

How to manage FOI requests

This guidance:

- is for designated FOI Points of Contact and FOI response authorising managers
- any member of staff given the authority within a department to prepare FOI responses in readiness for release authorisation
- should be read alongside the States of Jersey FOI Policy which outlines the main functions of the Central FOI Unit (CFU) and States departments in the handling of information requests under the Freedom of Information (Jersey) Law 2011 and the Memorandum of Understanding which is specific to the sharing of personal data in respect of information requests

General principles of handling FOI requests

The following principles are designed to help you work with the Central FOI Unit when handling FOI requests:

FOI is about openness, availability, transparency and accountability

We should think of information as public information that should be available to all, not something we 'own' and only begrudgingly share.

Having a disclosure log and increasing the amount of information we publish online are ways we can demonstrate this principle.

It is a criminal offence to alter, erase, destroy or conceal information held by a public authority with the intention of preventing its release under FOI.

We will provide help and assistance to people making FOI requests

We can help applicants with:

- requesting further clarification to make sure we are providing exactly what someone is looking for
- writing in plain English
- providing links to further published information
- making sure that all abbreviations are fully explained in a response

Consistency and quality of response is critical

People see the States of Jersey as a single public sector and we should be consistent in how we deliver, present or communicate on FOI requests and responses.

This helps maintain positive perceptions of the public sector. Our communications should not contain grammatical or factual errors.

FOI responses should not be issued after 20 working days

Time should be built into the processing of each request to allow for release authorisation from your department, unless there is a valid reason to request an extension.

All FOI requests must be copied to the Central FOI Unit

This is to ensure all responses can be logged, tracked and issued through the Central FOI Unit.

All responses must be authorised for public release by a designated department 'Authoriser'

Departments should email the Central FOI Unit to tell us of any changes to FOI Points of Contact and Senior Authorising Officers, including any revised contact details.

Applicant privacy and the law

Requests are applicant and purpose blind. All applicants are to be treated equally and fairly under the Freedom of Information (Jersey) Law 2011 and the Data Protection (Jersey) Law 2005.

The identity or motive of the person asking an FOI question is of no relevance to how the request is handled.

Applicant privacy is paramount. The processing of personal data must also be processed fairly and lawfully.

Therefore, the processing of personal information must be confined to what is necessary for the department to meet its obligations under the FOI law.

Personal data should not be shared any further than absolutely necessary to achieve this aim.

When departments are handing personal data in connection with an FOI request, only the FOI Point of Contact and Authoriser need to be privy to the personal data in order to meet the requirements of Article 2 of the FOI law.

Article 2 provides that a "request for information" means a request for information that is:

- in writing
- states the name of the applicant
- states an address for correspondence
- describes in adequate detail the information requested

Redacted requests will be issued to the departmental FOI mailbox but in exceptional processing circumstances and only on written request will the Central FOI Unit provide the applicant's name to the department.

Following consultation with departmental FOI Points of Contact, there was broad agreement that not being aware of the name of the applicant protects staff handling requests by:

- ensuring the applicant blind principle is reinforced in the handling process
- ensuring that responses are not written with the name or assumed purpose of the applicant in mind, affecting the comprehensiveness of a response; this has been the cause of a serious complaint to the States of Jersey already and similar scenarios need to be prevented. All applicants need to be treated equally and fairly under the law
- limiting the risk of inadvertent disclosure of an applicant's name to those not involved in the answering of a request (collection of the applicant's personal details is only done on the basis that it is to enable the request to be answered)

Responses must be issued to applicants within 20 working days. Time should be built into the processing of each request to allow for release authorisation from your department.

Aim for authorised responses to be forwarded to the Central FOI Unit by the end of working day 18 at the latest.

Day 0 to 1

You'll receive an FOI request either:

- directly into your departmental FOI mailbox from the Central FOI Unit, accompanied with a redacted pdf giving the request, any relevant attachments provided by an applicant, the date of receipt of the request and a unique ID number
- by email from an applicant. If it is marked as an FOI request, or if you believe it should be treated as an FOI request, you must forward it to the Central FOI Unit so that a unique ID is generated. You do not need to acknowledge an FOI request you receive by email as the Central FOI Unit will do this
- by post. In this instance, scan the letter and email this to the Central FOI Unit

The Central FOI Unit is registered / notified to the Information Commissioner as a data controller. A data controller is a person who (either alone or jointly or in common with other persons) determines the purposes and manner in which any personal data are, or are to be, processed.

Every request will be looked at on a case-by-case basis and the Central FOI Unit will determine whether that personal information should be provided to the department.

Identifying the lead department

We may call an FOI Point of Contact to establish if their department is the most appropriate department to take the lead on a request.

When you receive the pdf and unique ID number from the Central FOI Unit, you may be asked to lead on the handling and collation of a multi-department request. This means that until the response is authorised and issued to the Central FOI Unit for release, it is your department that will need to liaise with other 'contributing' departments to ensure all are happy for any draft response to be authorised prior to release through the Central FOI Unit.

The Central FOI Unit will indicate to potential contributing departments that they are being copied into the request for information. If the lead department then requests information from another department, that department's FOI Point of Contact must be copied in on that request to ensure that their department's contribution is authorised by their FOI authoriser.

Nobody should provide response information to FOI requests that their departmental FOI Point of Contact is unaware of.

Before issuing a final response back through the Central FOI Unit, the lead department will copy the fully collated response to all contributing departments. This ensures departments see all information in the response that is being released into the public domain by the lead department.

Where a request affects all departments across the States of Jersey, the Central FOI Unit will identify a lead department and will copy the request to all FOI mailboxes.

When do the '20 working days' start?

The '20 working days' start on the first working day following receipt of the FOI request from the applicant.

The Central FOI Unit will forward to a department any request received from an applicant before 4pm on the same day, or by 10am the next day if it is received after 4pm.

FOI request or business as usual?

You may want to treat any information request you receive directly from an individual, if it is not marked by the applicant as being made under FOI, as a business as usual (BAU) request.

This will depend on the request (on a case-by-case basis) and whether you think it can be responded to easily.

If the information being asked for can be provided easily, eg if it does not require investigation, extraction from other data, or is already published online etc, then you can treat a request as business as usual.

A request cannot be ignored or refused simply because it is not clearly marked as a request being made under FOI legislation or addressed to a non-FOI member of staff.

Any letter or email to a public authority asking for information is a request for recorded information under the law. While you may treat any request as BAU, the provisions of the law need only come into force if the information cannot be provided easily or quickly, eg if the applicant makes it clear they expect a response under the FOI (Jersey) Law.

If you decide to treat a request as BAU, you should make sure it is answered as promptly as any another request.

Calculating the time it will take to respond to an FOI request

As soon as you receive a request, you should start calculating the time needed to answer it. The sooner you do this, the sooner you will be able to see if the request needs to be refined to bring it under the 12.5 hour limit. You should also start to record the time spent on answering an FOI request.

Day 1 to 5: Seeking clarification or refining the scope of a request

If you need clarification on a request, you should do this within the first few days of receiving the request.

If the scope of the FOI request is so wide that refusal is likely (eg under Article 16 and related Regulations), you may want the applicant to narrow the scope of the request. For example, you may ask the applicant to reduce the span of years of information requested.

You may also need to seek clarification about what the requester means for a part of a request. In each case, this should be done through the Central FOI Unit. Try to provide the Central FOI Unit with a draft revision to the request so that we can contact the applicant for confirmation or further discussion.

If the request is so unclear that you cannot proceed with a response, eg the request makes no sense or is illegible, then the request will be considered invalid under FOI legislation.

We will contact the applicant to let them know and ask them to resubmit their question.

When clarification is sought, the 20 working day 'clock' is reset to zero on the day the revised, or clarified, request is received from an applicant.

The Central FOI Unit will tell the FOI Point of Contact when the clarification is received by forwarding it to the departmental FOI mailbox on the day of receipt. The applicant and the Information Commissioner would take a poor view of requests for clarification not being issued promptly.

Communications and FOI request handling (media interest)

When you receive an FOI request, the nature of the information sought is likely to indicate the level of media interest that it will generate when it becomes public. Your department will need to be prepared to handle follow-up queries.

Ministers and senior officers need to be briefed about questions which are likely to generate media interest, so the sooner you alert the relevant senior officers and communications staff, the better.

If you are releasing a response to a request that gives information about other departments, make sure that the relevant departmental FOI Points of Contact are aware of this.

If you have your own Communications Manager / Officer, discuss the likely impact of the FOI request at as early a stage as possible so that preparations can be made and any difficult questions related to the response can be pre-empted.

If you don't have a dedicated departmental communications member of staff, contact the Communications Unit at the Chief Minister's Departments.

The Central FOI Unit will send a weekly, redacted summary of all requests to the Assistant Director (Ministerial Support and Communications) and the Communications Manager (Chief Minister's Office).

This is provided on the last day of each week, giving lead communications staff the time to identify any requests that need particular handling preparation from a communications perspective and time to contact handling departments in advance. Departments that have their own communications officer(s) can provide a summary of departmental requests to their staff.

Day 10 to 18: Email and telephone alerts

To assist departments handling requests, and to help make sure the States of Jersey complies to the response timeframe set out in FOI legislation, reminder alerts will be issued as follows:

On the 10th working day

An email alert will be sent to the departmental mailbox requesting a 'noted' reply.

On the 12th working day

If no response has been received from a department to the previous 10th working day alert, a further email alert will be sent to the departmental mailbox requesting 'noted' reply.

On the 15th working day

An email alert will be sent to the departmental mailbox and copied to the authoriser giving how many days remain and a reminder about what is needed if an extension period is required to take the response time beyond 20 working days. The Central FOI Unit may also phone the FOI Point of Contact if there is no status update.

On the 18th working day

A reminder alert will be emailed to the departmental FOI mailbox and escalated to the authorising manager with an urgent for action message marked with 'high importance'.

Requesting a response extension to 20 working days

Sometimes there may be a need to ask the applicant for longer than the statutory 20 working days to answer an FOI request. This is called a request for extension. To encourage compliance with FOI legislation you should only request extensions very exceptional circumstances, eg when information held by a school cannot be provided outside of term dates.

The Freedom of Information (Jersey) Law 2011 requires public authorities to reply promptly to FOI requests and the Office of the Information Commissioner (Jersey) also provides guidance on what is required when an extension is requested. If requesting an extension to the 20 working days, you'll need to provide us with the following information to pass on to the applicant:

1. the detailed reason for the need to ask the applicant for an extension
2. the grounds on which the department considers the delay to be reasonable
3. the number of additional working days requested and the date on which the response will be issued to the applicant

This is important as it will be necessary for the department to be able to justify the reasonable use of any extension which may be the subject of later review by the Information Commissioner should any appeal process occur.

Note the following sections of the Office of the Information Commissioner's (Jersey) FOI Code of Practice:

- Freedom of Information Article 44 Code of Practice of the Office of the Information Commissioner (paragraphs 19 to 22)

Day 18 (at the latest): Providing the FOI response to the Central FOI Unit

All responses to FOI requests must be signed off by your department authoriser for release and then emailed to the Central FOI Unit for issue.

Responses should be in a Word document as in the template below and written in the third person (the response is from the States of Jersey, not you as an employee). Email the response to the Central FOI Unit.

FOI response checklist

Make sure you've checked the following before issuing your response to the Central FOI Unit:

- have all contributing departments been copied in and, where appropriate, agreed to the draft response?

- do the links in your response work?
- have you listed the exemptions under the response and explained any reasons why it may not be in the public interest to release?
- if the applicant requires the response by post, do not include very long url links to pdfs or website pages in the copy
- have you included final response and the unique ID in the subject line of the email to the Central FOI Unit mailbox?
- have you included all necessary attachments?
- have you removed the applicant's name or staff names from your request and any personal data relating to other individuals?
- have you changed references from 'he/she' to 'they'?
- are you happy for all the response to be published on the FOI disclosure log?

If not, state why when forwarding the response to the Central FOI Unit.

We will then check the response thoroughly for things such as:

- columns of data that do not add up to the given totals
- that the response matches the original question
- that it contains the correct ID number
- exemption issues (eg where these may have been misquoted)
- editorial issues (eg reference to the UK Act / FOIA)
- inadvertent inclusion of personal data

Issuing the response

The Central FOI unit will then:

- prepare the covering email and letter to accompany the response, including details of the internal review and appeals process
- issue the response to the applicant
- provide a copy of the response back to the department to confirm it has been issued to the applicant. However, the department must forward that confirmation to any contributory departments if they consider it necessary

- update logging data for management information purposes and close the request
- add the response to the disclosure log

The Central FOI Unit will issue a response:

- on the same day it arrives in the Central FOI Unit mailbox if this is before 4pm
- the next working day if the response arrives in the FOI mailbox after 4pm

This is important to note, especially if you are sending a response to the Central FOI Unit on the 19th or 20th working day and / or where the applicant has requested a postal response.

Aim to send your response to the Central FOI Unit for issue at least 48 hours before you want your application to be received by the applicant.

If there are any critical issues with the final response that need to be amended, the Central FOI Unit will return the response to the department for amendment and will not issue the release.