

Version Control

Version	Date	Author	Description/Amendment
V0.1	March 2013	L Davie	Document Creation
V0.2	April 2013	L Davie	Amend area function names
V0.3	April 2015	L McNeill	Review of overall policy
V0.4	May 2015	L McNeill	Updated with comments from Members
V1.0	June 2015	L McNeill	Updated with comments from CEO
V2.0	March 2018	S Skinner	Revision of Policy

Document Review

Role Title	Draft Review (Y/N)	Review (Y/N)	Sign Off Required (Y/N)	Date
Head of Information Management	Y	Y	N	
Director (CT)	Y	Y	Y	June 2018
CEO	Y	Y	Y	June 2018

Distribution

Version	Date	Name(s)
V0.1	March 2013	Interim Head of Legal, D Yates
V0.2	April 2013	SPA Board
V0.3	April 2015	CEO, SPA Audit & Risk Committee
V0.4	May 2015	CEO
V1.0	June 2015	CEO, Staff, Published on Intranet
V2.0	November 2018	Published on Intranet

Policy Statement

The Freedom of Information (Scotland) Act 2002 (FOISA) gives a general right of access to all types of recorded information held by public authorities, sets out exemptions from that right and places a number of obligations on public authorities. Any person who makes a request to a public authority is entitled to receive that information, subject to certain exemptions.

In accordance with Section 23 of FOISA, the Scottish Police Authority (SPA) has adopted and will maintain a publication scheme setting out the information we routinely make publicly available.

Freedom of Information requests will be dealt with by appropriately trained individuals within SPA.

Requests will be formally responded to within 20 working days of receipt by SPA.

Table of Contents

1. Policy Statement Error! Bookmark not defined.

2. Introduction Error! Bookmark not defined.

3. Data Protection vs Freedom of Information **5**

4. Environmental Information Regulations **5**

5. Receiving an FOI request **6**

6. Exemptions **6**

7. Team Responsibilities **7**

8. Appeals/Internal Review **7**

9. Compliance **7**

9.1 Diversity **7**

9.2 Health & Safety **7**

9.3 Communication **8**

9.4 Monitoring and Review **8**

Appendix A – FOI Handling Procedure **9**

Appendix B –‘FOI Request for Information from Business’ **10**

Appendix C – Subject Access Requests Procedure **11**

1 Introduction

The Freedom of Information (Scotland) Act 2002 (FOISA) entitles a person who requests information from a Scottish Public Authority, such as SPA, to receive it, and places a legal requirement on the SPA to provide advice and assistance to a person who proposes to make, or has made, a request for information.

It is a requirement of the FOISA that Scottish Public Authorities adopt and maintain a publication scheme. SPA's publication scheme has been approved by the Scottish Information Commissioner and is available on SPA's website at <http://www.spa.police.uk/>. The scheme has been designed to be as inclusive as possible and describes SPA's policy for dealing with requests as well as the information made publically available by the SPA.

The response to an FOI Request must be made to the applicant within 20 working days of receipt of the request. Under FOISA, the request is considered to have been received on the day it enters SPA, regardless of whether the request is picked up by SPA staff on the same day.

Key points to remember:

- Any request for information may be an FOI request.
- There is a 20-working day ticking clock.
- You have a duty to provide advice and assistance to applicants.
- Consider whether responding to the request would exceed the upper cost limit.
- Exemptions apply to some types of information.
- Look at proactively publishing information where possible.
- Seek advice for non-routine cases, and if you think the request may be vexatious or repeated.

2 Data Protection vs Freedom of Information

It is important to distinguish between requests made by individuals under the terms of the Data Protection legislation from those made under the terms of the Freedom of Information (Scotland) Act 2002. If an individual wishes to see information we hold that relates to themselves then this is a Subject Access Request and should be made as per the process detailed within the SPA Data Protection Policy.

If an individual is asking for general information about the SPA, its activities or any other material information held in our records, then this is a Freedom of Information Request. All requests are managed by the SPA Information Management Team.

3 Environmental Information Regulations

Requests for information which relate to the environment will be processed in accordance with the Environmental Information Regulations 2004. This includes, but is not restricted to, all information about the impact on the elements and measures that might affect the environment. This applies to information in all formats which is held by the SPA.

The SPA will, as far as possible, respond to requests for environmental information using the same procedures as for responding to Freedom of Information requests, while recognising that there are some differing legal requirements between Environmental Information Regulations and Freedom of Information on the provision of information. These include rules governing what information may be disclosed (exceptions under Environmental Information Regulations) and the requirement to respond to requests for environmental information whether the request is verbal or in writing.

The statutory time limit for responses to requests for information under the Environmental Information Regulations is 20 working days, though this may be extended by a further 20 working days if the request is deemed to be complex or voluminous in nature.

4 Receiving an FOI request

If you think you have received an FOI request follow the process shown on the process map at appendix A.

The Information Management team has overall responsibility for the FOI process. If any member of staff receives a request for information out-with normal disclosure protocols, such as the Defence Access Policy, they should contact the Information Management Team without delay.

Requests under Section 8 of FOISA:

- Must be made in a written or recordable format;
- Must clearly describe the information being sought;
- Must be legible;
- Must contain the name of the applicant and a return e-mail or postal address;
- Can be made from anywhere in the world;
- Can be made by an individual or an organisation; and
- Can be made by letter, fax, voicemail or email.

Under FOISA, all staff within SPA are obliged to provide assistance to any person requesting information.

To be valid under FOISA, requests do **not**:

- Have to be written on a special form;
- Need to state a reason for the request;
- Need to mention FOISA; or
- Need to refer to 'Freedom of Information' in any way.

5 Exemptions

The general presumption should be in favour of releasing information where possible.

There are two types of exemptions, absolute and non-absolute.

Absolute exemptions apply to, for example, personal information, court records, and information which is already available (such as publications and other information made available through our publication scheme). If an absolute exemption applies, we do not have to release the information.

If a non-absolute exemption applies, then a public interest test has to be carried out to establish whether the information should be released.

There are 17 categories for exemption in total. These cover areas such as formulation or development of Scottish Administration Policy, national security and defence, law enforcement and commercial interests.

If the cost of replying would exceed £600 we do not have to reply. We also do not have to respond if we consider a request to be vexatious or is a repeat request.

If an exemption applies the applicant should be given a written refusal notice which explains clearly why the information is not being provided. The notice should also inform the applicant of their right to request a review of our decision.

As all requests will be managed by the Information Management Team who will provide advice to business areas around the use of exemptions.

6 Team Responsibilities

The Information Management Team has overall responsibility for dealing with FOISA requests. This includes weekly update reports for circulation to Senior Management on FOI's received, in progress, and responses due out.

Staff members who are coordinating the FOI's are responsible for:

- Ensuring an acknowledgement is sent to the applicant, noting SPA's receipt of their request;
- Recording details of the request on the FOI register;
- Requesting clarification from the applicant where necessary;
- Ensuring that the request is dealt with within the 20 day timescale;
- Collaborating with relevant partner agencies affected by the request;
- Contacting the relevant business areas to request information. Refer to appendix B for the 'FOI Request for Information from Business' form and email template to be used;
- Working with the business areas to ensure any harm associated with the release of the information is identified;
- Applying exemptions based on the harm identified;
- Carrying out a Public Interest Test where relevant exemptions apply;
- Redacting documents where required;
- Issuing the final formal FOI response to the applicant in writing;
- Ensuring that the request, response and any other relevant details are adequately recorded and explained on the FOI register for reporting, review and audit purposes.

Records relating to FOI requests will be retained for Current Year + 3 years, and statistical information on FOI requests will be retained for Current Year + 10 years in accordance with the SPA Retention Schedule.

7 Appeals/Internal Review

Where an applicant appeals against the SPA's original response to the request, an internal review will be conducted by a Director not involved in the original decision making process.

If an applicant is dissatisfied with the result of a review, or has had no response to a review request after 20 working days, they then have the right to take their complaint to the Scottish Information Commissioner (which should be done within 6 months). The Commissioner will then usually investigate the case and issue a decision.

All cases with the Commissioner relating to SPA are handled by the Information Management Team who will work with the responsible Director during the course of the investigation, as they have the necessary subject expertise.

8 Compliance

8.1 Diversity

There is no adverse impact on any group in terms of race, religion, gender, sexuality, disability or age in relation to this procedure. The application of this policy/procedure will be monitored to ensure compliance with the organisation's Equality and Diversity Strategy.

8.2 Health & Safety

There are no specific additional issues in relation to health and safety relating to this procedure.

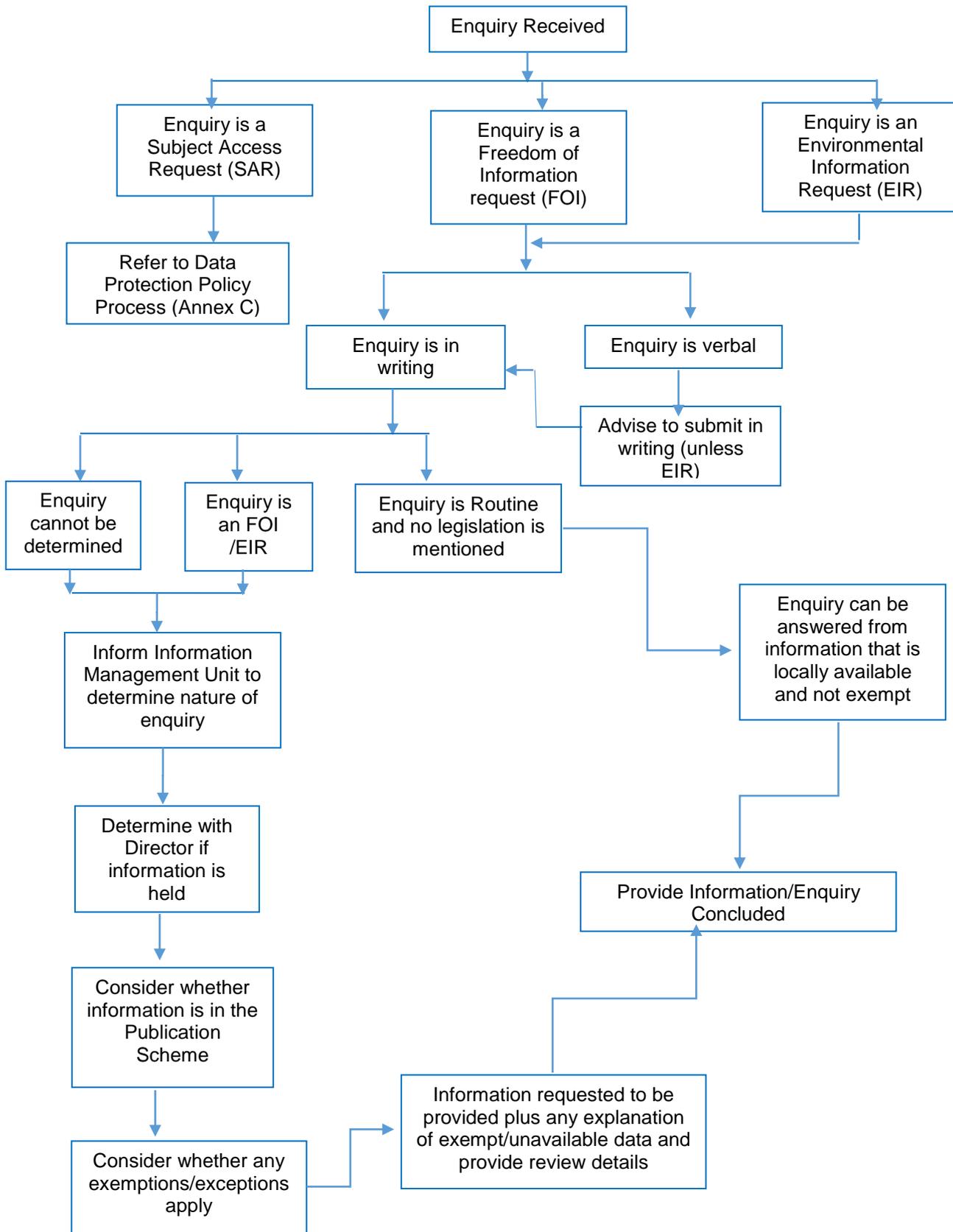
8.3 Communication

This policy/procedure is available to all SPA staff via the Intranet. Line Managers are responsible for ensuring that staff are made aware of the policy/procedure and their responsibilities arising from its operation.

8.4 Monitoring and Review

This policy/procedure will be reviewed annually by the document owner.

Appendix A – FOI Handling Procedure



Appendix B – 'FOI Request for Information from Business'

Dear XXXX

SPA has received the following request(s) for information in relation to Freedom of Information Legislation. Please review the request and advise within 24 hours if the information is held or not held or if you require further clarification.

A draft response must be prepared within 10 working days and sent to FOI.@SPA.pnn.police.uk.

If you feel collation of the requested information may exceed 40 hours or that there would be harm in releasing the information held, please indicate this by immediate return of this email. Technical assistance from the Head of Information Management, or from the Head of Legal and Compliance can then be obtained.

Appendix C – Subject Access Requests Procedure

