



Freedom of Information Procedure October 2019

Consultation completed:	September 2019
Approved:	October 2019
Review Date:	October 2020

Contents

Section	Contents	Page
1.	Introduction and background	3
2.	Definition of Freedom of Information Requests	3
3.	Timescales	4
4.	Charges for Providing Information	4
5.	Handling FOI Requests	4
6.	Refusing FOI Requests	4
7.	Responding to FOI Requests	6
8.	Right to Review/Appeal	7
9.	Monitoring and Evaluation	7
Appendix 1	Flowchart illustrating Freedom of Information Procedure	

Our Vision

Excellent housing in vibrant communities

Our Values

Respect

We see the positive in everyone, especially our tenants. We treat everyone fairly, regardless of age, race, gender, sexuality or background. We ask for opinions even if we know we might not like what we hear. And we address people's concerns in any way we realistically can.

Integrity

What we say in public is the same as what we say behind the scenes. If we say we'll do something, we mean it. Our tenants can count on us to solve their problems and make sound decisions.

Aspiration

We want the best for all our current and future tenants. We're not afraid to strive for things that won't be easy – or try things that haven't been done before. We seek out opportunities and welcome change. If it doesn't turn out as planned, we learn and improve again. And then we try again.

Our Strategic Objectives

- A. Build more desirable homes in popular neighbourhoods
- B. Deliver more excellent services to suit our tenants' lives
- C. Invest in our people to grow and develop their skills
- D. Find more ways to ensure value for money
- E. Continue to challenge poverty
- F. Put even more focus on community health and wellbeing
- G. Be ready for opportunities

1. Introduction and Background

- 1.1 Freedom of Information (FOI) requests are concerned with an individual's right to access information.
- 1.2 The Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019_ ("the designation order") will bring RSLs under FOI legislation from 11 November 2019. This legislation places three duties on RSLs. These are the duty to respond to requests for information, the duty to publish information and the duty to advise and assist.

2. Definition of Freedom of Information Requests

- 2.1 FOI requests are any request for information which the association holds. Requests must be in written form and the person requesting the information must provide the correct name and either an address or email address for correspondence. An FOI request can be made on behalf of another person.
- 2.2 The designation order states that FOI will apply to RSLs and subsidiaries, in relation to housing services.

FOI will apply to the following elements of housing services, as defined by Section 165 of the Housing (Scotland) Act 2010:

(a) the prevention and alleviation of homelessness

(b) the management of housing accommodation

(d) the provision and management of sites for gypsies and travelers, whatever their race or origin.

- 2.3 It also states that FOI applies to supplying information to the Scottish Housing Regulator in relation to its financial wellbeing and standards of governance and those subsidiaries that are listed on the register kept by the Scottish Housing Regulator are also covered.
- 2.4 The order then goes on to state that paragraph b (the management of housing accommodation) is limited to that *for which the RSL has, under the Housing (Scotland) Act 2001, granted a Scottish Secure Tenancy, as defined in Section 11 or a Short Secure Tenancy as defined in Section 34 of the Act.*
- 2.6 Subsidiaries that are listed on the register kept by the Scottish Housing Regulator will be covered.

3. Timescales

- 3.1 The timescale for responding to an FOI request is twenty working days. The twenty working day timescale commences on the day the association receives the request. There are no extensions for the timescale.
- 3.2 Clarification can be requested where it is unclear what information the person is requesting. The twenty working day timescale will recommence once clarification is received.

4. Charges for Providing Information

- 4.1 The association will make charges for information over £100.00 at a rate of 10% of the amount above £100 to the upper limit of £600.
- 4.2 The association will charge a flat rate fee of £15.00 per hour, per member of staff.
- 4.3 The association will charge for paper and printing at 2p per black and white sheet and 4p per colour sheet.
- 4.4 Postage costs will be recharged at the rate we paid to send the information. Our charge is for sending information by Royal Mail First Class.
- 4.5 A fees notice must be issued within 20 working days of the request, setting out the projected costs of dealing with the request. When the notice is issued, the 20 working day time period will be suspended until the fee has been paid. Once the fee is paid, the 20 working day time period will continue. The fees notice should therefore be issued as soon as possible after the request is received.
- 4.6 The requester has three months from the date of issue of the notice to pay the fee. The association does not have to provide the information until the fee has been paid by the requester.
- 4.7 If a fees notice is paid and the association finds out later that it underestimated the costs, the association cannot ask the requester to pay the additional cost. However, if the association subsequently finds that it costs less to provide the information than anticipated, the association will issue a refund.
- 4.8 The requester has the right to request a review, if they think that the information should be free of charge or if they think that the fee is too high. The Information Commissioner will then investigate whether the fees notice was accurate.

5. Handling FOI Requests

5.1 Information Already Published

Where the FOI request asks for information already published, the response can simply direct the person to the pre-existing source of information by sending a copy of the information or directing them to the publications scheme.

5.2 Repeat Request

Where a request is identical or substantially similar to a previous request, the previous response can be sent to the requester.

6. Refusing FOI Requests

6.1 Where the decision is made not to disclose information, the correspondence issued should quote the exception or exemption used and explain the decision.

Correspondence should also provide the requester with details of their rights to review and appeal.

- **Information is Not Held**

FOI requests are valid for pre-existing information that the association has recorded and stored, for example, in a document, email, spreadsheet, file or note. If the Association does not hold the information then it is not covered by FOI and information should not be obtained from external sources in order to fulfil a request.

If a request is refused because information is not held, keep a record of searches to show you have attempted to find the requested information.

Advice and assistance should be given to the individual making the request. If an organisation is known who may hold the information requested, the contact details of that organisation should be provided to the individual.

If possible, provide a reason you do not hold the information.

- **Vexatious Requests or Repeat Requests**

A request can be refused if it places a significant burden on the association, has no serious purpose or is harassing the association. This could be where the requester is unreasonably persistent with no obvious intent to obtain information.

For example, a request where the requester is attempting to reopen an issue which has already been comprehensively addressed by the association, or otherwise subjected to some form of independent scrutiny, could be vexatious.

If the request is a repeat of a previous request from the same person, the association is not obliged to comply unless a reasonable period of time has passed.

- **Cost**

The association is not required to provide information where the cost of responding to the request exceeds £600.

The association will still have a duty to provide reasonable advice and assistance to requesters. The association will discuss the request with the requester to find out if their request could be narrowed, refined or reduced to bring it under the £600 limit.

If the request can be refined and cost reduced, advice will be given to the requester on how to refine the request. If the request cannot be refined, this will be explained to the requester.

- **Absolute Exemptions**

Exemptions can be absolute or qualified. For absolute exemptions, you only need to establish that the exemption applies to the information in question in order to withhold the information.

Absolute exemptions include:

- Information otherwise Accessible (Section 25);
- Disclosure prohibited by law (Section 26);
- Confidentiality where the information is subject to an actionable breach of confidence or includes court records. (Section 36(2));
- Where disclosure of the requested information (where that information is personal data) would breach the data protection principles (Section (38)(1)(b));
- Where the information requested is personal census information (Section 38(1)(c) or a deceased person's health record (Section 38(1)(d).

- **Qualified Exemptions**

All other exemptions are qualified and the public interest test needs to be carried out, in addition to establishing that the exemption applies.

Use of exemptions should be applied as restrictively as possible and a presumption in favour of the release of information should be adopted. Where an exemption applies, information should only be withheld where the interests in withholding the information outweigh public interest.

Personal data

This relates to information that cannot be put in the public domain. It may be necessary to balance the interests of the data subject against the interests of the person requesting the information. Where someone requests information which is their own personal data, then this can be provided as a Subject Access Request and is not an FOI request.

Commercial Interests

Information can normally be withheld where its disclosure would either cause substantial harm to an organisations commercial interests or where disclosure would breach the law of confidentiality of commercial information, which is kept confidential in order to protect a legitimate economic interest.

Time should be considered when deciding how a response will impact commercial interests. For example, where a contractor is concerned, the more recent the contract, the more likely the Information Commissioner will consider that information can be withheld.

7. Responding to Requests

Step 1: Acknowledge the Request

If request is not in writing, write to requester advising the request needs to be made in writing.

Ensure the request includes the person's name and correspondence/email address. Confirm name and address if necessary.

Is it FOI or is it an Environmental Information Request/Subject Access Request?

Send acknowledgment letter, providing an interpretation of the information requested to ensure it is clear that the request has not be misinterpreted.

If necessary, contact the person requesting the information for clarification. Issue reminder letter after 20 days if no response. FOI can be closed within 40 days and closure letter sent, if there is still no response.

Record the request and acknowledgment letter in the Disclosure Log and on QL.

Step 2: Issue fees notice

Estimate the cost to locate and collate the information.

Issue fees notice and receive fee.

Step 3: Assess the request

Do we hold the information requested?

Is the information already accessible to the public? Where information already exists, direct the person requesting information to the publications scheme.

Has the same information been requested before?

Step 4: Consider response

Consider any exemptions which may apply. Is there any personal or confidential data included? Are there any commercial risks if the information is provided? Are exemptions absolute or qualified?

Is all the information exempt or just part of the information?

If an exemption applies, consider if it is in the public interest to disclose the information.

Step 5: Consult with colleagues

If information is not already accessible, which team is likely to hold the information?

Request that relevant information is collated and that searches for information are recorded.

Step 6: Prepare response

Obtain all information and prepare response.

Step 7: Issue response

Response should be signed off by a member of the leadership team.

Send response to person requesting information.

Step 8: Record request and response on QL.

8. Right of Review/Appeal

- 8.1 If an individual is dissatisfied with the initial response to their request provided by the association, they can request a review. The review should be considered by someone different from the person who made the initial decision and they may decide to overturn, change or uphold the initial response. The association will have twenty working days to provide a response where a review is requested.
- 8.2 If it has already been decided that a request is vexatious, the association do not need to carry out a review but should inform the requester, within 20 working days that they do not intend to respond.
- 8.3 If an individual remains dissatisfied following the outcome of any review then they may appeal to the Scottish Information Commissioner within six months.

9. Equality and Diversity

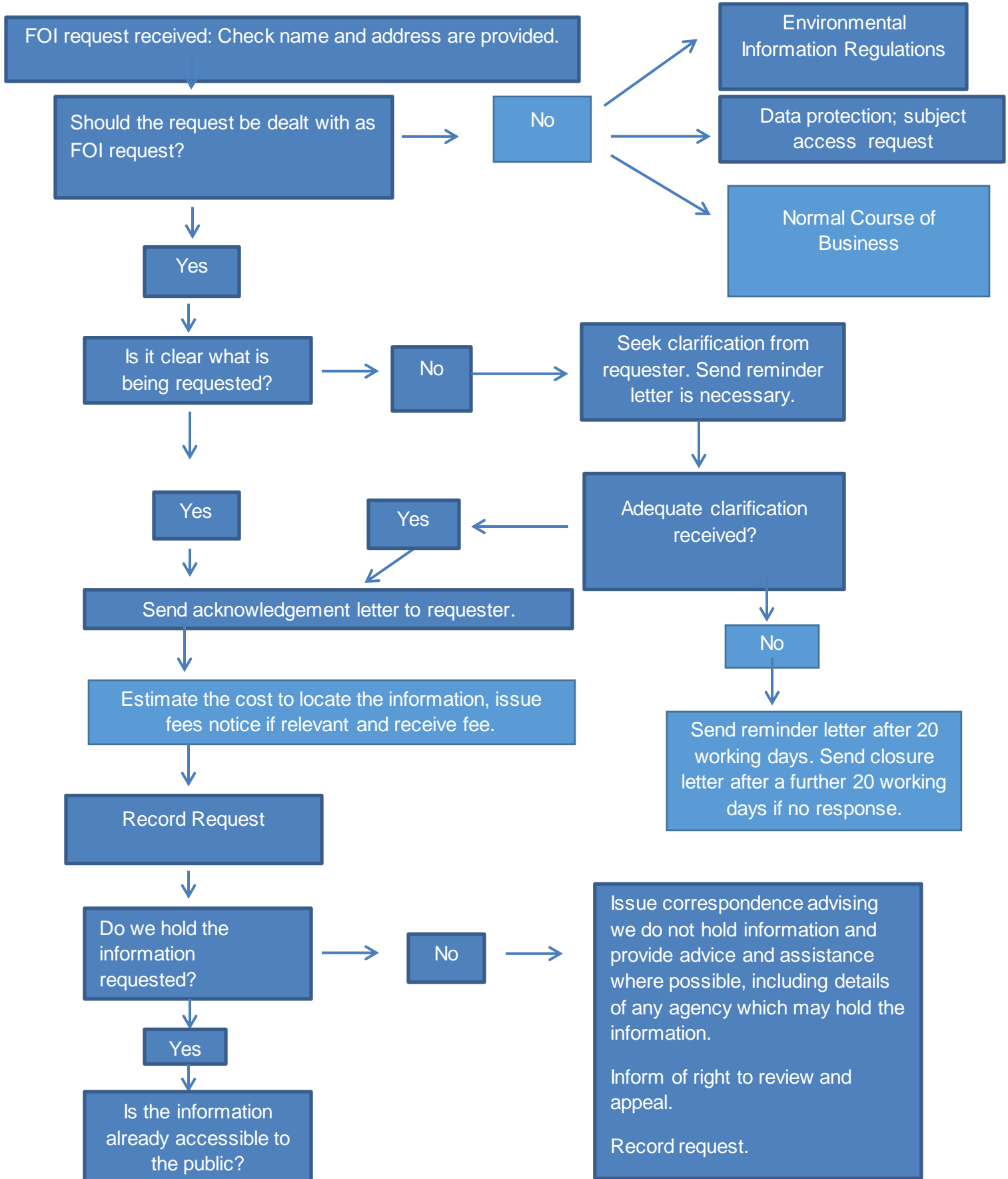
- 9.1 To ensure no barriers are created for any protected groups, copies of information should be provided in appropriate formats to meet each individual's needs. Information should be provided in languages other than English or verbally and copies of information should be offered to those who do not have access to the internet.

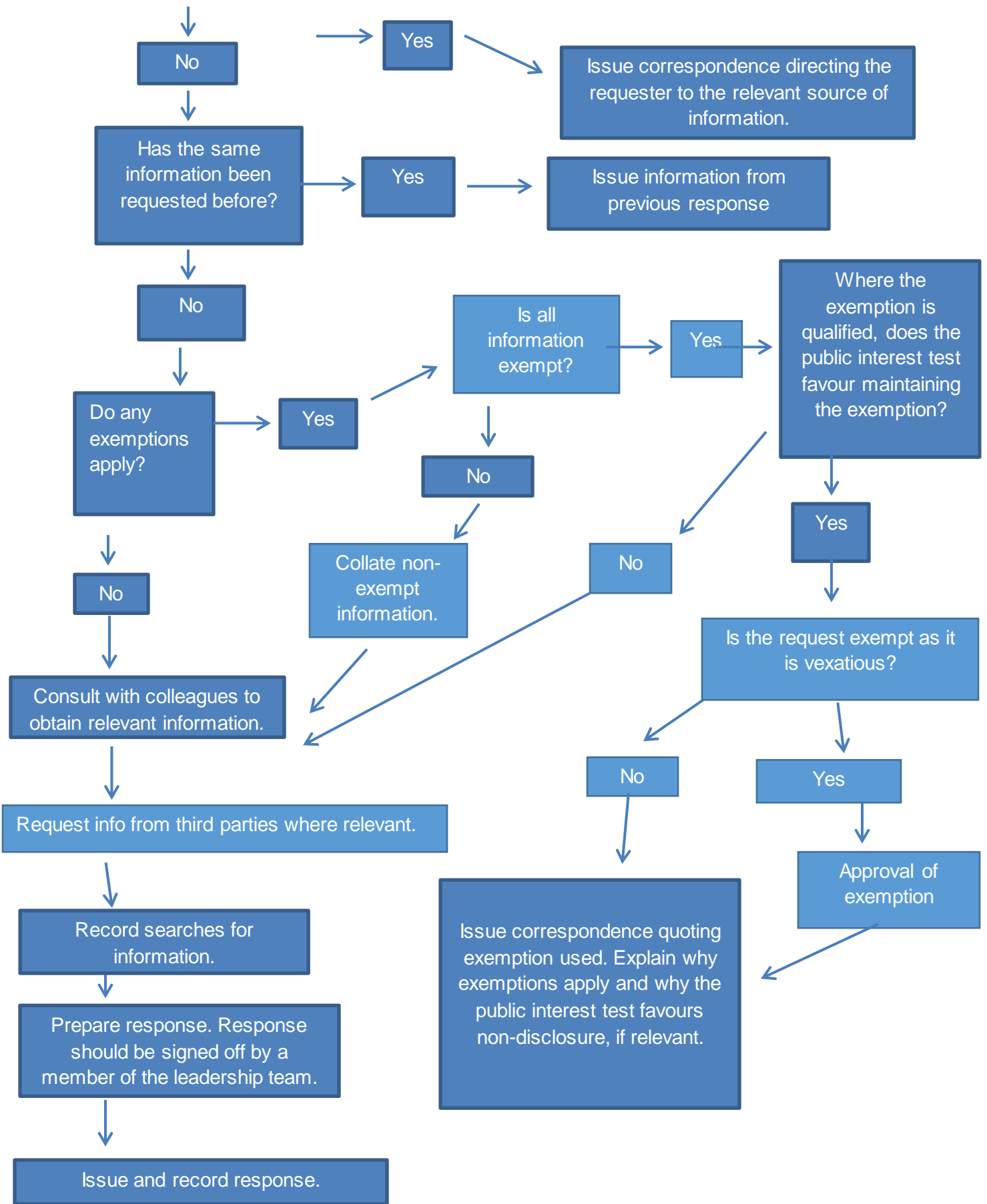
- 9.2 Advice and assistance should be given to help individuals make an FOI request or access information, particularly for those who have difficulty with reading and writing.

10. Monitoring and Review

- 10.1 The procedure will be reviewed annually by the Business Strategy Team. The next review date is October 2020.

Appendix 1: Flow Chart Illustrating FOI Process





Contact Us



Telephone: **0808 143 2002**

Email: **contactus@qcha.org.uk**

You can also download this document from our website at www.qcha.org.uk

Need another version of this document?

We can provide this document in different formats. If you would like a copy of this document in another language, in large print, in Easy Read, on audio tape, on video in British Sign Language (BSL), on CD or in Braille, please ask us.