



SLAB procedures for dealing with requests under FOI(S)A

The Scottish Legal Aid Board

www.slab.org.uk



Procedure for dealing with information requests under the Freedom of Information (Scotland) Act 2002 or the Environmental Information Regulations 2004

The following steps are followed by SLAB staff when dealing with requests for information.

Step 1

The majority of requests that we receive will be dealt with under FOI(S)A. Staff decide whether the correspondence received is a request for information under FOI(S)A and, if so, whether the request is valid.

If the request for information is a request under FOI(S)A and it is valid, it is forwarded on to our Projects Office to centrally log the request and assign it to a member of staff for action.

Step 2

We will consider whether the request is clear enough about the information that is requested. We will not make assumptions as to what the applicant wants.

We will seek clarification as soon as possible after the request is received. We will monitor the receipt of the clarification to allow us to respond within the correct timescale. The 20 day maximum time limit stops when we send the request for clarification and restarts from day one if we receive clarification.

We will remind the applicant after 20 days if we have not received clarification. If we have not received clarification after a further 20 days, we will treat the request as closed and inform the applicant.

Step 3

We will decide whether we hold the information.

Step 4

If we do not hold the information, we will draft a response to the applicant. We will make clear in the response why we have said that we do not hold the information, for example we have destroyed it in line with our file retention procedures; we have checked our systems and paper files for the information; the information is held by another authority.

Under our duty to provide advice and assistance we will inform the applicant if we hold similar information and ask them if they would like us to consider disclosing it. We are under no obligation to create information that we do not hold. We will advise the applicant to make a request for information to another authority if we are sure that they hold the information.

If we do hold the information, we check whether the information is contained in our publication scheme. If it is, the advice from the Information Commissioner is that we must technically issue a refusal notice but direct the applicant to the appropriate document on the website.

The response is then sent to a director for approval.

We will always include the applicant's right to review in our response.

Step 5

If we hold the information and it is not contained in our publication scheme, we will consider whether the request is vexatious or repeated. This will be very rare.

If we consider that it is, we will refer the matter to a director. This will usually be the director responsible for the department in question. If they agree with the recommendation, we will inform the applicant that we are under no obligation to respond.

Step 6

We will consider the time that it will take to respond to the request. If we think the request will take a significant amount of time to deal with and the cost of providing the information may approach £100, we will calculate the projected cost. This will be done as soon as possible.

Note: In view of the strict timescale we will undertake Step 8 at the same time. If the projected cost is less than £100 or between £100 and £600, go to Step 8. If the projected cost is over £600, go to Step 7.

Step 7 (where the projected cost is over £600)

We will refer to the director to discuss whether or not we should comply with the request. Although we are not obliged to respond, we are under a duty to provide advice and assistance.

If the decision is that we will not comply, we will clearly explain to the applicant how we have calculated the work to be in excess of £600.

Step 8

We will consider whether an exemption applies.

If we consider that no exemption applies and no fee is chargeable, we will obtain the applicant's required information and submit a draft response to a director for approval. When approved, we will issue the response and forward the response and the approval to the Projects Office. We will include the applicant's right to review in our response.

Step 9

If we think an exemption applies, we will draft a response to the applicant and submit a draft response to a director for approval.

We will always include the applicant's right to review in our response.

Step 10 (only where the projected cost is between £100-£600 or over £600, we have decided to comply and no exemption applies)

We will draft a Fees Notice which is approved by a director. The response will clearly explain how we have calculated the fees.

If the fee is received (and, in the case of a cheque, cleared) we will issue a response to the applicant.

If the applicant notifies us that they are unwilling to pay the fee or three months elapse from the date the Fees Notice is issued and no fee is received, we will treat the request as closed.

Step 11 (only where a fee has been paid and we have complied with a request)

We will calculate the actual cost against the projected cost within two weeks of the response being sent.

Where the actual cost is lower than the projected cost and the fee charged is therefore higher than it should have been, we will refer to a director for approval and then issue the applicant with the appropriate refund.