



**UKHO**

**FREEDOM OF INFORMATION**

**POLICY**

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# UKHO FREEDOM OF INFORMATION POLICY

## 1 Introduction

### 1.1 Purpose of document

Under the Freedom of Information Act 2000 (FOI), the forthcoming Environmental Information Regulations 2004 (EIR), and the Data Protection Act 1998, the public is accorded certain rights of access to information.

This policy sets out the UK Hydrographic Office's position in respect of its conformance with the FOI Act and the EIR.

The UKHO's aim is to conform with the FOI Act by providing the public access to its information, while maintaining a balance in protecting the commercial interests of the UKHO and in protecting the information that should rightfully be withheld.

The UKHO will consider each request for information (RFI) on a case by case basis but will make a presumption towards disclosure when information is requested.

### 1.2 Public Authority Status

Under Schedule 1 of the FOI Act, the Ministry of Defence is defined as a public authority. As a Trading Fund wholly owned by the Secretary of State for Defence the UKHO is regarded as part of the Ministry of Defence and is required to conform with the act.

The full FOI act can be viewed at:

<http://www.legislation.hmso.gov.uk/acts/acts2000/20000036.htm>

FOI Act Explanatory notes can be accessed at:

<http://legislation.hmso.gov.uk/acts/en/2000en36.htm>

Further Guidance is issued by the Information Commissioner at:

<http://www.informationcommissioner.gov.uk/eventual.aspx>

### 1.3 Access to information at UKHO

UKHO will treat all requests for information within the time limits for response, and in the spirit of the FOI Act, whether the request is handled as a RFI under FOI/EIR or as a business-as-usual request (BaU).

The UKHO will proactively make information available to the public by publishing information on the internet site or as part of a standard product or service. The UKHO will maintain a Publication Scheme setting out classes of information it accepts a commitment to publish. The Publication Scheme will state how that information can be obtained and what, if any, charge is applicable.

UKHO publications and services are summarized on the Ministry of Defence's FOI Publication Scheme ([www.foi.mod.uk](http://www.foi.mod.uk)), and are fully described on the UKHO website ([www.ukho.gov.uk](http://www.ukho.gov.uk)).

The UKHO Publication Scheme has two broad classes of information: 'Hydrographic Products and Services' and 'Internal Administration and Governance'. The classes of information defined in the Publication Scheme will be reviewed and updated by the FOI Focal Point and passed to MoD as the UKHO publishes further information.

## **2 Categories of Requests**

Within UKHO there are three main categories of requests: FOI, EIR and BaU. Identification of a request as an RFI under FOI/EIR will be made at a relatively senior level by a Subject Matter Expert, UKHO Helpdesk staff or the FOI Focal Point. The classification of an RFI will be based on the following guidance.

### **2.1 Business as Usual Requests (BaU)**

It is anticipated that the bulk of enquiries that UKHO will receive will be of a hydrographic / navigational nature or for information which is already available to the public as published information catalogued in NP 131, on the UKHO website, or available as consultancy services e.g. Law of the Sea, Wrecks, Archives.

Under FOI this information is covered by S.21 of the FOI Act, and thus legally forms an exemption under the Act. In these cases the request will be treated as BaU and not registered as a FOI/EIR RFI.

The following categories will be treated as BaU.

- Requests for general hydrographic or navigational information (except where the information is to be legitimately withheld under an FOI/EIR exemption).
- Requests for information currently listed in the published catalogues or available from appointed Admiralty Chart agents.
- Requests for research in the UKHO archive.
- Requests for data which is published or advertised on the UKHO website.
- Requests for UKHO consultancy services advertised on the UKHO website.

### **2.2 FOI Requests**

FOI RFIs will generally be for information found on administrative (HA) files. RFIs for administrative information (policies, agreements, plans, proposals, etc.) which does not fall into the BaU category above will be logged as FOI RFIs.

### **2.3 EIR Requests**

EIR RFIs will generally be for information found on hydrographic (HH) files, but may be for other types of environmental information (emissions, site works, etc.).

### **2.4 Exceptions and Exemptions**

The presumption of the act is that information should be disclosed. However, it also recognises that disclosure will not always be appropriate and identifies a number of categories of information which are exempt from the act. Within the FOI Act these are called exemptions and under EIR they are known as exceptions; within the rest of this text they are jointly referred to as exemptions.

Where the information is generally not made available and that status is to be maintained by claiming an exemption, then the RFI will be identified as an FOI / EIR RFI, if even if it is of a BaU nature.

## **2.5 Data Protection**

If the RFI is for personal information covered by the Data Protection Act, then the request will be passed to the Data Protection Officer.

## **3 Handling Requests and Governance**

UKHO will make all appropriate efforts to meet the twenty working day target for responses to RFIs, whether they are defined as FOI/EIR requests or BaU.

To answer RFIs the UKHO has created a structure and procedure using the UKHO helpdesk as the central logging and tracking point. RFIs will be passed to a Desk Officer (one of 50 around the business) for processing. This may require the help of a Subject Matter Expert to formulate a response. Approval to release will come from a Subject Matter Expert at an appropriate grade (JVB B1).

### **3.1 Delegation of Authority**

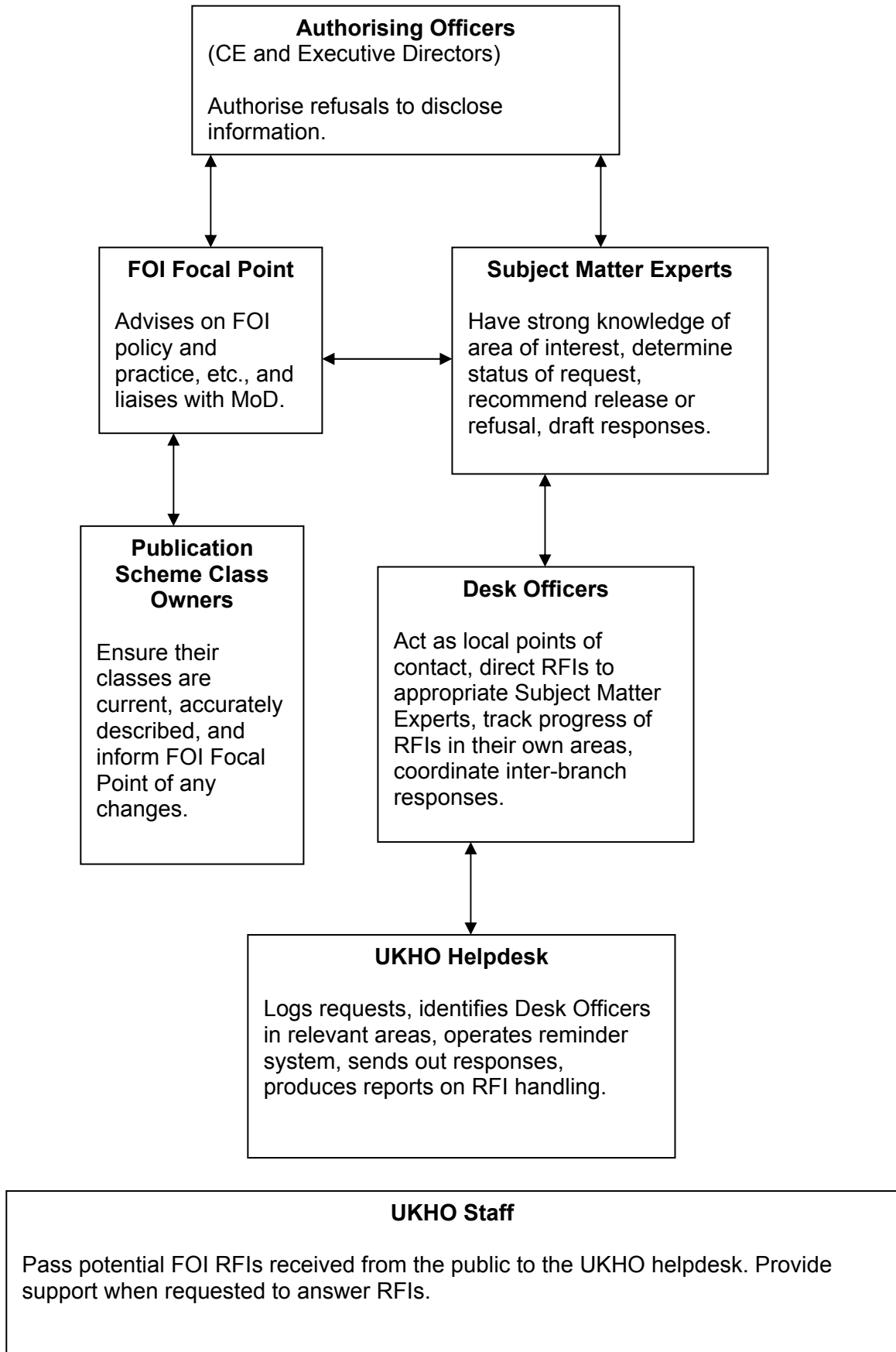
The Permanent Under Secretary (PUS) delegates authority for refusal to disclose information to 1\* officers in MoD. In the UKHO, the Chief Executive (CE) may issue specific delegations to Directors.

The governance structure has been developed to ensure that UKHO is able to respond efficiently and effectively to FOI and EIR requests and that sufficient controls are in place to approve the release (or withholding) of information.

Reasons for a refusal to disclose information will be given in writing, along with details of UKHO's complaints procedures for those who do not agree with the refusal to publish or release.

Outline functions and responsibilities are listed below for the categories of members of staff involved with the administration of FOI and EIR.

## Governance Structure



### 3.2 FOI Procedure

In dealing with requests, UKHO staff will follow the procedures laid down in the UKHO FOI Guidance document. A straightforward request should follow the sequence below:

- Request for information arrives (this can be in any part of the business).
- Request is assigned as FOI, EIR, BaU or Data Protection.
- If FOI or EIR it must be logged by Helpdesk as a RFI.
- RFI is allocated to a Desk Officer.
- Desk Officer passes RFI to Subject Matter Expert for consideration.
- If information can be released, then Subject Matter Expert (B1 or above) authorises release.
- If information cannot be released, then response is passed to Authorising Officer for authorisation. (If RFI has not yet been logged with Helpdesk, then it must be logged at this point, to ensure that refusals to disclose are properly recorded.)
- Desk Officer passes authorised response to Helpdesk for sending to applicant.
- UKHO Helpdesk closes RFI.
- FOI Focal Point may be asked for advice at any point in the process.

Where an RFI entails work for which a charge is payable, then a fees notice (see Charging for FOI Requests) must be sent.

Where additional time is required for the provision of information (for example, where data has to be collated from a number of sources), the FOI Focal Point will be informed of the reason for, and the expected length of, the delay before the applicant is informed.

Where a series of RFIs are received relating to the same topic, UKHO will consider placing a response on its website rather than providing multiple responses. UKHO will also consider the possibility of making the information generally available by publishing it.

Where RFIs appear to be from unidentified or unconvincing sources, they will undergo a process of verification (which may involve checking names and addresses).

Repeated or substantially similar requests from the same person (other than at reasonable intervals) will be treated as vexatious under section 14 of the FOI Act.

### 3.3 Release of Information

BaU requests will be dealt with at the same level as at present. Authorisation for release of information that is regarded as a FOI/EIR RFI will be made by a local Subject Matter Expert (JVB B1 or above) with experience in handling the information requested in the RFI.

### 3.4 Refusal to Disclose Information

Under FOI and EIR there are certain exceptional circumstances under which requests for information may be refused. UKHO will only refuse to disclose information where it has given careful consideration to the request, and has come to a decision that the information requested is clearly categorised under one or more of the exemptions as defined in the appropriate piece of legislation.

For exemptions, the UKHO will provide a written response to the applicant stating the FOI/EIR exemptions that apply and an explanation of the harm that will result from the release of information.

Even if the request is initially treated as BaU, where it is determined that the information may not be disclosed, the request must be identified as a FOI/EIR RFI (i.e. logged by UKHO Helpdesk), to ensure that its progress is appropriately tracked.

A refusal to disclose information will be authorised by an officer of appropriate status, on the recommendation of a local Subject Matter Expert. At UKHO refusals will be authorised by the Chief Executive and Executive Directors.

### **3.5 Appeals against Refusal to Disclose**

Appeals will be handled by DG Info, on behalf of the MoD. An appeal against non-disclosure will first pass to MoD, as UKHO's parent department. If the appeal is not upheld then the appellant may appeal in turn to the Information Commissioner, the Information Tribunal, and eventually to the High Court of Justice (if the appeal concerns a point of law).

It is vital, that should the need arise, the UKHO is able to demonstrate to these higher authorities that it has handled a RFI with all due efficiency and propriety. Registering a RFI with the UKHO Helpdesk assists in mitigating this risk, as does appropriate consultation with local Subject Matter Experts and the FOI Focal Point.

## **4 Charging for FOI Requests**

Charging for FOI requests is an area of uncertainty at the current time. Previous draft guidance has allowed for appropriate charging, however, guidance from the Ministerial Committee (MISC 28), which will be embodied in the FOI Fees Regulations, has set stringent limits on charging.

The UKHO charging policy for FOI RFIs has been developed following interim guidance from the Government's Fees Working Group and MISC 28. Until Fees Regulations have been laid before Parliament and approved, the following section sets out the UKHO position.

### **4.1 Charging Policy**

Under this legislation the UKHO may charge an applicant for making information available.

A substantial proportion of the data which UKHO holds is made available at an appropriate market-based charge or, in many cases, without charge. Conditions and charges are listed in the Publication Scheme, the UKHO's online catalogue, or elsewhere on the UKHO website. Where a RFI is for information that is not supplied in this way, then the following must be borne in mind.

Under the legislation the UKHO may not charge the applicant for answering an RFI although an upper limit of effort of £600 can be enforced.

- All time used in responding to an RFI is recorded.
- The UKHO will limit its effort to £600 for each individual RFI.
- An hourly rate of £25 per hour or part thereof shall be used in calculating the above.
- Where the expected effort of answering an RFI is estimated at being in excess of £600, the RFI will be refused on the grounds of excessive cost (FOI Act section 12). The applicant will be informed of the decision and given the following choices:
  - asked to restrict the scope of the enquiry so that it falls within the £600 limit, or
  - requested to pay the additional charges.
- Any charges levied will not exceed an amount which the UKHO is satisfied is reasonable.