



**Information Commissioner's Office**  
Promoting public access to official information  
and protecting your personal information

## **Freedom of Information Good Practice Guidance No. 4**

### **Time limits on considering the public interest following requests for information under the Freedom of Information Act 2000**

The Information Commissioner's Office (ICO) has produced this guidance as part of a series of good practice guidance designed to help understand and apply the Freedom of Information Act 2000 (FOIA).

The FOIA requires public authorities to comply with requests for information within 20 working days following receipt of the request. In cases where a public authority is considering the application of an exemption that is subject to a public interest test (known as a qualified exemption), the FOIA requires the authority to reach its decision "within such time as is reasonable in the circumstances."

The FOIA does not define the word "reasonable", but in our view it is not acceptable for a public authority to take, as a matter of course, several weeks to assess the public interest considerations. The ICO is therefore providing this good practice guidance on what the Commissioner considers to be reasonable. This should assist public authorities to give a reasonable estimate to applicants, when they need to consider the public interest, of when a decision is likely to be made and communicated.

The following should be noted:

- the Environmental Information Regulations 2004 does not permit any extension of time limit beyond 20 working days for an authority to consider the public interest in the application of an exception to information that has been requested.
- the first edition of the Section 45 Code of Practice encouraged public authorities to make all decisions within the statutory 20 working day period "including in cases where a public authority needs to consider where the public interest lies in respect of an application for exempt information."
- under the Freedom of Information (Scotland) 2002 public authorities must comply with all requests, including those involving public interest considerations, within 20 working days

Whilst the current version of the Section 45 Code of Practice makes no reference to consideration of the public interest, our view is that public authorities should aim to respond fully to **all** requests within 20 working days. In cases where the public interest considerations are exceptionally complex it may be reasonable to take longer but, in our view, in no case should the **total** time exceed 40 working days.

Where any additional time beyond the initial 20 working days is required to consider the public interest, the public authority must still serve a “refusal notice” under section 17 of FOIA within 20 working days of a request even in those cases where it is relying on a qualified exemption and has not yet completed the public interest test. That notice must state the exemption(s) being relied on and, if not apparent, why. The notice must include an estimate of the time by which this decision will be made. If the final decision is to withhold the information requested, a second notice must then be issued providing the reasons for the decision on the public interest. No further notice is required if the final decision is to disclose the information.

## **Enforcement**

The Commissioner has set out above what he considers to be “reasonable” in terms of the timescales for public interest test considerations. He is keen to ensure that the time taken in such cases is no more than is necessary and that, unless there are exceptional circumstances, these time limits are adhered to.

As it is a requirement of section 17 of the Act for decisions on the balance of the public interest to be made within a reasonable time, significant or repeated unreasonable delays in this context may lead to monitoring by the Enforcement team and, in some instances, structured intervention. The Commissioner’s [Enforcement Strategy](#) provides more detail about types of intervention that may be considered.

## **More information**

If you need any more information about this or any other aspect of freedom of information, please contact us.

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