

Freedom of Information - Role of Ministers

The Secretary of State is taking a close interest in how the FOI regime is operating, the requests the department receives and how we are responding. This note clarifies how officials should keep Ministers informed and the circumstances under which Ministers will take decisions on FOI requests.

- General guidance on handling FOI requests is on [Transnet](#) and continues to apply.
- Ministers will continue to receive a daily list of requests. It is therefore essential that requests are recorded on FITS as soon as they are received.
- Ministers will reply to all FOI requests received from MPs (for present purposes, FOI requests include cases which fall to be decided under the Environmental Information Regulations and the Data Protection Act). It will still be for the relevant officials to carry out the work to consider the request, collect information, consider the exemptions and the public interest test and draft the reply.
- If there is a need for any contact with the MP or MP's office – for example to seek clarification of the request – this will be done by Private Office staff. (This mirrors the agreed process that Press Office will handle contact with the media).
- As with other correspondence from MPs, the Secretary of State will respond to FOI requests from Cabinet Members, senior Opposition Spokespersons, Chair of Select Committee etc. Junior Ministers will, having regard to their normal ministerial portfolios, reply to all other MPs.
- Other requests, not from MPs, will continue be handled by officials. But the Secretary of State wants to receive a weekly update on how the department has responded. This will be done through the existing "Weekly Report" produced by the FAST team. To ensure Ministers will not be part of the decision making process the report will cover requests that have been *completed* (ie after decisions have been taken and the response sent). For many routine requests only statistical information from FITS will be needed, but for novel, controversial or precedent-setting requests, a short summary should be produced. The relevant DM will need to identify such requests and produce a summary; Directors (or DGs as desired) should co-ordinate their contributions to the FAST team, by close on Wednesday for inclusion in that week's Weekly Report. For Agencies this should be done through the Chief Executive.
- Where requests decided by officials raise particular presentational issues, it is essential that the case is discussed with Press Office. In many cases it will be appropriate to discuss **presentational** aspects with the Minister's office in advance of responding to the request, while making clear that Ministers are not involved in the FOI decision itself.
- For a limited number of requests that raise particularly important issues, and which have been escalated up the management chain, it may be appropriate for a senior official to recommend that the FOI request be **decided** by a Minister. Any such cases should be discussed with the FAST team, Permanent Secretary's office, Legal Services Directorate and Principal Private Secretary. Note that all cases involving a Section 36 exemption must go to Ministers.
- For the moment we will decide on a case by case basis how to handle any appeals arising out of either FOI responses sent by Ministers to MPs or other FOI decisions taken by Ministers on the recommendation of a senior official. This may change as precedents begin to develop in the Department or across Whitehall.

XXXX, Principal Private Secretary, 24 January 2005