



## **Recommended responses for freedom of information requests**

If you respond to freedom of information (FOI) requests within your organisation, we have developed some recommended responses to help you. They cover the majority of situations departments will find themselves in throughout the FOI process.

- 1. Acknowledgement letter**
- 2. Reasonably accessible**
- 3. Further information required**
- 4. Fees Notice – Over the appropriate limit and charging under section 13**
- 5. Fees Notice – under the appropriate limit**
- 6. Fee Received**
- 7. Fees – non payment**
- 8. Informs applicant that the request exceeds the appropriate limit and is not being processed further**
- 9. Extension of time – public interest test**
- 10. Consultation with third parties**
- 11. Three variants needed - Provides applicant with all of the information requested**
- 12. Informs applicant all information sought is being withheld**
- 13. Three variants needed - informs applicant some information sought is being withheld, some provided**
- 14. Neither confirm nor deny**
- 15. Informs applicant information not held**
- 16. Informs applicant request being transferred to another public authority**

Department for Constitutional Affairs  
April 2005

### **1. Acknowledgement letter**

Thank you for your request for information about [*subject*]. Your request was received on [*date*] and I am dealing with it under the terms of the Freedom of Information Act 2000.

In some circumstances a fee may be payable and if that is the case, I will let you know. A fees notice will be issued to you, and you will be required to pay before we will proceed to deal with your request.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## 2. Reasonably accessible

Thank you for your request for information about [*subject*]. Your request was received on [*date*] and I am dealing with it under the terms of the Freedom of Information Act 2000.

Under section 21 of the Act, we are not required to provide information in response to a request if it is already reasonably accessible to you. The information you requested is available [*from the Stationery Office, price £XX*] [*on the Department's website (url)*]. *If you do not have access to the Internet at home, you may be able to use facilities at your local public library, or you can request a paper copy by contacting me*].

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to *name and address of official*.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [*department name*]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

### 3. Further information required

I am writing regarding your request for information, which I received on [date]. In that request, you asked us for [outline of request]

The department reasonably requires further information in order to identify and locate the information that you have asked for [include explanation of why this is the case, if appropriate]. I will not be able to take this matter further without extra information from you. In particular, it would be useful to know [give the applicant an indication of the sort of information that you will require in order to proceed with the request]

If you wish to discuss any of the above, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [department name]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

#### 4. Fees Notice – Over the appropriate limit and charging under section 13

**This notice applies where the cost of complying with the request would exceed the appropriate limit but the department nevertheless wishes to comply and charge a fee. Departments must remember that, unless it would cost more than the appropriate limit to comply with the duty to confirm or deny alone, they may only charge in accordance with reg 6 of the Appropriate Limit and Fees Regulations 2004) and within the timescales provided in the Act. If it would cost more than the appropriate limit to comply with the duty to confirm or deny, this notice will need to be modified. This notice covers situations where the department is making a charge under section 13 of the Act and the FOI Fees Regulations. If the charge is being levied under a different power, this notice will need to be modified.**

I am writing regarding your request for information, which was received on [date]. I can confirm that the department holds information that falls within the description specified in your request. However, the [department] has estimated that it will cost more than the appropriate limit to consider your request. The appropriate limit is specified in regulations and for central government is set at £600. This represents the estimated cost of one person spending 31/2 working days in determining whether the Department holds the information, and locating, retrieving and extracting the information. Consequently, the department is not obliged by the Freedom of Information Act 2000 to respond to your request (see section 12(1)). However, we are still happy to do so if you pay the fee as set out in this notice. The estimated cost of processing your request is £[xx]. This charge has been calculated in accordance with section 13 of the Freedom of Information Act 2000 and the Freedom of Information Fees Regulations.

The department will be unable to continue processing your request until the fee is paid. If you wish the department to continue to deal with your request you should pay the fee requested within 3 calendar months (by [date]). If the department does not receive payment of the fee by this date, I shall take it that you do not wish to pursue this request and will consider the request closed.

If you narrow the scope of your request, the department may be able to provide the information free of charge because it would cost less than the appropriate limit to do so. For instance if you [provide appropriate advice and assistance]. Any reformulated request the department receives from you will be treated as a fresh FOI request.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [department name]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## **5. Fees Notice – under the appropriate limit**

I am writing regarding your request for information, which was received on [date]. In this case, a fee is payable to us before I can provide you with the information. This fee covers the costs of [i.e. photocopying, printing, transferring to CD-ROM, posting to applicant] and has been calculated in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

The department will be unable to continue processing your request until the fee is paid. If you wish the department to continue to deal with your request you should pay the fee requested within 3 calendar months (by [date]). If the department does not receive payment of the fee by this date, I shall take it that you do not wish to pursue this request and will consider the request closed.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [department name]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## **6. Fee Received**

I am writing to confirm that I received £xx in respect of your fee payment on [date].

The search and retrieval work to be carried out will now begin and you can expect to receive my response by [date]. If the actual cost of complying with the request is less than the estimate the balance will be returned to you. If you do not receive my response by then, please contact me and I will investigate the matter further.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## 7. Fees – non payment

I wrote to you on [date] indicating that, under the terms of the Freedom of Information Act 2000, a fee was payable before the [Department/Agency] could process your request for information.

As I have not received payment of the fee, I am writing to advise you that your request is now considered closed.

If you still wish to receive the information, you may make a fresh request.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [department name]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## **8. Informs applicant that the request exceeds the appropriate limit and is not being processed further**

I am writing regarding your request for information, which I received on [date]. In that request, you asked us for [outline of request].

I can confirm that the [department/agency] holds information falling within the description specified in your request. However, we estimate that the cost of complying with your request would exceed the appropriate limit of £600. The appropriate limit has been specified in regulations and for central Government it is set at £600. This represents the estimated cost of one person spending 3½ working days in determining whether the Department holds the information, and locating, retrieving and extracting the information. Under section 12 of the Freedom of Information Act the Department is not obliged to comply with your request and we will not be processing your request further.

[Provide appropriate advice and assistance. For example: If you were to make a new request for a more narrow category of information, it may be that we could comply with that request within the appropriate limit, although I cannot guarantee that this will be the case, and it may help if I outline some possible ways of narrowing your request.]

[Provide appropriate advice and assistance.]

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [department name]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## 9. Extension of time – public interest test

A number of supplementary points must be noted before you use this letter.

1. In some situations, a qualified exclusion may apply to the duty to confirm or deny and, due to the need to consider the balance of the public interest, you may not be in a position to confirm or deny whether you hold the information within the 20 working day deadline. If you need to extend time for complying with the duty to confirm or deny, the letter to the applicant must be very carefully drafted and you **must** seek specialist advice before responding.
2. If absolute exemptions apply to some of the information, you **must** provide the applicant with a full explanation as to why they apply to the information (as per s17 of the Act – see refusal notice below) in this letter as well: the latitude in section 10(3) in respect of the time for complying with requests applies only where you need to consider the balance of the public interest
3. If there is some information to which no exemption applies that must be released within 20 working days and this letter will need to be modified to reflect the fact that information is being disclosed.
4. Where you are extending time in reliance on section 10(3), you are still required by section 17 to specify which exemptions apply to the information.

Thank you for your request for information which we received on *[date]*. I can confirm that the *[department]* does hold (*see point 1 above*) information falling within the terms of your request.

The FOI Act obliges us to respond to requests promptly, and in any case no later than 20 working days after receiving your request. However, when a qualified exemption applies to the information and the public interest test is engaged, the Act allows the time for response to be longer than 20 working days, and a full response must be provided within such time as is reasonable in all circumstances of the case. We do, of course, aim to make all decisions within 20 working days, including in cases where we need to consider where the public interest lies in respect of a request for exempt information. In this case, however, we have not yet reached a decision on where the balance of the public interest lies.

In your case we estimate that it will take an additional *[xx]* days to take a decision on where the balance of the public interest lies. Therefore, we plan to let you have a response by *[date]*. If it appears that it will take longer than this to reach a conclusion, we will keep you informed.

The specific exemption(s) which apply in relation to your request is/are: *[and include a brief explanation of why it/they apply unless it is not apparent or unless you are not required to do so by virtue of section 17(4)]*.

We have also considered that the exemption(s) provided for under section(s) *xx* of the Act *[where this is an absolute exemption]* apply to the information requested. *[Where absolute exemptions apply you must state why unless it is obvious]*

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to *name and address of official*:

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [*department name*]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Please contact me if you have any queries about this letter.

Yours sincerely,  
[*Name*]

## 10. Consultation with third parties

**This letter has been provided to show best practice in line with the obligations departments are under by virtue of the s45 Code of Practice. Each Department will know their stakeholders best, and care should be taken to ensure that they are consulted with in a suitable manner. It would be best practice to keep consultees informed of any developments in a case involving information which they have supplied to you or relates to them, notably where the applicant has requested an internal review, or has taken the appellate routes to the Information Commissioner and Information Tribunal. It is also important to remember that the Department retains responsibility for taking decisions on the exemptions and on the balance of the public interest. Whilst the views of third parties can inform such judgments, they will not be determinative and third parties should not be given the impression that undue weight will be given to their comments.**

I am writing to you in connection with a request for information received by the [Department /Agency] which is being considered under the Freedom of Information Act. Part of the information requested [was supplied by/relates to] you. *[If possible, the third party should be given the terms of the request and if appropriate a description of the information held. It is essential that this is fact-sensitive].*

The FOI Act requires the Department to disclose information in response to a request unless an exemption applies. There are two types of exemption in the FOI Act. The first type is an 'absolute' exemption, whereby disclosure may be withheld if the information falls within the terms of the exemption in question. However, where the exemption in question is only covered by a 'qualified' exemption, we can only withhold the information if the balance of the public interest, in all the circumstances of the case, favours maintaining the exemption of the information.

*[In light of the fact that you provided this information to us / in light of your interest in this information],* we are informing you of this request. If you wish to notify us of any particular issues or considerations that you consider relevant to the question of disclosure of this information, please do not hesitate to contact me. All relevant factors will be taken account of in our decision on whether the information is required to be disclosed, in particular the relevant public interest considerations both in favour of and against disclosure.

*[In particular to note – if there are concerns regarding the applicability of section 40, 41 or 43 this letter will have to be more detailed as the views of the person in question may be much more crucial to the question of disclosability of the information . In particular, in relation to section 41 the views of the person for whose benefit a duty of confidence may exist may well be determinative of whether or not such a duty exists in the first place. It will also not be an actionable breach of confidence to make a disclosure to which the person to whom the duty is owed consents. In relation to section 43 it should request the consultee to identify if it considers the information to be a trade secret, and also the nature and extent of the commercial prejudice any release could cause – suitable legal advice should be taken in such cases].*

I would be grateful if you could respond to me by [date] to enable the [Department/Agency] to consider all relevant factors in taking a decision on whether the Freedom of Information Act 2000 requires this information to be disclosed.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## 12. Three variants needed - Provides applicant with all of the information requested

**You may wish to consider whether it is appropriate and/or necessary to include the paragraphs on copyright in response to all requests for information.**

I am writing to confirm that the [*Department/Agency*] has now completed its search for the information which you requested on [date].

[*A copy of the information is enclosed – if you have been unable to provide it in the format requested by the applicant because it was ‘unreasonable to do so’ then you should state why*].

**or**

[*A copy of the information is enclosed in the format you requested*].

**or**

[*As you have asked to view the records in which the information is contained, and we are content to let you do so. Please telephone me to make the necessary arrangements.*]

The information supplied to you continues to be protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including any non-commercial research you are doing and for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder. Most documents supplied by [*Name of department or Agency*] will have been produced by government officials and will be Crown Copyright. You can find details on the arrangements for re-using Crown Copyright on HMSOnline at:

<http://www.hmso.gov.uk/copyright/licences/click-use-home.htm>

Information you receive which is not subject to Crown Copyright continues to be protected by the copyright of the person, or organisation, from which the information originated. You must ensure that you gain their permission before reproducing any third party (non Crown Copyright) information.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [*department name*]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## 12. Informs applicant all information sought is being withheld

It may be necessary, when withholding information to neither confirm nor deny that you hold the information. You must always seek specialist advice when considering whether an NCND response is appropriate or necessary. NCND letters are specific to the type of information sought and the nature of the exemptions which apply to the information and, in particular, the precise terms of the request. Care and attention should be given to all NCND responses.

I am writing further to your request for information dated [date] to advise you that the information you requested is being withheld under the Freedom of Information Act 2000. The exemptions which apply to this information are: section(s) xx of the Freedom of Information Act.

You requested [*brief summary of the information requested*]

*You will need to explain why a.) any of the information requested falls into the terms of any absolute exemption (stating why unless this is not already apparent) before b.) explaining which qualified exemptions apply to the information and why the balance of the public interest test determines that the information is exempt from release.*

*[NB. You are not obliged to explain why an exemption applies if this is already apparent. Further, you are not obliged to explain why an exemption applies or why the balance of the public interest favours non-disclosure if to do so would involve the disclosure of exempt information (section 17(4))]*

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [*department name*]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

**13. Three variants needed - informs applicant some information sought is being withheld, some provided**

I am writing to confirm that the [*Department/Agency*] has now completed its search for the information you requested on [*date*].

[*A copy of the information which can be disclosed is enclosed.*]

**or**

[*A copy of the information which can be disclosed is enclosed in the format you requested.*]

**or**

[*As you have asked to view the records in which the information is contained, and we are content to let you do so in respect of that information which is being disclosed. Please telephone me to make the necessary arrangements.*]

The remainder of the information that falls within the terms of your request is exempt from the right of access under the Act

[*For each qualified exemption applicable, provide explanation of why the/each exemption applies to the information sought, and an explanation of why the balance of the Public Interest favours non-disclosure*]

*You will need to explain why a.) any of the information requested falls into the terms of any absolute exemption (stating why unless this is not already apparent) before b.) explaining which qualified exemptions apply to the information and why the balance of the public interest test determines that the information is exempt from release.*

[*NB. You are not obliged to explain why an exemption applies if this is already apparent. Further, you are not obliged to explain why an exemption applies or why the balance of the public interest favours non-disclosure if to do so would involve the disclosure of exempt information (section 17(4))*]

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [*department name*]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

#### 14. Neither confirm nor deny

**You must always seek specialist advice when considering whether an NCND response is appropriate or necessary. NCND letters are specific to the type of information sought and the nature of the exemptions which apply to the information and, in particular, the precise terms of the request. Care and attention should be given to all NCND responses.**

I am writing in response to your letter of *[date]* requesting information regarding *[subject]*.

The *[department]* neither confirms nor denies that it holds falling within the description specified in your request. The duty in s.1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of s.XX of that Act. This should not be taken as an indication that the information you requested is or is not held by the department.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by *[department name]*. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

## 15. Informs applicant information not held

I refer to your request under the above legislation for information about [subject].

I am writing to advise you that following a search of our paper and electronic records, I have established that the information you requested is not held by this Department. *[note – you must ensure that you have taken into account whether or not it is appropriate/necessary for you to neither confirm nor deny whether you hold the information before confirming that you do not hold it]*

*[If appropriate, provide advice and assistance as to the sort of information that you do hold and which the applicant may be interested in]*

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write to.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by [department name]. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours etc

[Name, address, email address and telephone no of issuing officer]

**16. Informs applicant request being transferred to another public authority**

Before you issue this letter you must confirm with the second authority that

- a. they hold the information requested; and
- b. they are happy for you to transfer the request

In certain circumstances the department to whom you may be wishing to transfer the information may have to issue an NCND response. In these circumstances you will have to carefully consider whether it is appropriate for you to either transfer the request or to yourself deploy an NCND response. If the second authority cannot confirm that they hold the information requested then you must send a letter stating that you do not hold the information requested. If 2<sup>nd</sup> authority does hold the information ascertain, if possible, whether they are likely to want to NCND. If so, your response will be either a simple “not held” or possibly NCND, depending on the circumstances. If there are no NCND issues, either transfer request or refer applicant to that authority, but point out that (if appropriate) the information may be subject to an exemption so he will not necessarily receive everything he has requested. Before issuing any sort of response you must consider whether you, as the recipient authority, need to NCND – that will affect the terms in which you direct the applicant to another public authority.

I refer to your request under the above legislation for information about [*subject*].

I can confirm that [*department/agency*] does not hold information falling within the description specified in your request. **DN. See above re whether this is appropriate.**

I am writing to advise you that, having reviewed your request for information, we have identified that, due to the nature of the information that you are seeking, your request would be more appropriately addressed to [*Name of Public Authority*]. **DN. See above and ascertain first whether likely to be any NCND issues for that public authority.** Consequently, we propose to transfer your request to that organisation. However, before we transfer the request, we request your permission to notify the recipient organisation of your name and contact details.

If you agree to this, please sign and return the declaration below.

Thank you

Yours etc

[Name, address, email address and telephone no of issuing officer]

I [*Applicant's Name*]  
hereby authorise [*Name of Department/Agency*]  
to transfer my information request to [*Name of other Public Authority*]

Signature: .....