



# Freedom of Information Internal Policy & Procedures

This document has three sections;

- Section 1 applies to all staff. It explains the internal procedures for staff in keeping records, and dealing with Freedom of Information requests received
- Section 2 applies to all staff involved in the processing and decision making of Freedom of Information Requests.
- Section 3 applies to staff working at the L&S Reception/Front Desk/Counter in the Government Administration Building

These procedures apply to all Sections within the Department;

## Section 1—All Staff

### Record Keeping, Email & Personal Information

With only minor exceptions, **all correspondence both issued to and from the Department is considered a record, and therefore may not be destroyed or deleted. This includes all emails written for work purposes, and/or retained on a Departmental computer.** In practical terms staff must not delete any email written for work purposes, and should be aware that personal emails written from their PC's may also be subject to review in response to a FOI request. You may however delete personal emails that are in no way associated with the work of the Department, or CIG . Staff are reminded that personal use of email should be kept to a minimum, as per guidance issued by the Chief Secretary and within Ministry regulations.

Personal Information will be treated with the utmost discretion and will not be released unless there are compelling reasons in the public interest which could overrule the general right to privacy (which would be extremely rare). In any such cases staff will be consulted in the first instance, and retain rights of appeal against any decision **before** the release of such information. **The use of your name, decisions made, or correspondence issued in your capacity as a Civil Servant are not however considered 'personal information' as you are doing so in the name of the Cayman Islands Government, and not as an individual. Whilst working in the capacity of a civil servant anything said or written by you could subsequently be publishable.** Providing however that all actions are undertaken following proper procedure and in good faith, staff have nothing to fear from these provisions.

Archiving of email must be undertaken on individual U: Drives. The Information Manager will not have day to day access to individual email accounts or archives, and will liaise with the staff member concerned as and when access is required. Staff will be required to provide full and unhindered access in such instances. The Director retains rights to review an individual's email without consent in line with existing CIG policy on the use of email, however, will only do so when exceptional circumstances dictate.

### FOI Requests made by Government Employees

Government Employees are free to make requests under FOI (as members of the general public). In addition to standard requests, staff will also be granted access to their own personal information (that would not typically be available to any other person). Requests should be made in accordance with the procedures noted overleaf.

### Key Contacts

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Information Manager

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Deputy Information Manager

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Director of Lands & Survey

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### Key Points

- Records cannot be destroyed or deleted, unless in accordance with the National Archive and Public Records Law
- All correspondence (including emails) relating to CIG or your day to day work should be considered records
- Personal information will not be released, other than in truly exceptional circumstances
- Email must be archived to U Drives, and access must be provided to the Information Manager on request
- Government Employees can make FOI requests, the same as any other member of the public

FOI in the most part means 'business as usual'. We are an open Department, with the majority of our records already available to the general public (e.g. Land Registry, Maps). If we can give someone information outside of the provisions of FOI (because it is already available), we will continue to do so. FOI only applies to information not currently available to the public.

## Making & Receiving an FOI Request

Requests must be in writing, and can be received in a number of different ways including;

- A formal request on the Department FOI Request form;
- A letter or email requesting information from the Department (i.e. "Please provide me details of the number of transactions you processed in the Land Registry in the 2007/2008 financial year"); or
- A letter or email on another matter, which includes a request or number of requests in it (ie. a boundary dispute) which requests information on a related, or unrelated matter (ie. "Please provide me details of the qualifications held by the Chief Surveyor, and the budget for the 2008/2009 year for the Land Registry").

In addition, you may receive calls requesting information that is not currently publicly available. Callers requiring information should be invited to make a request in writing, as detailed above.

Requests can be received;

- by mail
- by hand
- by email
- via the Contact Us page on our Website
- in person to Government Employees

As with all Departmental correspondence, **it must be date stamped immediately upon receipt**. If received by a member of staff whilst out of the office or out of working hours (with the latter being at the discretion of the staff member concerned), it must be date stamped at the earliest opportunity thereafter. Requests received in the Sister Islands should be date stamped, scanned and emailed to [foi.lsu@gov.ky](mailto:foi.lsu@gov.ky), and forwarded immediately by mail.

FOI requests should be placed in the dedicated FOI mail folder held by the FOI Manager. Requests received by email [individual email accounts] should be forwarded to your Section Head if you are unsure whether it falls within FOI. Your Section Head will review, and if the request qualifies under FOI will print off the document and pass it to reception to be date stamped and placed in the FOI file. In addition, the email should be forwarded to [foi.lsu@gov.ky](mailto:foi.lsu@gov.ky) by the Section Head or his/her designate. Requests must be received by the Information Manager within 2 business days of receipt, hence this review must be carried out on the day of receipt by the Section Head.

FOI requests will on occasion form part of correspondence on a related or different matter and may initially be placed in the mail folder of Section Heads. Where a Section Head establishes that an FOI request may exist, the original of the document should be passed immediately to the Information Manager for review (retaining a copy for their own purposes).

### Key Points

- Requests must be made in writing, and preferably on an FOI Request form (but it does not have to be)
- Requests can be received by mail, email, via website, or in person.
- During business hours you are obliged to accept a request.
- Requests must be immediately date stamped upon receipt, and placed in the FOI mail folder
- FOI requests received by individual email should be forwarded to Section Heads for review
- Section Heads should print email, pass them to reception for date stamping, and email them to [foi.lsu@gov.ky](mailto:foi.lsu@gov.ky).

Information already in the public domain is excluded from FOI. This includes information available for purchase at present such as Land Registers, Instruments, Registry Map Extracts, GIS products and web subscriptions. Other publicly available information includes the Laws governing the Lands & Survey Department, our policies and procedures, press releases and information published on [www.caymanlandinfo.ky](http://www.caymanlandinfo.ky).

### Identifying Freedom of Information Requests

**An applicant is not required to indicate that their request falls under the FOI Law, and staff should be vigilant when responding to correspondence or emails.** In reviewing whether a request for information is an FOI request;

1. Check if the letter or email mentions Freedom of Information. If it does, consider it an FOI request
2. Check if the letter or email is asking questions i.e. 'What are your opening hours?'
  - a. If you would normally be able to answer the question prior to FOI, then it is **not** treated as an FOI request. Respond to the question as normal—the Information Manager **does not** need to be informed
  - b. If the information has been published on our website or otherwise as a result of FOI, then it is **not** an FOI request. Respond to the question, and direct the applicant to the relevant location
  - c. If the question cannot be answered through (a.) or (b.) consider it an FOI request.
3. Where the letter or email asks multiple questions, answer those which fall under (a.) and (b.) and immediately pass a copy to the Information Manager to respond to the remainder of the questions.

**If any doubt exists however, a request should be treated as an FOI request in the first instance, and referred to the Information Manager.** Staff are actively encouraged to provide information directly where it is already publicly available. [www.caymanlandinfo.ky](http://www.caymanlandinfo.ky) will be the primary source of all such information, however internal expertise should also be utilized where at all possible.

**The Department must respond to a request within 30 calendar days of receipt by either granting or refusing access to the information requested, and hence it is essential that all requests be identified immediately upon receipt. Calendar days include weekends and holidays.**

Fees may be charged for FOI requests and applicants will be notified of these before information is provided to them. Inspecting records is however always free.

### Preparing FOI Requests

The Information Manager will require both assistance and co-operation from staff in the collection of information, including documents in desk drawers and email archives. Staff will be fully informed of such searches and privacy of personal information will be ensured as far as is possible under law, however, staff will be required to co-operate by providing information both accurately and under the timeframes set out in the law.

#### Key Points

- FOI requests must include a name, address or email address, and details of the information required.
- If you would currently provide information to the public, continue to provide it. Only where information has not previously been released would it be considered an FOI request
- If in doubt, please speak to a Section Head or the Information Manager
- The Department has strict timescales on dealing with requests, hence do not delay in reviewing requests made
- It is always free to view records, however fees may be chargeable for providing copies
- Staff will be required to assist in the collection of information for FOI request in a timely and accurate manner

The Information Manager may delegate all or any of their administrative duties under the Law (in particular the collation of documentation to the Records Manager) however is the ultimate decision maker in relation to the supply (or not) of information, and the review of documentation released. In this process the Information Manager will consult extensively both internally and externally.

## Section 2—Staff processing, dealing and responding to FOI Requests

Guidance provided in this document is in support of the Freedom of Information Law and Regulations, with both prevailing in the event of any contradiction. Requirements of the Law/Regulations have not been repeated in the most part, and the Information Manager must rely on all three documents in dealing with FOI requests.

### Receipt of an FOI Request by Information Manager

In exceptional circumstances where a review by the Section Head cannot occur within two (2) working days of receipt, requests should be passed directly to the Information Manager.

Requests relating to HR matters will be delegated to the HR Manager who will process the request under the guidance of the Information Manager. The deadlines set by the FOI Law will be conveyed to the HR Manager by the Information Manager and must be met.

Upon receipt of a request the Information Manager or Deputy will;

- Open a paper based and electronic file for each request (or requests) received. The file shall form a new series under the Department Filing Scheme;
- Input the request in the centralized request tracking system (JADE)
- Confirm receipt of the request within 10 days of initial receipt by standard form letter

### FOI Compliance

The Information Manager shall ensure that the request is compliant with the FOI law ensuring that the request;

- was received in writing;
- contains sufficient particulars to enable the records sought to be identified;
- contains sufficient details about the applicant;
- details how the information is to be delivered to the applicant; and
- whether the information is requested using the expedited service and the reason for needing this service.

The requestor does not have to quote the Law to have the request treated as a FOI request. If the request is unclear or too broad the applicant should be contacted to clarify or narrow the request.

Expedited Service will only be provided where there is a demonstrable personal or business need to receive information within a shorter than standard time frame. Whilst the Department will seek to deal with all requests as soon as time permits, requests will not be prioritized simply due to the desire of an applicant to receive a faster service.

The Department fully supports the principles of open government. A non compliant request should not be discarded without first seeking to make it compliant. Where the intentions of the applicant are clear, but non compliant on a minor technicality it will be treated, in so far as is possible, as a valid FOI request. In such cases, or where a verbal request is made, the applicant should be encouraged to bring their request in compliance with the FOI Law.

### Key Points

- The Information Manager will consult with the Director and relevant Section Heads / Staff in dealing with FOI requests
- FOI Requests for HR information will be delegated to the HR Manager under guidance from the Information Manager
- Confirmation of receipt to be issued within 10 days by IM
- Expedited service will be provided where there is demonstrable need
- Attempts should be made to ensure non-compliant requests are made compliant before rejecting a claim outright

## **FOI Request Review**

The Information Manager should ensure that a request falls within the scope of the FOI Law including that;

- the information requested is not excluded under the FOI Law;
- the information is not available under the Publication Scheme or accessible under normal business processes;
- Lands & Survey is the correct Public Authority for the request.

If the FOI request, or any part of it is best dealt with by another Public Authority, the request will be transferred to the correct Authority within 14 calendar days of receipt. If this occurs the applicant must be notified within 10 calendar days.

## **Processing the FOI Request**

The Information Manager or the delegated Records Officer must search for and locate all records which are relevant to the request. The search will need to cover all information held including;

- Paper based files held on site
- Archive Records
- Electronic Files held on network drives
- Emails and Electronic Files held on individual PC's
- Databases

To commence a search the Information Manager will review the records survey and file plan and identify all potential locations of which a search may be required. Email and Server Drives should always be identified in the review. A schedule of locations, and a brief description of the potential records to be utilised should be prepared. Particular care must be paid to ensure that 'abnormal' locations (including individual email accounts and desk drawers) are considered, and that relevant individuals are consulted.

The request should be reviewed to determine if the request would amount to an unreasonable diversion of resources. The test of reasonableness must not be skewed by the 'current day' workloads of the Information Manager or the Department as a whole, but will consider the true time required to prepare the release, and the importance of the information requested to both the individual and the public at large. Notwithstanding this statement, where the realities of current day workloads could encourage refusal on this ground, the applicant should be consulted to establish if the request can be further refined or an extended timeframe agreed in order to at least partly satisfy a request.

The relevant documents should be extracted from their individual files and scanned to the electronic folder on the FOI request and saved in a PDF format. A paper copy will not normally be required at this stage, as a combination of redaction and e-delivery (which should be encouraged) will likely ensure the scanned copy will be most useful. Any redaction should be undertaken to the electronic copy of the record where possible.

## **Reproduction Costs**

Once the volume of documents to be released is known, the estimated cost of re-production should be sent to the applicant. The costs of physical provision of documents are prohibitive to the applicant (CI \$1 per black and white page photocopy), and as such there is strong possibility that applicants will subsequently ask to view the records (at no charge). This in itself requires considerable staff time, and is not considered an effective use of Departmental resources. As such, and notwithstanding the requirements of the FOI Regulations, the Department will normally provide records in the following preference order;

### **Key Points**

- Ensure a request is valid before accepting it into the FOI remit
- Transfers to other entities must occur within 14 calendar days of receipt
- A schedule of locations (drawn from the Record's Survey) will identify all potential search locations for a record
- Standard locations (such as email, server drives) should always be considered.
- Rejection due to unreasonable diversion of resources will take into account the time taken, importance, and public interest tests, not just existing Department workload
- Relevant records should be scanned to PDF format for redaction review

- As originally requested by applicant
- Electronic Copy
- Physical Paper copy, with collection of reproduction fees
- Physical Paper copy, with reduction or waiver of re-production fees (see note)
- Physical Inspection of records

Note: Where a substantial (ie. in excess of 100 pages) of information is to be released, the Information Manager may use their discretion in the provision of paper copies (so as to avoid the loss of staff resources to monitor a physical inspection), at either reduced cost (ie. CI 0.10 per page) or free of charge.

In support of the principles of open government, in the event that the applicant does not respond to the re-production costs (either agreeing to payment or requesting an alternative delivery method), consideration should be given to releasing the record under the Departmental publication scheme where its release is deemed in the public interest. No notification need be provided to the applicant, as the release is at this point unrelated to the original request, which will have lapsed due to non payment.

Fees should be receipted into IRIS and deposited into the entity revenue account.

### **Checking and providing Proof of Identification**

Personal Information will only be released to the person concerned, except in extremely unusual circumstances and taking into consideration the provisions under the Data Protection Law and Regulations. Prior to the release of information, the identification of the individual must be confirmed.

The following are acceptable forms of Identification from any country and must be current;

- Passport
- Drivers Licence
- Election Card
- Governmental ID or Student ID card

Where applicants cannot provide the ID in person they may submit a certified copy. Copies may be certified by Justice of the Peace, Notary Public, or other person holding an internationally recognized professional qualification (eg. attorney, accountant, doctor, surveyor, architect, engineer), consistent with the requirements to certifying passport application photos.

In the event that ID cannot be provided, a sworn affidavit must be submitted declaring that the person is whom they claim to be, and explaining why no identification can be provided.

### **Decision Making**

After all documentation has been collated in relation to an FOI request the Information Manager must;

- Check each page for exempt material;
- Determine if redaction is required;
- Determine if an extension is required;
- Determine if request is vexatious, or repeated;
- Consult both internally and with other Public Authorities, as to whether the request should be granted, refused or deferred;

#### **Key Points**

- The costs of reproduction are likely to result in increased inspections of documents, resulting in loss of staff productivity
- Applicants should be encouraged to receive information by other means. The Information Manager has a discretionary right to reduce or waive fees payable in support of this aim
- Requests that lapse through non payment of fees should be considered for release through the Publication Scheme
- Receipts are to be deposited in IRIS
- ID or legal equivalent is required for the provision of personal information





- Prepare a schedule of records;
- Consider whether the records coming within the scope of the request contain third party information and consult as required; and
- Consider any relevant public interest factors.

Having reached an opinion as to whether to release (or not release) information, the Information Manager may consult with the Director and relevant Section Heads / Staff on the decision being made, taking into account any comments made in doing so.

### **Director Review & Publication**

On some occasions, and prior to the release of a decision, the correspondence (and documents to be released) may be passed to the Director for review. The Director will review the decision and the associated file and retain the right to amend the decision of the Information Manager. Any final comment will be provided no later than 2 days prior to the issuance deadline. **This review is subject to positive action by the Director to ensure that the FOI Law timescales are not compromised.**

In the event that the Information Manager and the Director disagree on the decision to be issued then control of the file shall pass to the Director who shall issue the decision as Chief Officer of the Department.

During the review, a decision on the publication of the records to the general public (via [www.caymanlandinfo.ky](http://www.caymanlandinfo.ky)) will be made. The presumption shall be in favour of publication unless exceptional circumstances prevail. In publishing releases, regard should be had to the original applicant, to allow journalists (in particular) sufficient time to utilize information provided (i.e. one week), before general release occurs.

### **Applicant Notification – Successful**

The Information Manager must, within 30 calendar days of receiving the request, write a letter advising the applicant of:

- the decision to grant information
- the form and manner of access
- any fee payable

Where the actual release of information is subject to delay through consultation, partial transfer or unforeseen circumstances then the applicant should be informed.

### **Application Notification – Unsuccessful**

The Information Manager must, within 30 calendar days of receiving the request, write a letter advising the applicant of

- the decision to refuse disclosure of the information requested;
- the reasons for refusal;
- any provision of the Law pursuant to which the request is refused;
- findings of any material issues relevant to the decision;
- particulars of any matter taken into consideration; and
- particulars of rights of review and appeal, the procedure governing the exercise of those rights and the time limits governing such exercise.

#### **Key Points**

- Documents must be reviewed thoroughly and checked for exemptions, exclusions and redactions before being issued.
- Decisions may be reviewed by the Director prior to issuance, who will retain the right to amend the decision of the Information Manager
- Applicants should be informed of decisions (or delays) within 30 calendar days of requests
- Information must be released within 14 calendar days of the payment of fees



### Internal Review

An applicant has a right to appeal the decision of an Information Manager through the Internal Review process by application to the Director of Lands and Survey Department. Where the decision was taken by the Director, the internal review should go to the responsible Chief Officer or Minister of the governing Ministry of which the Lands and Survey falls.

The Internal Review shall be undertaken by repeating the entire decision making process, reviewing all relevant documentation and any supplemental information used. If the decision through Internal Review is to be appealed, the appeal must be made to the Ombudsman. The internal review process must be completed and the applicant notified within 30 calendar days of request.

#### Key Points

- If a decision is amended by the Director, the immediate right of appeal is to the Ombudsman.
- The Internal Review process provides the opportunity for requests to be reviewed independently of the Information Manager
- The Internal Review process must be completed in 30 calendar days
- Appeals of an Internal Review are made to the Ombudsman.

GAB L&S Front Desk/Counter Staff must accept requests for the Department.

### Section 3—Government Administration L&S Staff

As the ‘face’ of L&S, the L&S Front Desk/Counter Staff must take a proactive role in providing correct advice on FOI matters, and the acceptance of requests in a professional manner, even when the recipient is unsure of what they are requesting. This will include, but is not limited to;

- Providing copies of FOI request forms and guidance
- Assisting applicants in the completion of forms (even if this takes a considerable period of time)
- Discussing the request with the Applicant to assist in establishing what information they are seeking

**The L&S Front Desk/Counter Staff is to assist in the completion of FOI Request Forms, and the acceptance and onward transmission of requests received.**

Questioning skills should be used to establish important information, such as ‘What area of Government does that relate to?’ and ‘What is your query about?’.

**Whilst a proactive stance is required, staff are not permitted to ask applicant ‘why’ they require information, and have no need to do so.**

### Accepting FOI Requests

L&S Front Desk/Counter Staff has a standard procedure to be followed when receiving FOI requests either in person or by hand delivery. Documents that are addressed to a specific person should be placed in the relevant mail tray with no further action required. For all other documents;

1. Date stamp the envelope or document
2. If possible, ask the applicant (or the courier) if they are aware of the intended

#### Key Points

- L&S reception will be a focus point for receiving FOI requests
- Reception will assist applicants in making requests and completion of Forms
- Questioning skills should be used to identify who the request is intended for, but applicants should not be asked ‘why’ they are making a request
- Requests must be date stamped on receipt
- If it recipient of the request cannot readily be established the advice the Lands & Survey IM should be sought





recipient. If so, mark accordingly.

3. If the applicant (or courier) is unsure of the recipient, open the envelope (if applicable) and date stamp the letter. Briefly review the contents. If the recipient can be established, mark accordingly.
4. If the recipient still cannot be established, the Information Manager should be contacted for assistance, and will accept receipt of the request.

**End of Policy**



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