



SECTION 9

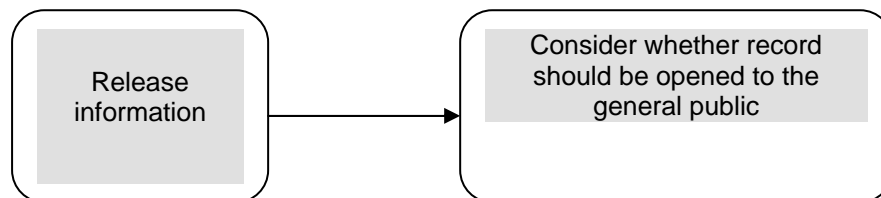
PROVIDING THE INFORMATION

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SECTION 9

PROVIDING THE INFORMATION



Key Points

- Try to accommodate the applicant's preferences for how they wish to access the information.
- If a record contains both closed and open information, make sure the closed information is protected.
- If a record is opened to one person, consider whether it should be opened to all.

9.1 Communicating the information

The FOI Act states that, within reason, public authorities should try to accommodate applicants' wishes as to how they wish to access the information. Examples given are:

- (a) provide a copy of the information in permanent form or in another form acceptable to the applicant;
- (b) provide an opportunity to inspect the record containing the information;
- (c) provide a digest or summary of the information.

However, the FOI Act also states that you can consider the cost implications and relevant circumstances when deciding whether a particular preference is reasonable. You may also decide that the information could be communicated via other reasonable means.



9.2 Formats

Applicants may request information that is included in minutes of meetings, e-mails, maps, audio recordings, video recordings and information held in any format by your Department.

The Council has a duty to give effect to an applicant's preferred format for receiving information, so far as this is reasonably practicable. This may include:

- summarising the information;
- providing the applicant with a copy (for example by photocopying or printing);
- allowing the applicant reasonable opportunity to inspect a record containing the information;
- producing material in an applicant's preferred format (for example by putting it onto CD-Rom, video or audio cassette); or
- translating information into a different language at the request of the applicant. If the Council regularly works in the language requested and has an in-house translation service, it should consider waiving any translation costs. However, the Council is not obliged under the FOI Act to translate documents if this would not be 'reasonably practicable'.

It is important to remember that the right of access is to information, not documents. If it is reasonable to comply with an applicant's request as to the form in which information is disclosed, you are obliged to comply with that request.

If the applicant requests a copy of the information in a permanent form, (or any other form acceptable to them), or a summary or digest of the information, or to come and inspect a record containing the information, you must, when considering whether you can release the information, also consider whether it is reasonable to provide the information in the format requested.

When considering whether you can release the information in the format requested, you should consider:

- a. Whether the format is easily replicable – e.g. can you easily copy the maps requested? do you have audio copying equipment?
- b. The cost of providing the information in the format requested – would this take the cost of processing the request over the fees threshold? If this occurs, you should issue a Fees Notice stating that a fee is payable for releasing the information in the format requested. You should also give active consideration to whether the information can be released in another format which would not incur a cost. If this is possible, you should alert the applicant to this fact.



In some cases, the Council may be required by other legislation to produce information in a particular format or a different language at no additional cost (and should not therefore charge for it as part of complying with the FOI Act). For example, the requirement to make reasonable adjustments for disabled people under the Disability Discrimination Act 1995 could require the Council to produce material in a format such as Braille or on audio tape. Another example would be translating information into Welsh when required by the Welsh Language Act 1993.

9.3 Copyright

Information supplied under the FOI Act may be subject to copyright protection under the Copyright, Designs and Patents Act 1988 which provides that information can be re-used for the purposes of research for non-commercial purposes, for private study, or for news reporting and reviews, without requiring formal consent. However, if the applicant wished to re-use the information for commercial purposes, including publishing, he/she she would require the permission of the copyright holder. Permission to re-use copyright information is granted in the form of a licence by the copyright holder.

9.4 Use of crown copyright

You should be aware that information which is disclosed under the FOI Act may be subject to copyright protection. If an applicant wishes to use any information in a way that would infringe copyright, for example by making multiple copies, or issuing copies to the public, he/she would require a license from the copyright holder.

If you consider that copyright restrictions may apply to an FOI request, you should consult with the FOIO.

HMSO have issued guidance on this subject in relation to Crown Copyright, which is available on HMSO's website, or by contacting HMSO at

HMSO Licensing Division
St Clements House
2-16 Colegate
Norwich
NR3 1BQ
Tel: 01613 621000
Fax: 01603 723000

9.5 Third party copyright

Public authorities complying with their statutory duty under ss. 1 and 11 of the FOI Act to release information to an applicant are not breaching the Copyright, Designs and Patents Act 1988. The FOI Act specifically authorises release of the information to an applicant, even if it is in such a form as would otherwise breach the copyright interests of a third party. However, the Copyright Designs and Patents Act 1988 will



continue to protect the rights of the copyright holder, once the information is received by the applicant.

9.6 Access to the information

Access to the information should be granted in the format requested, unless granting such access would:

- (a) be physically detrimental to the record;
- (b) involve an infringement of copyright.

You will need to notify the applicant of your decision as to why the information cannot be communicated to him/her in his/her preferred format.

9.7 Form of access

Access to a record may be arranged in any one (or combination) of the following formats:

- a copy of the record;
- a transcript of the information;
- electronically;
- a reasonable opportunity to inspect, hear or view the record.

In the majority of cases, a photocopy or an electronic version of the record(s) will be provided to the applicant. However, the applicant's preferred form of access may be to view the actual records. You will therefore have to arrange for inspection of the records in question. This is not an opportunity for the applicant to question you on the contents of the record, but merely an opportunity for the applicant to view the records in their original format.

9.8 Inspection Rules [Annex W]

- An inspection date and time will be agreed in writing (this must be communicated within 20 working days from receipt of the request);
- Inspection will take place at the Council Offices, Civic Centre;
- Documents submitted for inspection, will not be written on, removed or defaced;
- The applicant may take notes/transcripts of the records;
- Photocopies may be provided;
- The inspection will be supervised throughout.



9.9 Records maintenance

Prior to any inspection, you should ensure that, where applicable, all relevant records are present and in sequence.

9.10 Relying on exemptions - overview

Where you have decided to rely on an exemption (either for the whole record or part of) you should arrange for the document in question to be removed or block out i.e. redact the relevant part prior to the inspection. Reasons for relying on the exemption must be provided.

If you consider that redactions have to be made to documents in order to release the information requested, you should consult with the FOIO.

If there is likely to be general public interest in the information, keep a public access copy of the part - record and amend catalogues accordingly.

9.11 Protecting information which is not yet open

If information is being released from a document which also contains information which remains closed, you will need to take steps to protect the closed information. This can be achieved by:

- Transcribing the relevant 'open' parts of the record;
- Providing a photocopy of the open information, blanking out the information which is not to be released;
- Allowing the applicant to see the original document, but binding/taping up the 'closed' parts and supervising very closely;
- Converting electronic documents to pdf. format to ensure that the 'closed information' is not inadvertently released. This is particularly important when information is being sent electronically.

9.12 Redaction

Applicants making an FOI request are entitled to information rather than documents themselves. Deleting exempt information from documents is known as 'redacting.'

Where documents contain a mixture of information that can and cannot be released, the exempt information may be deleted from any document which is released, for instance by 'black-penning' the exempt information.

If an applicant has requested all the information in a particular document, but it is necessary to redact some of that information because it is exempt, you should make it clear that redactions have taken place, and cite the relevant exemption as to why the information has been redacted.

It is important to bear in mind however, that the FOI Act applies to information, and not documents. Whilst the information requested is likely often to be contained in a document, this does not mean that the document has to be released with exempt material redacted from it. Rather, it may be more appropriate to release solely the



information that can be released by creating a new document with only that information which is open to the public, but subject to you giving an indication as to where the redaction has taken place and citing the exemption. This is likely to be particularly relevant where the majority of the information contained in the document does not fall within the scope of the applicant's request.

9.13 Redacting electronic records

If you are making redactions from electronic documents, you need to be aware that technological advances may allow redactions to be reversed.

If you have to make redactions to documents which will be released in electronic format, you should consider copying the information to a new document, and making an indication where a redaction has taken place and citing the exemption and sending this new document to the applicant. Also consider converting electronic documents to pdf. format to ensure that the 'closed information' is not inadvertently released.

9.14 Redacting paper records

If the information is held on paper, the pages affected should be photocopied and the text to be withheld deleted with a thick black felt pen or by cutting it out. The redacted version should then be photocopied again and the photocopy sent to the applicant. Check first that the sensitive text is not visible against light.

9.15 Remove possibility of doubt

To remove any possibility of doubt as to what was actually released, in case the applicant complains to the Information Commissioner and the case has to be reviewed, retain a redacted version of the document together with the original version (before redaction). For electronic documents, maintain a tracked version of the document together with the redacted [pdf.] version.

9.16 Open to one, open to all?

In some cases, it may be that the record was previously closed, but after examination, it was discovered that there were no exemptions applying. You should consider whether the record should be made open to the public generally.

9.17 A dissatisfied applicant

Refer to section 12 of this Manual for details on the complaints and appeals process.



ACTION

- Look into the various options available for providing access, and consider whether they offer a reasonable variety of methods. For example, if the enquirer/applicant wished to have an electronic copy of the information, could this be provided?
- Do you understand the redaction rules?