

# **Policy: Freedom of Information**

# FSR-POL-0001

Issue: 1.0

December 2023

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# 1. Introduction

- 1.1.1 On commencement of s1 of the Forensic Science Regulator Act 2021, the Forensic Science Regulator (the Regulator) was established as an authority subject to the Freedom of Information Act 2000 (FOIA).
- 1.1.2 This policy document outlines what the Regulator considers to constitute a Freedom of Information (FOI) request and the procedures and processes that will be adopted in handling any requests received by the Regulator.

# 2. Scope

2.1.1 The Regulator is a public appointee and an arms-length body of Government who operates independently, on behalf of the Criminal Justice System (CJS). The Regulator is supported by the Office of the Forensic Science Regulator (OFSR) who are Home Office officials. Any information that is within the scope of the FOIA and that is held on behalf of the Forensic Science Regulator is considered to be held only by the Regulator for the purposes of the FOIA. Such information is not considered to be held by the Home Office.

# 3. Overview of FOIA

- 3.1.1 The FOIA gives any person general right of access to information held by public authorities (as defined in the FOIA). It does this in two ways:
  - a. It obliges public authorities to publish certain information about their activities; and
  - b. It entitles members of the public to request information from public authorities.
- 3.1.2 The FOIA covers all recorded information held by a public authority. It is not limited to information contained in official documents, but covers

a wider range of information that may be contained in other forms of documentation or records.

- 3.1.3 The FOIA does not give people access to their own personal data (information about themselves). If a member of the public wants to see information that a public authority holds about them, they should make a subject access request under the UK General Data Protection Regulation (UK GDPR). Any such request will be considered pursuant to the provisions of the UK GDPR and <u>Data Protection Act 2018</u>.
- 3.1.4 In the interests of transparency, where the Regulator discloses information pursuant to a request then the response will be published online. The Regulator will not publish the details of a requestor.
- 3.1.5 Personal data will be processed in accordance with the Regulators personal information charter.

# 4. Process

#### 4.1 How to make a FOI request

4.1.1 Email the Regulator at: FSRFOI@forensicscienceregulator.gov.uk

Or write to the Regulator at:

Forensic Science Regulator 23 Stephenson Street Birmingham B2 4BJ

- 4.1.2 To be considered a valid request under FOIA, that request must:
  - a. be in writing;
  - b. describe the information requested;
  - c. include a name for correspondence; and
  - d. include an address for correspondence.

## 4.2 Handling of a FOI request

- 4.2.1 Upon receiving a request for information, the OFSR shall identify whether it is a valid request for information under the FOIA. If the request is identified as a non-valid FOI request, the requestor will be informed as to why it is not considered to be a valid request.
- 4.2.2 All valid requests shall be logged, and a written acknowledgement response sent by the OFSR within 10 working days of receipt (counting the first working day after the request is received as the first day of receiving it).
- 4.2.3 The Regulator will aim to respond to a FOI request within 20 working days of receipt of a request. There may be circumstances where it is not possible to respond within this 20-working day period, and where that is the case then the OFSR will inform the requester of when it expects to be in a position to provide a response. The FOIA allows provision for the Regulator to formally claim a reasonable extension to the 20-working day limit, up to an additional 20 working days, if more time to consider the public interest test is needed in the context of the application of a qualified exemption. The public interest test is covered later in this policy. The requestor will be notified in writing of the extension.
- 4.2.4 If clarity is sought by the Regulator on receipt of an FOI request, the date of receipt of the FOI will be the day the regulator receives sufficient information as to be in a position to handle the request. The 20-working day timescale will start the day after the Regulator receives the necessary clarification.

## 4.3 Public Interest Test

4.3.1 If having reviewed the request, there are reasons to not disclose some or all of the information requested, and the exemption being considered is a qualified exemption then a public interest test will be OFSR-Policy December 2023 Page 6 of 11

carried out. The public interest test involves an assessment of the balance of the public interest in maintaining an exemption against the public interest in disclosure.

- 4.3.2 ICO guidance on the application of the public interest test can be found here: The public interest test | ICO.
- 4.3.3 The FOIA permits a "reasonable" extension of time to consider the public interest test. The Information Commissioner's Office (ICO) considers that this should normally be no more than an additional 20 working days to the initial 20 working day timescale. Any extension beyond this time will be exceptional. Examples of such circumstances could include extreme pressures placed on the Regulator by a major incident or exceptional levels of complexity involving a number of external parties.

# 5. FOI Internal review

#### 5.1 What is a FOI internal review and who can make one?

5.1.1 If the requestor is unhappy with the way their FOI request was handled, or the response provided to their FOI request, they can request an independent internal review of the decision.

#### 5.2 Process

#### Time limits for making an internal review request

5.2.1 The request must be received within 40 working days of the initial response.

#### How to make an internal review request

5.2.2 Email the Regulator at: FSRFOI@forensicscienceregulator.gov.uk

Or write to the Regulator at:

Forensic Science Regulator

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23 Stephenson Street Birmingham B2 4BJ

# 5.3 The internal review request must include the following information:

- a. Full name and contact method (postal address or e-mail address).
- b. A clear description of the reason for dissatisfaction with the handling of the request and what you would like us to do to address the matter.
- c. The reference allocated to the original FOI request.

#### 5.4 Handling of an internal review

- 5.4.1 All internal review requests are logged and will be acknowledged within 10 working days of receipt (counting the first working day after the request is received as the first day of receiving it).
- 5.4.2 The Regulator's decision of the initial information request will be reassessed by someone independent of the request, who will conduct a review of the decision. If a different decision is reached upon review, the assessor will make a recommendation to the Regulator for their consideration, and this recommendation communicated to the requestor. The Regulator will review the recommendation and provide a response to the requestor informing of the internal review outcome within 20 working days of receiving the internal review request.
- 5.4.3 There may be circumstances where more time is needed to complete an internal review, for example if complex issues need to be addressed, third parties consulted with, or substantial amounts of information considered. In these circumstances the requestor will be informed that more time is required and provided with a response date. This should be no more than an additional 20 working days,

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unless there are legitimate reasons why a longer extension is necessary.

#### 5.5 FOI internal review outcome

- 5.5.1 On receiving the recommendation from the independent assessor, the Regulator will consider whether, or not, their original decision is upheld. The final decision concerning the internal review request rests with the Regulator.
- 5.5.2 Subsequently, if the requestor is still not satisfied with the Regulator's response, a complaint to the Information Commissioner's Office (ICO) can be made FOI and EIR complaints | ICO

# 6. Related guidance

Freedom of Information Act 2000 (legislation.gov.uk)

Data Protection Act 2018

Guide to freedom of information | ICO

The public interest test | ICO

# 7. Modification

- 7.1.1 This is the first issue of this document under the Forensic Science Regulator Act 2021.
- 7.1.2 The PDF is the primary version of this document.
- 7.1.3 The Regulator uses an identification system for all documents. In the normal sequence of documents this identifier is of the form 'FSR-###-#####' where (a) (the first three '#') indicate letters to describe the type of document and (b) (the second four '#') indicates a numerical code to identify the document. For example, this document is FSR-POL-0001, and the 'POL' indicates that it is a policy document. Combined

with the issue number this ensures that each document is uniquely identified.

- 7.1.4 If it is necessary to publish a modified version of a document (for example, a version in a different language), then the modified version will have an additional letter at the end of the unique identifier. The identifier thus becoming FSR ### #### #.
- 7.1.5 In the event of any discrepancy between the primary version and a modified version then the text of the primary version shall prevail.

## 8. Review

8.1.1 This document is subject to review by the Regulator.

# 9. Abbreviations and Acronyms

Abbreviation	Meaning
FOI	Freedom of Information
FOIA	Freedom of Information Act
GDPR	General Data Protection Regulation
OFSR	Office of the Forensic Science Regulator
ICO	Information Commissioner's Office

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