

Freedom of Information (FOI) Policy

Our Freedom of Information Policy outlines our approach to managing our duties when it comes to the Freedom of Information legislation, including our publication scheme and our response to Freedom of Information Requests.

Status of document: Approved
Version: 4
Date of approval: 30 January 2024
Effective from: February 2024
Owner: Senior Information Risk Owner
Author: Information Governance Officer
Planned next review date: February 2027

Contents

Policy Statement, Purpose and Scope	3
Freedom of Information Act (FOIA) Summary	3 - 4
Exemptions	4 - 5
Handling Freedom of Information Requests	5 - 6
Freedom of Information Requests Appeal.....	6 - 7
Re-Use of Public Sector Information Regulations 2015	7

1. Policy Statement

1.1 We recognise the importance of effectively managing how we use and store information to ensure we adhere to current data legislation.

2. Purpose

2.1 This data protection policy sets out our commitment to:

- comply with current Data Protection Legislation;
- protect the rights of our employees;
- being open and transparent about how we store and process information;
- help mitigate the risks of a data breach; and
- provide tools and resources that support good Information Governance practice.

3. Scope

3.1 This policy applies to:

- Employees (whether permanent or temporary) and workers;
- Members; and
- Contractors working with, or on behalf of, the GOC.

3.2 Compliance with this policy is mandatory. Non-compliance for employees, members and workers may be considered a disciplinary matter.

3.3 If you require further advice and guidance, you should contact the Information Governance Team at IG@optical.org.

4. Freedom of Information Act (FOIA) Summary

4.1 The FOIA gives individuals the right to request information from public authorities. It is intended to promote a culture of transparency and accountability amongst public sector bodies and increase public understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money.

4.2 All Freedom of Information requests are considered alongside the following legislation;

- UK GDPR and Data Protection Act – which provides individuals with a right to access information about themselves; and
- Environmental Information Regulations 2004 – which provides individuals with a right to access environmental information. They apply to information held by or on behalf of public bodies carrying out a public function.

4.3 All information we create, or store is subject to the requirements of the FOIA provided that:

- we retain possession of the information; or
- we have provided the information to another public body; or
- the information is held by a third party on our behalf.

5. Exemptions

5.1 Whilst we always look to respond to requests fully, requesters are not always entitled to be given all the information they request. Please refer to our disclosure policy for more information.

5.2 Information released under the FOIA must be considered as being released into the public domain.

5.3 There are currently 23 exemptions from the right of access to information, these are set out in part 2 of the Freedom of Information Act. In broad terms there are 2 types of exemptions;

- Absolute exemptions – Where information will not be disclosed under any circumstances.
- Qualified exemptions – Where we identify a possible exemption but must weigh up competing interests to decide whether it serves the interest of the public better to withhold or disclose the information. This is known as the public interest test.

5.4 Examples of absolute exemptions are;

- Section 21 – Information reasonably accessible by other means
- Section 40 – Personal Information
- Section 41 – Information provided in confidence
- Section 44 – Information whose disclosure is prohibited by law

5.5 Examples of qualified exemptions (where the public interest test applies) are:

- Section 22 – Information intended for future publication
- Section 30 – Investigations and proceedings conducted by public authorities
- Section 36 – Prejudice to effective conduct of public affairs
- Section 43 – Commercial Interests
- Section 42 – Legal professional privilege

5.6 When deciding whether to apply a qualified exemption (and withhold information) valid consideration must be given to decide if releasing the information would serve the public interest and whether it would outweigh the reasons behind exemption.

5.7 It is not enough that there is merely a public interest attached to the information being requested. The person making the request has an interest in the information, but this does not constitute “public interest”.

5.8 The GOC has the right to refuse the release of personal data or other information if it falls under one of the exemptions in the Freedom of Information and Data Protection Acts. This could be, for example, because it was provided in confidence or if it would affect our ability to carry out our role as a regulator.

4.4 If the requester has had their access restricted under our acceptable behaviour policy, we will consider each request on its merits but may alter the way we correspond regarding the request(s), in line with the restrictions.

6. Handling FOI Requests

6.1 This section outlines our legal responsibilities when processing a request.

6.2 Freedom of Information requests are co-ordinated by the Information Governance Officer, who will record all information requests and relevant correspondence in line with our Retention Schedule.

6.3 All employees, members, workers, contractors and those working on our behalf are responsible for ensuring all requests for information are promptly forwarded to the Information Governance inbox IG@optical.org and will be responded to by the Information Governance Officer promptly.

6.4 All information requests will be acknowledged within 5 working days of the request being received. Each request will be considered individually on its own merits.

6.5 We have a duty to confirm or deny whether the requested information is held and, if we hold the information, provide it to the requester in the requested format. If the requested information is not held, the requester must be informed. There may be some exceptional circumstances where it would not be reasonable to confirm nor deny if the information is being held.

6.6 You must respond to Freedom of Information requests within 20 working days after the date of the receipt, where we will confirm if we can provide the information or if it is considered exempt.

6.7 If an exemption is being considered, and we required additional time to complete a public interest test, we will promptly notify the requester of the exemptions that we are considering and provide a new deadline for response. We will not exceed a further 20 working days in order to consider the exemption.

6.8 In some cases, a request may be refused. If so, a refusal notice will be issued setting out the decision, the exemption relied on and the reasons why.

6.9 Responses will always have contact details of the person who has handled the request, except in exceptional circumstances where SMT has agreed through the Acceptable Behaviour Policy that the matter should be handled by another member of staff.

6.10 We will always respond to Freedom of Information requests, if the individual is not satisfied with our response, we will include in the final response information on

their right to contact the ICO and ask them to decide whether the individual's request has been properly dealt with.

6.11 Where no contracts are in place, we will ensure that Data Sharing Agreements are established with any third parties.

Costs

6.12 The FOIA provides for public authorities to decline requests for information that would cost more than £450 to respond to. This is referred to as the "appropriate limit".

6.13 We are required to estimate whether a request is likely to breach the appropriate limit in accordance with the FOIA regulations. If it does, we will issue a written refusal notice and respond within 20 working days from the date of acknowledgment of your request.

7. FOI request appeals and complaints

Stage one: Internal review

7.1 If the requester is not happy with our response they can ask us, in writing and within 40 calendar days of the response, to complete an internal review. Their request should be addressed to the Information Governance Officer.

7.2 An employee with no prior involvement, usually of a higher grade, will reconsider their request and respond within the timescale.

7.3 Internal review requests will be acknowledged within 5 working days of receipt and a response provided no later than 20 working days after receipt.

Stage two: Complaints to the Information Commissioners Office (ICO)

7.4 Requesters that remain dissatisfied may complain to the ICO on any of the following grounds, failure to;

- Provide the information requested
- Respond to the request within 20 working days
- Explain why more than 20 working days are needed
- Provide advice and assistance
- Provide information in the requested format
- Clearly explain any reason for refusing a request; or
- Correctly applies for an exemption under the FOIA

7.5 The ICO will decide whether the request has been handled appropriately in accordance with the FOIA and will provide a decision notice, to both the requester and the General Optical Council.

7.6 The ICO will not consider a complaint;

- When the Individual has not exhausted our internal complaints procedure
- Where there has been undue delay in making a request to the ICO
- Where the request is frivolous or vexatious
- Where the request has been withdrawn or abandoned

7.7 If the decision goes against us, the ICO will set out the actions that we are required to take to correct any issues along with of a time frame of when this is expected to be completed.

8. Reuse of Public Sector Information Regulations 2015 (RPSI)

8.1 Within the FOIA the Re-use of Public Sector Information Regulations 2015, allow for “re-use” of some public sector information for a purpose other than the initial public task it was produced for. This would mean that an organisation can reuse information that has already been published. The purpose is to make information easier to re-use, resulting in economic social and civil benefits.

8.2 Should you wish to reuse any of our public information in this manner, please email the Information Governance Officer at IG@optical.org.