

# Enquiries

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## Guidance and Procedure

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Scottish Information Commissioner



Scottish Information  
Commissioner

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## Cross-referenced Virtual Cabinet documents (for internal use)

<b>VC No</b>	<b>Name</b>
44951	This document
45493	Responding to information requests: guidance and procedures
41831	List of standard enquiry response letters
29132	Unacceptable Actions Policy
55658	Complaints Handling Procedure
32365	Scheme of Delegation
29559	Applications workflow - screen prints and notes for internal training
15434	Staff Protocols and Guidance for Internal Bulletin Online

# Responding to enquiries

## Introduction

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1. The enquiry service is an essential core part of the Commissioner's work to:
  - (i) increase general awareness of the rights and obligations created by FOI law in Scotland
  - (ii) promote and support good practice by public authorities and requesters
  - (iii) provide advice and assistance on a range of FOI matters
2. We are proud that it provides a high quality service to users by providing prompt, accurate and understandable advice. We actively take into consideration the user's individual needs and level of knowledge and balance this with the need to make efficient use of the Commissioner's resources to ensure that time spent on enquiry handling is proportionate to the task.
3. Anyone can contact us on 01334 464610, by email [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info), by fax 01334 464611, mail or personal visit. Enquiries may also come directly to officers' own telephone extensions and email inboxes. Officers may also receive enquiries while out on business, e.g. from people visiting our stall at a conference.
4. This procedure document sets out the practices that should be followed to ensure that enquirers receive the best possible service, and that enquiries are dealt with consistently throughout our office. This guidance and procedures applies only to general enquiries. Separate guidance is available for FOI requests and subject access requests.

## Aims and principles

5. Responses will be helpful and proportionate.
6. Responses will be made in good time
7. Responses will be professional, clearly communicated, informed by specialist knowledge and expertise, and expressed in language appropriate to the enquirer.
8. We will avoid providing unnecessary and unhelpful detail, or offering comment or advice on matters outside the Commissioner's remit.
9. In giving advice we will be mindful to avoid prejudicing future investigations and decisions by the Commissioner.
10. Where possible, we will refer enquirers to existing sources of information, including that on the SIC website to ensure consistency across the organisation.
11. We will signpost enquirers to other organisations wherever possible or suggestions of further research the enquirer can undertake for themselves.

## Types of enquiries

12. Enquiries are distinguished from applications to the Commissioner, in which an applicant formally asks the Commissioner to consider the handling of their request for information. (Applications can only be accepted where all necessary steps have been complied with.)

13. For recording and reporting purposes there are five main types of enquiry: general enquiries, information requests, media enquiries, subject access requests, complaints about our services or staff.

#### *General enquiries*

14. These are enquiries about a range of FOI and operational subjects, e.g.:
- anything to do with FOISA or the EIRs
  - the Commissioner's role
  - how to make or respond to information requests
  - the relationship between the DPA and FOI
  - general interpretation and implementation of the legislation
  - how to use rights to get information
  - how we run the office and the services we provide
  - proactive publication
  - comments or suggestions
  - requests for comments about us and our work
15. Enquiries from applicants or the authority concerned about current (or recent) applications should generally be responded to as part of the case, not recorded as a separate enquiry. However, this is a matter of judgement as to whether sufficient time has passed that would warrant a separate enquiry file to be opened, or whether it is about an issue that follows-on, is related, but is not directly related to the application. If in doubt, officers should seek line management advice.
16. Enquiries from third-parties about a current investigation should generally be recorded as enquiries, and where appropriate cross-referenced to the case. However, there are occasions when this will not be appropriate. These types of cases must NOT be recorded as enquiries. The case type to select is "Enforcement. For example:
- (i) cases that raise enforcement or legal matters about a decision
  - (ii) a third-party disagreeing with a decision which they have no locus to challenge or appeal
  - (iii) specific issues about the way in which we have interpreted or implemented legislation
- If you are in any doubt, seek HOE guidance.

#### *Information requests*

17. These are requests for information which is held (or believed to be held) by the Commissioner. The Commissioner is a public authority for the purposes of the FOISA and the EIRs, and such requests must be dealt with in line with the statutory requirements.
18. Separate procedures exist for information requests (VC 45493).

### *Subject access requests*

19. As a data controller, the Commissioner is required to respond to Subject Access Requests under the DPA. See procedure for information requests (VC 45493).

### *Complaints*

20. A separate Complaints Procedure (VC 55658) sets out the procedure for dealing with different types of complaint, including arrangements for referral to the relevant member of staff.

### *Media*

21. These are enquiries from journalists (from various media). Whilst we handle them in a slightly different way from other general enquiries, the basic principle is that journalists should receive exactly the same standard of service from us as any other enquirer. How they differ is that they are an opportunity for a slightly different type of stakeholder engagement in that they enable us to:
  - (i) Develop relationships with key journalists
  - (ii) Be aware of which FOI issues are likely to be covered in the media
  - (iii) Deal with any requests for comment or interview at the same time as the enquiry
  - (iv) Pick up any training issues to inform how the media use FOI and report FOI rights

### **Enquiries SIC does NOT handle**

22. This is often self-evident but can be a matter of judgement exercised by the officer taking the enquiry. Factors to be taken into account may include, for example, the context in which questions are asked; e.g. in giving advice about access to information generally, general advice about rights under DPA might be mentioned.
23. Matters on which we should not provide detailed advice, beyond signposting or acknowledging are:
  - (i) Enforcement of access rights under the DPA
  - (ii) Breaches of DPA
  - (iii) Legislation of other jurisdictions
  - (iv) Functions of other regulators, ombudsmen or commissioners
  - (v) Other matters outwith the Commissioner's jurisdiction

## **General enquiries**

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### **Timescales**

24. **Enquiries in person** will be dealt with straight away and followed-up as necessary to the timescale agreed with the enquirer.
25. **Telephone enquiries** will be dealt with straight away and followed-up as necessary to the timescale agreed with the enquirer.

26. **Email, letter or other recorded format.** These enquiries should be dealt with as quickly as possible, preferably on the day of receipt, or the day following receipt. If this is not possible (e.g. an answer cannot be provided without further research), the enquiry should be:
- (i) acknowledged by the end of the second working day, including an indicative timescale for a full response.
  - (ii) answered in full as soon as possible with the aim of providing a substantive answer within a further **five** working days. In no case should the response to an enquiry take more than **20** working days.
  - (iii) closed promptly when the substantive response is issued.
27. These timescales recognise that in the majority of enquiries we can give immediate responses but that some are complex and require more thought or work. Enquirers should be kept informed about when to expect a response, especially where an initial estimate of timescales given in an acknowledgement changes. How often, and in what way, is a matter of judgement for the officer responding to the enquiry as it will depend on the circumstances of the case.

### **Enquiries in person**

28. Ours is a public office and occasionally enquirers call in without an appointment. The procedure for managing such visits is as follows:
- (i) OMT staff will welcome the visitor into the building and find out the nature of his/her business. They will deal with the enquiry in exactly the same way as they would a telephone call i.e. as far as they can.
  - (ii) If the visitor needs to speak to an FOIO, OMT staff will sign him/her in and seat him/her in the waiting area while they ask the next member of the enquiry team on the rota to come down. Visitors may use the cloakroom facilities once they are signed in.
  - (iii) Visits without appointments should initially be conducted in the waiting area. If the matter involves discussion of sensitive issues, the FOIO may decide that it is not appropriate to continue the discussion in this public area, in which case the meeting can be continued in Alexander or Little Alexander (if free). If the FOIO considers it appropriate (for instance, where the visitor seems aggrieved or angry), a colleague should be asked to join them in the meeting, to ensure that personal safety is not compromised. The aim is to resolve the enquiry as quickly and effectively as possible, in the same way as we would do over the telephone.
  - (iv) If a meeting is required to discuss an enquiry, an appointment will be arranged with the visitor for a convenient time and date.
  - (v) When dealing with the enquiry, if the officer needs to look something up or run off a photocopy, the visitor should be left seated while this is done. It may be more convenient for the visitor to send the information out later if it will take a while to gather together.
  - (vi) When the visit is completed, the visitor must be signed out and the FOIO will show him/her to the door.
29. The Commissioner and staff are otherwise unable to meet callers without an appointment.



## **Enquiries received by Operational Management Team (OMT)**

30. Email, postal and telephone enquiries are usually received by OMT staff in the first instance and then allocated to FOIOs on a rota basis.
31. OMT will normally deal with general enquiries as far as they can, according to the procedures set out in this document. Where they are unable to deal with the matter, they will pass the enquiry to the next FOIO on the enquiries rota. If an enquiry is complex, OMT may refer it to a DHOE or HOD to decide who should respond and / or how.
32. Once an enquiry is assigned to a member of staff, it becomes their responsibility until the enquiry is answered and the case is recorded and closed in WorkPro.
33. FOIOs may withdraw temporarily from the enquiries rota during periods when pressure of other work is unusually high, provided this does not create an undue burden for other staff. Agreement from DHOE or HOD, as appropriate, should be obtained before advising OMT.

## **Enquiries received directly by non-OMT staff**

34. Staff may receive enquiries directly to their email or direct phone line. These should be dealt with by the recipient, who should then inform OMT staff that they have dealt with an enquiry: OMT will note this on the rota.

## **Enquiries from MPs, MSPs, MEPs and Councillors**

35. Enquiries (other than case-related correspondence) from elected members will be allocated on the normal rota basis to FOIOs. In this context, elected member is also taken to mean representatives from their constituency offices, researchers (working for the elected member), or other officers working for the elected member.
36. In line with the Commissioner's scheme of delegation (VC 32365), responses must be signed by the Commissioner, a HOD or DHOE. Before passing a letter for signature by SIC, a draft should be reviewed by DHOE/HOE.
37. The Commissioner, HOE and HOPI must be copied in to the enquiry on the day the enquiry is received.
38. If the response is signed by a HOD or DHOE, the Commissioner should be sent a copy for information.

## **Advice and good practice**

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39. The range and scope of enquiries to the SIC is so wide that it is impossible to provide more than general guidance in this section, which gives pointers to resources that can be called upon to help respond appropriately. Staff should remember that the quality of our enquiries work will often depend just as much on customer care (i.e. the way in which the enquirer is dealt with) as on the content and quality of the response.

## **General principles**

40. Staff will always:
  - (i) Provide answers to enquiries about FOISA, the EIRs and INSPIRE. We will point enquirers to relevant sections of FOISA or the EIRs and associated Codes of Practice, or to our published guidance and previous decisions from the Commissioner, but we cannot advise authorities on the appropriate way to respond to a particular information

request or request for a review as the matter may later come to the Commissioner for a final decision. Nor can we advise applicants what the Commissioner's decision will be before all the facts of the case have been investigated.

- (ii) Provide information to the public about their rights to information under the legislation, but will not make information requests or requests for review to public authorities on anyone's behalf. We can provide examples of wording for such requests where this would be helpful to the enquirer, and if necessary can provide drafting assistance to a person who has difficulties with reading or writing.
- (iii) Respond to comments about the legislation, but the Commissioner cannot personally change the law - that is the role of the Scottish Parliament. Any proposals for amendments to the legislation are likely to be proposed by the Scottish Government and developed in its FOI Unit. Enquiries about extending FOISA coverage to other bodies, for example, should therefore be referred to the FOI Unit of the Scottish Government.
- (iv) Give basic factual information on the operation of the DPA, but direct enquirers seeking advice on this law to the ICO.
- (v) Give enquirers the contact details for the appropriate organisation (if known or easily obtainable) if the matter is outwith the remit of the Commissioner. Contact details should only be provided where staff are sure that the organisation is indeed empowered to deal with the issue.

41. If it cannot be established easily and quickly which organisation the enquirer should contact, the enquirer should be advised that we cannot help further, not because we are being unhelpful, but because we do not have the staff or resources to carry out lengthy research in order to respond to enquiries which are clearly outside the remit of the Commissioner. In most circumstances, enquiries will not be passed on to other organisations, and never without the authorisation of the enquirer.

42. Staff will usually give their personal email addresses to enquirers.

43. Each member of staff can decide whether to give out their direct phone number too. If not, the main 01334 464610 number should be given.

44. If any member of staff is concerned about giving out direct contact details in relation to a particular enquiry, they should give the office contact details and discuss their concerns immediately with their line manager.

## **Phone enquiries**

45. Phone enquiries are often the most challenging to deal with, not least because there is no control about when they come in. If the enquiry raises difficult issues, it is good practice to take a note of the key points and phone back after checking the response with colleagues or with DHOE/HOE.

46. Enquiries are an important part of our work to promote and enforce FOISA and the EIRs, and are given high priority in terms of our workload. FOIOs should always pick up calls from OMT. If they are unable to take a phone enquiry because (e.g.) they are about to go into a meeting, they should advise OMT, who will pass the enquiry to the next person on the rota. If they are asked to take an enquiry at a time which is inconvenient because of other work priorities, they should take the call and ask the enquirer if it is convenient to phone them back

at a later time. However, it is usually easier, and preferable from the enquirer's point of view, to deal with the enquiry straight away.

47. Some phone enquiries involve complicated "back stories" making it difficult to identify what information the enquirer needs. If FOIOs suspect that the information involved is the enquirer's own personal data, they should try to clarify this at the first opportunity and then explain the difference between FOISA and the DPA. It may be that the situation outlined by the enquirer turns out to be something best dealt with by the ICO (data protection issue) or the SPSO (complaint about the service provided by a Scottish public authority).
48. There is only so much information that anyone can cope with in one phone call. It is good practice to follow up enquiries with an email or a letter outlining the advice given during the phone call and providing any appropriate publications or links to our website resources. If the enquirer is using their rights under FOISA or the EIRs for the first time, it may be helpful to send them a copy of the booklet "Your Right to Know" and to encourage them to come back later with any outstanding questions.
49. If it appears that the enquirer may be able to make an application for a decision, the FOIO should send a follow-up email or letter which explains which documents and information are required for validation, and how the application should be presented (i.e. in a way which can be easily understood, with key documents clearly identified and the grounds for dissatisfaction listed).
50. In all cases, FOIOs should make a brief note of the conversation with the enquirer in WorkPro, recording the main point(s) of the enquiry and how they responded. There may be a need to refer to this later. Staff should exercise caution about recording enquiries in detail where sensitive personal data is involved, and such information should only be recorded where there is a clear operational need to do so.
51. It is good practice to advise the enquirer that a note of their name and the key points of their enquiry will be kept, in case they need to call back for more advice later.
52. See also advice on dealing with difficult phone calls, in Appendix 1 of these procedures. It may be appropriate to discuss difficult calls with the HOE, in case an office-wide strategy for dealing with the caller is required.

#### *Follow-up phone calls*

53. When a caller asks to speak to a particular member of staff, OMT staff will attempt to put the call through. If there is any reason why the FOIO is unable to speak to the caller at that point, the FOIO should advise OMT when they will be able to return the call, so that this can be communicated to the caller. Our standard practice is that all calls will be returned by close of business the next working day at the latest.
54. If the phone call turns out to be a completely new enquiry, the FOIO should deal with the enquiry then advise OMT, so that the enquiries rota can be updated.
55. Occasionally, if frequency of contact becomes an issue, it may be necessary to develop special arrangements for particular enquirers. For example, where someone sends us several emails a day on a regular basis it may be appropriate to deal with all the emails once a week rather than reactively. Some enquirers may be asked to communicate by email or letter rather than phone if this would enable their issues to be resolved more effectively. In some cases, enquirers will be asked to deal only with one named contact in our office.
56. Such arrangements must be considered under the Unacceptable Actions Policy (VC 29132).

## **Email enquiries**

57. Email enquiries are forwarded to FOIOs by OMT from the general enquiries email inbox. The FOIO should send the response from their own email account, unless there are particular reasons why the response should come from the enquiries email address.
58. It is good practice to copy the original enquiry beneath the response email.

## **Enquiries where the office is a joint or copy-recipient**

59. This type of enquiry is most likely to be by email, but the same approach should be taken with written communications.
60. Where the enquiry is addressed to Commissioner and her office; i.e. appears in the 'to' line in emails, the enquiry should always be responded to. The nature of the response will depend on the content of the enquiry.
61. Where the Commissioner and her office has simply been copied into correspondence with another organisation (i.e. cc'd):
  - (i) OMT will forward the enquiry in the same way as any other enquiry to the appropriate person to consider
  - (ii) The officer responding, most often an FOIO, should respond in the way they consider most appropriate (if at all), seeking advice where it is not clear or is potentially contentious
  - (iii) The approach taken will depend on the content and context of the enquiry. The following are a few examples of approaches:
    - (a) If SIC has been copied in by a potential applicant but there is no locus for us at that point, we acknowledge receipt but advise that our office will not intervene until a valid application for a decision is received, and ask the sender not to copy us into correspondence in future.
    - (b) If SIC has been copied in by a potential applicant and it is apparent that the sender should be taking action (e.g. to request a review, or to make an application) we should respond giving appropriate advice and assistance.
    - (c) If we are simply a copy recipient in a long line of others where there is no reason to indicate the sender is expecting a response, or even acknowledgement, OMT will forward these emails to the officer who dealt with the case/ enquiry to determine whether we should even keep the email.
    - (d) If SIC has been copied into emails following the issuing of a decision it may be appropriate to file them in the original case along with any responses from us.
62. There is no single approach, so when in doubt, seek guidance.

## **Postal enquiries**

63. When responding to an enquiry received by post, it is good practice to advise the enquirer that they can phone to discuss any additional questions, and provide a phone number. The response letter for postal enquiries should be created using the relevant template in WorkPro.

## Resources

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### Standard responses for common enquiries

64. We have developed a set of standard responses in WorkPro to help deal with some of the most frequent enquiries quickly and consistently, these are listed in appendix 2 and the text is contained in VC 41831 for officers to refer to and adapt for responses not covered by the standard responses.

### Your Right to Know A5 44 page booklet

65. The Commissioner has produced a range of information about the right to know, good practice and how to apply FOI legislation; these publications should be offered to enquirers as appropriate. Copies are held by OMT, or are available for enquirers to download themselves from the website.

66. Provides a plain language overview of: the rights conferred by FOISA and the EIRs; the duties on public authorities; publication schemes; guidance on making a request, request for review and appeals to the Commissioner; exemptions. This is the main public information source and should be offered to all members of the public making enquiries to the office. Audio copies of the booklet are available. The booklet has also been translated into ten community languages and these can be found in Virtual Cabinet (VC 690 through to VC 700). The booklet can also be viewed on and downloaded from the Your Rights section of our website.

### Your Rights section on our website

67. This follows the same layout as the Your Right to Know booklet above and includes additional resources such as:

- Response time calculator (don't forget to remind enquirers this should be used as a guide and does not give a definitive answer).
- Quick 3-step guide to making an information request
- Guidance on access to personal data
- Lists of public authorities subject to FOI and their contact details

### Frequently asked questions

68. FAQs on the website are available by clicking "Common Questions" in the top menu bar.

### Resources and guidance section of the website

69. This section of the website includes guidance and advice tailored for specific types of enquirer e.g. factsheets for elected members, resources for the media, and dedicated factsheets for voluntary sector organisations.

### How to see your health records A5 booklet

70. Produced by the Health Rights Information Project (Consumer Focus Scotland) for the Scottish Government Health Directorates, this booklet provides information about rights to see medical records <http://www.hris.org.uk/patient-information/#1>

## **What's on my record? A practical guide to your rights of access to personal information.**

71. Produced by the Scottish Consumer Council. No longer being re-printed, but still available online from National Records of Scotland:  
[http://webarchive.nationalarchives.gov.uk/20090724135150/http://scotcons.demonweb.co.uk/publications/book\\_guid/books.htm#what](http://webarchive.nationalarchives.gov.uk/20090724135150/http://scotcons.demonweb.co.uk/publications/book_guid/books.htm#what).

## **Briefings on exemptions and other key issues**

72. These are under the 'Resources and guidance' section of our website. They follow the numbering of the exemptions in FOISA but include guidance on the exceptions in the EIRs. There are also briefings on the public interest test, vexatious/repeated requests (s.14), and fees/excessive cost of compliance.

## **Guidance on validity of requests**

73. Following the September 2009 Court of Session opinion, the Commissioner issued guidance on the validity of requests where the applicant has asked for copies of documents, and cases where the application has been made on behalf of another person. The guidance can be downloaded from our website: [www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/CourtofSessionGuidance2010/Validrequests.asp](http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/CourtofSessionGuidance2010/Validrequests.asp)

## **Guidance on EIRs**

74. There is detailed guidance on the EIRs which can be downloaded from our website at <http://www.itspublicknowledge.info/Law/EIRs/EIRs.asp>

## **Decisions database and other website resources**

75. The decisions database allows website users to search for previous decisions from the Commissioner by exemption/exception and outcome. Key decisions are also listed in the briefings on exemptions.
76. The website provides many other resources which may be useful to public authority staff, including links to FOISA, the EIRs, Codes of Practice, Fees Regulations and FAQs for public authorities on fees and timescales (including calculation of working days).

## **Decisions Round-up**

77. The Commissioner's decisions are a valuable source of learning and improvement, for anyone wanting to gain a better understanding of FOI. Our weekly decision round-up gives a quick insight into the key learning points from our decisions, every week. We briefly explain what we did, what we found, and what difference it could make to requesters and authorities:  
<http://www.itspublicknowledge.info/home/News/Decisionroundups/DecisionsRoundUpHome.aspx>

## **WorkPro searches**

78. The advanced search facility in WorkPro can be used to find relevant cases, e.g. by keyword. VC 29559 give further guidance on how to conduct WorkPro searches.

## **Internal Bulletin Online**

79. This online, internal blog is updated regularly, and provides an overview of key policy and legislation issues, and latest news from other FOI jurisdictions. The bulletin can be searched

in a number of ways for relevant articles (guidance on using the bulletin is in VC 15434). All staff are registered users.

### **In-house expertise**

80. Consult your team members, line manager or HOD. If the line manager or HOD think the enquiry relates to a new area and would benefit from discussion, it may be added to the agenda for the next team meeting.

### **How much detail should responses contain?**

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81. Each enquirer has different information needs. Staff should always bear in mind that what has become familiar to them can appear complicated and daunting to people coming to it for the first time. As a general rule of thumb, responses should be kept short, but enquirers should be offered the option of returning with additional questions. Where possible, officers should refer enquirers to information on our website or send out our publications, rather than re-creating their own versions of the advice in such publications. This is not just about saving time (although it will), but about making sure that the advice we give is consistent and thorough.
82. Make use of the standard responses in WorkPro. These are listed in appendix 2 and the text is contained in VC 41831 for officers to refer to and adapt for responses not covered by the standard responses.
83. Staff should also avoid copying and pasting large chunks of the Codes of Practice or fees regulations for enquirers. Instead, enquirers should be encouraged to source them and read them for themselves, by providing links to the documents and drawing attention to specific paragraphs.
84. Responses should steer clear of issues that are not in our jurisdiction. Basic information about subject access rights or the Freedom of Information Act 2000 can be provided, but for more detailed advice enquirers should be referred to the correct authority.
85. It is sometimes not helpful to be too helpful and it is possible to mislead enquirers inadvertently by trying to provide advice or information about matters outside the Commissioner's remit. Equally, enquirers may be deterred from pursuing matters further if they are faced with vast amounts of detailed information covering every possible interpretation of their enquiry.
86. Enquirers sometimes have unrealistic expectations of what the Commissioner can do. It is important to manage those expectations and make it clear where we can and cannot help as soon as possible.

### **Recording enquiries in WorkPro**

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#### **Responsibilities**

87. All enquiries must be recorded in WorkPro.
88. The officer who deals with the enquiry is responsible for creating and updating the WorkPro record, ideally on the same day but within two working days of receipt (or the end of the month, whichever is sooner).

## What to record

89. All new enquiries should be entered as new cases, even where we have had contact with the enquirer before.
90. If the enquiry is a direct follow up to a previous enquiry the matter should be documented in the old case file.
91. See also the guidance at paragraph **16**.

## Completing the WorkPro record

### *Enquirer tab*

92. Enter all contact details provided. If you receive a telephone call and do not get the caller's name, enter "Anonymous" in the surname field.
93. Select type of enquirer from the drop down list and enter any special circumstances e.g. "needs large print"

### *Enquiry Details tab*

94. Complete all fields.
95. Select Type under Enquiries from the drop down list. Select the Type depending on the nature of the enquiry:
  - (i) "FOISA/EI(S)Rs/INSPIRE" – use this type where enquirers ask for advice about legislation under our jurisdiction. It should also be used when we're asked for advice on making or responding to a request or request for review to a public authority, or about how to appeal to us. Record enquiries about adopting a publication scheme or submitting statistics to the portal using this Type too.
  - (ii) "FOIA/DPA/UK EIRs" – use this type where enquirers contact us instead of the ICO in error. This will include where they want to know more about data protection in general, if they want to know how to make a subject access request or how to make an information request to a UK public authority. If the enquirer wants to know whether personal data can be disclosed under FOISA or wants to know more about the relationship between FOISA and data protection, use the "FOISA/EI(S)Rs/INSPIRE" type.
  - (iii) "SIC – About us" – use this type where enquirers contact us for advice on making a request for information or subject access request to us, or want to find out how to get information from our publication scheme. It should also be used where the enquirer wants to find out more about our office, e.g. about our finances or staff policies. Use this type for press enquiries – i.e. the type of enquiries always handled by P&I and which ask for a statement or interview or similar.
  - (iv) "Other" – use this type for "other" matters that we sometimes get copied into, which are unrelated to FOI.
96. An enquiry may cover more than one 'Type'. You should select the Type which best reflects the substance of the enquiry and use the Brief Synopsis field to capture succinctly those aspects of the enquiry which related to another Type.
97. The Brief Synopsis field must be completed in line with this guidance. It must not be left blank.



98. The data in this field is used to:
- (i) Monitor the enquiries workload
  - (ii) Alert us to any new trends so that we can take any appropriate action, for example, building template responses to reduce time taken on future enquiries
  - (iii) Research key issues, for example, to identify the bodies that should be considered for designation
  - (iv) Help prepare the annual report statistics and is useful qualitative information when the statistics are analysed. It allows us to see very quickly what kinds of issues people have come to us about.
99. The synopsis should provide a succinct (no more than 200 characters) account of the subject of the enquiry. It should give sufficient information to allow any colleague to understand what the enquiry was about.
100. The synopsis is NOT an alternative to making a note of the enquiry!
101. Examples:
- How to see my own medical records?
  - Timescales for responses to information requests
  - How to word a request for review
  - Details of good B&Bs in St Andrews
  - Submitting a late RFR
  - When to rely on s14 of FOISA
  - S12 of FOISA is a form of censorship, seeking comments.
  - Did [named person] make an application to us re agricultural subsidies?
  - Seeking info re directors of a charity
  - Mr X appeal: how much has it cost? What is the status of the appeal?
  - Is a Scottish Parliamentary Question an FOI request?
  - Interview for Newsnight Scotland
  - Request for YRTK leaflets
  - Advice on seeking clarification of a request
  - Accessing deceased person's medical records
  - Information requests by prisoners – s25?
  - Community councils should not be charged for making FOI requests
  - Looking for specific decision on website
  - Is Fife Leisure Trust covered by FOISA?

102. General tips

- (i) The name of the enquirer and the name of any relevant public authority should be entered in the appropriate tab; DO NOT enter the name of the enquirer in the synopsis.
- (ii) Spelling is really important so that we can search the reports.

*Public Authority tab*

103. Complete this field if the enquiry refers to a public authority. (Remember also to complete the Issues / Non-Compliance section in such cases, if appropriate: see below.)

*Issues / Non-Compliance tab*

104. If the enquiry relates to a potential failure on the part of the public authority, you must complete the "Issues/Non-compliance" section using the drop down list to indicate the relevant compliance issue. Comments can be added if necessary.

105. If you are carrying out a level 1 intervention (in line with the Commissioner's Intervention Procedures), this should be recorded in the relevant fields in the right hand side of the "Issues/non-compliance" page in Workpro.

#### *Adding additional information*

##### Phone notes

106. While the phone note must record the main points of the conversation and summarise any advice provided, staff should be careful about recording personal data (particularly sensitive personal data about medical conditions or criminal convictions) only where necessary. The note should generally be as succinct as possible.

##### Attaching emails and documents to case files

107. Emails without attachments can be forwarded from Outlook to WorkPro, and then attached to the case file. Emails with attachments should be saved to your Desktop, and then added to the case file in Workpro using the 'Upload a Document' option.
108. Make sure that the subjects are self-explanatory, particularly when strings of emails have been attached – avoid duplicate titles for separate emails. Lock phone notes, letters and uploaded emails in WorkPro so that they cannot be amended later. Emails created in, or forwarded to, WorkPro are automatically locked and marked as sent..

#### *Closing the case*

109. Complete the Outcome Details in the Enquiry Details tab.
110. The Outcomes available in WorkPro are determined by the enquiry Type selected. You should select the Outcome which best reflects the substance of the enquiry. Appendix 3 provides a list of Types and their associated Outcomes.
111. If there were supplementary outcomes which could have applied, record this succinctly in the 'Outcome Notes' field.
112. An Outcome of "Other" should be used exceptionally. If "Other" is used, you must record why in the 'Outcome Notes' field.
113. Select Close Enquiry.

## **Monitoring and reporting**

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114. The SMT will monitor enquiry volumes and subject matter in line with Governance arrangements. It is important that the data entered in the Type, Brief Synopsis and Outcome fields is accurate and succinct.
115. This will ensure that trends are identified, resources can be considered and good practice identified and maintained. The P&I Team will update our online guidance on current topics identified.

### **Performance monitoring**

116. Periodically, line managers will check that enquiries are being correctly recorded in WorkPro and monitor the quality and consistency of replies to enquiries. Any issues arising will be raised with individual staff members during one-to-ones and performance appraisal. If it is found that incorrect responses are being given, we may consider developing new FAQs to help with future enquiries.

## Media Enquiries

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### Responsibilities

#### *Policy and Information Team*

117. P&I is responsible for:

- (i) Responding to media queries e.g., advice about FOI, information about current cases (where the journalist is not the applicant), requests for interviews and quotes.
- (ii) Drafting media releases, newsletters, articles and letters to editors.
- (iii) Asking for minor corrections of published stories.
- (iv) Making contact with media where appropriate for significant stories e.g., NHS Ayrshire and Arran or promoting campaigns e.g., annual or special reports.
- (v) Responding to enquiries by journalists about how to use FOI (relationship building).
- (vi) Providing training / briefing sessions for local news groups (as part of the roadshows).
- (vii) Involving media in events as appropriate e.g., speakers at Holyrood Conference, at round table events.

#### *Enforcement Team*

118. The Enforcement team is responsible for managing the relationship with journalists who have made an application for decision, including any follow-up queries about the investigation or the decision.

### Responding to a media enquiry

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119. **All** enquiries known to be from the media, except where the caller is an applicant wishing to discuss their case, are dealt with by the P&I Team. If no FOIO(P&I) is available, media enquiries should be referred to HOPI. If no member of the P&I Team is available, the call should be referred to HOE. As a last resort, a message should be taken so that the P&I team can call the enquirer back.

120. In some cases, a journalist will not identify themselves as such when first calling reception. If you have received a call which turns out to be from a journalist, please use your discretion. You can:

- (i) Continue to deal with the enquiry if it's something straightforward that you can answer and record – but let P&I know the WorkPro number of the record so that they are aware of it.  
  
Or
- (ii) Transfer the caller /email to our “press team”  
  
Or
- (iii) Take a note of the gist of the enquiry and promise that one of your colleagues from the “press team” will call them back.

121. When discussing investigations, staff should remember that there is no such thing as an off-the-record conversation with anyone and make sure that they say only what they would be content to see in print.
122. Staff should not provide a comment on the case or a comment from the Commissioner. All media requests for comment should be passed on to the P&I team.

# Appendices

## Appendix 1: Tips on dealing with difficult phone enquiries

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The following offers general advice and strategies which have proved to be useful in dealing with difficult phone calls.

### Difficult calls, general strategies

- Stay calm
- Remain objective
- Be confident
- Reflect/Summarise paraphrase
- Take control/direct the conversation
- Explain boundaries of service and what we can do within those boundaries
- Don't become emotionally attached to an issue
- Don't take it personally
- Don't make assumptions
- Treat each complaint individually
- Suggest solutions (if known)
- Refer the caller elsewhere if appropriate advice/support can be provided
- Be clear, and check the caller has understood
- If you don't know the answer be honest and say so – advise the caller that we will get back to them
- Follow through on any actions you promise to carry out

### Angry Callers

<i>Strategies</i>	<i>Useful phrases</i>
1. Speak in a calm tone	1. "I appreciate you are upset/frustrated..."
2. Don't become angry	2. "I can hear you're angry – can you talk me through what is making you feel that way?"
3. Listen – silence can be helpful in allowing caller to reach the end of their outburst and reach a point where they will allow you to talk	3. "I can hear you're angry, but can I just stop you there..."
4. Empathise	4. "May I explain the role of our office..."
5. Summarise/reflect/clarify	5. "It's important to clarify what I can and can't do..."
6. Focus on what we can help with	6. "May I go over the points you have raised..."
7. Manage expectations	7. "These are your options..."
8. End call appropriately	8. "I'll raise that with HOE/HOPI/SIC..."
	9. "If you continue to speak in this way I may have to end the call..."

## **“Broken-record” callers**

<i>Strategies</i>	<i>Useful phrases</i>
1. Be assertive to break the cycle	1. “I can understand your frustration, but all I can tell you just now is...”
2. Summarise to regain control	2. “If I could just stop you there...”
3. Lead the caller to the next steps	3. “May I just clarify that...”
4. Explain options	4. “Have you considered...”
5. Use leading/closed questions	5. These are your options...”
6. Try to conclude the call	6. “As I have just said...”
	7. “I can only repeat the advice I’ve already given...”
	8. “We’ve already discussed these points...”

## **Repeat/ persistent callers**

<i>Strategies</i>	<i>Useful phrases</i>
1. Take control	1. “What steps have you taken since we last spoke?”
2. Identify whether there is a new development	2. “Have there been any developments since we last spoke?”
3. Refer back to previous calls rather than allowing the caller to repeat the entire issue	3. “As we discussed previously...”
4. Summarise and paraphrase	4. “As I suggested/informed you last time...”
5. Use closed/leading questions	5. “May I provide you with printed material/links to more detailed information?”
6. Summarise work being undertaken by SIC	6. “I’ll contact you when I have some news...”
7. Keep the call as short as possible	

## **Appendix 2: list of standard responses in WorkPro and Virtual Cabinet**

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### **Requesting information**

How do I get information from Scottish public authorities (including the SIC)?

No response to an information request (known 20 days up)

No response to an information request (NOT known if 20 days up)

Dissatisfied with the response to the request

Review sought but 40 day review period passed (no response received)

Review sought but review period passed (response received)

Advice on making an application

Does the clock stop if the authority asks requester for further information?

Requests for personal information

Misdirected requests (where seeking advice, rather than information)

### **Access to health and social work records**

Access to own health/ social work records

Access to health records of deceased relative

Access to health records of living relative

Access to the social work file of a deceased person

### **Bodies covered by FOI**

Organisation not covered (excluding HAs and banks)

Body may be covered by EIRs but not FOISA

Body likely to be covered by FOIA not FOISA

Housing Associations

Banks taken over by Government

### **CCTV**

CCTV response directing enquiry to ICO

## Appendix 3: Enquiry Types and Outcomes

Type	Outcome
FOISA/EI(S)Rs/INSPIRE	<ul style="list-style-type: none"> <li>• Making / responding to a request</li> <li>• Making / responding to a request for review</li> <li>• Making an appeal</li> <li>• Sent application form</li> <li>• Referred to application form on website</li> <li>• Sent YRTK</li> <li>• Referred to YRTK on website</li> <li>• Referred to other SIC website content</li> <li>• Signposted to another body</li> <li>• Body under jurisdiction? Yes</li> <li>• Body under jurisdiction? No</li> <li>• Body under jurisdiction? Don't know</li> <li>• Adopting a publication scheme</li> <li>• Assessing or improving practice</li> <li>• Submitting statistics to the portal</li> <li>• Other</li> <li>• No response needed</li> </ul>
FOIA/DPA/UK EIRs	<ul style="list-style-type: none"> <li>• DPA referral to ICO</li> <li>• FOIA/UK EIRs referral to ICO</li> <li>• Other assistance given</li> <li>• No response needed</li> </ul>
SIC – About us	<ul style="list-style-type: none"> <li>• Making a RFI</li> <li>• Requesting a review</li> <li>• Governance / finance / resources</li> <li>• Enforcement, specific case</li> <li>• Enforcement, general enquiry</li> <li>• Publication scheme / GTI</li> <li>• Referred to SIC website content</li> <li>• Request for training / presentation / speaker</li> <li>• Press: request for comment/statement/interview</li> <li>• Other</li> <li>• No response needed</li> </ul>
Other	<ul style="list-style-type: none"> <li>• Not an FOI issue</li> <li>• Other</li> <li>• No response needed</li> </ul>



## Document control sheet

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18/08/14	KB	01.00	01.01	Final approved version created
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