

Protocols for engaging with stakeholders when data has been released under the Freedom of Information Act (FOI) which, in retrospect, should not have been released or where appropriate handling procedures have not been followed prior to data release.

Step 1 Consider the likely impact of the release including the following points:

- What is the likelihood of reputational damage to Ministers?
- What is the likelihood of reputational damage to the Department?
- What is the likelihood of damage to stakeholders and stakeholder relations?
- Does this impact on an individual – has personal data been released or data that may cause reputational damage?
- Does this involve OGDs? What are their views?
- What is the likelihood of this becoming a media story?
- Is there a potential for a legal challenge to the Department or an individual or organisation affected by the release?

Step 2 Your response will be dependent upon a consideration of the above but you should consider informing the following as soon as the breach is known:

- The relevant Director and DG
- The FOI Team
- Press Office (if there is the likelihood of it developing into a media story)
- Private Office (if it is likely to impact on Ministers)
- Perm Sec's Office (if it is likely to impact on DH)
- DH Legal (if there is a potential for a legal challenge).

Step 3 Be very clear about:

- what the request was for;
- a timeline of events including the individuals involved in processing and signing off the case;
- what was released and what was withheld and under what exemption;
- what material was issued that should not have been issued (attach the information);
- what the risks are to each of the above mentioned at para 1.

Step 4 Contact each of the affected parties as soon as possible informing them of the release attaching the information released.

NB You cannot share the requester's information unless it is already in the public domain i.e. a request made through whatdotheyknow.com or if the information has resulted in a media article where the requester becomes apparent.

- Depending on the severity of the impact of the release you will need to decide the appropriate level of seniority to contact the individual / organisations affected. It may be appropriate for a Director or DG to be the first point of contact.
- Offer an apology for the release explaining that we take data protection extremely seriously and have protocols in place to prevent information being released which a) shouldn't be released or b) shouldn't be released without adequate stakeholder engagement / agreement.
- Commit to investigating further as to how the information came to be released and state that you will write to them formally to apologise.
- Inform them of the current handling / damage limitation strategy you have in place.
- This may include, depending upon the severity of the impact of the information released; media handling plans and lines to take and an offer of support by DH (including legal support if required).

Step 5 Keep the situation under review and remain vigilant for any issues arising from the release.

- Keep all interested parties informed of any issues arising from the release as and when they arrive. There should be no further surprises.
- Establish what went wrong – the level to which this is done will depend upon the sensitivity and impact of the data released.
- Write to the affected individuals / organisations formally informing them of the outcome of the review and the action DH has taken.
- Identify whether you feel that the FOI protocols need strengthening and discuss with the FOI team.

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