

January 2019

Freedom of Information Act (FOIA) Policy

1. The FRC's Designation under the Freedom of Information Act 2000

- 1.1 The Freedom of Information Act 2000 (the **Act**) creates a right of public access to information held by bodies defined by the Act as "public authorities," i.e. bodies listed in Schedule 1 of the Act, publicly owned bodies and bodies designated as public authorities by an order of the Secretary of State.¹
- 1.2 The FRC (we, us, our) is not listed in Schedule 1 of the Act and is not a publicly owned body.² The FRC is, however, designated as a public authority for the purposes of the Act by order of the Secretary of State.
- 1.3 Where the Secretary of State makes such an order, the Act requires the order to specify the functions of the body with respect to which it is designated as a public authority. The Act expressly states that it does not apply to any information which is held by the public authority but which does not relate to the exercise of those specified functions.³
- 1.4 In the FRC's case, those specified functions are the statutory functions contained in Part 42 the Companies Act 2006 (the **Part 42 Delegated Functions**) which the Secretary of State has delegated to the FRC under the Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (the **2012 Order**).⁴ The effect of the 2012 Order, therefore, is that the FRC is designated as a public authority for the purposes of the Act but only in relation to the Part 42 Delegated Functions.⁵
- 1.5 In other words, this partial designation means that the Act:
 - 1.5.1 does apply to information we hold in relation to our exercise of the Part 42 Delegated Functions. Some examples of these functions include: the recognition of recognised supervisory and qualifying bodies; the independent supervision of the Auditors General; and the registration of third country auditors; and
 - 1.5.2 does not apply to information we hold in relation to our exercise of any other functions or responsibilities. For example, our responsibilities as the UK competent authority for Statutory Audit or our independent arrangements for the investigation of accountancy and actuarial professional cases under the Accountancy and Actuarial Schemes.

¹ Please see section 3(1) of the Act for the definition of public authority.

² The FRC is not owned by the Crown and / or the wider public sector for the purposes of the Act.

³ Please see section 7(5) of the Act.

⁴ Section 1252(1) of the Companies Act 2006 gives the Secretary of State the power to delegate these functions.

⁵ Please see section 1252(3) of the Companies Act 2006.

1.6 Both the Information Commissioner⁶ and the Information Tribunal⁷ have affirmed our partial designation as summarised above.

2. How we will handle your request

- 2.1. We shall respond to any valid request within 20 working days following the date on which your request was received in accordance with the Act.
- 2.2. In line with the Act's requirements, we may respond as follows:
 - 2.2.1. We hold the requested information and will provide you with a copy of it;
 - 2.2.2. We hold the information but we cannot give it to you because it is exempt from disclosure - in which case we will explain why; or
 - 2.2.3. We are unable to confirm or deny if we hold the information - in which case we will explain why.
- 2.3. The Act makes a number of provisions for extra time to be taken in responding to a request, for example:
 - 2.3.1. Where, after initial consideration of your request, a fee is required (see Part 3, below).
 - 2.3.2. Where the public interest test applies, then the timescale may be extended by a "reasonable period". The FRC will, however, tell you within the 20-day period which exemption(s) it believes apply to the information requested and give you its estimate of the date by which it expects to reach a decision regarding the application of that exemption.

3. Fees

- 3.1. We may charge a fee for complying with a request for information in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Government / regulatory guidance on the application of these regulations is available (e.g. on the Information Commissioner's website).
- 3.2. If we choose to charge a fee, it will be calculated by reference to the costs we estimate we would directly and reasonably incur in informing you whether we hold the requested information and in giving it to you (e.g. we may charge for photocopying, printing and postage costs). In this scenario, we will send you a Fees Notice setting out the fee which you will need to pay to us within three months. You will not receive the information you have requested until you have paid the fee.
- 3.3. If the estimated cost of providing the information you have requested is above the appropriate limit set by the Government (currently £450), we will not be under a duty to provide the information to you. We will inform you if this is the case. We will try to let you

⁶ Please see ico.org.uk/media/action-weve-taken/decision-notices/2014/983106/fs_50528725.pdf and <https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2172732/fs50683215.pdf>

⁷ See for example *Gibbs v (1) The Information Commissioner and (2) the Financial Reporting Council* EA/2017/0284, and in particular, paragraphs 27-34.

know what information can be provided within the costs limit and may offer to respond to your request in full in return for an appropriate fee.

4. Transferring requests

- 4.1. If you have requested information which we believe is held by another public authority, it may be appropriate for you to re-apply to the other public authority concerned. Alternatively, we may transfer your request to another public authority. Before doing so, we will check that the other public authority holds the information requested. If you wish to be notified before we transfer your request to another public authority, you should state this in your request.

5. Consultation with third parties

- 5.1. We may notify third parties if a request for information about them is made. We may also need to consult third parties (including another public authority) in order to reach a decision on whether the requested information can be released. If you wish to be notified before we consult a third party about your request, you should state this in your request.

6. Exemptions

- 6.1. There are a number of exemptions in the Act which may apply to the information you request. Exemptions are either “absolute” or “non-absolute”. Non-absolute means that we must apply a public interest test before we can decide whether or not to withhold the information in reliance on the exemption. We must consider if there is a greater public interest in releasing the information to you or in withholding the information.
- 6.2. Examples of absolute exemptions include that the information is accessible by other means, the information constitutes personal data or the information was provided in confidence.
- 6.3. Exemptions which require us to undertake a public interest test include that the information is intended for future publication, the information is subject to legal professional privilege or that disclosure may prejudice law enforcement, the effective conduct of public affairs or commercial interests.

7. Questions

- 7.1. If you have any questions regarding this policy, please contact us either by email at FOIA@frc.org.uk or by post to Freedom of Information Act Requests, Financial Reporting Council, 8th Floor, 125 London Wall, London, EC2Y 5AS.

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