



# **D&S IFCA Freedom of Information Policy**

**Revised for the introduction of GDPR regulations**

**March 2019**

# D&S IFCA Policy Documentation

## Contents

1. Introduction and overview.....	3
2. Principles.....	3
3. Publication Scheme.....	4
4. Transparency and producing information for publication.....	4
5. Responding to a request for information.....	5
6. Vexatious or repeat requests.....	5
7. Exemptions and the Public Interest Test.....	6
8. Fees.....	6
9. Complaints Procedure Regarding FOI Requests.....	7
10. Appendix 1 – Exemptions to Freedom of Information Requests.....	8

Edition	Date	Comments
NJT 01	May 2018	Revised for the introduction of GDPR
NJT 02	14 <sup>th</sup> December 2018	Reviewed and refined
NJT 03	27 <sup>th</sup> March 2019	Minor amendments

# D&S IFCA Policy Documentation

## 1. Introduction and overview

At D&S IFCA we have a legal obligation to comply with the Freedom of Information Act 2000, in providing access to anyone who wishes to see the organisation's information including public service users, staff and journalists. Within the context of the Act, the term 'information' relates information held by D&S IFCA whether in paper or electronic format.

## 2. Principles

The following principles will apply to the operation of this policy:

- a) The Authority is committed to the publication of a range of information, in particular any information related to decision making processes
- b) The D&S IFCA Website is determined to be the primary mechanism to display publications and an interactive Publication Scheme (Resource Library) will deliver the objectives of the Policy.
- c) All employees of D&S IFCA will be committed to this policy and are responsible for ensuring that it is effective and complied with
- d) Confidentiality will be maintained where this is appropriate
- e) The time limits referred to in the procedure relate to a legal obligation and therefore should be adhered to and where information is requested all employees should respond in a timely manner to ensure time limits are met
- f) All employees have a legal duty to preserve formal records and they must be accurate, adequately named and indexed for easy retrieval or publication
- g) It is an offence to alter, deface, block, erase, destroy or conceal any record held by D&S IFCA with the intention of preventing disclosure to all or part of the information that an applicant is entitled to
- h) Should it be believed that an employee has purposefully tried to prevent disclosure of information then consideration will be given to whether disciplinary action is appropriate
- i) D&S IFCA will make every attempt to be as transparent as possible with information
- j) In regard to personal data, and protection of it, D&S IFCA has a Data Protection Policy and a selection of standards that accompany it.

# D&S IFCA Policy Documentation

## 3. Publication Scheme

- a) In relation to the publishing of information, D&S IFCA has adopted a model Information Commissioner's Office (ICO) publication scheme which identifies different categories of information that D&S IFCA has and is suitable for publication
- b) The publication scheme provides stakeholders with an overview of the organisation and what information it is likely to possess
- c) D&S IFCA has developed a publications area on its website (The Resource Library) to mirror the publications scheme and provide access to a range of information
- d) D&S IFCA has developed internal guidance in the form of a staff catalogue to assist staff storing information on its shared sever, with some of this information suitable to be selected for publication as documented in the Publications Scheme
- e) Items not suitable for publication will be clearly marked and the recommended marking is a prefix "X"
- f) D&S IFCA reserves the right to charge for hard copies of information as described within the Publications Scheme
- g) The Publications Scheme will be subjected to constant review and reviewed at least once every year

## 4. Transparency and producing information for publication

The Authority is committed to the publication of a range of information, in particular any information related to decision making processes. Transparency with information is a principle adopted in this Policy. Papers for meetings (other than Part II) will be posted on the website 5 working days in advance of the relevant meeting. It is envisaged that increased transparency can reduce Freedom of Information requests.

D&S IFCA conducts different aspects of core working including:

- Enforcement work
- Byelaw development and review of permit conditions
- Research work that may be used to inform the Authority when implementing management of fishing Activities

D&S IFCA aims to document information that is collected, stores into a usable format that is suitable for publication. Personal data is not used in items produced and selected for publication. D&S IFCA uses a range of communication methods to highlight and display its publications as documented in the D&S IFCA Communications Plan. Although the D&S IFCA website is the primary form of publication, social media and other communication platforms are utilized.

## D&S IFCA Policy Documentation

### 5. Responding to a request for information

- a) Any person who makes a request for information should be informed about the publications scheme introduced by D&S IFCA. The publications displayed on the D&S IFCA website (The Resource Library) may satisfy their request for information. The Publication Scheme provides an Exemption to Freedom of Information Requests.
- b) Any person who makes a written request for D&S IFCA held information, must be told whether or not we hold that information and have that information supplied to them within 20 working days.
- c) The written request must include the name and address for responding to the applicant and sufficient information to enable D&S IFCA to identify the information requested. The timing for response does not commence until D&S IFCA has sufficient detail to consider its response.
- d) D&S IFCA does not have to confirm or deny the existence of the information, or provide it, if an exemption applies (see section 7), the request is vexatious or similar to a previous request (see section 6), or if the cost of responding exceeds the appropriate limit (18 hours of staff time). The Publications Scheme implemented and maintained by D&S IFCA (The Resource Library) provides an “Absolute Exemption” meaning that it is not necessary to consider disclosure in the public interest.
- e) If an applicant is unhappy with a refusal to disclose information they can complain to the Information Commissioner’s Office (ICO), after first exhausting the internal review procedure.
- f) Requests for information about the environment will be dealt with under the Environmental Information Regulations 2004 and requests for personal data relating to the applicant, will be dealt with under the General Data Protection Regulations.

### 6. Vexatious or repeat requests

- a) The Freedom of Information Act allows D&S IFCA to refuse to deal with the request where it is vexatious or repeated. In these circumstances there is no public interest test.
- b) In deciding whether a request is vexatious D&S IFCA will take into account the context and history of the request and consider whether the request is likely to cause a disproportionate or unjustified level of distress, disruption or irritation.
- c) D&S IFCA does not have to comply with repeated requests for the same information from the same person. Repeated requests can be defined as substantially similar requests from the same person other than at reasonable intervals. In considering whether a request is repeated D&S IFCA will assess whether it could be expected that the information requested could have changed significantly since the last request.
- d) If D&S IFCA decides that a request is vexatious or repeated, we will usually issue a refusal notice to the applicant within 20 working days. The refusal notice will state whether D&S IFCA is refusing on section 14(1) (vexatious requests) or 14(2) (repeated requests) of the Act and give the applicant details of the internal review procedures and the right to appeal to the ICO.

## **D&S IFCA Policy Documentation**

- e) D&S IFCA reserves the right not to issue a refusal notice where an applicant has previously received a refusal notice from D&S IFCA for a previous vexatious or repeated request and it would be unreasonable to issue another one.

### **7. Exemptions and the Public Interest Test**

- a) The Freedom of Information Act sets out a number of exemptions to the general right to information and when dealing with a FOI request, D&SIFCA will consider whether any exemptions apply.
- b) Exemptions fall into two categories – absolute and qualified, and a list of the exemptions covered by the Act can be found at Appendix 1.
- c) Absolute exemptions do not need to have a Public Interest test applied in deciding whether to withhold information. If the information is covered by an absolute exemption then it does not need to be disclosed.
- d) Qualified exemptions do need a Public Interest test applied and if it is identified that the release of the information is deemed to be ‘in the public interest’ then the exemption does not apply and D&S IFCA will be required to disclose that information to the applicant.
- e) The term Public Interest cannot be easily defined but in essence it is something which is in the interests of the community as a whole, a group within a community or even an individual. In effect, something in the public interest is simply something which serves the interests of the public. When applying the test, D&S IFCA will decide whether in any particular case it serves the interests of the public better to withhold the information or to disclose it.
- f) When considering whether a request for information is a qualified exemption, D&S IFCA will first consider whether it is right to confirm or deny the existence of the information and second whether that information should be supplied to the applicant.
- g) Where a public interest test needs to be applied D&S IFCA reserves the right to extend the 20-day time period for response by a reasonable period. If the response is likely to be given after 20 working days D&S IFCA will inform the applicant of the likely date of response and the reason for the delay.

### **8. Fees**

- a) D&S IFCA reserves the right to charge a fee where it is estimated that the cost of complying with the FOI request exceeds £450 (which equates to 18 hours of work). Where it is estimated that a request may fall into this exemption a refusal notice will be sent and the applicant informed that the cost of complying will exceed £450 and help will be offered to the applicant to bring their request within the £450 limit, where it is reasonable to do so.
- b) When estimating the cost, D&S IFCA will take into consideration the time required to identify and locate the information requested, the time taken to check each piece of information to ensure it does not contain anything that is exempt from disclosure and the time required to remove anything that is exempt.

## D&S IFCA Policy Documentation

- c) The 20-working day period for response to the FOI request will be paused by D&S IFCA in instances where a fee is payable from the point at which the applicant is notified a fee is payable until the point at which the fee is paid.
- d) When a fee is required, the applicant will be told how much it will be and be given the opportunity to accept or reject it. The applicant has 3 months to respond and to pay the fee. If the fee is not paid within 3 months, D&SIFCA will close the request and explain to the applicant this is due to non-payment of the required fee.

### 9. Complaints Procedure Regarding FOI Requests

D&S IFCA has published a customer complaints procedure.

Where an applicant is unhappy with a refusal to disclose information by D&S IFCA in relation to a FOI request they should put their complaint in writing to the Chief Fisheries Officer who will investigate and respond as set out in the customer complaints procedure.

If the applicant is dissatisfied with the response from D&S IFCA following a complaint then they can complain to the Information Commissioner's Office.

Policy history and review:	<ul style="list-style-type: none"><li>• Final draft completed by Samantha Perry, DCC HR Solutions Devon on 7 April 2011</li><li>• Draft agreed by [senior management team] on [date]</li><li>• Staff consultation ended on [date]</li><li>• Policy authorised by [senior management team] on [date]</li><li>• Reviewed on 28 November 2013 by Richard Vain – HR Adviser</li><li>• Updated in January 2015 by Richard Vain – HR Adviser</li><li>• Reviewed in January 2016 by Emma Gill, HR Adviser, HR ONE</li><li>• Reviewed in January 2018 by Karen Stagg, HR Adviser, HRONE</li><li>• Revised 1<sup>st</sup> May 2018 and 27<sup>th</sup> March 2019 by Neil Townsend, D&amp;S IFCA</li></ul>
----------------------------	---

**This Policy will be reviewed annually or when required.**

# D&S IFCA Policy Documentation

## 10. Appendix 1 – Exemptions to Freedom of Information Requests

### The ‘Absolute Exemptions’

These are the exemptions where, if the exemption applies, it is not necessary to go on to consider disclosure in the public interest:

- Information accessible to applicant by other means (Therefore, all information accessible through a Publication Scheme will be covered by this exemption)
- Information supplied by, or relating to, bodies dealing with security matters
- Court records, etc
- Personal information (where the applicant is the subject of the information. The applicant already has the right of ‘subject access’ under GDPR; if the information constitutes the personal data of third parties, consideration will be given as to whether disclosing it would breach the data protection principles).
- Information provided in confidence
- Parliamentary privilege (a certificate signed by the Speaker of the House, in respect of the House of Commons, or by the Clerk of the Parliaments, in respect of the House of Lords is conclusive proof that the exemption is justified).
- Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court
- Communications with Her Majesty and the awarding of Honours

### Exemptions where the public interest test applies:

- Information intended for future publication
- National Security (other than information supplied by or relating to named security organisations, where the duty to consider public interest disclosure does not arise).
- Defence
- International Relations
- Relations within the United Kingdom
- The Economy
- Investigations & proceedings conducted by public authorities
- Law enforcement
- Audit Functions
- Formulation of government policy, etc
- Prejudice to effective conduct of public affairs
- Health & Safety
- Environmental Information
- Information that constitutes someone else’s personal data, and that person (the ‘data subject’) does not have the right under GDPR to obtain it themselves because of a GDPR exemption.
- Legal professional privilege
- Commercial interests

Further information regarding the Exemptions can be found on the Information Commissioner’s Office.