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**CHAPTER 25
SECTION 2****IDENTIFYING AND DEALING WITH REQUESTS
FOR INFORMATION IN IND****1. INTRODUCTION**

The majority of requests for information which IND will be required to handle under the Freedom of Information Act 2000 ("the Act") will fall to be dealt with by the relevant IND Directorate who has the lead responsibility for the subject area covered in the request for information. This Section explains the processes which IND Directorates should follow when they receive a request for information which falls to be dealt with under the Act. Many directorates within IND also have established local processes (such as the establishment of central units) to deal with requests and the guidance here should be read alongside any instructions provided locally at IND Directorate level for handling requests. A list of the individual IND Directorate processes are available on the internal IND Freedom of Information site on [Horizon](#).

Each IND Directorate also has a range of Freedom of Information specialists who have undergone specialist training and who will be able to assist staff where they have any immediate questions about requests and how they should be handled. Additionally, the IND Central FOI Team will be able to provide advice on more complex requests, and will also co-ordinate responses to requests which fall across a number of different IND Directorate subject areas. The IND Central FOI Team will also advise staff on the application of substantive exemptions, and the final use of these exemptions will also have to be approved by this team.

2. RECOGNISING A FREEDOM OF INFORMATION REQUEST

Many of the requests for information which IND will be required to deal with under the Act are not likely to be any different to the requests which IND has traditionally answered. Many requests for information will come under the terms of a freedom of information request, irrespective of whether or not an applicant makes reference to the Freedom of Information Act in their actual request. However, IND will staff will receive some information requests where it may not be necessary to treat these under the provisions of the Act. These requests will depend on the individual circumstances of the request itself. Where staff in IND have any doubts as to whether or not to treat such a request under the provisions of the Act, they should refer the case immediately for further advice to the IND Central FOI Team by fax or by emailing it to the following Poise address on the Home Office global address list: Freedom of Information Team (IND).

Those requests for information which fall into another information access regime such as personal and environmental data should not be regarded as information requests to be dealt with under the provisions of the Freedom of Information Act (see Section 1 of this IDI Chapter for further details).

The key question, however, which staff should ask when dealing with requests for

information is: does the request need to be treated as a **routine** or **non-routine** request by IND?

2.1. Routine requests

Many requests for information that staff already deal with on a daily basis will be subject to the requirements of the Act, but will be **routine**. All IND Directorates will already have processes in place to deal with such **routine** requests. Some examples of the sort of requests which IND currently deal with and which are regarded as **routine** include:

- Requests for information on which application forms should be used.
- Requests for general information on immigration, asylum and nationality procedures.
- Requests for IND related statistics or processes which are regularly published and will fall to be exempted under section 21 of the Act.
- Requests relating to the processing of immigration, asylum and nationality caseworking decisions and appeals.
- Requests for information from members of the public, MPs and legal representatives about IND's established policy, legal and caseworking positions.

The examples included here are not exhaustive and each IND Directorate is likely to have a number of processes in place for dealing with normal business requests for information. Staff should consult any guidance provided to them at IND Directorate level where doubt may exist as to whether a request may fall into the **routine** category or how it should be handled. All **routine** requests for information will need to be responded to in 20 working days under the requirements of the Act. Routine requests do not need to be referred individually to the IND Central FOI Team, but all IND Directorates should have local mechanisms in place to ensure that they monitor their performance on dealing with routine correspondence.

2.2. Non-Routine Requests

The full impact of the Freedom of Information Act 2000 is only likely to be experienced by staff in IND when they receive a **non-routine request** for information. Staff will have to ensure that when they receive such non-routine requests they follow all of the guidance here and apply all of the considerations necessary under the Act to disclose or withhold the information requested. A request will not necessarily have to refer to the Act to be classed as a non-routine although early experience of the Act in IND suggests that most requests which are non-routine do cite the Act and its provisions.

Staff will usually be able to identify a **non-routine request** if the applicant:

- asks for general non-personal information that has not been previously placed in public domain; or
- asks for information which may fall to be withheld as a result of a substantive exemption(s) being applied – see Section 5 of this IDI Chapter for further details of the exact scope of substantive exemptions; or
- asks for information that cannot be provided by IND as it would exceed the cost limit of £600 -see Section 4 of this IDI Chapter for further details; or

- could be defined as vexatious or repeated by IND -see Section 4 of this IDI Chapter for further details; or
- does not make clear what information they want -see section 4 of this IDI Chapter; or
- the information cannot be found in IND following a search (see point 5.6 below); or;
- asks for any information supplied by or relating to the security and intelligence agencies (Security Services (MI5), Secret Intelligence Service (MI6) and GCHQ) or any other security bodies listed in section 23 of the Act; or which raises issues of national security-see point 5.2 below; or
- asks for information which may result in damage to IND's commercial interests or those of third parties providing a service for IND- see point 5.3 below.

Staff should be aware that where an applicant makes a request for their own personal data, this will fall to be dealt with under the provisions of the Data Protection Act and so will not fall under the non-routine category here. For further details of this see IDI Chapter 24 on ***Disclosing Personal Information***.

Many IND Directorates will have established local arrangements for handling these types of requests, including the establishment of central units to build up expertise. If a member of staff is uncertain about what category a request for information falls into, then they should consult with their line manager, relevant Freedom of Information Specialist or the IND Central FOI Team for further advice.

Where **non-routine** requests are received in IND, all IND Directorates must refer these immediately to the IND Central FOI Team. Point 4 below has further advice on how to go about doing this.

3. WHAT TO DO WHEN A REQUEST FOR INFORMATION HAS BEEN RECEIVED

It is the responsibility of all members of staff who receive a request for information to take steps immediately to help identify whether it is a **routine** or **non-routine** request for information. If a request is received initially in an IND Directorate but is not for that business area, IND staff should pass it on immediately to the area responsible in IND for answering that type of request for information. If a request for information is to be transferred internally within IND and there is doubt about which IND Directorate should take on that request, the IND Directorate holding the request should always check with the appropriate Directorate about transferring the case before the request is sent on. Where a request is transferred internally within IND by post, the Directorate transferring the request should attach a minute which indicates the date on which the case was first received, and a clear explanation as to why it has been transferred.

All post, unless it is marked as '*personal*', should be opened on receipt in IND Directorates and checked to see if it contains a request for information which can be dealt with swiftly. Linking and unopened post must not be forwarded on without identifying an appropriate owner. Linking must NOT be sent to the Document Management Centre as this will jeopardise the ability of IND to respond within the 20 working day target, and will simply result in it being returned for action to the relevant IND Directorate.

Further guidance on what to do where non-routine cases may cut across the subject

area of more than one IND Directorate can be found at point 7.

Where a request is received and the information is not held by IND but by another Government Department, staff should consult Section 4 of this IDI Chapter for further advice.

4. WHAT TO DO WHEN A NON-ROUTINE REQUEST IS RECEIVED

IND is required to provide information to the central Home Office on its performance in dealing with all **non-routine** requests and it is important to ensure that the IND Central FOI Team has early sight of all IND non-routine requests.

All **non-routine** requests must be reported to the IND Central FOI Team as soon as an IND Directorate, who is aware that a request may fall into this category, receives them. Individual IND Directorates will need to keep their own internal monitoring system as well for **non-routine** cases. Examples of the different sort of cases which IND Directorates may receive and could fall to be classified as **non-routine** can be found at Point 2.2.

As soon as an IND Directorate has identified a case as falling into a **non-routine** category, the template at **Annex B** entitled: *“Notifying receipt of non routine requests to the IND Central FOI Team”* must be completed and returned by fax. Alternatively, it can be sent by email to the following Poise address on the Home Office global address list: Freedom of Information Team (IND). There is no need to provide a copy of the request itself from the applicant.

On receipt of this notification, the IND Central FOI Team will provide the IND Directorate concerned with a unique FOI reference number and the target date for return. It will also offer advice and support to Directorates depending on the nature of the request and its degree of complexity.

Once a final response has been prepared and completed to a **non-routine** request, the template at **Annex B** entitled: *“Notifying outcome of non-routine FOI requests to the IND Central FOI Team”* must also be filled in. This should also be returned to the IND Central FOI Team via the same fax or email details listed above.

5. AUTHORITY TO RELEASE AND WITHHOLD INFORMATION IN RESPONSE TO NON-ROUTINE REQUESTS

There are a range of important decisions staff have to make when receiving **non-routine requests**. These range from whether to disclose information which may not have previously been placed in the public domain, through to withholding information in line with the substantive exemptions contained in the Act. It is also crucial that answers to non-routine requests are referred to appropriate Ministerial level for notification if this is deemed necessary before any final response is sent out (see point 5.1 below for further details).

Staff should be aware that in certain circumstances a response to a **non-routine** request may need to be approved at an authorised level within an IND Directorate before it is sent out. Some **non-routine** cases (especially those which involve the use of substantive exemptions) may also require IND Directorates to seek further

approval from the IND Central FOI Team before a final response can be sent to the applicant. **Annex C** outlines the various trigger points where specific authorisation levels must be obtained and also explains when the IND Central FOI Team will need to be involved in the approval of final draft responses.

5.1. Handling non-routine requests

Where a non-routine request has been received, this could sometimes fall to be sensitive or high profile for any number of reasons where the information requested has not previously been placed into the public domain. These reasons could include:

- The request is for sensitive information, e.g. information relating to issues of national security, commercial interests, policy formulation, legal advice etc.
- The request asks for politically sensitive or embarrassing material.
- The request asks for information about Ministers, including their diaries and correspondence.
- The request is asking for recent Cabinet papers.
- The request is from political figures, journalists or a media organisation.
- The request is from those with a special interest in the information, e.g. for compassionate reasons.
- The request is otherwise likely to be sensitive or high profile.

Such requests must be handled in accordance with the Freedom of Information Act and information cannot be withheld simply because the release of the information may embarrass either the Department, Ministers or officials. If the request relates to papers belonging to a previous political administration of a different political persuasion then it should be immediately referred to the IND Central FOI Team and Directorates should consult point 5.2 below.

Where it is believed that a request may fall into any of the above categories, staff should inform their line manager, relevant Freedom of Information Specialist or their Grade 7/Assistant Director or above. Further advice on handling the request should be sought initially from:

- The IND Central FOI Team; and
- The Chief of Staff Team; and
- Press Office

Contact details for reporting these requests be found at **Annex C**.

The IND Central FOI Team and the Chief of Staff Team will keep relevant Ministerial Private Offices aware of all significant requests, so there is no need for IND Directorates to contact Private Offices directly at this stage.

Where the subject matter of the request relates to the work of other Government Department, staff must also consult with relevant officials in either Department.

Once the material has been collated, any relevant exemptions applied and the disclosure package prepared, IND Directorates should then share the final disclosure package with:

- The IND Central FOI Team; and
- The Chief of Staff Team; and
- Consult with Press Office and agree lines to take in response to media enquiries.

The IND Central FOI Team will then provide advice as to whether Home Office Ministers will need to receive an individual submission on a proposed response, or whether the outline of the response needs to be cleared by the relevant Minister as part of a weekly list of Departmental wide FOI response. If it is decided to notify Ministers of a case through the weekly list then the IND Central FOI Team will liaise with the IND Directorate concerned to place the case on this list. Responses to requests which withhold all information on the grounds of section 21 or section 40 of the Act do not need to be notified to Ministers.

If it is decided by the IND Central FOI Team and IND Directorate concerned that an individual submission is necessary then this should be sent to the relevant immigration Minister and the Home Secretary informing them of the proposed response. A copy of any information to be released should be attached to the submission and it should also include any lines to take for public enquiries if these are deemed necessary. The submission should be copied to all other relevant Ministers, the Permanent Secretary and members of IND's Senior Executive Group as well as the IND Central FOI Team, The Chief of Staff Office, Special Advisers and Press Office. Example submissions are available from the IND Central FOI Team.

Irrespective of whether a case has been notified to Ministerial level as part of the Department's weekly list or an individual submission, IND Directorates should not send a final response out to an applicant until the relevant Minister has noted the intended response. The IND Central FOI Team will notify Directorates when Ministers have noted the weekly list, while the relevant Private Office will contact Directorates once a solo submission has been noted.

None of these requirements for handling sensitive cases should affect the 20 working day deadline imposed by the Act for providing a response. It is essential, therefore, that where a decision on disclosure is needed from Ministers and senior officials, Directorates put their submissions to Ministers and senior officials as early as possible before the 20 day time limit for a response has passed.

5.2 Dealing with requests relating to ministers of previous administrations of a different political party, or requests regarding former Ministers of the same administration

All requests relating to past ministers of previous administrations of a different political party must be referred to the IND Central FOI Team who will make arrangements, in line with DCA guidance, for the Department to inform and consult, if necessary, with the former Minister in question. The former Minister should not learn about such requests from media reports. The Permanent Secretary's Private Office

will normally undertake communications with the former Ministers concerned and the IND Central FOI Team will ensure that there is early and regular contact with the Permanent Secretary's Private Office. If the former Minister is no longer alive or cannot be contacted, the Department will notify the Leader of the Opposition party in question.

There is an important and longstanding constitutional convention that Ministers of the current government are not permitted to see the papers of previous governments of a different political persuasion. While it is appropriate to inform current Ministers that such requests have been received, they should not see at any stage the relevant information which has been requested relating to previous Ministers of a different political party or be involved in any decisions as to whether to release this information.

If an IND Directorate receives a request relating to either matters particular to an individual former Minister of a previous administration of the same political party or an individual former Minister of the current administration (such as the former Minister's expenses or diary), or high profile issues and events during the former Minister's term of office, the case should be referred to the IND Central FOI Team who will arrange to notify the former Minister as soon as the request is received. Ministers of the current administration are permitted to see papers relating to previous administrations of the same party.

5.3. **Information requested on bodies dealing with security matters or issues of national security**

It is crucial that IND staff do not answer requests for information in a way that would compromise information supplied by or relating to the security and intelligence agencies (Security Services (MI5), Secret Intelligence Service (MI6) and GCHQ) or any other security bodies listed in section 23 of the Act (see Section 7 of this IDI Chapter for details of these bodies).

Information that is potentially relevant to safeguarding the UK's national security interests will also require special consideration.

Note that the security bodies may often wish to protect even the fact that there is or is not information held; this is commonly known as the "*neither confirm or deny*" policy and its use is explained in more detail in Sections 5 and 7 of this IDI Chapter.

5.4. **Handling requests for commercial information held by IND**

It is important that requests for information under the Act which ask for the release of commercial information are handled with particular care by IND staff. The release or withholding of commercial information must be assessed at all times by staff who have a knowledge of this area so that IND's commercial interests and those of third parties who work with IND are not in any way damaged.

IND has established a central mechanism for dealing with all requests which ask for information about sensitive commercial information which may be held by IND. In many cases these requests will be dealt with by staff in IND Directorates who have expertise in dealing with procurement and commercial issues. Where this happens,

staff will be able to answer a request in line with the guidance here and the guidance issued by the Office of Government Commerce on how to assess the disclosure of commercially sensitive material. It may also be necessary to follow the processes outlined at point 5.1 if a request in this area is likely to result in a high profile or sensitive disclosure.

However, there may be occasions where staff in an IND Directorate receive a request for information relating to commercial issues, and there is no expertise within that IND Directorate for dealing with such requests. Staff should not answer such requests without seeking further advice as they may not be able to identify the potential damage in disclosing or withholding commercial material held within IND. Instead, they should refer the request immediately to their relevant Freedom of Information Specialist. If the specialist has no knowledge or expertise in this area and is unsure how the case should be handled, then the request should be immediately referred to the IND Central FOI Team who will allocate it accordingly in liaison with IND's procurement or commercial specialists. The request should be faxed to the IND Central FOI Team. A short covering note should be provided from the IND Directorate and member of staff concerned entitled "*Further information required on possible commercial request*").

Often it may be difficult for staff to decide whether a request is asking for commercially related information. Staff should regard any of the following types of requests as relating to commercial issues:

- any information asked about contracts between IND, or an IND Directorate and an outside organisation; or
- any information asked regarding tendering for contracts by IND or an IND Directorate; or
- any information asked relating to prices for goods/services involving IND or an IND Directorate;
- any information asked about the purchasing of goods by IND or an IND Directorate;
- any information asked in relation to IND's relationship with carriers, in particular about prices paid for removing immigration offenders or carrier liability charges.

Further details on the authorisation levels for releasing commercially related information can be found at **Annex C**.

5.5. **Requests for management information**

It is likely that many parts of IND will receive requests for management information which may not have been previously released into the public domain. Where these requests arise, IND Directorates should consult with the appropriate officer in the Immigration Research Statistical Service if they are unclear whether the information is already captured by the publication of documents by the Research, Development and Statistics Directorate. The information could also be published as part of the Home Office's publication scheme or there could be a future intention on the part of IND to publish it. The exemptions under section 21 or 22 could be applied here to such requests and staff should consult Section 6 of this IDI Chapter for further details of how to apply these exemptions.

Where management information is not captured by the publication regime and does not fall under any of the other exemptions contained in the Act, IND Directorates

should consider disclosure of the requested management information which they are responsible for. It is important to remember, that for management information to be released under the Act it must be:

- information or subsets of information held by an IND Directorate; and
- not subject to any of the procedural reasons for refusal outlined in Section 4 of this IDI Chapter such as exceeding the £600 cost limit, or falling to be a vexatious, repeated, or unclear request; and
- not subject to any of the substantive exemptions contained in the Act (see Section 5 of this IDI Chapter for further details).

Management information cannot be withheld under the Act solely on the grounds that the data is not robust enough to be placed in the public domain. If there are concerns about the quality or robustness of any information being disclosed, then this should be made clear in the response to the applicant. If the release may be viewed as non-routine then the instructions in point 5.1 should also be followed.

Further details on authorisation levels for releasing management information can be found at **Annex C**.

5.6. Consultation with third parties

When considering whether to release information, staff should also check whether any third party may have sent or supplied the information or have a close and direct interest in it. Examples of where IND may hold third party information aside from where commercial interests may be affected, include:

- Information provided by foreign governments.
- Information provided by other public authorities.
- Personal information about individuals.

Consultation with third parties plays an important part in considering whether exemptions apply, particularly those relating to personal confidence and relations with devolved and international partners. But even where this information is not exempt, staff should think about informing third parties or obtaining their views on the impact of releasing information. A standard letter template for consulting with third parties can be found at **Annex B** entitled: *“Standard letter template for consulting with third parties who may be the subject of an FOI request”*

It is important to remember, though, that any views expressed by third parties concerning the release of information are not binding on IND. IND holds the information, and is under a statutory duty to provide access to the information and must take a final decision on release or disclosure in all cases. The only exception to this is when the third party considers the release of information would be an actionable breach of confidence. If this is the case, legal advice must be sought via the IND Central FOI Team.

A standard letter template for informing third parties of the outcome of a decision can be found at **Annex B** entitled: *“Standard letter template for notifying third parties of the Department’s decision who may be the subject of a FOI request”*.

Further details on the authorisation levels for consulting with third parties can be found at **Annex C**.

5.7. Simultaneous release of non-routine information

The Home Office has agreed, in line with standard cross-Whitehall procedure, that if information released under the Act is of wider public interest it should be published at the same time as responding to the original applicant. Where there is a strong public interest in disclosure, information should be published on the Home Office website at the same time that it is disclosed to the applicant. This is because the Act is not intended to provide individuals with exclusive access to information, but to make information publicly available.

Information is never suitable for simultaneous release if:

- The information is exempt from disclosure.
- Disclosure would be a breach of the Data Protection Act.
- Disclosure would breach third party copyright .
- The information is subject of an appeal to the Information Commissioner, Information Tribunal or the courts.
- The identity of the applicant, or his or her personal data, is involved.

If any IND Directorates consider that non-routine requested information should be subject to simultaneous release (SR), the IND Central FOI Team must be contacted without delay and they will liaise with the relevant parts of the Department to obtain authorisation for this and to put in place arrangements for publication. IND Directorates should not oversee SR release independently of the IND Central FOI Team.

IND Directorates should also seek to notify the IND Central FOI Team as early as possible about a proposed SR to ensure that all parties have enough time to ensure this takes place on a simultaneous basis. It is not fair to expect the Home Office's Web Team to place material on the website with inadequate notice at the expense of work submitted in a more timely fashion.

No information should be subject to SR before any media handling arrangements are finalised with Press Office or where Ministers have not been informed of this intention. Once this is received the Web Team will prepare the documents for publication on the Home Office website. Failure to give the Web Team sufficient time to prepare the documents will delay the completion of the request.

Where information is to be released simultaneously the following words should be added to the relevant template letter explaining to the applicant that:

'In keeping with the spirit and effect of the Freedom of Information Act, all information is assumed to be releasable to the public unless exempt. The Department will, therefore, be simultaneously releasing to the public the information you requested together with any related information that will provide a key to its wider context.'

5.8 Handling non-routine requests from the media

The fact that a request may be from a member of the media must not have a bearing on any decision taken as to whether or not to disclose information requested under the Act. Nor should the use to which a member of the media may put information which they have requested have any influence on whether information should be

disclosed to them. Nonetheless it remains important, as with any form of the Department's communication with the media, that where IND staff receive a request from the media, careful consideration is given to the handling of such a release as these could be potentially sensitive. IND Directorates should therefore adhere at all time to the handling points set out in Point 5.1 above before a final response is sent out.

Where an initial request is received by Press Office from a journalist in IND it will be sent directly to the IND Central FOI Team who will allocate the case to the relevant IND Directorate who leads on the subject matter concerned. Where further communication is required to clarify the request with a journalist this should always be handled by the IND Directorate leading on the case in liaison, where necessary, with the IND Central FOI Team. This should usually be done in writing (either via email or post) and a clear audit trail should be kept of any written exchanges, as should be the case with any other FOI request.

All final non-routine responses prepared by IND Directorates to journalists must be referred for final approval to the IND Central FOI Team, the Chief of Staff's Team and the relevant Press Officer if they have not been involved in providing advice on the draft final response. This is to ensure that appropriate handling procedures are in place before a final response is issued and Directorates can do this by emailing it to the following POISE account: Freedom Of Information Team (IND)

If a non-routine request is received directly by an IND Directorate and has not been routed through the IND Central FOI Team, then IND Directorates should immediately notify the IND Central FOI Team (as is the case with all non-routine requests) and email the case to the above POISE account or faxing it.

IND staff should not open a detailed dialogue with journalists by explaining any wider policy behind information being released but should only concentrate on the specific request for information. If the journalist asks questions not related to the request in writing, they should be referred to Press Office in the usual way.

It is also the responsibility of the IND Directorate concerned to provide a final response to the request signed by the appropriate officer who has lead on the case. This is in line with the procedures for responding to all other FOI requests.

6. AT WHAT STAGE OF SEARCHING FOR INFORMATION CAN IT BE REGARDED AS NOT AVAILABLE?

Where a request is received and it relates to information which is likely to be held in IND and not by another part of the Home Office or Government Department, it will be the responsibility of the relevant IND Directorate who has ownership of the subject covered by the request to search all of their records for the requested information. Staff should carry out a preliminary analysis when receiving a request to see if providing the information may exceed the £600 cost limit. Section 4 of this IDI Chapter has further details on how to assess whether a request may exceed this limit.

Searching for requested information will for most IND Directorates be a process of searching for information held either in hard copy or electronic format, although in some cases it might be held in other mediums such as CCTV images or recorded telephone messages.

Hard Copy Information

The first method of searching for hard copy information will be to conduct a search of paper files held in the relevant IND Directorate leading on the subject matter of the request. The results of this search may bring a full listing of files with the relevant subject words in the title. If the file title suggests they hold information relevant to the request they should be retrieved and examined. If an individual holds a relevant file they should be contacted by email or telephone and if the file is held in off-site storage it should also be retrieved. Section 1 of this IDI Chapter provides advice for staff on what to do if requested information has been transferred to the National Archives.

Once the files are retrieved a page by page search of the files should be conducted to locate and identify any of the requested information to see if it should be disclosed or withheld.

If no relevant information is found at this stage by an IND Directorate and staff have no direct knowledge of any other related information stored on hard-copy elsewhere in IND, then it can be assumed that the information is not held on any paper files or hard copy format.

Electronic Information

Where IND Directorates have large amounts of information stored electronically there may be some doubt as to what stage such information may be classified as being no longer held, and so not subject to disclosure under the Act. The starting point for staff here is that all electronic information held on personal drives, shared drives or any other electronic medium will be regarded as being held by IND for the purposes of the Act and so would be potentially disclosable if requested.

Where emails or other electronic document have been sent to the Deleted Items folder on Microsoft Outlook or the Recycle Bin, and are then deleted again it would not be subject to disclosure under the Act. This means that any information which has been deleted once but is still located in either the Deleted Items folder or the Recycle Bin would still be disclosable under the Act as this has only been deleted once. Further details on searching electronic files when a request is received can be found in Section 2 of this IDI Chapter. The majority electronic documents which record official information should be stored on the shared F drive. The IND Directorate handling the request should search those specific folders where they believe the requested information could be located.

Where a request is received and the member of staff within the IND Directorate who is dealing with the request has actual knowledge that the requested information may be located on the personal drives of staff, a focused search should be conducted for that information where it is known to be held. This should not involve the widespread use of global or even IND Directorate wide emails. Instead, it should be targeted on those individuals who may have regular involvement in dealing with the subject matter concerned. It is important to refine searches for electronic information because if a search for information is liable to cost more than £600 it can fall to be refused. The use of global or even IND Directorate wide emails to large numbers of staff will often cause this cost limit to be exceeded and so should not normally be relied upon as a method of locating information.

If no relevant information is found after a refined search is carried out by a Directorate, and staff have no other actual knowledge of any other related information stored elsewhere electronically in IND, then a reasonable assumption can be made that the information is not held on any electronic files.

Response to an applicant.

Where both a paper and electronic search has been carried out and the information is not held within an IND Directorate or the other relevant parts of IND, a reply should be sent to the applicant using the standard template attached at **Annex B** entitled: *“When a search is carried out and the requested information is not found”*. Even where this response is sent out to an applicant, it still falls to be classified as a **non-routine request** and authorisation should be sought at HEO/CIO level or above within an IND Directorate. The template at **Annex B** entitled: *“Notifying outcome of non-routine FOI requests to the IND Central FOI Team”* must also be filled in and sent to the IND Central FOI Team so the refusal decision can be recorded. This should be done via the same fax or email details listed at point 4.

7. MIXED REQUESTS

A mixed request is where the applicant requests information that falls under two or more of the different information access regimes. For instance, where an applicant requests information which is both their own personal information under the Data Protection Act and more general information which must be considered under the Freedom of Information Act.

On occasions staff may find mixed requests difficult to identify and handle. Staff are advised to follow the steps below when they believe they may be dealing with such requests:

- a. Identify the elements in the request which are subject to Freedom of Information Act, Data Protection Act or the Environmental Information Regulations (see section 1 of this IDI Chapter for details of these regulations)
- b. Separate each of these elements into discrete sections of work
- c. Check that each separate element has been correctly identified before completing the request.
- d. Apply the relevant access regime to each element included in the request.

Once the separate elements in a mixed request have been identified, the request should be acknowledged explaining which parts of the letter will be considered under which regime and a copy of the letter and acknowledgement should be passed to those other parts of the business that need to respond. For example where data protection considerations apply the applicant may have made in effect a subject access request and so could fall to the Subject Access Bureau to deal with. Further details on this can be found in IDI Chapter 24 on ***‘Disclosing Personal Information’***.

Where any elements of the request fall to be considered under the Freedom of Information Act, staff will also need to identify and deal accordingly with these depending upon whether they are routine or non-routine.

8. IND REQUESTS WHICH REQUIRE CENTRAL CO-ORDINATION

The IND Central FOI Team will handle all non-routine requests for information that cut across the subject areas of more than one IND Directorate. A copy of the final response will also be sent out to the relevant IND Directorates who have contributed to the draft. Where a request may fall across the work of a Directorate in IND and that of other Government Departments, and the majority of material falls upon IND, the relevant IND Directorate should lead on this unless the subject matter cuts across more than one IND Directorate. Where a request is received directly in an IND Directorate and may require central co-ordination, staff should fax a copy of the request to the IND Central FOI Team with their relevant details. If the request is available electronically, it should be sent by email to the following Poise address on the Home Office global address list: Freedom of Information Team (IND).

9. REFERRALS TO THE DCA CLEARING HOUSE

The DCA Clearing House (the Clearing House) has been established to provide advice on, and ensure that a consistent approach is adopted in relation to, requests falling within the following trigger points:

PRIME MINISTERIAL AND MINISTERIAL ISSUES

These include requests for or relating to:

- Ministerial Diaries;
- the role of Ministers e.g. Ministerial financial interests, and propriety issues related to the Ministerial Code;
- the work of Private Offices;
- the current Prime Minister;
- Cabinet and its Committees, e.g. agendas, papers, minutes and meeting dates;
- the operation of collective responsibility e.g. inter-Ministerial correspondence and notes of meetings between Ministers;
- correspondence between the UK and the Devolved Administrations;
- papers of a previous administration; and
- Select Committee evidence and appearances where information is not already in the public domain,

ROYAL HOUSEHOLD AND HONOURS

These include requests for or relating to:

- communications with Her Majesty, other members of the Royal Family or with the Royal Household; and
- the conferring of Honours.

PROCUREMENT AND EFFICIENCY

These include requests for or relating to:

- Gateway reviews;
- internal audit reports;
- NAO investigations;

- complex and/or high profile procurement projects; and
- shared information held relating to the Efficiency Programme.

CROSS-WHITEHALL ISSUES

These include requests for or relating to:

- cross-Whitehall issues and suspected round robin requests;
- high profile issues, whether current or historical (e.g. issues of Ministerial and/or media interest and where release or refusal likely to attract media coverage);
- information less than 30 years old is held by the National Archives and there may be a dispute between the Department and TNA;
- metadata (such as - software code, document properties (e.g. list of people editing documents / when last edited / etc), document word counts);
- file lists where the guidance does not apply;
- requests which could be vexatious; and
- requests which may involve the use of section 34 (Parliamentary Privilege exemption)

MINISTERIAL VETO CERTIFICATES AND SECURITY

These include requests:

- which might lead to the use of Ministerial vetoes;
- where the use of the exemption under s.23 FOI Act is being considered;
- where the use of the exemption under s.24 FOI Act is being considered; and
- relating to Departmental security matters.

OTHER ISSUES

These include requests

- which are covered by Working Assumptions, but where Departments do not think they apply;
- for information that were previously disallowed under the Code of Practice on Access to Government Information;
- where Departments disagree with Clearing House advice; and
- where the application of FOI, EIRs or DP is complex and/or technically difficult;

All requests which meet one or more of the trigger points above must be referred to the IND Central FOI Team who will liaise with the Core Home Office and refer them to Clearing House within 5 days of its receipt. The Clearing House will provide the IND Central FOI Team with a unique case number which will be passed to the relevant policy officials. The Clearing House will then request information from the policy lead in IND and provide advice on how to respond, and on the application of exemptions and the balance of the public interest. The IND Central FOI Team will liaise at all times with the Clearing House to ensure consistency of advice across IND.

IND must ensure, in line with standard Home Office practice, that all non-routine requests which are received are referred to the Clearing House and not just those

meeting the above trigger points. Therefore even if a request does not require individual advice from the Clearing House on the basis that it hits a trigger, they must still be informed of its existence so that they have the opportunity to provide any advice that they consider necessary.

10. COPYRIGHT ISSUES

10.1. Crown Copyright

Information, which is disclosed under the 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 or she would require a licence from the copyright holder. HMSO have issued guidance on this subject in relation to Crown Copyright. This is available by contacting HMSO at

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

10.2. Third Party Copyright

Public authorities complying with their statutory duty under sections 1 and 11 of the Freedom of Information Act to release information to an applicant are not breaching the Copyright, Designs and Patents Act 1988. The 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 applicant receives the information.