

## Freedom of Information – Standard Operating Procedure



*To document the Council's procedure to handle requests for recorded information or for environmental information as defined by the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.*

11 January 2019

Release

Version 5.7

## DOCUMENT CONTROL

This document is available from the following location:

Owner and approval route

Title	Name(s) / Board	Role / Responsibility
SOP owner	[REDACTED]	Lead Information Management Officer
Change requests to	[REDACTED]	Information Management Officer
Peer review	Information Management Team	
Key stakeholder review	Information Governance Working Group	Portfolio representatives to contribute and implement information governance policy, procedures and best practice
Formal acceptance	[REDACTED]	Head of Information Management
Date of acceptance	26/10/2015	

## Version History

Review cycle: This document will be reviewed annually from the approval date.

Version	Issue Date	Comments / Summary of changes
1.0	01/03/2014	Initial version approved by Information Governance Board
5.0	14/10/2014	Six month review of process resulting changes to procedures
5.1	21/05/2015	Further review following ICO Consensual Audit feedback to include specific reference to Internal Review SOP, requests for information held by other public authorities, redactions and Section 36 exemption
5.2	06/10/2015	Inclusion of reporting to IGB and the SIRO and PIRO responsibilities
5.3	07/10/2015	Inclusion of notification of Section 77 concerns
5.4	15/10/2015	Inclusion of Gillian Duckworth's feedback re. section 36
5.5	19/10/2015	Inclusion of [REDACTED] review changes
5.6	26/10/2015	Final peer review by Information Management Team/ Sign off by SOP owner
5.7	11/01/2019	Change of Information and Knowledge Management to Information Management

***Relevant policies and guidance***

<b>Title</b>	<b>Description</b>	<b>Location</b>	<b>Date updated</b>
Information Governance Framework	Sets council position	Information Management Hub: <a href="https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Information%20Governance%20Framework%20v1.0%20March%202014.docx">https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Information%20Governance%20Framework%20v1.0%20March%202014.docx</a>	25/03/14
Freedom of information web page	Information to customers about how to make a request and what they can expect from the Council	Internet: <a href="https://www.sheffield.gov.uk/your-city-council/policy--performance/how-we-will-deliver/other-strategies-plans-and-policies/freedom-of-information.html">https://www.sheffield.gov.uk/your-city-council/policy--performance/how-we-will-deliver/other-strategies-plans-and-policies/freedom-of-information.html</a>	27/02/15
Freedom of Information and Environmental Information Regulation requests	Brief introduction to the different type of requests that can be made	Intranet: <a href="http://intranet/ict/info-mgmt/foi">http://intranet/ict/info-mgmt/foi</a>	27/02/15  13/03/15
Freedom of Information exemptions	Brief details of when information might not be disclosed under the FOI Act	Information Management Hub: <a href="https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Freedom%20of%20Information%20Exemption%20Guidance.docx">https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Freedom%20of%20Information%20Exemption%20Guidance.docx</a>	13/03/15
Internal Review Standard Operating Procedure	Procedure for the management of Internal Reviews following an FOIA disclosure	Information Management Hub: <a href="https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Internal%20Review%20-%20Standard%20Operating%20Procedure%20v1.1.docx">https://resources.sheffield.gov.uk/bcis/IKM/IKM%20Resource%20Library/Internal%20Review%20-%20Standard%20Operating%20Procedure%20v1.1.docx</a>	26/10/15

## 1. Purpose

This document outlines in more detail the roles and responsibilities involved with the handling and management of Freedom of Information (FOI) requests and written requests for environmental information that fall within scope of the Environmental Information Regulations 2004.

This document should be reviewed alongside the process map in Appendix A and the Council's [Information Governance Framework](#).

This SOP sets the current Council process for the handling of FOI requests and replaces any local policies or guidance.

## 2. Timeline and Escalation, Roles and Responsibilities process

### 2.1 Timeline and escalation

Overall timelines and escalations are detailed in Table 1 in Appendix B.

### 2.2 Resources Business Support Team

Business Support is the central administrative team that undertakes the administration around the FOI Process in accordance with the SLA. This includes logging requests, updating the SharePoint FOI Tracker site, and acknowledging/sending information to the requestor.

Business Support log and forward requests to the relevant FOI Service Contacts on the same working day of the request being received.

Business Support assist in the maintenance of an accurate and up-to-date register of FOI Service Contacts to ensure requests are forwarded to the right Service as quickly as possible.

Business Support will monitor requests and send reminders to the Service Contacts of the deadline and the need for immediate action.

Business Support will keep a copy of the FOI / EIR request, response and any key decisions about disclosure until the end of the financial year + 3 years.

Business Support Team Leader will review and action instruction and training requirements when issues of data quality are raised by the Information Management Team. They will also ensure appropriate training is provided to staff to complete the administrative function.

### Reminders will be sent

4 days after receipt (validation), 8 days from receipt (chaser), both by email, and 13 days from receipt (telephone call). The last reminder is a final telephone call on day 15. If required, escalation will be the FOI Portfolio Contact/ Information Governance Working Group portfolio representative at any stage of processing an FOI request.

Those that exceed 15 days will be notified to the Information Management team for onward monitoring and completion within the legislative timeframe.

All correspondence including internal emails should clearly use the unique reference detailed within the SharePoint Tracker and the requestor's full name. Any issues should be escalated to the Information Management Team via [foi@sheffield.gov.uk](mailto:foi@sheffield.gov.uk).

## 2.3 FOI Service Contacts

The Service Contacts are the people who Business Support will forward a request to when it has been received and triaged.

The Service Contacts are the main point of contact within their Service and they are required to search or coordinate the search for the requested information held within their Service.

The Service Contacts should as quickly as possible provide the requested information to the FOI mailbox so the request can be completed or raise any concerns they have about the request, for example if the request needs to be clarified further, if it would take over 18 hours to collate the information, if the information is publicly available, if they feel an exemption might apply or information needs to be redacted.

The Service Contacts will identify and highlight the information contained in documents that they believe should be refused and / or redacted, and contact the Information Management Team via the FOI mailbox to ensure the exemptions are correct and necessary in accordance with the law.

If information is to be redacted, a highlighted copy of the original document should be sent to the FOI mailbox or in hard copy to the Information Knowledge Management Team for appropriate review and redaction using an appropriate system. Where redactions are completed locally a copy of both a redacted and 'clean' copy with no redactions should be provided for review by the Information Management Team to ensure appropriate interpretation of the associated exemption.

## 2.4 Information Governance Working Group Representatives

The Information Governance Working Group acts as a body supporting the operational requirements stipulated by the Information Governance Board including FOI and EIR. Members of this group may support the FOI process by helping the Business Support and the Information Management Team to:

- identify where a request needs to go within their Portfolio, if it's not clear
- assist with the internal review
- advise if a Director, Portfolio Information Risk Owner or Councillor needs to be informed of a particular request or complaint
- identify any concerns with the current process and facilitate change to improve the Portfolio's performance
- proactively encourage publication of information via the website or Open Data platform

## **2.5 Information Management Team**

The Information Management Team will:

Assess initially the FOI Request, and consider any appropriate exemption, including clarification.

Forward on requests to Business Support to create the FOI Request so that the correct Service Contacts (s) are informed.

Inform a senior officer of a request if it is considered necessary. This is on a case by case basis.

Highlight press requests for associated notification to the Communications Team via the initial allocation email.

Identify requests which include information held by other public authorities and not the Council. The requestor will be informed as soon as possible which public authority is likely to hold the information, together with details of how to make a FOI request directly to them. Where it is unclear whether the information will be held by the Council or a third party public authority the request will be referred to the relevant FOI Service Contact for confirmation and then onward communication to the requestor.

Seek advice from Legal Services where necessary, but especially if a FOIA Section 36 refusal is being considered.

Advise on exemptions.

Review the information the FOI Service Contacts believe should be refused or redacted to ensure the correct rules have been applied and to determine whether training is required to assist the FOI Service Contacts understand exemptions and redaction.

Redact the documents using specialist software to ensure the redacted text cannot be read or the redactions reversed by a member of the public.

Write all refusal notices. The only exception being FOIA Section 36 refusals, which are completed together with the Council's Monitoring Officer's (see 2.7 and Appendix C).

If there are any issues raised in the processing of an FOIA request in respect to a potential Section 77 concern these will be raised to the Head of the Information Management Team for onward discussion with the Council's Monitoring Officer if appropriate.

Carry out all internal reviews with the support of the Service Contact(s) and, if necessary, the Information Governance Working Group Representative(s), with a view to complete all reviews within 20 working days of the applicant's request.

Further details of the Internal Review process can be found in the associated Internal Review Standard Operating Procedure.

Act as the Council's key contact with the with the Information Commissioner's Office (ICO), which includes writing and responding to the ICO's enquiries, seeking advice and guidance about FOI best practice and the interpretation of the FOI Act.

Carry out a regular check of the FOI Tracker to ensure data quality, for instance all the relevant data fields have been completed and the tracker dates are being recorded accurately. To raise any issues or errors with the Business Support Team Leader.

Provide performance and statistical reports to the Information Governance Board to show compliance rates to requests, the number of internal reviews received and the number of complaints made to the Information Commissioner about the City Council to help identify trends and areas of improvement.

Maintain the Council's Publication Scheme in reference to the ICO's model publication scheme. Encourage and identify suitable information and data sets for regular publication either through the website or Open Data platform.

## **2.6 Legal and Communication Services**

The Information Management Team may at times contact Legal Services for advice about requests due to other possible legal issues.

The Communications Team will be notified of all requests that are sent by the media as soon as the request is reviewed by Information and Knowledge mManagement.

A final version of all responses to the media requests will be reviewed by the Communications Team and reviewed from a communications perspective.

## **2.7 Monitoring Officer**

The Council's Monitoring Officer, Gillian Duckworth, Director of Legal and Governance, is responsible for the approval and authorisation of the use of the FOI Act's Section 36 exemption: 'disclosure would prejudice the effective conduct of public affairs'.

An officer wanting to apply a Section 36 exemption must firstly obtain approval from their director before submitting the proforma in Appendix C to the Information Management Team. If the Information Management Team are satisfied that the request is justified they will forward it to the Monitoring Officer, who will review the rationale and decide whether it is appropriate to apply the exemption. The Information Management Team will assist the officer in making amendments to their submission to assist with legislative compliance as required.

If approved, the Monitoring Officer will ask the Information Management Team to draft a refusal for the Monitoring Officer to sign and send to the applicant.

If the Section 36 exemption is not approved, the Monitoring Officer will inform the Information Management Team who will confirm the decision to the officer making the submission and, if no other exemption applies, the information should be disclosed to the applicant via the usual process by Business Support.

## **2.8 Deputy Senior Information Risk Owner / Portfolio Information Risk Owner**

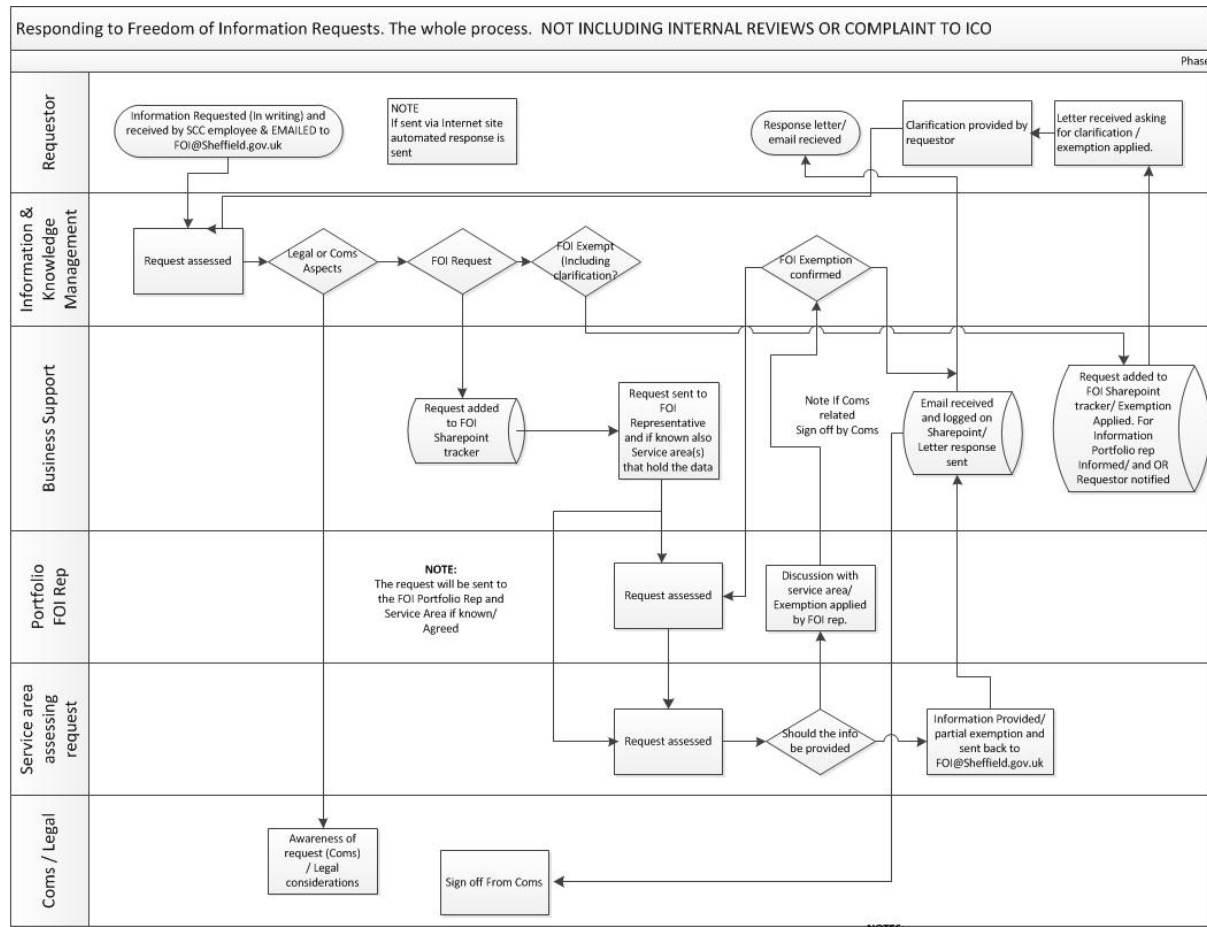
The Information Management Team will inform the PIRO and Deputy SIRO of any specific concerns that may arise when handling a request for information or complaint to the Information Commissioner's Office or where performance is falling and needs additional resource to improve.

The Deputy SIRO and PIRO are required to decide upon these concerns and direct a course of action. The Deputy SIRO will escalate concerns to the SIRO when required.

## **3. Escalation**

Reference should be made to Appendix B. If there are any issues within the process as detailed in the process map, then these should be escalated to the Information Management Team: email [InformationManagement@sheffield.gcsx.gov.uk](mailto:InformationManagement@sheffield.gcsx.gov.uk)

## Appendix A: FOI Process Map



It should be noted that:-

All requests will be initially filtered by the Information and Knowledge Management Team.

All requests will be sent to the FOI Portfolio and if known service area that holds the information. Requests will only be sent directly to the service area ONLY if agreed with that FOI Portfolio.

If seen by the FOI rep as sensitive in nature Director informed to raise awareness of the request

Any FOI requestor that is not happy with a response will have an internal review. THESE WILL NOT BE KNOWN AS COMPLAINTS, BUT A REVIEW

All FOI requests should be recorded only on the FOI Sharepoint Tracker. This will be undertaken by Business Support.

All exemptions will be assessed by the Information and Knowledge Management Team

All escalations to information and Knowledge Management Team.

Standard Council Wide templates should only be used.

Any initial request where Comms are notified should be assessed by Comms before a formal response is sent.



## Appendix B: Table One - FOI timelines / escalation process

Deadlines and the clock will stop or change dependent on decisions around:

1) Whether it is a valid request 2) Whether clarification has been sought 3) An extension has been applied to undertake the Public Interest Test for a qualified exemption (a reasonable extension up to an additional 20 working days can be applied)

Working Day	Support Team Actions	IKM Team Actions
0 – <b>Request Received</b>	Request logged onto SharePoint and sent to relevant service area with 15 day deadline	Review if valid request/ whether can be clarified. Allocate for logging by 12noon of working day 1
1		Provide advice, guidance and review intended responses from the service
2		
3		
4	Validation check to ensure the case is with the right service or should be onward directed	
5		
6		
7		
8	Chaser email sent reaffirming deadline	
9		
10		
11		
12		
13	Call to service area/ escalate to Team Leader if necessary	
14		
15 – <b>Deadline for service</b>	Final call to service for update	
16	Those still awaiting response to be escalated to IKM Team	To collate/ chase <i>service overdue</i> requests
17		
18		
19		
20 – <b>Response Required</b>		

## **Appendix C: FOI Section 36 exemption and the Monitoring Officer**

### **Background**

Senior officers and/or members often have to make difficult, balanced and sensitive decisions about an issue after much discussion and debate. Under the Freedom of Information Act, information can be requested, which includes written documents, notes, charts, spreadsheets and emails about these decisions.

The Council's default position is disclosure of information upon request, but sometimes the level of sensitivity of information means it should remain confidential.

### **Exemptions**

There are a number of exemptions that may apply to the information being requested and further information and advice is available at <http://intranet/ict/handling-council-info/access-to-information/foirequests/exemptionsfoi> or from the Information Management Team at [foi@sheffield.gov.uk](mailto:foi@sheffield.gov.uk).

There is one exemption that has to be applied by the Council's Monitoring Officer personally: 'Prejudice the effective conduct of public affairs (FOIA Section 36).

### **Section 36 – Prejudice to public affairs**

This exemption is rarely used and has to be applied by the Council's Monitoring Officer, currently Gillian Duckworth, Director of Legal and Governance.

### **What to do**

If you believe the disclosure of the information being requested would prejudice public affairs and no other exemption applies, you should complete the proforma below and send it to the Information Management Team ([foi@sheffield.gov.uk](mailto:foi@sheffield.gov.uk)) for review prior to onward submission to the Monitoring Officer.

### **The Monitoring Officer**

The Monitoring Officer will review the rationale for the Section 36 refusal and decide whether it applies or not. If it does, the Monitoring Officer will approve the refusal and ask the Information Management to draft a refusal for the Monitoring Officer to sign and send to the applicant. If Section 36 doesn't apply, the Monitoring Officer will inform the officer making the submission via the Information Management Team. If no other exemption applies, the information should be disclosed to the applicant.

**Pro Forma for recording a decision when a request for information is to be refused on the basis that “disclosing would prejudice the effective conduct of public affairs” (S 36 Freedom of Information Act 2000)**

**Name of Monitoring Officer making the decision**

Gillian Duckworth, Director of Legal and Governance

**Summary of the request**

**Schedule of documents considered**

**The test to be applied**

*Section 36 is designed to protect information whose disclosure would, or would be likely to, inhibit –*

- ☐ *i. the free and frank provision of advice, or*
- ☐ *ii. the free and frank exchange of views for the purposes of deliberation, or*
- ☐ *iii would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.*

Tick the ground(s) you consider to be relevant and then provide the reason why for each in the boxes below:

Why is each ground (i, ii and /or iii) engaged?

- (i) why would disclosure inhibit the free and frank provision of advice?

- (ii) why would disclosure inhibit the free and frank exchange of views for the purposes of deliberation?

- (iii) why would disclosure prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs

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Even if the reasons are noted, it must still be in the public interest to apply the exemption.

*That means that even where likely prejudice can be demonstrated, it is still necessary to consider whether in all the circumstances of the case the public interest in withholding the information outweighs the public interest in disclosure. Only if that is the case should the information be withheld.*

Set out below the reasons why it is in the public interest for the information not to be disclosed. Include the factors both for and against disclosure as being in the public interest to evidence a balanced decision has been taken. Advice on completed the public interest test considerations can be provided by the Information Management Team.

**Public interest arguments in favour of disclosing the information**

The City Council does, wherever lawful and possible, disclose information about the money it spends, the decisions it makes and the activities it carries out because it helps to:

**Public interest arguments in favour of maintaining the exemption**

The City Council does; however, need to consider the impact of disclosing information, which in this case might:

Name of Officer Requesting .....

Date .....

***In submitting this form I confirm that I have discussed this matter with my director and he/ she has consented to this submission.***

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**For completion by the Monitoring Officer**

Monitoring Officer comments on this Section 36 applicant and any wider considerations, including confirmation if the request is **approved or refused**.

Date Section 36 application approved (if appropriate) .....