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**SCOTTISH POLICE**  
**AUTHORITY**  
ÙGHDARRAS POILIS NA H-ALBA

**Handling Freedom of Information Requests**

**Policy and Procedure**  
**SPA 063**

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**Version Control**

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V0.2	Apr 2013	IM Lead	Amend area function names
V0.3	Apr 2015	Director of Governance & Assurance	Review of overall policy
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**Document Review**

Role Title	Draft Review (Y/N)	Review (Y/N)	Sign Off Required (Y/N)	Date
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## **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 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.

The Authority's [Publication Scheme](#) has been approved by the Scottish Information Commissioner (SIC) and is available on the Authority's website.

The scheme has been designed to be as inclusive as possible and describes the Authority's policy for dealing with requests as well as the information made publicly available by the Authority.

## **Introduction**

Freedom of Information (FOI) requests will be dealt with by appropriately trained individuals within the Authority. The Corporate Management Team (CMT) will manage the process, ensuring that requests and subsequent responses are handled consistently and timeously. There will be a regular programme of awareness for new and existing staff on the process and of the Authority's FOI duties and responsibilities as a public body.

The response to an FOI request must be made to the requester within 20 working days of receipt of the request. Under FOISA, the first working day of a request is the day after the date on which it is received.

Key points to remember:

- Release information where possible.
- Any request for information may be an FOI request.
- There is a 20-working day period for response.
- There is a duty to provide advice and assistance to requesters.
- Consider whether responding to the request would exceed the upper cost limit.
- Exemptions apply to some types of information.
- Proactively publish information where possible.
- Seek advice for non-routine cases and/or if you think the request may be vexatious or repeated.

## **Freedom of Information vs Data Protection**

If an individual is asking for third party data, general information about the Authority, its activities or any other material information held in our records, this is a Freedom of Information Request. If unsure what type of request, speak to CMT or email [foi@spa.police.uk](mailto:foi@spa.police.uk)

If an individual wishes to see information we hold that relates to themselves, this is a Subject Access Request (SAR) and should be made as per the process detailed in the SPA Data Protection Policy. Full details can be found on the Authority's [website](#).

The Information Management (IM) team will manage the process, ensuring that requests and subsequent responses are handled consistently and timeously. SARs handling performance will be reported to the Senior Leadership Team on a quarterly basis.

## **Receiving an FOI request**

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

CMT has overall responsibility for the FOI process. If any other member of staff receives a request for information they should forward it to [foi@spa.police.uk](mailto:foi@spa.police.uk)

Requests under Section 8 of FOISA (Requesting information):

- 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 requester and a return email or postal address.
- Can be made by an individual or an organisation.
- Can be made by letter, fax, voicemail or email.
- Can be made from anywhere in the world.

Under FOISA, all staff are obliged to assist / advise 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 refer to 'Freedom of Information' in any way.

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Any written request for recorded information is technically a request under FOISA. However, routine requests are not recorded on the FOI register. Requests are considered "business as usual" where:

- The request is simple and straightforward.
- The Authority releases all the requested information on time.
- It is unlikely that the requester will be dissatisfied with the response.

Any response which does not meet all these criteria is considered to be a response under FOISA and must include full details on review procedures.

### 4.1 Exemptions

Information should be released where possible.

However, there are two types of exemptions, absolute and non-absolute.

**Absolute exemptions** apply to, for example, personal information (Section 38) and information which is already available, such as publications and other information made available through our publication scheme (Section 25).

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

There are 17 categories of exemption. These cover areas such as effective conduct of public affairs (Section 30), commercial interests (Section 33), law enforcement (Section 35) and confidentiality (Section 36).

If the cost of replying would exceed £600 (or 40 hours) we do not have to reply. We also do not have to respond if we consider a request to be vexatious or a repeat request.

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

If you believe information should not be disclosed, you do not need to understand the exemptions. You should explain in an email to [foi@spa.police.uk](mailto:foi@spa.police.uk) when you provide the information why you think it is exempt. CMT will then consider relevant exemptions, contacting IM for further expertise if required.

## **Environmental Information Requests (EIR)**

The Environmental Information (Scotland) Regulations 2004 (EIRs) sit alongside FOISA and govern access to environmental information held by Scottish public authorities. The EIRs require every Scottish public authority to publish environmental information and make it available on request.

Although the intention of both pieces of legislation is to allow the public access to information there are some differences between the two.

- Requests for information can be made orally under EIRs.
- The 20-day period for responding to requests can be extended to 40 days where the request is complex and voluminous and would involve a considerable amount of work.
- Provision for charging of fees is different: there is no upper or lower threshold and authorities can recover, in full, the cost of supplying the information.
- EIRs have exceptions rather than exemptions and all of these are subject to the public interest test.
- Information relating to emissions has special status and will have to be supplied in most cases.

If an EIR is received, the handling process is shown in **Appendix A**

## **Re-use of Public Sector Information (RPSI) Requests**

The Re-use of Public Sector Information Regulations 2015 (RPSI) provides a right to use public sector information for a purpose other than the initial task it was produced for. The right relates to information that has been disclosed or made available proactively in terms of FOISA or The Environmental Information (Scotland) Regulations 2004 (EISR). A response to a re-use request must be issued within twenty working days.

Requests for re-use of public sector information must be made in writing and must state the purpose for which the document is to be re-used.

If an RPSI request is received, the process for handling them is shown in **Appendix A**

## Corporate Management Team Responsibilities

The Corporate Management Team (CMT) has overall responsibility for dealing with FOI requests. This includes quarterly reporting to the Senior Leadership Team (SLT).

**Senior managers are responsible** for ensuring that all relevant information is provided by their business unit within the timeline specified.

CMT will coordinate FOIs and are responsible for:

- Issuing an acknowledgement to the requester.
- Recording details of the request on the FOI register.
- Assigning requests to the relevant business area(s) using the Business Request form in **Appendix C**. Where there is more than one relevant business area, a Lead area will be assigned, to coordinate the Business Request completion and provide information in scope, if held.
- Requesting clarification from the requester where necessary. Once clarification is received, we must reply within 20 working days from receipt of clarification (not from receipt of the original request).
- Where clarification is sought but no response is received, we will remind the requester after 20 working days that we cannot proceed. If no clarification is received after 40 working days, we will write to the requester explaining that the request is closed, providing details of the review procedure and the right to apply to the Commissioner for a decision.
- Ensuring that the request is dealt with within the 20-day period (except where clarification has been sought).
- Collaborating with relevant partner agencies affected by the request.
- Working with business areas to ensure any harm associated with the release of the information is identified.
- Liaising with and seeking advice and guidance from Information Management in complex cases or where there are differences in interpretation of the legislation.
- Applying exemptions based on the harm identified.
- Carrying out a Public Interest Test where relevant exemptions apply.
- Redacting documents where required.
- Issuing the final draft for review and sign off.
- Issuing the final response to the requester 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.

## **Internal Review and Appeals**

Where a requester is dissatisfied with the original response, an internal review will be conducted. The original decision will be reviewed by an independent reviewer (where possible and practical), who was not involved in the original decision-making process.

If a requester 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 apply to the Scottish Information Commissioner (SIC) within 6 months. The SIC will then usually investigate the case and issue a decision.

All applications to SIC are handled by Information Management. IM will work with the responsible SLT Lead during the investigation, as they have the necessary subject expertise.

## **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 our Equality Outcomes.

### **8.2 Health & Safety**

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

### **8.3 Communication**

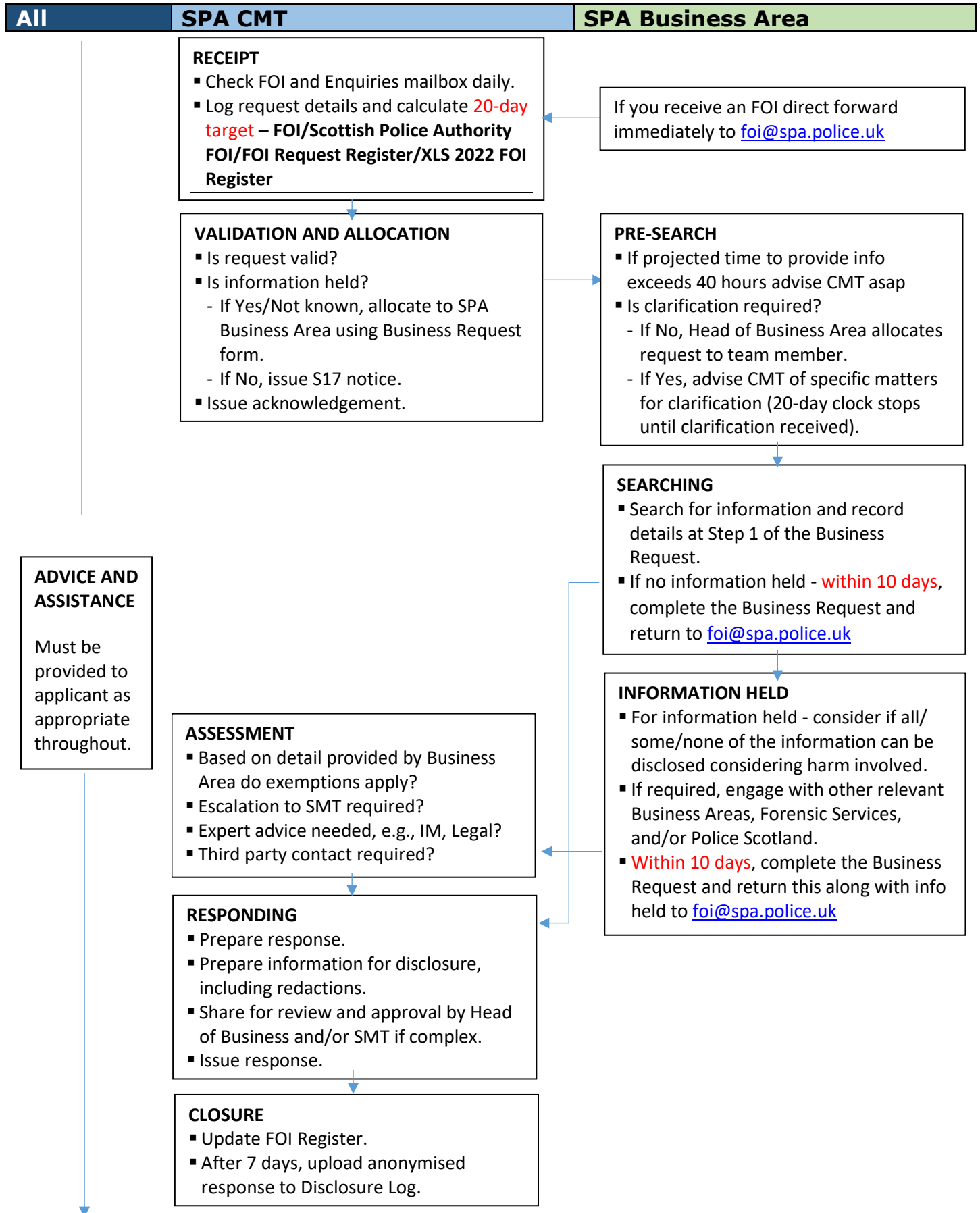
This policy and procedure is available to all staff via SharePoint. Line Managers are responsible for ensuring that staff are made aware of the policy and procedure and their responsibilities arising from its operation.

### **8.4 Monitoring and Review**

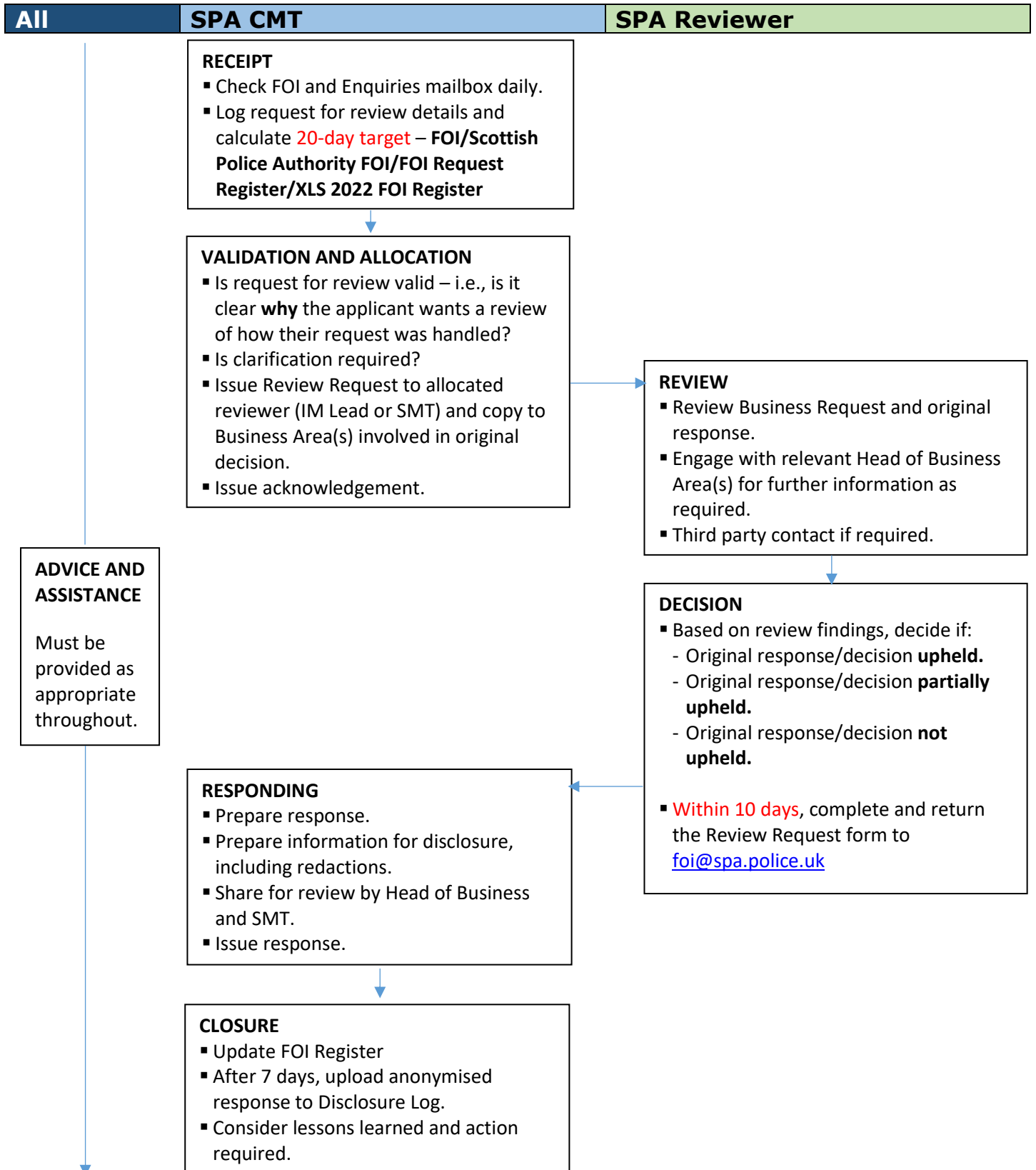
This policy and procedure will be reviewed every six months to ensure arrangements continue to meet statutory obligations and best practice. The review will be carried out by CMT on behalf of the SPA Chief Executive as document owner.

## Appendix A – Information and Review Request Handling Process

Information Request Handling Process – FOISA and EIRs



Review Request Handling Process

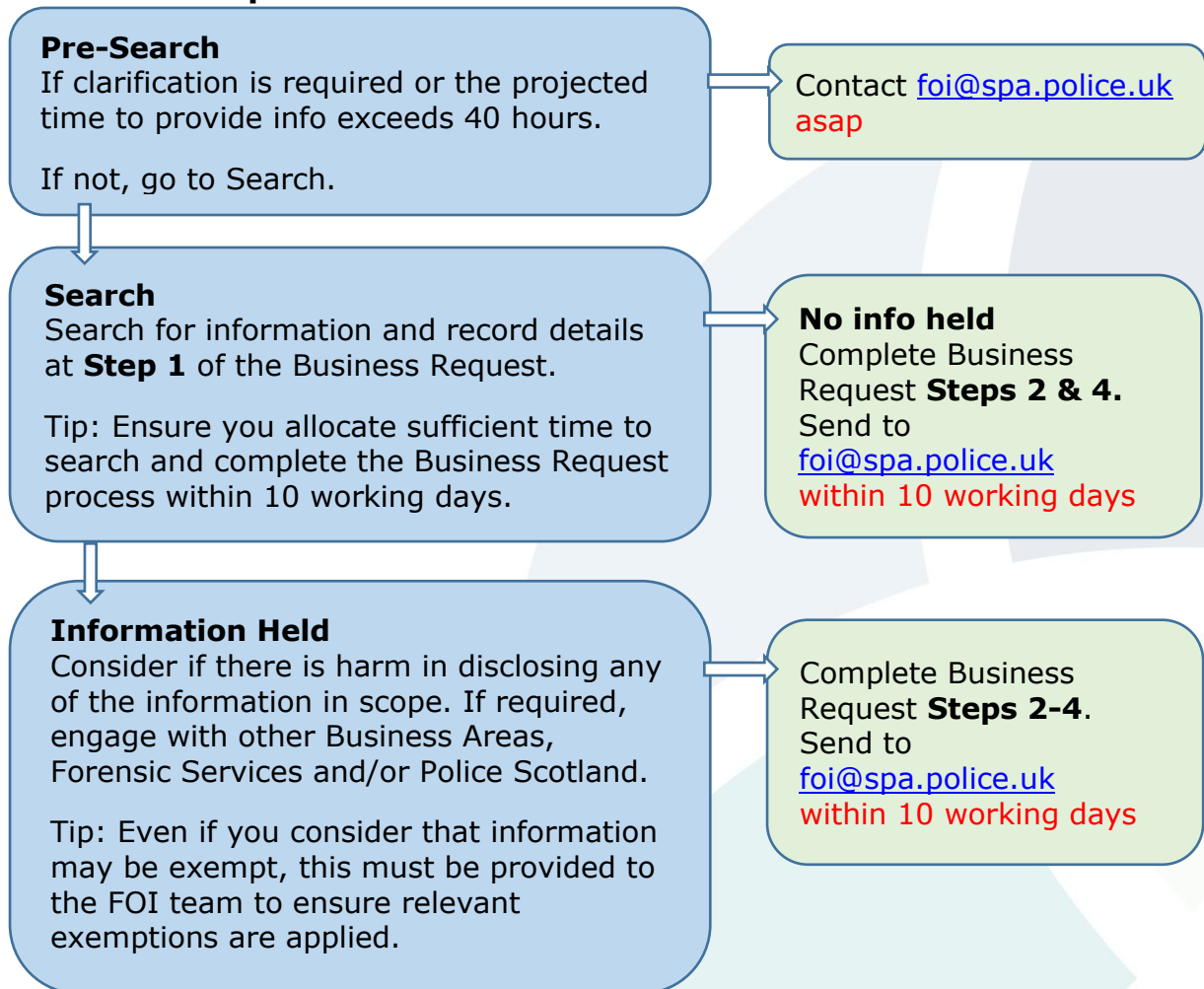


## Appendix B – FOI Request for Information from Business Email Template

Please see Business Request detailing an FOI request received relating to your Business Area. Everyone has a part to play in the FOI process to meet our statutory requirements. Your responsibility is to ensure that the process set out in the Business Request is followed to provide a draft response and information relevant to the request.

Please return the completed Business Request form by **[insert date]**.

### Your next steps:



Don't hesitate to contact the FOI team for advice and support at any time whilst dealing with this request.

Kind Regards

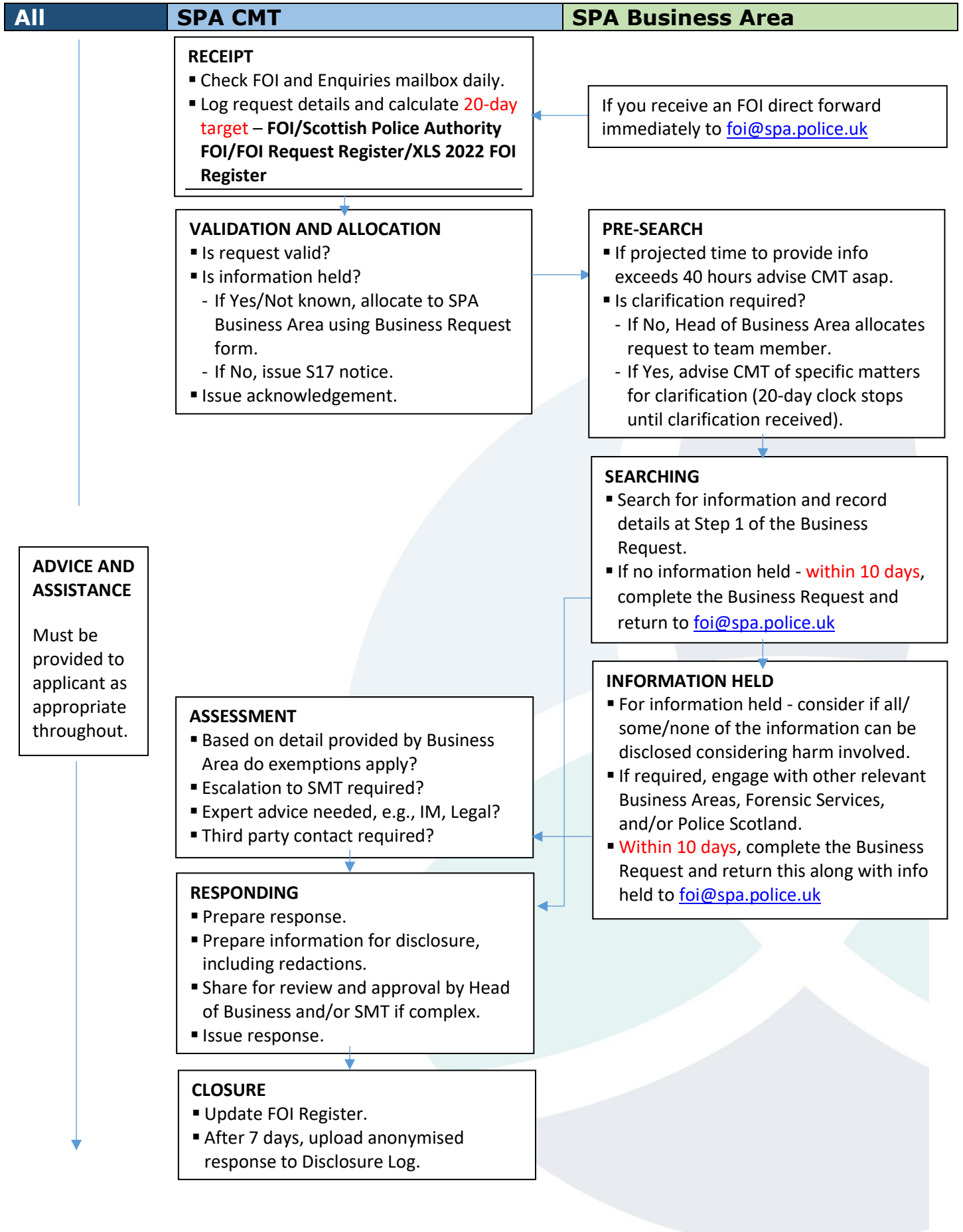
<Name of CMT staff member>  
**Corporate Management Team**

## Appendix C - Business Request Form

### FOI Guidance:

1. The Freedom of Information (Scotland) Act 2002 gives the public a right of access to **recorded information** that the authority holds.
2. Authorities are not required to create new information to respond to requests.
3. FOI law makes it a criminal offence to alter, conceal or destroy information to prevent disclosure in response to a request.
4. We must respond **within 20 working days**, providing the information or setting out why, according to FOI law, it can't be provided.
5. Where the projected time to locate, retrieve and provide the requested information exceeds 40 hours, please email [foi@spa.police.uk](mailto:foi@spa.police.uk) as soon as possible before proceeding with a request.
6. If information is held, this should be reviewed by the Business Area. Requests for information in a specific format should be accommodated so far as reasonably practicable.
7. If you believe there is specific harm in releasing any or all the information, provide detail in your response (see Step 4c). You should consider the harm to an individual, community, the police service or other bodies.
8. A draft response and all information should be provided by the Business Area **within 10 working days** of receiving the Business Request to [foi@spa.police.uk](mailto:foi@spa.police.uk).
9. The Corporate Management Team will consider relevant exemptions, contacting Information Management where required, and issue an agreed response within 20 working days.
10. If dissatisfied with a decision, the requester can ask for a review of our actions and decisions. This request must be submitted within 40 working days and specify the matter which gives rise to their dissatisfaction.
11. If they remain dissatisfied following the outcome of that review, they are entitled to apply to the Office of the Scottish Information Commissioner (SIC) within six months for a decision.

Information Request Handling Process – FOISA and EIRs



## Freedom of Information - Request for Information from Business

<b>Ref</b>	[Insert FOI ref]	<b>Date</b>	[Insert date]
<b>To</b>	[Insert department/function]	<b>Due by</b>	[Insert Date]

<b>Request</b>
[Insert information request]

Please read the [FOI guidance](#) and [Information Request Handling Process](#) then complete Steps 1 – 4 as applicable.

Contact the FOI team for advice or guidance at any time – [foi@spa.police.uk](mailto:foi@spa.police.uk)

**Complete and return within 10 working days:**

<b>Step 1: Record of search</b> (in case of review by SIC)	
Search carried out by	Systems searched (please specify – e.g. N drive; SharePoint; emails or N/A if not held)

<b>Step 2: Is any of the information held?</b>
Click here and choose from list

<b>Step 3: Details of all information held</b>	
(a) Information held	(b) Do you consider there to be harm in disclosing this information?
	Choose an item.
	Choose an item.
	Choose an item.

**Step 4: Draft response provided by Business Area (mandatory)**

**(a) Info not held** – provide explanation and/or advice or assistance (i.e., if related information is available or held; how they might refine their request; or which authority may hold information).

**(b) Propose to disclose in full** – if required, explain the information being provided and context that will assist the applicant’s understanding.

**(c) Propose to withhold or disclose in part** – detail the specific harms and/or prejudice that would be caused by disclosure of the information so that possible [exemptions](#) can be considered.

Return this form to [foi@spa.police.uk](mailto:foi@spa.police.uk)