

Freedom of Information (FOI) Policy

Freedom of Information (FOI) Policy – outlines our approach to managing our Freedom of Information (FOI) duties, including our publications scheme and response to FOI requests.

1.	Freedom of Information Act (FOIA) 2018 Summary.....	2
2.	Right of Access.....	2
3.	Exemptions.....	3
4.	Handling FOI Requests.....	3
5.	FOI Requests Appeal	4
6.	Re-use of Public Sector Information Regulations 2015	6

1. Freedom of Information Act (FOIA) summary

- 1.1 The FOIA gives people 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.
- 1.2 All FOIA requests are considered alongside the following legislation:
 - 1.2.1. UK GDPR and Data Protection Act 2018– which provides individuals with a right to access information about themselves; and
 - 1.2.2. 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.
- 1.3 All information we create, or store is subject to the requirements of the FOIA provided that:
 - 1.3.1. we retain possession of the information; or
 - 1.3.2. we have provided the information to another public body; or
 - 1.3.3 the information is held by a third party on our behalf.

Publication Scheme

- 1.4 Under the FOIA, we are required to proactively publish information and it is a statutory duty to develop and maintain a publication scheme that has been approved by the Information Commissioners Office (ICO).
- 1.5 Our publication scheme demonstrates our commitment to make certain information publicly available and explains how information can be obtained. The scheme also details if charges are applicable. Our publication scheme is published on our website and is reviewed periodically. [Publication scheme | GeneralOpticalCouncil](#)

2. Right of access

- 2.1 The FOIA gives individuals and organisations the legal right to:
 - 2.1.1. ask if a public authority is holding information; and if so
 - 2.1.2. obtain access to the information held, within 20 working days from the day after receipt of the valid written request.

3. Valid Requests

- 3.1 Requests for information must be made in writing (paper or electronic) and must state the name and address (postal or email address) of the requester and state the information that they are requesting.
- 3.2 FOI requests must not be accepted verbally, although where a requester is unable to write their request, we will try to assist them.
- 3.3 There is no requirement for the requester to explain the reason for their request or to specify that it is a request being made under the FOIA.

4. Exemptions

- 4.1 Whilst we always look to respond to requests fully, requesters are not always entitled to be given all the information they request.
- 4.2 Information released under the FOIA must be considered as being released into the public domain.
- 4.3 There are currently 23 exemptions from the right of access to information, which are set out in Part 2 of the FOIA.
- 4.4 In broad terms there are two types of exemptions:
 - 4.4.1 Absolute exemptions – where the right to information will not be disclosed under any circumstances.
 - 4.4.2 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.
- 4.5 Examples of absolute exemptions are:
 - 4.5.1 Section 21 – Information reasonably accessible by other means
 - 4.5.2 Section 40 – Personal information
 - 4.5.3 Section 41 – Information provided in confidence
 - 4.5.4 Section 44 – Information whose disclosure is prohibited by law
- 4.6 Examples of qualified exemptions (where the public interest test applies) are:
 - 4.6.1 Section 22 – Information intended for future publication
 - 4.6.2 Section 30 – Investigations and proceedings conducted by public authorities
 - 4.6.3 Section 36 – Prejudice to effective conduct of public affairs
 - 4.6.4 Section 43 – Commercial interests
 - 4.6.5 Section 42 – Legal professional privilege

- 4.7 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.
- 4.8 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”.
- 4.9 If the requestor has had GOC access restrictions applied 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.

5. Handling FOI requests

- 5.1 This section outlines our legal responsibilities when processing a request.
- 5.2 FOI requests are co-ordinated by the Information Governance Officer, who will record all FOI/SAR requests and relevant correspondence in line with our Retention Schedule.
- 5.3 All employees, members, and workers, contractors and those working on our behalf are responsible for ensuring FOI requests are promptly forwarded to the FOI inbox (foi@optical.org) and to respond to requests from the Information Governance Officer promptly.
- 5.4 We will acknowledge all written FOI requests within 5 working days of the request being received.
- 5.5 The 20-working day timeline starts from the working day after receipt of the request and continues during working days including if the office is closed to the public.
- 5.6 Each request will be considered individually on its own merits.
- 5.7 Our duty is to confirm or deny whether the requested information is held and, if we hold the information, provide it in the requested format. If the requested information is not held, it would normally be reasonable to inform the requester. However, there may be exceptional cases where it would not be reasonable to confirm nor deny if the requested information is held.
- 5.8 In most circumstances, within 20 working days after the date of receipt, we will tell the requester whether the information is held and if the information is not

considered exempt, we will provide it in the format required as soon as reasonably practical.

- 5.9 If an exemption is being considered, and we require 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.
- 5.10 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.
- 5.11 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 this is not to be completed.
- 5.12 We will always respond to Freedom of Information request, 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.

Fees

- 5.13 The FOIA provides for public authorities to either charge for or decline requests for information that would cost more than £450 to respond to. This is referred to as the 'appropriate limit'.
- 5.14 We are required to estimate whether a request is likely to breach the appropriate limit and, where appropriate, may charge a fee for complying with a request for information.
- 5.15 Any fee will be calculated in accordance with the FOIA regulations, and the requester will be notified within 20 working days of the request being received. We are not required to comply with the request until the fee has been received in full.
- 5.16 We will respond to straightforward requests for information free of charge and will only charge when the costs breach the appropriate limit of £450.

6. FOI request appeals and complaints

Stage one: Internal review

- 6.1 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.

- 6.2 An employee with no prior involvement, usually of a higher grade, will reconsider their request and respond within the timescale.
- 6.3 Internal review requests will be acknowledged within five working days of receipt and a response provided no later than 20 working days after receipt.

Stage two: Complaints to ICO

- 6.4 Requesters that remain dissatisfied may complain to the ICO on any of the following grounds, failure to:
 - 6.4.1 provide the information requested.
 - 6.4.2 respond to the request within 20 working days.
 - 6.4.3 explain why more than 20 working days were needed.
 - 6.4.4 provide advice and assistance.
 - 6.4.5 provide information in the requested format.
 - 6.4.6 clearly explain any reason for refusing a request; or
 - 6.4.7 correctly applies for an exemption under the FOIA.
- 6.5 The ICO will decide whether the request has been handled appropriately in accordance with FOIA and will provide a decision notice, to both the requester and the GOC.
- 6.6 The ICO will not consider a complaint:
 - 6.6.1 when the applicant has not exhausted our internal complaints procedure.
 - 6.6.2 where there has been undue delay in making an application to the ICO.
 - 6.6.3 where the application is frivolous or vexatious.
 - 6.6.4 where the application has been withdrawn or abandoned.
- 6.7 If the decision goes against us, the ICO will set out the actions that we are expected to take to correct the issues and by when.

Stage three: Information Tribunal

- 6.8 Either the applicant or the GOC can appeal against the ICO's decision notice to the independent Information Tribunal. Information regarding the right of appeal will be included in the ICO's decision notice.

7. Re-use of Public Sector Information regulations 2015 (RPSI)

- 7.1 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.

- 7.2 Should you wish to re-use any of our public information in this manner, please email the Information Governance Officer at FOI@optical.org, who will send you a form to complete, sign and return.