

Scottish Children's Reporter Administration

Freedom of Information Policy



SCRA Freedom of Information Policy

Introduction

SCRA, as a Scottish public authority, must comply with the Freedom of Information (Scotland) Act 2002 (FOISA) - [Freedom of Information \(Scotland\) Act 2002 \(legislation.gov.uk\)](#). SCRA is listed in Schedule 1 Part 7 of FOISA.

It is the Scottish Information Commissioner who is responsible for enforcing the FOISA - [The Freedom of Information \(Scotland\) Act 2002 \(itspublicknowledge.info\)](#)

The two main requirements of FOISA that SCRA must comply with are: (1) responding to requests for information and (2) maintenance of a Publication Scheme.

- SCRA's web site has a page on freedom of information with guidance on how to make requests - [Freedom of Information - SCRA](#)
- SCRA's Publication Scheme is available at - [SCRA's Model Publication Scheme - SCRA](#)

Requests for information

Section 1(1) of FOISA provides a general entitlement that: 'A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority'.

Recognising requests

Anyone (anywhere in the world) can make a FOISA request to SCRA. A valid request must be in writing or some other form that can be kept for future use (e.g. email, audio recording) and include the requestor's real name and address (postal or email). The requestor does not need to mention FOISA/freedom of information, they only need to ask for the information.

Responding to requests

All FOISA requests to SCRA are dealt with by the **Information Governance team**. If anyone in SCRA receives a request or is contacted by someone wanting information – they should send this or direct the requestor to inforequest@scra.gov.uk. This should be done as quickly as possible.

SCRA has a **duty of assistance** to those making requests (s15 FOISA). So if a request is not clear we should help the requestor in making their request, or if SCRA does not hold the information and another public body does then we should explain this to the requestor.

On receipt of the request it will be logged and an **acknowledgement** sent within 3 working days.

SCRA must respond to the request within **20 working days** of receipt (s10 FOISA), unless it has been agreed with the requestor that this timescale can be extended.

Exemptions

There are exemptions to provision of information requested (listed at Annex 1). Those most commonly applied by SCRA are: confidentiality (s36 FOISA) in relation to legal proceedings; court records (s37 FOISA) as this exemption covers Children's Hearings proceedings; personal information (s38 FOISA) as requestors are not generally entitled to 3rd party information; and excessive cost of compliance (s12 FOISA) as SCRA is not required to provide information if the cost of doing so would exceed the amount prescribed by Scottish Ministers (currently - £600).

There are two types of exemptions (s2 FOISA) – (1) absolute exemptions (include s36(2), s37, s38 FOISA), and (2) qualified exemptions - these can only be applied if the public interest in disclosing the information is not outweighed by that in maintaining the exemption (commonly known as the public interest test). In practice, in SCRA, it is the absolute exemptions which most often apply.

Vexatious or repeated requests (s14 FOISA) – SCRA is not obliged to respond to a request if we have previously provided the information to the requestor or if the request is vexatious. SCRA does use this provision on occasion to refuse requests.

Reviews

If a requestor is dissatisfied with how SCRA has dealt with their request, they can require us to carry out a review of our actions and decisions on their request (s20 FOISA). Review requirements must in be writing or recorded form and provide name and contact address, and describe why they are dissatisfied with SCRA's response.

It is the Information Governance team who deal with FOISA reviews. Wherever possible, a member of the team who did not deal with the original request will carry out the review.

Review requirements are logged and acknowledged within 3 working days. They must be responded to within 20 working days of receipt (s21 FOISA).

If the requestor is dissatisfied with how SCRA has carried out the review and/or its outcome, they can make an application to the Scottish Information Commissioner for a decision - commonly known as an appeal (Part 4 FOISA).

If the Commissioner finds that SCRA has failed to comply with FOISA, he can issue an enforcement notice on what SCRA is required to do to comply.

SCRA's Publication Scheme

SCRA must (s23(1) FOISA):

- (a) adopt and maintain a Publication Scheme which relates to the publication of information by the authority and is approved by the Scottish Information Commissioner;
- (b) publish information in accordance with that scheme.

SCRA must consider the public interest in (s23(3) FOISA):

- (a) allowing public access to information held by it...
 - (i) which relates to the provision of services by it, the cost to it of providing them or the standards attained by services so provided; or
 - (ii) consists of facts, or analyses, on the basis of which decisions of importance to the public have been made by it.

The purpose of a Publication Scheme is to demonstrate that a public body is acting in the public interest in the decisions it makes and how it delivers its services. Aside from it being a legal requirement, it provides SCRA with an important means to show that we are open and accountable. It also has an additional advantage in that if information is published, there is no requirement to provide it in response to requests (s25 FOISA).

SCRA's Publication Scheme is available on SCRA's web site - [SCRA's Model Publication Scheme - SCRA](#). It has been approved by the Scottish Information Commissioner.

It contains the following classes of information:

1. About SCRA
2. How SCRA delivers its functions and services
3. How SCRA takes decisions and what it has decided
4. What SCRA spends and how it spends it
5. How SCRA manages its human, physical and information resources
6. How SCRA procures goods and services from external providers
7. How SCRA is performing
8. Our commercial publications
9. Our Open Data

There is guidance for staff on publication of meeting documentation for the Publication Scheme on Connect, our staff intranet.

Exemptions from publication

Although it is to SCRA's advantage in maintaining an up to date Publication Scheme, it should also be borne in mind that the information is **published** and is fully in the public domain. The exemptions under FOISA therefore apply to information included in the Publication Scheme. Those exemptions likely to be of particular relevance to SCRA in this context, are: information intended for future publication (s27 FOISA); commercial interests (s33 FOISA); confidentiality (s36 FOISA); personal data (s38 FOISA); and audit functions (s40 FOISA).

Operation of SCRA's Publication Scheme

The Publication Scheme is maintained by the Press & Communication and Information Governance teams. Prior to publication, all content is reviewed by the Information & Research Manager to check that exempt information has been removed. The documents are then uploaded on SCRA's web site by the Press & Communications Team.

**Information Governance
11th January 2021**

Exempt information (Part 2 FOISA)

- Information otherwise accessible (s25)
- Prohibition on disclosure (26)
- Information intended for future publication (s27)
- Relations within the United Kingdom (s28)
- Formulation of Scottish Administration policy etc. (29)
- Prejudice to effective conduct of public affairs (s30)
- National security and defence (s31)
- International relations (s32)
- Commercial interests and the economy (s33)
- Investigations by Scottish public authorities and proceedings arising out of such investigations (s34)
- Law enforcement (s35)
- Confidentiality (s36)
- Court records etc. (s37)
- Personal information (s38)
- Health, safety and the environment (s39)
- Audit functions (s40)
- Communications with Her Majesty etc. and honours (s41)

In addition, requests can be refused or information withheld for the following reasons:

- Excessive cost of compliance (s12)
- Vexatious or repeated requests (s14)



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