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SCOTTISH POLICE
AUTHORITY

Handling Freedom of Information Requests

**Policy and Procedure
SPA 063**

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Version Control

Version	Date	Author	Description/Amendment
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Document Review

Role Title	Draft Review (Y/N)	Review (Y/N)	Sign Off Required (Y/N)	Date
Head of Information Management	Y	Y	N	
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Version	Date	Name(s)
V0.1	March 2013	Interim Head of Legal, D Yates
V0.2	April 2013	SPA Board
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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 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.

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 publically 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 applicant 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:

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

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, then this is a Freedom of Information Request. If unsure what type of request, speak to CMT or email foi@spa.police.uk

If an individual wishes to see information we hold that relates to themselves then this is a Subject Access Request (SAR) and should be made as per the process detailed in the [SPA Data Protection Policy](#).

Full details, including how to contact the SPA to make a SAR, and the [Data Protection Principles](#) 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 Management 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 and is unsure they should forward on the email to 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 applicant 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 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 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; and
- It is unlikely that the applicant will be dissatisfied with the response.

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

4.1 Exemptions

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

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

Absolute exemptions apply to, for example, personal information (Section 38), court records (Section 37), and information which is already available, such as publications and other information made available through our publication scheme (Section 25). 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 confidentiality (Section 36), national security and defence (Section 31), commercial interests (Section 33) and law enforcement (Section 35).

If the cost of replying would exceed £600 (or 5 working days) 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.

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 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 Scotland's FOI Act, 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, for example:

- Requests for information can be made orally under EIRs.
- The 20 day time 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 process for handling them is reflected 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 reflected in **Appendix A**

Corporate Management Team Responsibilities

The Corporate Management Team (CMT) has overall responsibility for dealing with FOISA requests. This includes monthly corporate performance reports to the Senior Management Team (SMT) on compliance, i.e. FOIs received, in progress, and responses issued.

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:

- Ensuring an acknowledgement is sent to the applicant, noting receipt of their request;
- Recording details of the request on the FOI register;
- Requesting clarification from the applicant where necessary – at this point the 20 day “clock” stops and restarts when the applicant responds;
- Where clarification is sought from the applicant but no response is received, we will remind the applicant after 20 working days that we cannot proceed until the applicant responds. If no clarification is received after 40 working days we will write to the applicant explaining that the request is considered to be closed, providing details of the review procedure and the applicant’s right to apply to the Commissioner for a decision;
- Ensuring that the request is dealt with within the 20 day timescale (with the exception of the previous bullet point);
- Collaborating with relevant partner agencies affected by the request;
- Contacting the relevant business areas to request relevant information, this will be requested via email with an attached “FOI Request for Information from Business” form as shown in **Appendix C**;
- Working with the 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 Lead 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 final draft to SMT member(s) for review and sign off for issue to applicant;
- Issuing the final 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](#).

Internal Review and Appeals

Where an applicant appeals against the original response to the request, 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 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 apply to the Scottish Information Commissioner (SIC) within 6 months. The SIC will then usually investigate the case and issue a decision.

All cases with the SIC, relating to the Authority, are handled by Information Management who will work with the responsible SMT Lead during the course of 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.

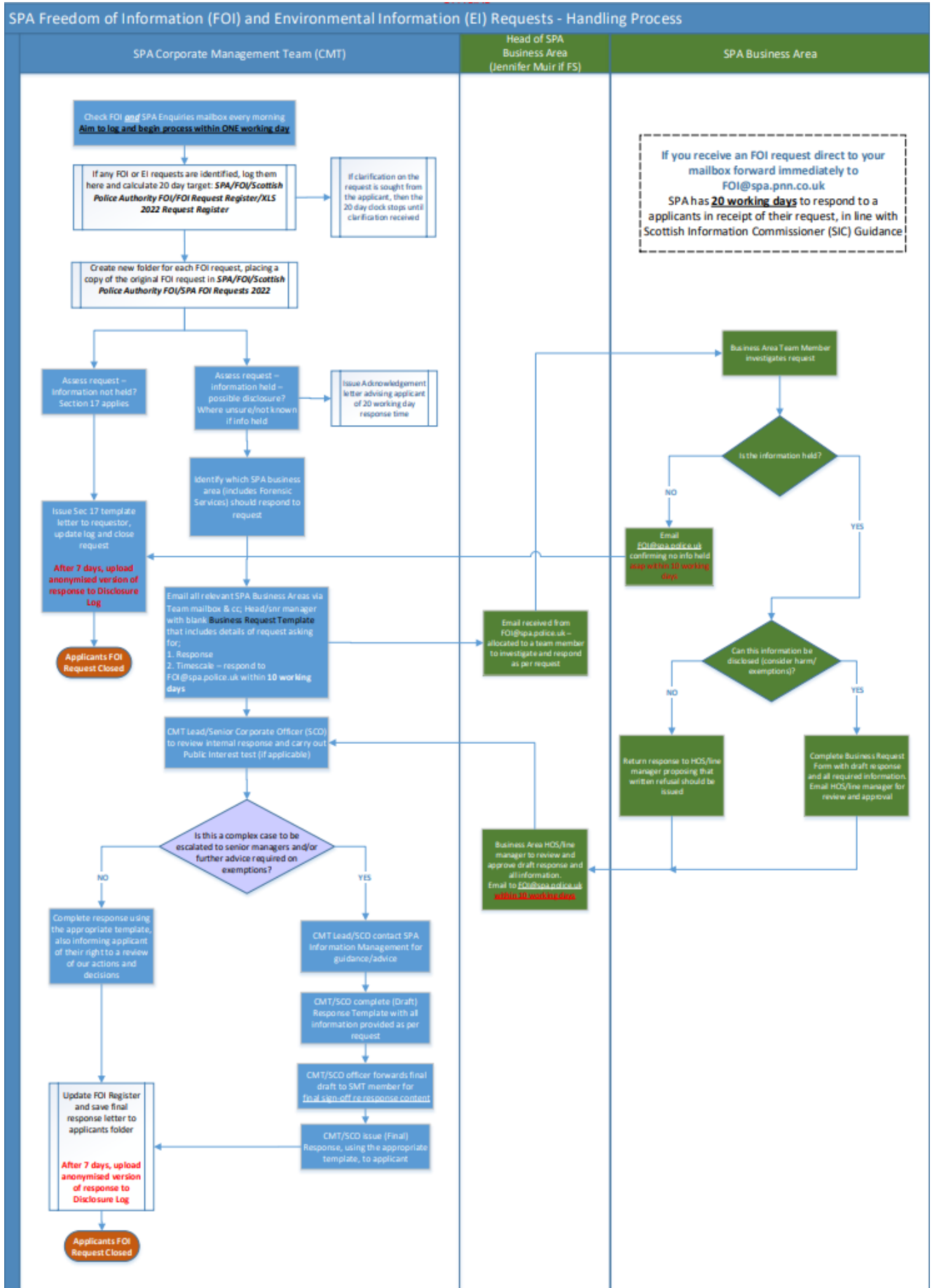
8.3 Communication

This policy and procedure is available to all staff via the Intranet. 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 6 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



Appendix B – FOI Request for Information from Business Email Template

Date

FOI Reference

Please see the attached Business Request form detailing an FOI request received.

Please review the details of the request and advise within 24 hours if you require further clarification.

If no information is held, advise foi@spa.police.uk as soon as possible within 10 working days.

If information is held, send this and the completed Business Request form to foi@spa.police.uk as soon as possible within 10 working days (enter due date).

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. Please note that even if you consider that the information is exempt, it will need to be provided for review.

Kind Regards

<Name of CMT staff member>

Corporate Management Team

Appendix C - Business Request Form

Freedom of Information - Request for Information from Business

Date		FOI Ref	
To		Response due	

Request

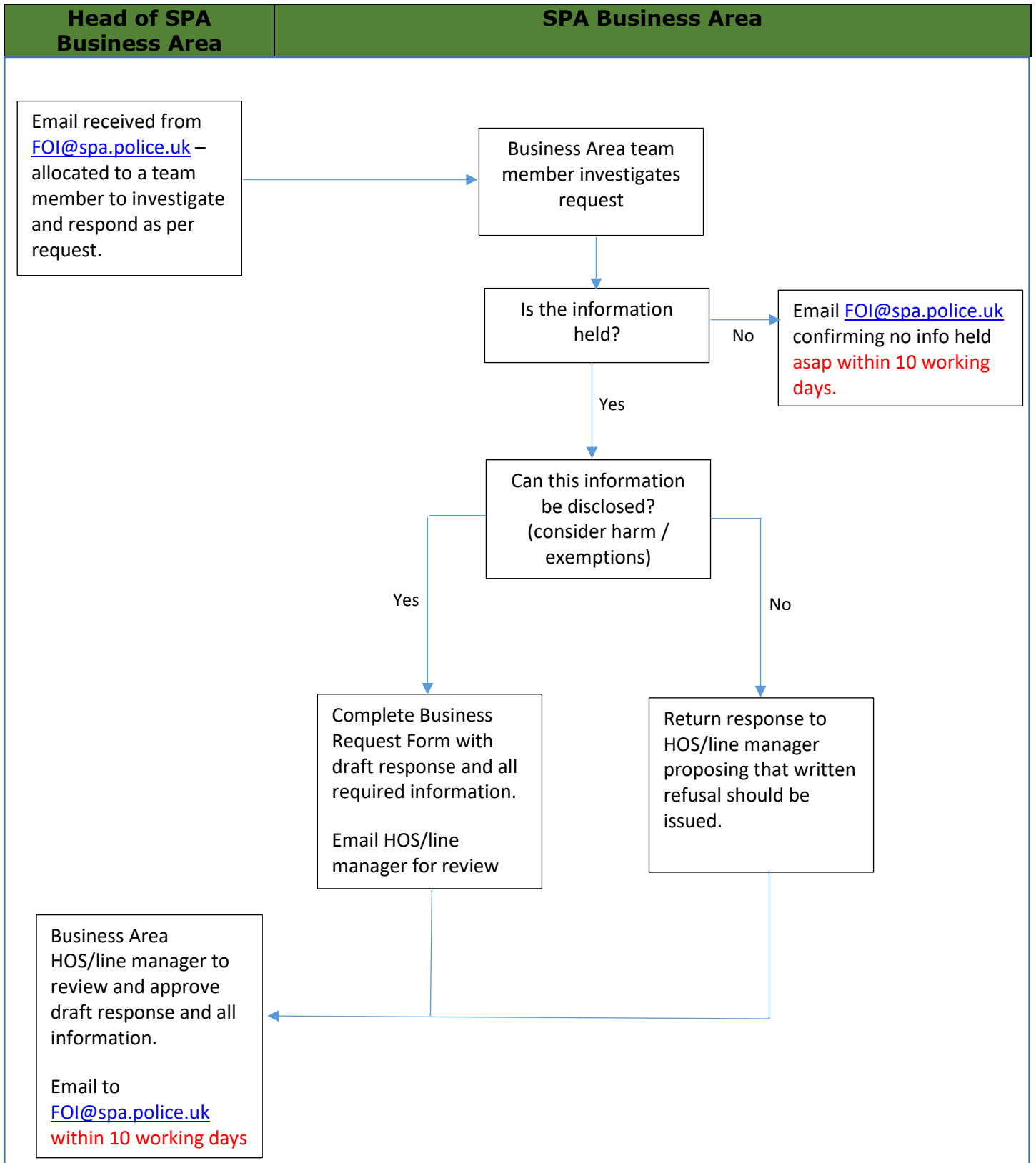
To be completed by Business Area (please refer to the guidance on dealing with a request on pages 2-3):-

Details of information held (or state where not held)	Provided (Y/N)	Potential harm / possible exemption re. disclosure (please specify)

Draft response to be provided by Business Area:

Search carried out by (include names of all individuals)	Systems searched (please specify)

Dealing with a request:



FOI Requirements:

1. The Freedom of Information (Scotland) Act 2002 is designed to give the public a right of access to recorded information. All recorded information, irrespective of the format of recording, is subject to the Act.
2. We are legally required to respond to the applicant within **20 working days** of receiving the original request.
3. It is an offence to alter, remove or destroy any relevant record after a Freedom of Information Request has been received.
4. Where the projected time to locate, retrieve and provide the information requested exceeds 40 hours, please email foi@spa.police.uk before proceeding with this request.
5. Confirmation that information is held, or not, should be confirmed as soon as possible within 10 working days.
6. Where information is held, this should be reviewed by the Business Area. If the applicant requests the information in a specific format, so far as reasonably practicable, this should be supplied.
7. If you believe there is any potential harm in releasing information, provide detail in the table where requested. You should consider the harm to an individual, community, the police service or other bodies.
8. If you believe information should not be disclosed for any other reason, explain why you think it is exempt in the table where requested. The Corporate Management Team will consider relevant exemptions, contacting Information Management where required.
9. A draft response, and information in scope, should be provided by the Business Area to foi@spa.police.uk as soon as possible within 10 working days of receiving the Business Request.