

HFEA Strategy and Information Department

Standard Operating Procedure for Information Access

Doc Name and Reference number:	HFEA Information Access SOP IMSOP-01
TRIM number:	2009/05464
Latest Version No:	1.1
Release date:	01 October 2010
Author:	Policy and Projects Manager
Approved by:	CMG
Next review due:	15/09/2012
Total pages:*	37

Version/revision control

Version	Changes	Updated by	Approved by	Release date
1.0	Original	Information Governance Projects Manager	Director of Strategy and Information	24.08..09
1.1	New standard SOP format; revised roles; new intermediate 'decision' stages added; new template responses for using ss.12, 40, and 44 exemptions; procedure for publishing Fol log added	Policy and Projects Manager	CMG	01.10.10

* Excluding control sheet

Table of contents

Purpose of this Standard Operating Procedure	4
When to apply this procedure	6
Responsibilities.....	7
Summary of procedure	8
Step by step guide to procedure.....	10
Related documents and references.....	15
Glossary.....	17
Annexes	18

Purpose of this Standard Operating Procedure

- 1 This procedure governs the identification, management, governance and discharging of requests for information held by the HFEA other than those falling within the information access regimes created by or made under the Human Fertilisation and Embryology Act 1990 (as amended).
- 2 The HFEA has statutory obligations to respond to enquiries submitted under the Freedom of Information Act 2000 ('FOIA'), Data Protection Act 1998 ('DPA') and the Environmental Information Regulations 2004 ('EIR'). Each information access regime has its own response timetable (20 working days after receipt for FOIA and EIR; 40 calendar days for DPA), as well as constraints regarding the format of requests (written for FOI; written plus proof of ID and fee for DPA; written or verbal for EIR).
- 3 The HFEA has adopted a centralised system for the logging, case management and assignment of all requests submitted under these regimes. It is essential, therefore, that such requests are forwarded to the Case Management Co-ordinator ('CMC') as soon after initial receipt as possible.
- 4 This SOP covers requirements for:
 - Receipt and identification of requests by all staff
 - The CMC function; and
 - Management of routine requests by Team Information Officers ('TIO') embedded throughout the organisation.
- 5 The SOP should be read in conjunction with the HFEA Information Access Policy (TRIM reference: 2009/05338). Other relevant HFEA documents and external sources of information are listed below. Any queries should be referred to the Policy and Projects Manager in the first instance, who will seek further advice from the Legal Advisor, if necessary.
- 6 The combined purposes of the Information Access Policy and SOP are to ensure:

- effective processing of requests for information,
- openness and transparency of the HFEA as a public body;
- consistency of response and process;
- proper delegation of responsibility to subject experts; and
- cultural change in the HFEA's management of enquiries and its fulfilment of its statutory role as an information provider.

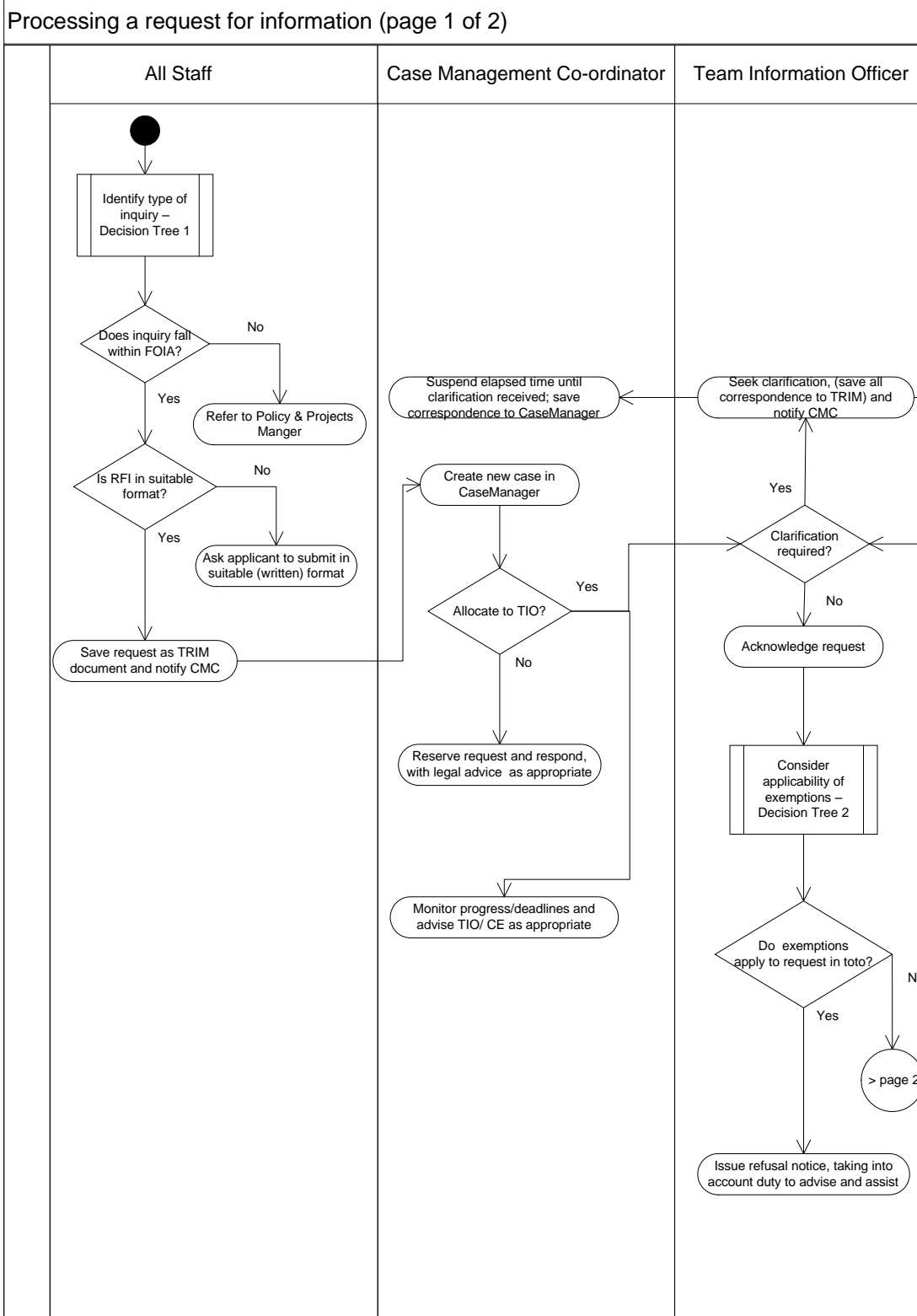
When to apply this procedure

- 7 This procedure should be used whenever a request for information is received by the HFEA from an external source except:
 - when that request is a request for information under the access provisions of the Human Fertilisation and Embryology Act 1990 (as amended) (e.g. an ‘Opening the Register’ request or request for patient-identifying register information for research handled by the Register research Panel)
 - when that request constitutes routine briefing provided to the media by the press office.
- 8 Requests for information (contained, or possibly contained, in records held by the Authority) should be distinguished from requests for professional advice and guidance (for example, advice given by inspectors to licensed centres on complying the conditions of their licence).

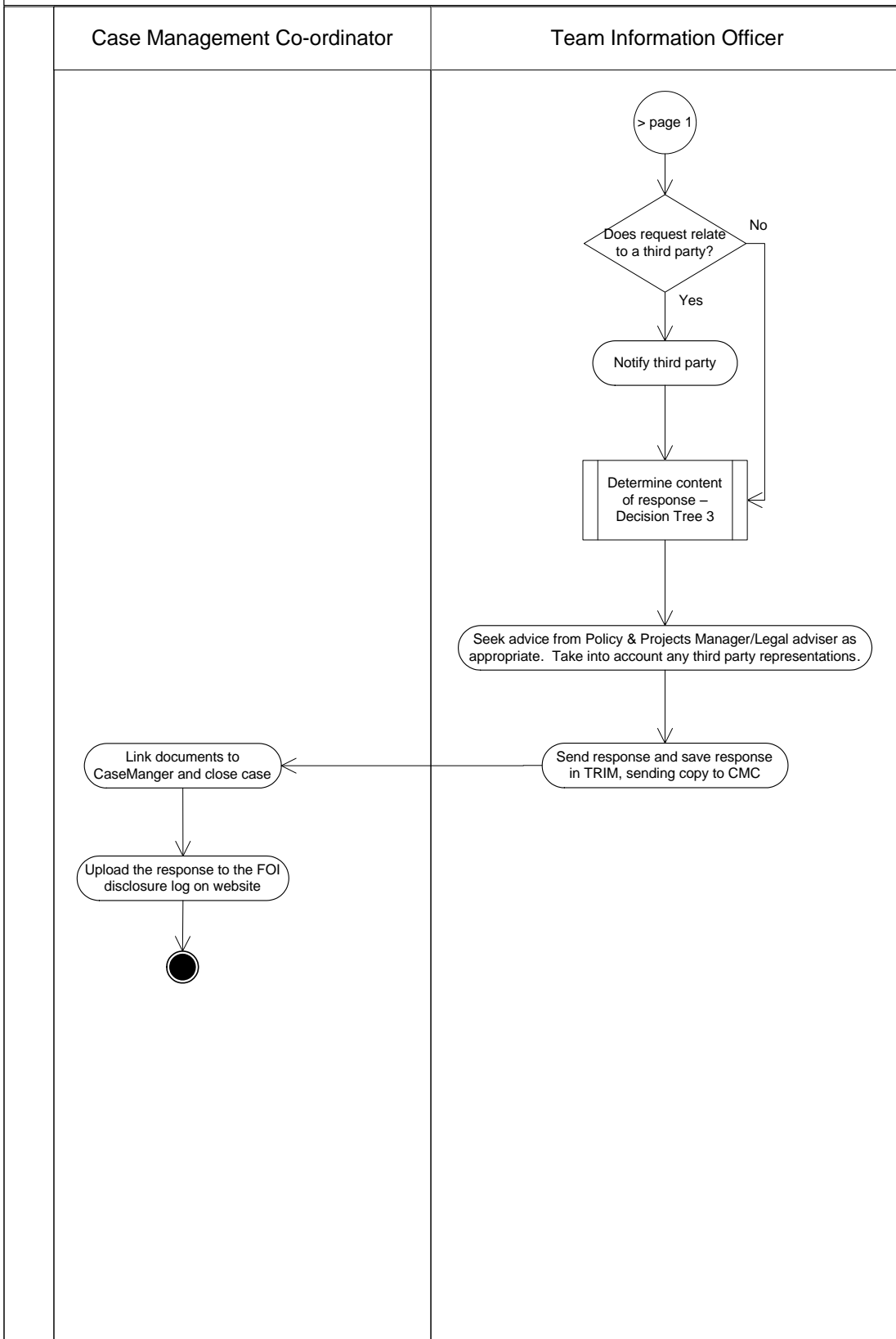
Responsibilities

- 9 The Director of Strategy and Information has overall responsibility for ensuring compliance with this procedure.
- 10 The Policy and Projects Manager will manage the processing of all DPA, EIR and complex FOI requests, and will seek further support from a Legal Advisor if required. Routine FOI requests will be assigned to the most appropriate team for processing, i.e. identifying and collating information relevant to the request, communicating this information to the applicant and handling any associated correspondence.
- 11 All staff carrying out this procedure should be adequately trained having attended workshops delivered by representatives of Field Fisher Waterhouse and received 1:1 or group tuition from the HFEA's Legal Advisor and/or Information Governance Projects Manager (before August 2010) or Policy and Projects Manager (thereafter).

Summary of procedure



Processing a request for information (page 2 of 2)



Step-by-step guide to procedure

Identifying and logging requests for information

Step	Action	Responsibility
1.	<p>Identify whether inquiry constitutes a request for information.</p> <p>If a request for information (other than environmental information) is received in a non-written format (e.g. by telephone), request that the applicant send a written request, preferably by email.</p> <p>(See decision tree 1 at Annex A).</p>	All staff
2.	<p>Save FOI, DPA and EIR requests for information to the following classification in TRIM:</p> <ul style="list-style-type: none"> Information Management – FOI, DPA & EIR Requests. <div style="border: 1px solid teal; border-radius: 15px; padding: 10px; margin: 10px 0;"> <p>The naming convention for RFIs is as follows:</p> <ul style="list-style-type: none"> <Date> <Surname of Applicant> RFI <Case reference> <keywords> <type of communication (in caps), e.g. 'REQUEST', 'ACKNOWLEDGEMENT', 'REQUEST FOR CLARIFICATION', 'CLARIFICATION', 'RESPONSE', etc.> <p>For example:</p> <ul style="list-style-type: none"> '2010-11-09 RFI Shannon F-2010-00123 information theory REQUEST' <p>NB. You will not be able to include the case reference until this is provided by the CMC so leave this out initially.</p> </div>	All staff
3.	<p>Notify the CMC that a request has been received and send a TRIM link to the saved document to the CMC.</p>	All staff
4.	<p>Create a case file for each new request in Privasoft Case Manager (see Annex C) and attach request, completing the Case reference number in the TRIM</p>	CMC

Doc name: HFEA Information Access SOP

10

Doc reference: IMSOP-01

Version: 1.1

TRIM reference: 2009/05464

Release date: 01 October 2010

file name.

5. Determine whether to assign the request to a TIO or CMC reserve to the Policy and Projects Manager. Discuss requests for register information with the Head of Business Intelligence.

Where the request is for personal data (i.e. identifying information) held on the Authority's statutory Register, this should be referred to the Information Manger in the Business Intelligence team. Where complying with a request for information would involve disclosing patient identifying information the HFEA's Caldicott Guardian should be notified.

(Where the case is reserved, the stages below may be carried out by the responsible officer, but the assisting TIO has operational responsibility for identifying, collating, and supplying information to support the response.)

-
6. Assign the case to a TIO for processing as appropriate. Inform the TIO of the case reference number of each request assigned to them and the deadline for responding. CMC
-

Acknowledging and/or clarifying a request

7. Acknowledge the RFI in writing as soon as possible after initial receipt. If using email, the acknowledgement should be a new message (not a reply) and give the case number, to be cited in all further correspondence. Correspondence should be stored in both TRIM (see point 2, above) and against the relevant Case Manager file. TIO

If clarification is required, seek clarification at the earliest opportunity, stating clearly what clarification is required and, where appropriate, setting out what information the Authority holds and can release that may be of interest to the applicant. Clarification may include confirming that the applicant is content to meet any costs to be incurred by providing the

information in the applicant's preferred format (see HFEA Information Access Policy).

Save all correspondence to TRIM using the naming protocol (see point 2, above) and notify the CMC so that this can be saved to CaseManager.

Notify the CMC whenever clarification is sought and received so that the elapsed time measure can be halted.

8.	Attach copies of all correspondence to the relevant case record in Privasoft Case Manager.	CMC
----	--------------------------------------------------------------------------------------------	-----

9.	Assess whether information requested can be provided in full or in part. Advice on the applicability of exemptions to the Authority's duty to release information should be sought from the Policy and Projects Manager in the first instance and further advice may be sought subsequently from the Legal Advisor, if appropriate.	TIO
----	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----

(See decision tree 2 at Annex A.)

If the information requested cannot be provided, or provided in full, assist the applicant to determine whether information that can be released might meet, or partially meet, their requirements and to reformulate their request for information that can be released.

Part of the assessment of whether and what information can be provided may involve an assessment of whether the information can be provided within the cost limits prescribed in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. If releasing the information would incur costs above the prescribed limit of £450, the Authority is entitled to refuse to provide the information requested. Staff time is calculated at £25/hour so this limit equates, in effect, to 18 hours' work. TIOs should keep an account of all time spent handling RFIs in order to ensure that this limit is not exceeded. For this purpose, costs for similar requests made by the same person or by separate persons who appear to be working in concert may be aggregated if received within 60 days of each other.

Preparing the response

Doc name: HFEA Information Access SOP

12

Doc reference: IMSOP-01

Version: 1.1

TRIM reference: 2009/05464

Release date: 01 October 2010

-
10. Notify any third parties to whom the request for information relates (e.g. to the clinic concerned, if it is about a particular clinic), inviting them to comment on the proposed release of information. TIO

The communication with third parties must not identify the person requesting the information and should make it clear that the decision about what information to release rests with the Authority.

-
11. Identify, locate and extract information relevant to the request. If Register information is to be extracted from the data warehouse, send an email to 'infosupport@hfea.gov.uk' to generate an IT workflow ticket. TIO

(See decision tree 3 at Annex A.)

TIOs should search TRIM in the first instance. Where necessary, paper records, networked and local drives, archived materials (including CDs, DVDs & microfiche) and emails should also be searched. Assistance may be required from the IT department if it is necessary to search backup tapes.

Please refer to the Archiving Policy and Procedures (TRIM reference: 2008/04673) for further details on recalling boxes from the HFEA archive. The TIO should keep a note of the amount of time spent on the request.

Where the processing of information requests may require (a) the application of exemptions and the public interest test, (b) assessment of the amount of work (time, people and/or money) required to collate information for disclosure, or (c) assessment of repeat, campaign or vexatious requests, guidance should be sought from the Policy and Projects Manager about the most appropriate case handling.

-
12. Monitor deadlines and remind TIOs of them in order to ensure compliance with both statutory requirements and performance indicators. CMC
-

Responding to a request and logging the response

-
13. Respond to the request, making use of the established response templates (see Annex B) where possible. TIO

The content of the response may be included as file attachments (typically in Word, Excel and PDF format) or in the main body of the email or letter. A password protected PDF version should be used if there is a risk of the information being altered subsequent to release. The format will otherwise be determined by the volume of the information that is to be disclosed to the applicant.

Correspondence should be stored in both TRIM (see point 2, above) and against the relevant Case Manager file. This includes any acknowledgment of receipt the applicant may send you.

Care should be taken to comply with the requirements of the applicants – if they have asked for a response by email or letter, it should be provided in this medium. Where no preference is expressed, and an email address has been supplied, it is usual for the response to be communicated by email.

-
14. Send copy of response and any correspondence to CMC. Indicate the time taken and any considerations that were relevant, for example, or determining the applicability of an exemption or applying the public interest test. TIO

A draft response can be sent to the Policy and Projects Manager for comment within the deadline. The Policy and Projects Manager will determine whether further advice should be sought from the Legal Advisor.

Closing and logging the response

15. Close the case in Privasoft Case Manager (see Annex C), recording details regarding the format and date of response, as well as the application of any exemptions or levying of any fee and noting the staff time taken to compile the response. CMC

-
- | | | |
|-----|-----------------------------------------------------------------------------------------|-----|
| 16. | Upload the response to the FOI disclosure log on the HFEA public website (see Annex D). | CMC |
|-----|-----------------------------------------------------------------------------------------|-----|
-

Handling a complaint

- | | | |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| 17. | <p>If a complaint is received, log this in TRIM and in Privasoft Case Manager against the original case file (see Annex C) and refer to the Director of Strategy and Information (or other appropriate member of the Senior Management team if the Director of Strategy and Information was involved in the processing of the initial inquiry). A response to a complaint under any information access regime should be provided within 30 working days of receipt.</p> | CMC |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|

If an appeal is made against the application of the FOIA s.36 exemption, which involves the certification of the Chief Executive, the Chair of the HFEA will be responsible for reviewing the complaint.

The Policy and Projects Manager and/or the Legal Advisor will be responsible for liaising with the Information Commissioner's Office when complaints have been referred to that body for review.

Related documents and references

Documents needed for this procedure (e.g. templates/forms/logs)

Document title	Location
HFEA Information Access Policy	TRIM 2009/05338
Records Management Policy	TRIM 04/31
Handbook for Privacy Impact Assessments	TRIM 2009/04669
Standard Operating Procedure for Privacy Impact Assessments	TRIM 2008/05859

Doc name: HFEA Information Access SOP

15

Doc reference: IMSOP-01

Version: 1.1

TRIM reference: 2009/05464

Release date: 01 October 2010

Standard Operating Procedure for HFEA Parliamentary Question Responses	TRIM 2008/02062
Archiving Policy and Procedures	TRIM 2008/04673
HFEA Publication Scheme	http://www.hfea.gov.uk/1106.html
Request for Information Toolkit	http://hfeaapp01:90/30.htm

References (e.g. Directions, the Code, other guidance documents or SOPs)

Reference	Location
Data Protection Act 1998	http://www.opsi.gov.uk/acts/acts1998/ukpga_19980029_en_1
Freedom of Information Act 2000	http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_1
Environmental Information Regulations 2004 (S.I. 2004 No. 3391)	http://www.opsi.gov.uk/si/si2004/20043391
Fees Regulations (S.I.	http://www.opsi.gov.uk/si/si2004/20043244.htm
Guidance on Freedom of Information from the Information Commissioner's Office	http://www.ico.gov.uk/tools_and_resources/document_library/freedom_of_information.aspx
Information Commissioner Decisions	http://www.ico.gov.uk/tools_and_resources/decision_notices.aspx
Information Tribunal Decisions	http://www.informationtribunal.gov.uk/Public/search.aspx

Glossary

CMC	Case Management Co-ordinator
CMG	Corporate Management Group
CoP	Code of Practice
DPA	Data Protection Act 1998
EIR	Environmental Information Regulations 2004
EUTCD	European Union Tissues and Cells Directive 2004/23/EC
FOIA	Freedom of Information Act 2000
FOI	Freedom of Information
HFE Act	Human Fertilisation and Embryology Act 1990 (as amended)
HRA	Human Rights Act 1998
OTR	Opening the Register
PIA	Privacy Impact Assessment
PIT	Public Interest Test
PQ	Parliamentary Question
RFI	Request for information
SAR	Subject Access Request
SMT	Senior Management Team
SOP	Standard Operating Procedure
TIO	Team Information Officer

Annexes

ANNEX A: Decision trees

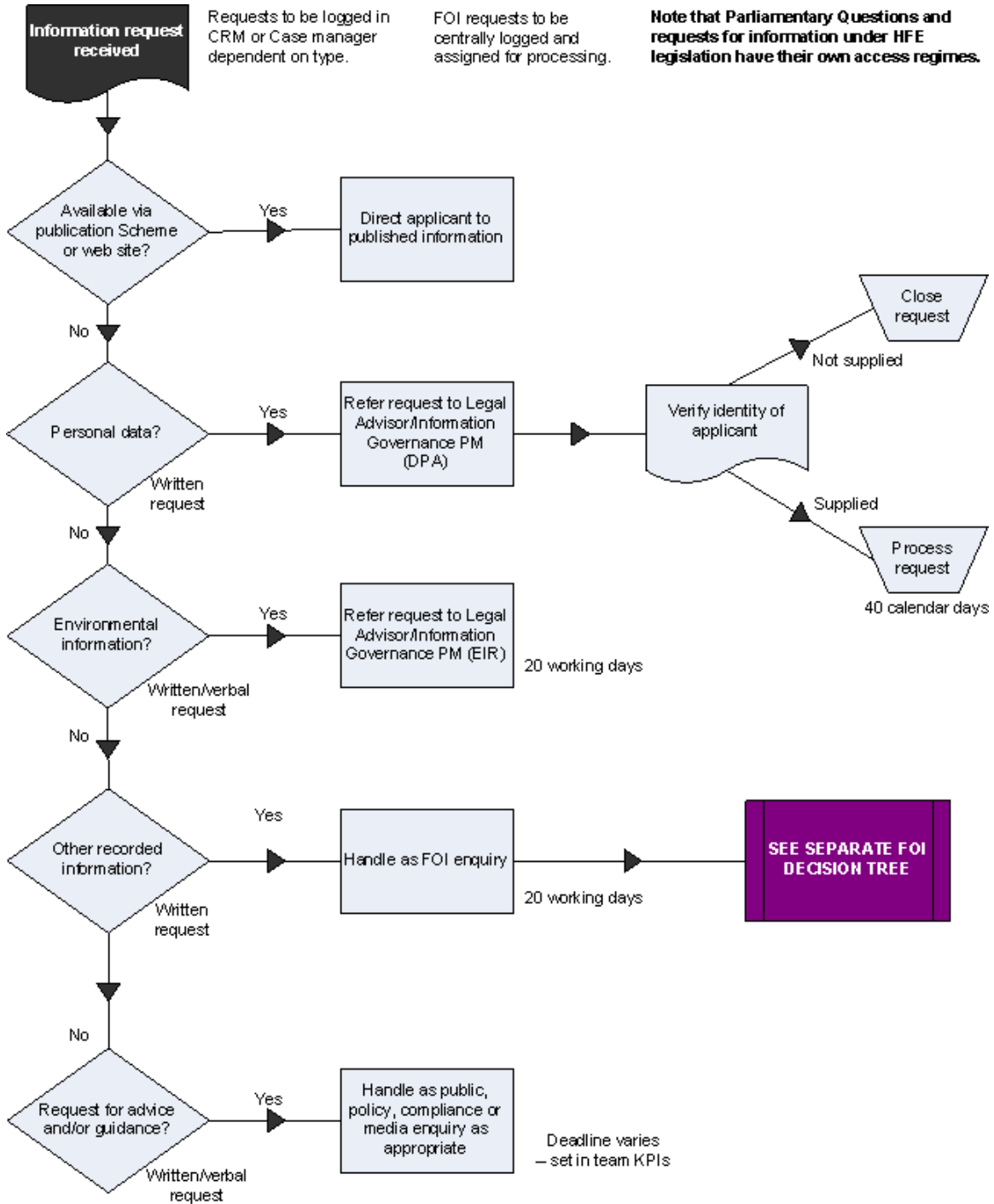
TRIM reference: 2009/05464

Version: 1.0

Doc name: Information Access SOP

Release date: 24/08/2009

1. Identifying the type of request



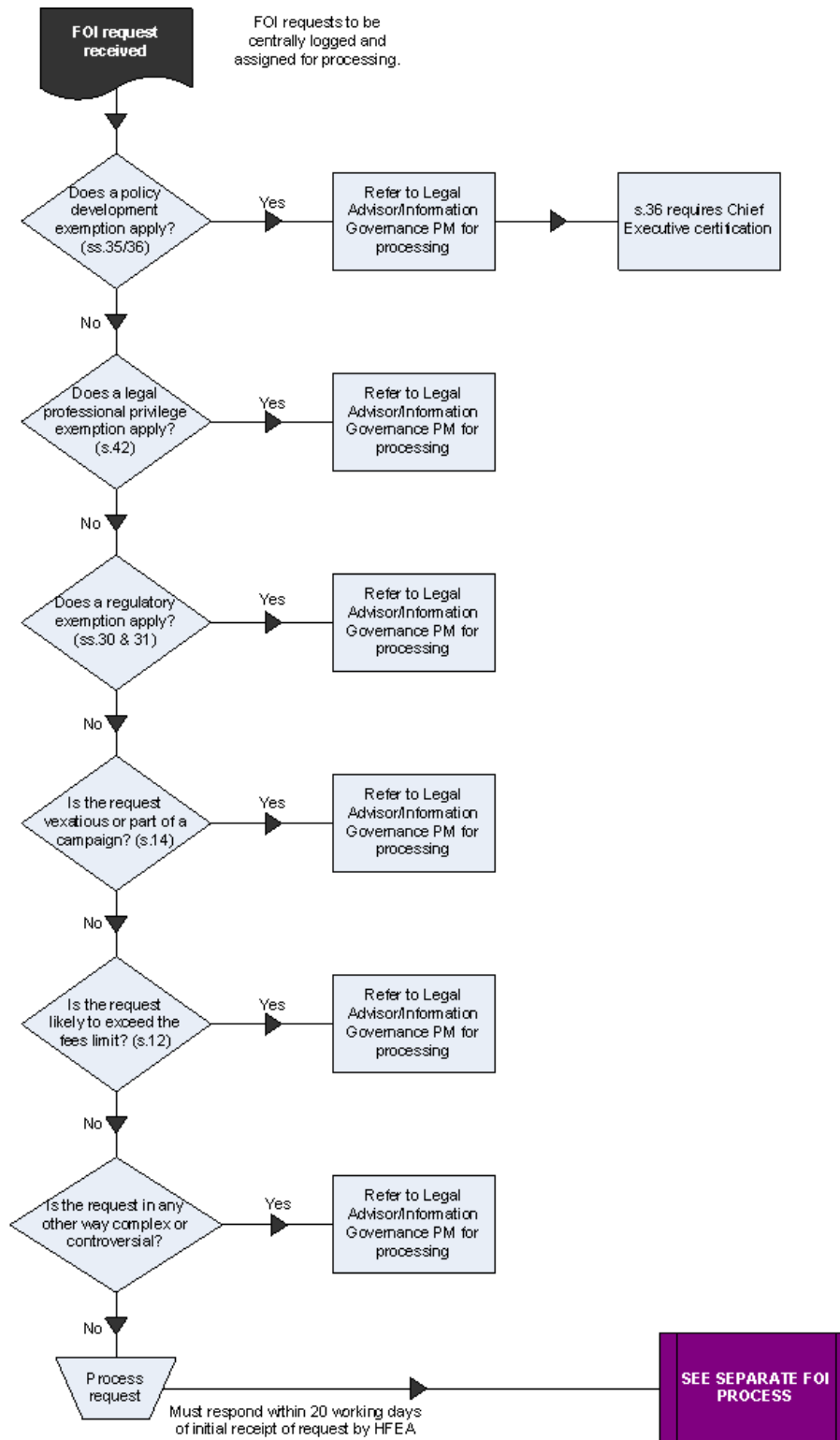
TRIM reference: 2009/05464

Version: 1.0

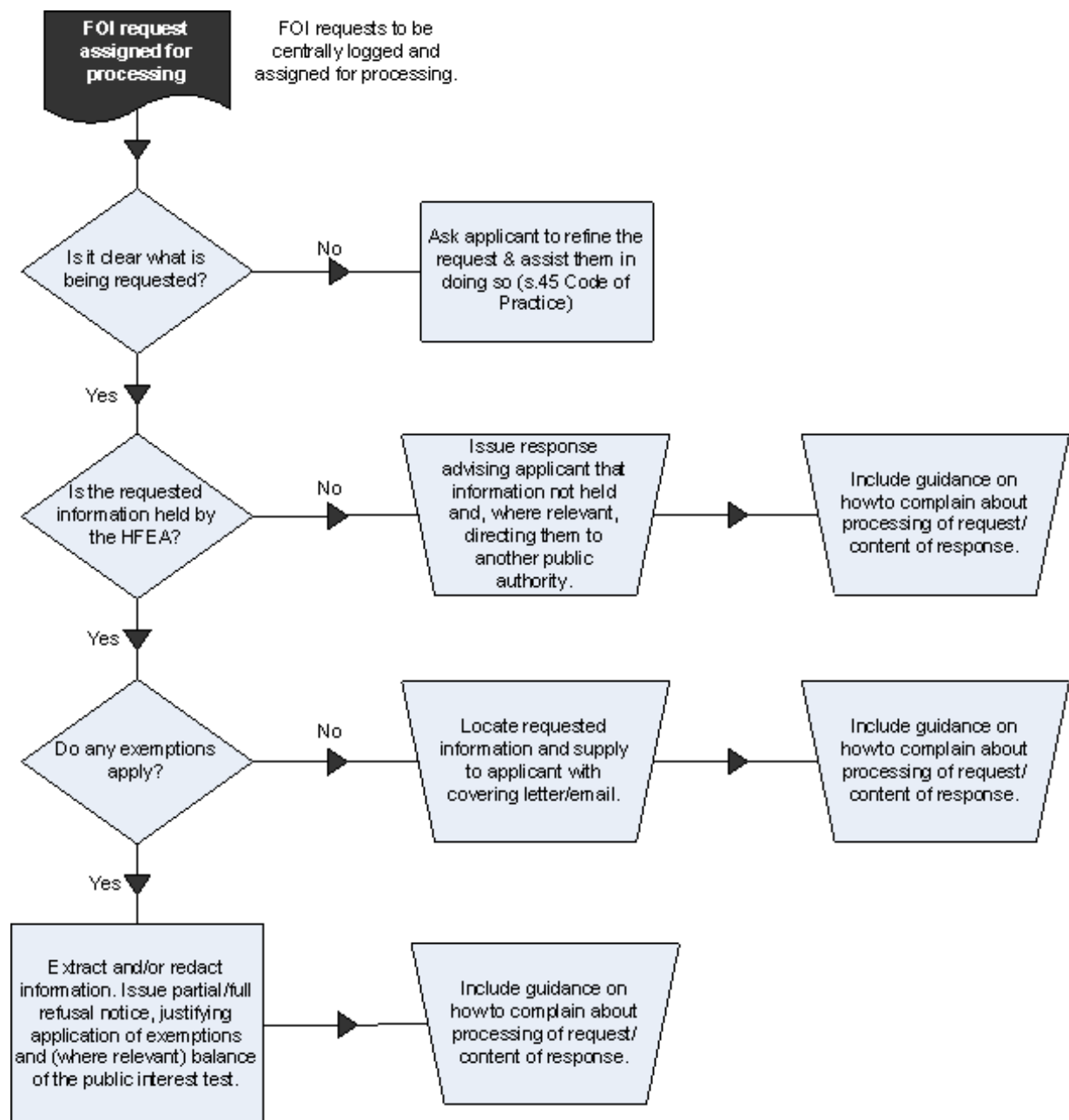
Doc name: Information Access SOP

Release date: 24/08/2009

2. Applying exemptions



3. Preparing a response to and FOI request



ANNEX B: Response templates and guidance

4. Introduction

These templates are intended to help TIOs in formulating responses to FOI requests. **They should not be used as templates for particular responses without having careful regard to the nature of the specific request.** Where necessary or appropriate, they should be adapted or amended for the particular facts and circumstances of the request. Another useful resource is the log of past FOI requests and responses on the website at <http://www.hfea.gov.uk/5934.html>.

Except in the case of very straightforward request and especially if the particular situation being dealt with dealing is not covered by the templates, advice and assistance should be sought from the Policy and Projects Manager in the first instance, allowing time for further advice to be obtained, if necessary, from the Legal Advisor.

5. Acknowledgement of request for information

Ref: [insert the Privasoft reference in all correspondence with the applicant]

Dear [insert title and name],

Thank you for your [email/letter/fax] received on [insert date].

Your enquiry will be dealt with as a request for information under the Freedom of Information Act 2000 ('FOIA').

In line with the Authority's obligations under the FOIA, a response will be provided within 20 working days or sooner, where possible.

In the interim, should you wish to contact me regarding this request, kindly do so quoting the reference given at the head of this message.

Yours sincerely,

[Insert name, job title and contact details]

6. Request for clarification of request

Ref: [insert the Privasoft reference in all correspondence with the applicant]

Dear [insert title and name],

Thank you for your [email/letter/fax] received on [insert date].

Your request will be dealt with as a request for information under the Freedom of Information Act 2000 ('FOIA'). In line with the Authority's obligations under FOIA a response will be provided within 20 working days or sooner, where possible.

You have requested [summarise what you understand to have been requested here]. In order to assist me in responding to your request I should be grateful if you would clarify the following [summarise areas where clarification is required].

Please note that while I await clarification of your request, the 20-day time period referred to above is suspended and will begin again once I have received the necessary clarification.

I should be grateful if you would quote the reference given above in all correspondence relating to this request.

Yours sincerely,

[Insert name, job title and contact details]

7. Standard Response

Ref: [insert the Privasoft reference in all correspondence with the applicant]

Dear [insert title and name],

This response has been prepared in line with the Authority's obligations under the Freedom of Information Act 2000 ('FOIA').

You have requested [summarise what you understand to have been requested here].

[Set out response or, if the information is contained in an attachment, ensure that it is in a suitable format – preferably PDF – and attach it or a printout to the letter/email.]

[Note: Remember that some documents may be too large to send in one email. If you believe that this is the case, then send the information in several parts and remember to make this clear in your email. It is possibly safest to ask the applicant to confirm receipt of all of your emails.]

Should you be dissatisfied with the handling of your request, in the first instance, please write to the Director of Strategy and Information at the HFEA, 21 Bloomsbury Street, London, WC1B 3HF. You also have a further right of appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 01625 545 700 or <http://www.informationcommissioner.gov.uk>.

[Note: In some cases the Director of Strategy and Information may have had input into the preparation of your response or direct involvement in the decision as to what should or should not be disclosed pursuant to the request. In these cases, it would clearly not be appropriate for him/her to handle any complaint and you should therefore give consideration as to which other director would be able to deal with any complaint.]

Yours sincerely,

[Insert name, job title and contact details]

8. Letter to Third Party

It is important that you identify as soon as possible whether the request relates to or in some way involves a third party. Once you have done so it will be necessary to write to them informing them of the request and, although we have no obligation to do so, invite them to make any comments.

It is very important that you do not disclose who has made the request or give out any information that may lead to the identification of the applicant.

Any response received from the third party should be considered when deciding whether or not to disclose the information requested. If the Authority was minded to disclose the information requested prior to you writing to the third party, in some cases it may be appropriate to reconsider that decision taking into account any issues raised by the third party.

Dear [insert title and name],

Freedom of Information Request

I am writing to let you know that the Authority has received a Freedom of Information Request asking for [summarise what has been requested here].

The Authority is minded to disclose [summarise what is likely to be disclosed to the applicant].

[Note: If no decision has been taken about what will or will not be disclosed at the time of writing this letter then leave the above paragraph out.]

While the decision as to whether or not to disclose this information ultimately rests with the Authority, I wish to give you the opportunity to raise any issues which you feel may be relevant to the Authority's decision.

As you will appreciate, I am under a statutory duty to respond to Freedom of Information requests within 20 working days. In view of this, I should be most grateful for your response by no later than close of business on [insert date by which a response is required. Usually allow 7 calendar days from date of letter as long as this falls with the 20-working-day limit for dealing with the FOI enquiry].

If I do not receive a response from you by this time, the Authority will nevertheless make its decision and respond to the request accordingly.

Yours sincerely,

[Insert name, job title and contact details]

9. Using section 12(1) exemption (cost of compliance exceeds appropriate limit)

It is important to determine as early as possible whether the cost of complying with a request for information might exceed the appropriate limit (£450, equivalent to 18 hours staff time). Where this is likely to be the case, you will need to provide an reasoned estimate of the time required to support this determination.

Ref: [insert the Privasoft reference in all correspondence with the applicant]

Dear [insert title and name],

This response has been prepared in line with the Authority's obligations under the Freedom of Information Act 2000 ('FOIA').

You have requested [summarise what you understand to have been requested here].

The Authority estimates that the cost of complying with this request would exceed the 'appropriate limit' set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Regulations'). This limit is £450 and for the purposes of estimating cost, staff time is calculated at notional rate of £25 per hour. Section 12 of the FOIA allows public authorities to decline to provide information requested under the FOIA where the cost of doing so would exceed this appropriate limit.

In estimating the cost of complying with a request for information the Regulations entitle the Authority to take into account the combined costs of determining whether the information is held, locating the information, retrieving the information and extracting the information for the purpose of disclosure.

The Authority has estimated the cost of complying fully with your request as [insert estimated cost] and for this reason your request is refused. This cost was estimated as follows:

- *[Here you should set out how you have estimated this cost: this might include, for example, time spent extracting the information, reading, redacting and reformatting the data. You might give an example of the cost incurred in carrying out a fraction of the work required (e.g. reading and redacting 20 pages took one hour, therefore to do this for the 600 pages requested would take 30 hours.). The cost estimate may not include the cost of determining whether exemptions apply or applying the public interest test, or other administrative costs such as logging requests and drafting correspondence.]*

It may be possible to provide you with some information within appropriate limit of costs, for example:

- *[Here you can suggest how the applicant might narrow the scope of their response to bring compliance within the appropriate limit. In discharging your duty to advise and assist you should advise the applicant what information the Authority can provide within the cost limit that might meet, or partially meet, their requirements and assist them to reformulate their request for information that can be provided.]*

[At this point you will have to decide whether to treat any revised request as a clarification or as an entirely new request. If the estimation of cost has been particularly complex and has itself required significant input from colleagues, it may be reasonable to close the request with a refusal and to treat any revised request separately and begin a new 20-day response period. In this case the initial request should be request should be closed and a new one opened if/when a revised request is received. The following alternative texts might be used.]

[Please let me know if you wish to submit a new request.] or [Please note that the 20-day period for responding is suspended and will begin again should you decide to refine your request and once I have received the necessary clarification. If I have not received a revised and clarified request from you within three months of the date of this message I shall regard your request as closed.]

Should you be dissatisfied with the handling of your request, in the first instance, please write to the Director of Strategy and Information at the HFEA, 21 Bloomsbury Street, London, WC1B 3HF. You also have a further right of appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 01625 545 700 or <http://www.informationcommissioner.gov.uk>.

Yours sincerely,

[Insert name, job title and contact details]

10. Using section 21 exemption (Information accessible by other means)

Ref: [insert the Privasoft reference in all correspondence with the applicant]

Dear [insert title and name],

This response has been prepared in line with the Authority's obligations under the Freedom of Information Act 2000 ('FOIA').

The information you have requested is routinely published under the Authority's Publication Scheme and can be found on the Authority's website at the following link: www.hfea.gov.uk.

[Note: In line with your duty to advise and assist, you should provide as much information as you reasonably can to enable the applicant to access the information. This might mean providing a link to the exact page on the HFEA website or providing the exact date and publication of a newspaper article or possibly even referring them to another public body.]

As the information you have requested is reasonably accessible via the HFEA website, it is exempt from disclosure under section 21 FOIA.

Should you be dissatisfied with the handling of your request, in the first instance, please write to the Director of Strategy and Information at the HFEA, 21 Bloomsbury Street, London, WC1B 3HF. You also have a further right of appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 01625 545 700 or <http://www.informationcommissioner.gov.uk>.

Yours sincerely,

[Insert name, job title and contact details]

11. Using section 22 exemption (future publication)

Ref: [insert the Privasoft reference in all correspondence with the applicant]

Dear [insert title and name],

This response has been prepared in line with the Authority's obligations under the Freedom of Information Act 2000 ('FOIA').

You have requested [summarise what you understand to have been requested].

The data that you have requested is presently being withheld under section 22 FOIA (future publication). It is intended that the data will be published on [insert date or, if

unknown, replace with 'will be published at a future date which is yet to be determined']].

[Insert reasons why the section 22 exemption is applicable. It is necessary to demonstrate that the 'public interest' test has been applied and that it is reasonable in all the circumstances to withhold the information. Here are two examples that may be relevant. However, please remember each request is distinct and you may need to draft your own response depending on the facts of the request you are dealing with.]

Example 1

It is considered that the early disclosure of the data you have requested is likely to result in patients and the general public accessing information that may be misleading. In light of this, the public interest in the disclosure of the information is outweighed by the public interest in ensuring that patients and the general public have access to information that is accurate and has been verified by clinics. It is therefore considered reasonable to withhold the data under section 22 at this point.

Example 1

It is considered that the early disclosure of the information you have requested may prejudice the commercial interests of the researchers and the research body funding the project.

In reaching this decision, the Authority has balanced the rights of the public to know about the outcome of such research now against the rights of the researchers and the body funding the research to publish the information in the most commercially beneficial way. In view of the potential loss of income that may be suffered by the researchers and the project were the Authority to disclose the information now, it is considered that the public interest in knowing about the outcome of the research right now is outweighed by the public interest in withholding the information. In these circumstances it is reasonable for the Authority to withhold the information requested.]

Should you be dissatisfied with the handling of your request, in the first instance, please write to the Director of Strategy and Information at the HFEA, 21 Bloomsbury Street, London, WC1B 3HF. You also have a further right of appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 01625 545 700 or <http://www.informationcommissioner.gov.uk>.

[Note: In some cases the Director of Strategy and Information may have had input into the preparation of your response or direct involvement in the decision as to what should or should not be disclosed pursuant to the request. In these cases, it would clearly not be appropriate for him/her to handle any complaint and you should

therefore give consideration as to which other director would be able to deal with any complaint.]

Yours sincerely,

[Insert name, job title and contact details]

12. Using section 40 exemption (personal data) where none of the conditions in Schedule 2 to the DPA 1998 is met.

[This exemption may apply to personal data relating to of private individuals and also to HFEA staff (names of all staff below Director Level) and clinic staff (names of all staff other than the Person Responsible and Nominal Licensee). Personal data is defined in the DPA as data which relate to a living individual who can be identified (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller. It includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.]

Please see also the s.43 exemption (below) which should be applied in all cases where the information requested consists of or contains information held on the Authority's statutory Register (unless, of course, the request can be handled under the Authority's Opening the Register procedure, i.e. where the applicant has a right to receive that information).

It is more likely that this exemption will be used to justify a redaction of a document disclosed rather than as a blanket refusal to disclose, unless the totality of the information sought consists of personal data. The duty to confirm or deny that the Authority holds the information will still apply unless to do so would itself amount to a disclosure of personal data.

Guidance on applying the personal data exemption is provided by the Information Commissioner's Office – see:

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/personal_information.pdf]

Ref: [insert the Privasoft reference in all correspondence with the applicant]

Dear [insert title and name],

This response has been prepared in line with the Authority's obligations under the Freedom of Information Act 2000 ('FOIA').

You have requested [summarise what you understand to have been requested].

[If you are declining to release any information use the following text:]

The information you have requested constitutes 'personal data' [and, in some cases, 'sensitive personal data'] within the meaning given in sections 1(1) [and 2] of the Data Protection Act 1998 ('DPA'). It is therefore exempt from disclosure under sections 40(2) and 40(3)(a)(i) of the FOIA. It is the Authority's opinion that disclosure of such information would be in breach of the first data protection principle (fair and lawful processing) as set out in Schedule 1 to the DPA since none of the conditions set out in Schedule 2 to the DPA is met.

It is important that you consider carefully on what ground your refusal to provide information rests. This will involve reviewing the conditions in Schedule 2 and possibly also Schedule 3 to the DPA. The most relevant ones are condition 1 (person has not given consent) and condition 6 (not necessary to the legitimate purpose pursued by the applicant) but you must be satisfied that no conditions in Schedule 2 are met to invoke this exemption (or, in the case of sensitive personal information, that where a condition in Schedule 2 is met, no condition in Schedule 3 is met.).

[If you are releasing redacted documents state what documents are attached/ enclosed and explain the redaction as follows:]

Certain information contained in these documents has been redacted (blocked out). This is because the information constitutes 'personal data' [and, in some cases, 'sensitive personal data'] within the meaning given in sections 1(1) [and 2] of the Data Protection Act 1998 ('DPA'). It is therefore exempt from disclosure under sections 40(2) and 40(3)(a)(i) of the FOIA. It is the Authority's opinion that disclosure of such information would be in breach of the first data protection principle (fair and lawful processing) as set out in Schedule 1 to the DPA since none of the conditions set out in Schedule 2 to the DPA is met.

Should you be dissatisfied with the handling of your request, in the first instance, please write to the Director of Strategy and Information at the HFEA, 21 Bloomsbury Street, London, WC1B 3HF. You also have a further right of appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 01625 545 700 or <http://www.informationcommissioner.gov.uk>.

Yours sincerely,

[Insert name, job title and contact details]

13. Using section 44 exemption (prohibited disclosure) where s.33A of the HFE Act 1990 applies

[This exemption applies to information that is prohibited from disclosure by a statute other than the FOIA. Section 33A of the HFE Act prohibits disclosure of identifying information contained on the HFEA's register. This may apply where there is a reasonable risk that the information disclosed, whilst not identifying in itself, could lead to the deductive identification of a person to whom the Authority owes a duty of confidentiality. This might be the case, for example, because it relates to a treatment given only to a very small number of patients or in a very rare set of circumstances,, and where other relevant information is in the public domain or accessible to the person making the request. The nature of this risk must be assessed in each individual case.]

[As in the case of section 40 exemptions, this exemption may require redaction or circumlocution rather than blanket refusal to disclose. If, for example, specifying the name of a clinic could lead to the identification of patients receiving a treatment there, giving a broader geographical region might avoid this].

Dear [insert title and name],

This response has been prepared in line with the Authority's obligations under the Freedom of Information Act 2000 ('FOIA').

You have requested [summarise what you understand to have been requested].

The Authority cannot release the information requested because to do so could lead to the identification of a person to whom the HFEA owes a duty of confidentiality. To disclose this information may therefore result in a breach of the confidentiality provisions of section 33A of the Human Fertilisation and Embryology Act 1990 (as amended). This information is therefore exempt from the general entitlement to disclosure provided by section 1 of the FOIA under section 44 of that Act.

Should you be dissatisfied with the handling of your request, in the first instance, please write to the Director of Strategy and Information at the HFEA, 21 Bloomsbury Street, London, WC1B 3HF. You also have a further right of appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 01625 545 700 or <http://www.informationcommissioner.gov.uk>.

Yours sincerely,

[Insert name, job title and contact details]

14. Copyright

Information listed in the Authority's Publication Scheme and any other information which can be disclosed under FOI, will be subject to copyright protection.

The supply of information or documents under FOI does not give the person who receives the document an automatic right to re-use the documents without obtaining the consent of the copyright holder, i.e. the Authority.

Realistically, it is very unlikely that the Authority would be able to exercise any control over how or when disclosed information is re-used, however, it is good practice, where information falls into this category to ensure that you include the paragraph below in any response disclosing copyright information.

Permission to re-use copyright information is generally granted in the form of a licence, although it is not known that the Authority has ever granted such a licence. The Authority has previously granted permission to publishers to use its information. Such requests should be referred to the Director of Strategy and Information for consideration.

You are reminded that information disclosed in response to this request may be protected by the Copyright, Designs and Patents Act 1988. The supply of documents under Freedom of Information does not give the person or organisation who receives them an automatic right to re-use the documents in a way that would infringe copyright, for example, by making multiple copies, publishing and issuing copies to the public.

Please refer to the guidance notes provided via the National Archives' Information Management website for further details on copyright:

<http://www.nationalarchives.gov.uk/documents/freedom-of-information-publication-schemes.pdf>

ANNEX C: Using Privasoft Case Manager

1. Adding a new request in Case Manager

1. Log in to Case Manager.
2. Under the 'All Requests' list on the right of the screen, select 'Active requests'.
3. On the top left of the screen, select 'Add New Request'.
4. Choose relevant Request Type from drop-down list (FOI, DPA or EIR).
5. Add Requestor detail, checking first in the drop-down list to see if the applicant's details are already in the system. If not, click on blue box to right of drop-down list and add new information.
6. Select an Officer (possibly yourself) to whom the request is being assigned for processing.
7. Dates - often, particularly if the request has come in by email on a working day, all three dates will be the same. If the request was sent in by letter, though, the date of request will be different. The only time that the 'Initially Received' and 'Complete Received' dates will differ is when you have had to seek clarification of the request from the applicant or if you are waiting for a DPA applicant to supply ID documents. It is essential for a 'Complete Received' date to be entered for the clock to start ticking against the request.
8. Ignore File Number.
9. Add a one-sentence 'Summary' of the request in your own words, then copy or reproduce the 'Full Text' of the original request (if the request came in letter form and has been scanned and stored as a PDF document, put 'See PDF' in this section).
10. Select Additional Details, identify the HFEA as the recipient organisation, then the name of the first HFEA recipient of the request (sometimes this will be generic, e.g. admin email account or web form). Finally, where relevant, enter the team who will be leading on collating information for the HFEA's response.
11. Only use the Authority tab where sign off has been sought from a member of SMT or the Legal Advice team prior to release of information.
12. Ignore subsequent boxes, only adding information to the Reference field if the applicant has entered their own unique reference number in their correspondence.
13. Add relevant key words to the request as appropriate.
14. Select the Actions tab and add details of any relevant actions. You can choose suitable due dates, but remember to always enter the completed date when the action is finished.
15. Upload all correspondence to TRIM using the *Information Management – FOI, DPA & EIR requests* classification and these four documents types where relevant: Request for Information (RFI), Response to RFI, Correspondence and Identity Documentation.
16. Import all correspondence into Case Manager by clicking on the Documents tab, then selecting the up arrow (Max view) on the right of screen (about 1/3

of the way down the screen). Click on the EDRMS option at the top of the screen, then choose Import Documents from EDRMS. If necessary, select the default options for importing from the HFEA's TRIM database, then run a search for your document(s) in the same way that you would in TRIM. Select the relevant files and complete the import. As there is often a lag between uploading content to TRIM and being able to find it using the title word search, it is often quicker to use a Classification search on the *Information Management — FOI, DPA & EIR requests* classification, organise the results by date in reverse chronological order and select the relevant documents to upload to Case Manager by tagging them.

17. If a request comes in by mail, you need to scan it, save it as a PDF to TRIM and then load it to Case Manager.

2. Putting a request on hold pending clarification

1. Select the 'Actions' tab and choose 'Add new' from the menu on the left of the screen.
2. Select the relevant action from the drop down menu ('GEN Request – Provide Written Clarification').
3. Select the person responsible from the drop down menu ('Requester')
4. Add the due date by selecting from the drop down calendar (3 months from the date the request for clarification was sent).
5. Check the 'hold' icon, which is the minuscule watch to the right of the 'Days' column
6. Click 'Save' from the menu on the left of the screen.

3. Adding content for review and redaction

1. Search for content either in TRIM or locally and open it.
2. Select Print from the File menu.
3. From the available printers, select Print-to-Case-Manager.
4. Select the relevant year, then click on OK
5. Select the relevant case number you wish to print to (there is a drop-down list, including a brief summary of each request), then click on OK.
6. Within Case Manager, go to the relevant request, then select the Documents tab. Click on the up arrow to maximise the screen. Select the Request menu in the top left of the screen, then choose Reload full request.

4. Closing a request

1. Ensure final correspondence is imported. Remember to justify in detail any exemptions that have been applied in your response to the applicant.
2. Ensure that any exemptions are noted within Case Manager. To do this, select the relevant case in the Active Request List, click on the Exemptions

logo to the top right of the screen, put check boxes next to all relevant exemptions and save.

3. Click on the Close tab. Select Edit on the left of screen. Complete the relevant detail in the form, including number of pages reviewed and released if relevant. Choose not applicable for translation and version 01. Uncheck the Request transferred out box. Add any comments you think relevant. Save. The case will now be added to the Closed in the last 90 Days request list.

5. Logging Complaints in Case Manager

1. Find the relevant case in Case Manager. This may entail using the 'Closed in Last 90 Days' option on the Case Manager home page or using the Search function.
2. Import relevant documents from TRIM.
3. Click on the Complaints tab.
4. Click on the Add New option on the left of screen.
5. Fill in the relevant fields.
6. It may be necessary to create several complaints against one case. The HFEA operate a two stage-complaint process, with complainants having a further opportunity to refer matters to the Information Commissioner's Office and then on to the Information Tribunal.
7. Remember to close each complaint, including decision details and date of decision.
8. Once complaints have been created, relevant cases can be accessed from the Active Complaints option on the Case Manager home page until such time as the complaint has been closed.

6. Generating the weekly Active FoI report

1. In the 'Active requests' screen select 'Search' from the menu at the top of the screen.
2. For 'Request type', select 'FoI' from the drop-down menu.
3. Click the 'Active' radio button in the box at the top of the screen.
4. Select 'Search' from the menu bar on the left of the screen.
5. Select 'Select all' from the menu bar on the left of the screen. The active cases will be automatically highlighted.
6. Select 'Custom report' from the menu bar on the left of the screen.
7. Select 'Load Template' from the menu at the bottom of the pop-up window and click 'Yes' on the dialogue box that appears in response to the question 'Discard the current report layout?'
8. A browser window will appear. Select 'FOI and EIR Processing.pcm' and select 'Open' at the bottom of the browser window. The browser window will disappear.
9. Select 'Generate Report' from the menu at the bottom of the 'Custom reporting Tool window

10. A pdf report will be automatically generated in a new window. Click 'Save As' and save this document temporarily to your desktop, giving it a file name of the form "YYYY-MM-DD Active Fof requests"

11. Close all the pop-up windows to return to Case Manager.

12. The CMC should send the file by email each Friday to:

- the Head of Clinical Governance & Patient Safety, Head of Inspection, Head of Research Regulation, Director of Compliance and Head of Business Intelligence

and copied to:

- the Technical Report Developer, Head of Corporate Quality Projects, Legal Advisor, Information Manager and other officials responsible for responding to active cases.

with the following text:

Please see attached list of live Fof cases.

A summary of previous responses is contained in the Fof log available on the website (<http://www.hfea.gov.uk/5934.html>).

Please let me know if you have any questions.

ANNEX D: Using the Red Dot Content Management System

1. Preliminary

1. If you will be uploading a pdf document to the first save this temporarily to your desktop.

2. Logging on to Red dot

1. Open Internet Explorer and go to <http://hfeacms01/cms>.
2. Enter your assigned user name and password. This will bring up a facsimile of the public website to which you can make amendments before publishing these to the live site.
3. Navigate to the FOI page (the link to the FOI section is at the bottom of the homepage).
4. Next. click on the 'FOI disclosure log' on the left navigation'

3. Creating a new FOI log page

1. In the FOI disclosure log section, at the top of the Red dot browser there is a red button labelled 'Open navigation'.
2. Click on this button and a pop up window will appear containing the file structure of the website. The 'FOI disclosure log' will be already selected.
3. In this pop-up window, right click on 'FOI disclosure log' and, on the menu that appears, select 'create page'
4. The next pop up that appears allows you to choose the template and title of the page you are about to create. Under 'available content classes' select '003 – base template'.
5. Under Headline enter '<FOI reference #> <subject of the request>', for example 'F-2010-00108 - Reasons for Termination'. Click OK.
6. Close the file structure window and the browser will return you to the FOI disclosure log. The link to your newly created page will appear on the list of FOI responses but without any teaser text or date (which all the existing FOI responses have).
7. Click on the link to open and edit your new page.

4. How to insert a content block onto your new page

1. To insert your content you need to add a 'text block' to the page. On the top yellow menu, click 'Open page.'
2. A new button will appear underneath the title of your new page called 'Manage extra content'. Click this button.
3. On the pop up window that appears, click 'Create and connect page'.
4. On the next pop up window that appears, click on the top option ('110 – Center – Content area').

5. In the next pop up window, enter the name of the page. (Nobody will see what you type here, it's just for your own reference when it comes to publishing the page).
6. New options will appear on your page. Click the 'edit content' button. This will open the text editor.

5. Inserting content via the text editor

1. The content will include a summary of the FOI request, and an HFEA response – this can include a PDF attachment. For past examples, and to see the standard layout, see <http://www.hfea.gov.uk/5936.html>
2. With the text editor open type in your page content (or copy from existing content, first pasting it into Notepad to remove source formatting).
3. Format the text block. The only formatting required are for the two headings, 'Summary of Request', and 'HFEA response'. To do this, select the words of each heading in turn and from the drop down format menu on the far left of the text editor ribbon, select 'Header 3'.
4. If you have a PDF attachment to add to the page, insert the PDF logo. To do this move the cursor to the bottom of the text editor and click the 'Insert Code Snippet' button. From the list that appears, select 'List – PDF list'. The PDF 'bullet point' will now appear.
5. Type the title of your attachment next to this icon, followed by the file size of your document in parentheses (e.g. '54 Kb').
6. Next select the title of your documents to create a link and click the hyper link button on the text editor's top toolbar.
7. On the next pop up window that opens, choose the 'file' tab, and click the 'New window' radio button then click on the 'Select' button.
8. A series of pop up windows will appear. Click 'select file from local system' and browse your own computer for the document you want to link.
9. Once you have found your file, you will be asked where you wish to save it in the internet file structure – click 'documents'
10. You will be taken back to your original pop up window – click 'insert' and the link will be created.
11. Select 'OK' on the text editor. This saves your content, and closes the text editor.

6. Adding the teaser text to the landing page

1. From the yellow menu at the top of the new page you have created, select 'Open page'. This menu will expand to include the option 'edit via form' – click on this. A new window will open.
2. In the 'teaser text' field cut and paste of the first sentence of your FOI's 'Summary of request'
3. Choose the article date manually (this should be the date the FOI response is published).
4. Disregard the other fields on this page.

7. Publishing the new page

1. Alert the Comms team that the page is ready for publication. Click 'Tasks' on the left hand menu. The pop up window that opens will show a list of all the pages have edited and are awaiting publication.
2. Click on the number of pages to edit. A new window will open.
3. Click the checkbox next to all the pages you wish to publish. For each FOI disclosure page you have created, there should be two pages to release – your new page and the inserted text block. Then choose 'Submit'.
4. Send an email to the Web Editor, copied to the Head of Communications and Communications Officer to let them know that you have made a page and want it to be published. They will confirm by email when the page is published.