

# Freedom of Information Act (FOIA) Policy

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

- 1.1. The FRC (**we, us, our**) is designated as a public authority for the purposes of the Freedom of Information Act only in relation to its exercise of certain statutory functions contained in Part 42 the Companies Act 2006, which have been delegated to us by the Secretary of State (the '**Part 42 Delegated Functions**').
- 1.2. This partial designation results from the following provisions: section 1252 Companies Act 2006, the Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 and sections 5 and 7(5) Freedom of Information Act 2000 (the **Act**).
- 1.3. The partial designation means that the Act:
  - 1.3.1. applies to information held by us in relation to the Part 42 Delegated Functions. These include: the recognition of recognised supervisory and qualifying bodies, the independent supervision of the Auditors General; and the registration of third country auditors;
  - 1.3.2. does not apply to information held by us in relation to the exercise of its other functions and responsibilities including for example, our responsibilities as the Competent Authority for Audit in the UK, and the independent arrangements for the investigation of accountancy and actuarial professional cases under the Accountancy and Actuarial Schemes.
- 1.4. Both the Information Commissioner and the Information Tribunal have affirmed our partial designation as summarised above.<sup>1</sup>

## 2. How we will handle your request (including any charges)

- 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; or
  - 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:

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<sup>1</sup> [ico.org.uk/media/action-weve-taken/decision-notice/2014/983106/fs\\_50528725.pdf](http://ico.org.uk/media/action-weve-taken/decision-notice/2014/983106/fs_50528725.pdf)

2.3.1. Where, after initial consideration of your request, a fee is required.

2.3.2. Where the public interest test applies, then the timescale is 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 this exemption.

### **3. Fees**

3.1. We may charge a fee for complying with a FOIA request for information in accordance with The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Guidance on the application of these regulations is provided by the Department for Constitutional Affairs.

3.2. Any fee charged will be calculated by looking at the costs directly and reasonably incurred in locating the information you have asked for and giving it to you. You will then be sent a Fees Notice which you will have to pay within three months of your request – you will not receive information until you have paid the fees notice.

3.3. If the estimated cost of providing the information would be above the appropriate limit set by the government (currently £450) then we will not be under a duty to provide the information. However, we will inform you if the limit will be exceeded and we will try to let you know what can be provided within the limit. We will also consider whether it is reasonable to answer your request and charge an appropriate fee.

3.4. If the cost of providing the information is £450 or less, we may charge for photocopying, printing and postage costs.

### **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 requested. 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 or provide the information to you. 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 and 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 and that where disclosure may prejudice law enforcement, the effective conduct of public affairs and commercial interests.

**October 2017**