
FOI Act section	Information covered by the exemption
Section 22	Information intended for future publication – A stated intent to publish must be made in advance of a request being received.
Section 24	National security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not arise).
Section 26	Defence.
Section 27	International relations.
Section 28	Relations within the United Kingdom.
Section 29	The economy.
Section 30	Investigations and proceedings conducted by public authorities.
Section 31	Law enforcement.
Section 33	Audit functions – applies to authorities who are responsible for auditing other public authorities.
Section 35	Formulation of government policy.
Section 36	Prejudice to effective conduct of public affairs (except information held by the House of Commons or the House of Lords).
Section 37	Communications with Her Majesty the Queen.
Section 38	Health and Safety – information is exempt if its disclosure would be 'likely' to endanger the health or safety of any individual.
Section 39	Environmental information as this can be accessed through the Environmental Information Regulations.
Section 42	Legal professional privilege.
Section 43	Commercial interests – information is exempt if it constitutes a 'trade secret'. Information is exempt if disclosure would be likely to prejudice the commercial interests of any person.

Exemptions where the public interest test does not apply (absolute exemptions)	
Section of the FOI Act	Information covered by the exemption
Section 21	Information accessible to an applicant by other means.
Section 23	Information supplied by, or relating to, bodies dealing with security matters.
Section 32	Court records.
Section 34	Parliamentary privilege (a certificate signed by the Speaker of the House, in respect of the House of Commons, or by the Clerk of the Parliament in respect of the House of Lords, is conclusive proof that the exemption is justified.)
Section 40	Personal information – People cannot access personal data about themselves under the Freedom of Information Act as there is already access to such information under the Data Protection Act 1998. Personal data about individuals cannot be released under FOI if to do so would breach the Data Protection Act.
Section 41	Information provided in confidence – This applies to information supplied to the authority by any other person, the disclosure of which would constitute an actionable breach of confidence.
Section 44	Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court.

Annex 3 – Guidance on Information Discovery for the FOI Manager

The FOI Act requires RWM to supply information ‘held’ by the organisation. When a request is received RWM must first discover what relevant information is held. RWM does not have to ‘generate’ information in response to a request e.g. carry out statistical analyses or generate one off reports. However, if the information can be retrieved by running a straight forward database search or by carrying out simple calculations, then this should be undertaken.

The FOI Manager may require members of RWM to assist in searching for information. Some requests may require the retrieval of emails, correspondence or documents stored on a computer or laptop. If a request is made which requires this type of search RWM employees must comply.

It is a criminal offence to destroy information once a FOI or EIR request has been made for it.

If no relevant information is found, RWM must respond to the applicant and inform them that RWM does not hold the requested information. A formal notification will be sent to the requestor by the FOI Manager.

Third party consultation

If the information requested originates from or relates to a third party then that party must be consulted before release. They should be contacted and informed that a request has been made and what information it relates to. They should be given an opportunity to comment/advise if in their view the information should be released. Although the views of a third party will be taken into account when making a decision about applying exemptions, RWM reserves the right to apply exemptions as it sees fit in accordance with FOI and EIR.

Considering exemptions

The FOI Act and EIR give everyone the right to request information held by public authorities, however they do set out a number of exemptions to this right (a full list is provided in Annexes 1 and 2).

Protectively marked information is not automatically exempt. Only information which falls within an EIR or FOI exemption category can be withheld.

Refusing requests

Any exemption must be applied in line with Section 17 of the FOI Act and Regulation 14 of the EIR within the 20 working day time limit.

Decisions relating to the application of exemptions and the Public Interest test will be made by the FOI Manager (or Deputy) taking into account input from, as appropriate:

- The Information Asset Owner (or Director) and the department from which the information originates
- The RWM Head of Legal
- The NDA Information Access Manager
- Any third party who owns the information requested.

If a Section 36 (s.36) (see Annex 2) exemption applies, then the RWM Managing Director as RWM’s designated ‘Qualified Person’ will make the decision and the Senior Information Risk Owner (SIRO) should be notified. If s.36 is being considered, the ICO s.36 form should be used to record deliberations ([copy available in Livelink](#)).

If the exemption requires a public interest test (see Annexes 1 and 2) it must be carried out where possible within the 20 day deadline. In the event that this is likely to take longer than 20 working days the requestor should be notified and given a date by which RWM expects to make a decision. The response must not exceed 40 days in total from receipt of a request.

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Details of the considerations which formed part of the public interest test should be recorded. All refusals must be made by the FOI Manager, by sending an appropriate refusal notice to the requestor. This notice must take into account the requirements of the exemptions being applied and should be accompanied by any information which is not exempt.

Refusal notices must state that any complaints should be directed to the FOI Manager in the first instance. If a complaint is received then procedure RWPR74 (Internal Review of Information Request Complaints) should be followed to investigate the complaint. The refusal notice should inform the requestor of their right to complain to the Information Commissioner's Office if they are not satisfied with RWM's internal review of their complaint.

Estimating costs

Whenever possible RWM will supply information free of charge, however, RWM reserves the right to charge in line with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (SI 2004 no.3244). If a request will require an extensive and time consuming search, then RWM may wish to charge for staff time.

Section 12 of the FOI Act places no obligation to respond to requests if the charges that would be incurred in supplying the information would exceed the appropriate limit (£450), as set out in SI 2004 no.3244 Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.