



Freedom of Information

Processes during the Caretaker Period

OVERVIEW

- This note sets out the obligations on agencies to process requests under the FOI Act continue during the Caretaker Period.

GUIDANCE

General principles applying during the caretaker period

- In relation to FOI requests, agencies should not consult or exchange views with the Minister or the Minister's Office (MO) beyond what is required by legislation, for instance in relation to third party consultation.
- Agencies can continue to provide administrative support and information to the Minister or the MO in relation to FOI requests that are addressed to the Minister.

Practical applications

- Regular factual reports can continue to be provided to the Minister or the MO.
- Consistently with the Guidance on Caretaker Conventions, agencies should not provide policy advice to the Minister or the MO.
 - Agencies can describe the options available to the Minister or MO, but should not advise which course to follow.
- Agencies can consult the Minister or the MO as a third party in accordance with statutory obligations, e.g. personal information contained in documents requested under FOI.
- It is not appropriate for the Minister or the MO to offer views beyond facts, or to direct the agency in relation to FOI matters which are the responsibility of the agency.
- Copies of ministerial documents subject to FOI, in their original form and/or with proposed redactions, can be provided to the Minister or the MO, as usual.
 - It may not be appropriate to share departmental documents subject to FOI with the Minister or the MO.
- There is no obligation, and it would be inappropriate, to provide information to the Opposition regarding FOI requests.

Notifying the Minister or the MO of a decision

- Decisions on FOI requests made to the Department must be noted only by the Deputy Secretary Governance, not by the Minister or MO.
- The Minister or MO can be advised of an FOI decision, but only on a "for your information" basis, not on a "for noting" basis.
 - Instead of saying "We intend to make an FOI decision", it may be more appropriate to say "For your information, we have made an FOI decision".