

SCOTTISH QUALIFICATIONS AUTHORITY

EXECUTIVE MANAGEMENT TEAM – 15 DECEMBER 2020

FOI REVIEW - PROPOSAL FOR MANAGING FOI REQUESTS AT SQA

1. Background

In accordance with the Scottish Ministers' Code of Practice on the discharge of functions under FOI law, SQA has demonstrated strong senior level commitment to the FOI principles of openness, transparency, accountability, and engagement. For the past 15 years EMT has been involved in overseeing the management of these requests but in the last 5 years there has been a stronger focus on the content of responses, which can result in delays and bottlenecks in the process. Despite this, SQA has typically seen a 95% response rate within the 20-day statutory timescale.

Responsibility for oversight, co-ordination and tracking of requests received under the Freedom of Information (Scotland) Act 2002¹ sits with the Information Governance section of the Strategic Planning & Governance Team, and more specifically with the FOI Manager. FOI requests are acknowledged as soon as they are received and processed quickly to avoid delays.

Over time, SQA has seen rising numbers of routine as well as complex and/or sensitive requests received from a range of individuals and organisations. SQA also receives requests for statistical information, some of which are submitted as FOI requests but others are received via the external stats mailbox. 2020 has been an exceptional year with the cancellation of exams resulting in an unprecedented number of complex requests being received. Consequently, the number and complexity of requests received, resulted in a downward shift in the response rate within the 20-day statutory timescale to around 86% currently.

A review of the approach to FOI management at SQA has taken place, and though it was clear that the process has been managed well to achieve a consistently high response rate, a number of improvements were identified that will benefit everyone involved in the process.

This paper will use the word "applicant" to describe the person (or organisation) making the request as this is the word used in FOISA.

2. Issues Identified

The review of the FOI process identified the following issues.

Responsibility for providing information

It is sometimes not clear who or which team(s) should be contacted to provide a response to a request but Directorates have not always responded to emails from the FOI Manager about this, which can result in delays in starting the process.

¹ This paper applies to FOISA but would also apply to the Environmental Information (Scotland) Regulations 2004 (taking into account any differences between the two regimes) should SQA receive any requests.

Responsibility for decision-making

Most requests do not need to be signed off by EMT as they are not complex and/or sensitive, but many responses are submitted to EMT for sign-off based on historic practice. Where a response is subject to further amendment it is not always clear who is responsible for final sign-off.

Response does not answer the question

Applicants do not always make clear what they are looking for and staff do not always agree on the interpretation of an applicant's request. FOISA makes provision for requests to be clarified if further information is required to identify and locate the requested information. Where clarification is sought, the 20-day timescale does not start until the additional information requested from the applicant has been received. There is little evidence of clarification being sought from applicants, which must be done as soon as reasonably possible, but this could be because staff don't fully understand what is meant by 'clarification' in FOISA terms.

Additionally, responses are received from teams that do not always answer the question being asked so the information received is not always sufficient to prepare the draft response. This means having to go back to the team to request additional information, which can cause delays and frustration for those involved.

Bottlenecks and delays

Directors do not always see responses until they have been sent to EMT for sign-off. This approach can delay responses being signed off if a Director or EMT is not content with the drafted response particularly where FOI requests are complex and/ or sensitive.

Duplication of effort

A tracker is updated and issued to EMT on a weekly basis. This tracker appears to rely on the Head of SP&G attending EMT meetings, and any updates being passed on to the FOI Manager. Additionally, EMT receive a weekly email which duplicates and overlaps with the tracker. A log is also maintained for administrative purposes. This means that the same information is being updated multiple times.

Process not documented

The current process is only documented at a high-level and there is no documented guidance for staff. Guidance is provided directly by the FOI Manager or from information contained within the FOI policy.

Support

The process has been managed from end-to-end solely by the FOI Manager without the involvement or support of administrative staff. This means that it can be difficult to provide support to the handling of FOI requests when it gets busy and cover for holidays has been problematic even when a thorough handover has been given as there is little knowledge of the process or current cases.

guidance purposes so that SQA staff can develop a basic understanding of FOISA, however, the day-to-day oversight of FOI requests, including interpretation of the legislation, remains the responsibility of the FOI Manager who has the expertise and whose job it is to ensure that SQA complies with FOISA, supported and overseen by the Information Governance Manager.

Case management

A case management approach will be taken to FOI requests. Case Managers will typically be heads of service or senior managers. Directors will be responsible for overseeing and approving responses to FOI requests that are being case managed in their directorate. A standardised approach in the form of a case management form and email templates will be implemented to ensure that a consistent approach is taken.

Case Managers will be advised to read FOI requests very carefully and to request clarification where they are unsure about the question being asked. Clarification under FOISA has been explained in the handling procedures and will be covered in the training. The procedures and training will also cover the need to ensure that all parts of a question have been answered to prevent delays in responding to requests.

A copy of the draft FOISA Handling Procedures have been provided with this paper.

Reporting

A new FOI Management Tracker has been produced. It will contain all FOI cases but clearly state which are for Director approval and which are for EMT approval.

The first tab on the spreadsheet will be for EMT and it will list the FOI requests that are for EMT approval. There will also be a tab for each directorate that has open FOI cases. This will make it easier for Directors to update EMT on progress with their open cases and help to identify similar requests. The spreadsheet will be colour coded to identify cases that are due within the next 5 days from issue of the spreadsheet. EMT will not receive responses approved by Directors.

The tracker will contain full details about each request and all known updates. As all information will be on the tracker, the weekly email update will no longer be issued to EMT.

Support

The process will be appropriately supported by administrative staff to ensure that there is a greater understanding within the team for dealing with FOI requests and to free up time for the FOI Manager to carry out added value activities. The Information Governance Manager will have a greater role in FOI management to offer additional support where needed.

Training

Training is currently being developed for all staff with a view to being available on SQA Academy in January 2021.

Communication & Visibility

A communication plan will be developed to ensure that everyone is made aware of the refreshed approach, the handling procedures and the training. The new handling procedures will be available on the Information Governance SharePoint pages.

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4. Other improvements

Already in place

During the review, which has spanned many months, several other changes were made along the way.

- The log used for administration of requests was reviewed and updated to ensure that a consistent approach was in place across all information governance logs.
- For ease of identification, all internal communications issued about FOI requests contain their FOI reference number in the subject heading, and in a consistent format. This requirement has been included in the handling procedures for staff.
- A Disclosure Log is now in place, effective from 2nd November.

Planned

Other improvements will be implemented.

- A list of standard responses will be developed for all areas of FOI handling. The use of standard responses will save time and effort, but mainly, it will ensure that we have pre-prepared robustly worded reasons when exemptions are applied.

- The publication scheme will be reviewed and take into account the deliverables from the performance framework. The process for checking the currency of the content and getting it updated will be reviewed and changes made where needed.
- In relation to the publication scheme an analysis will be conducted on the requests received to establish if information, not currently published by SQA, should be considered for publication. This is with a view to increased transparency and a reduction in the number of FOI requests being responded to by SQA staff.

Future

Going forward, an off-the-shelf case management tool would improve the flow of information, support the administration of the process, and retain information in one central place.

Power BI is being investigated to see if it can help to reduce the burden of completing different spreadsheets but our knowledge and experience of this tool currently is limited.

5. Recommendation

I recommend that the proposed solution set out above is implemented with a view to addressing the issues identified. The changes will be subject to ongoing monitoring and review to ensure that the revised approach meets the needs of SQA and the requirements of FOISA.


Information Governance Manager

11 December 2020