

CIVIL CONTINGENCIES ACT – REQUESTS FOR INFORMATION

1. Reason for Report

- 1.1 To advise and seek approval for formal procedures to meet the legal and regulatory requirements of requests for information pertaining to the Community Risk Register and the Civil Contingencies Act 2004 (CCA).

2. Background

- 2.1 The Freedom of Information (Scotland) Act 2002 (FOISA) came into force in January 2005 and aims to increase openness and accountability in government and across the public sector by ensuring that people have the right to access information held by public bodies.

The Act allows anyone, anywhere to ask for information. Information held by public bodies provided to them by third parties may also be disclosed.

Information can only be withheld if it falls under one of the exemptions listed in the Act and, in certain circumstances, is not in the public's interest to disclose.

All requests must be received in writing or any permanent form such as email, fax or audio tape. From receipt of the request a response must be made within 20 working days

3. Key Issues

- 3.1 With the publication of the HISCG Community Risk Register a procedure for dealing with requests efficiently and effectively, and, taking account of multiple agency information, is required.
- 3.2 Any requests for information pertaining to the Civil Contingencies Act also require formal procedures to ensure compliance with legislation. With special consideration given to requests for multi-agency information.
- 3.3 The principles of the Data Protection Act 1998 (DPA) should be considered in the event if any requests for personal information and the sharing of information between partners.
- 3.4 Special provision is made for sensitive data within the CCA, FOISA and EIR to prevent disclosure.

4. Procedures

4.1 Community Risk Register and Civil Contingencies Act

- Requests for information will be dealt with as per normal procedures by the receiving organisation.
- Should the request cover multi-agency information that the receiving organisation holds then the request should be directed to the HISCG Civil Contingencies Co-ordinator who will liaise with Category 1 and 2 contact officers as appropriate for advice and agreement on disclosure.
- The receiving organisation will then respond to the request according to legislative requirements of the Act or Regulation. It should be noted that the legal duty to respond to the request rests with the organisation who has received the request and, that ultimately the decisions on how to respond and what to disclose rests with that organisation.
- Should the request cover multi-agency information that the receiving organisation does not hold then they must respond to the applicant promptly by way of a “notice that information is not held”.
- In all cases it would be best practice to share requests for information and responses between all partner agencies. Personal contact details of the applicant must be removed before circulation to comply with DPA.

The HISCG Civil Contingencies Co-ordinator will hold a central log of all requests for information and arrange for responses to be posted on the web site. This may be accessed by all agencies and open to the public to view.

- Requests for reviews should be handled by normal procedures of the organisation in receipt of the initial request.

4.2 Procedure flow charts are attached as **Appendix A**

5. Consultation

- 5.1 By way of this report all Highlands and Islands partnering organisations of the Civil Contingencies Act will be consulted.

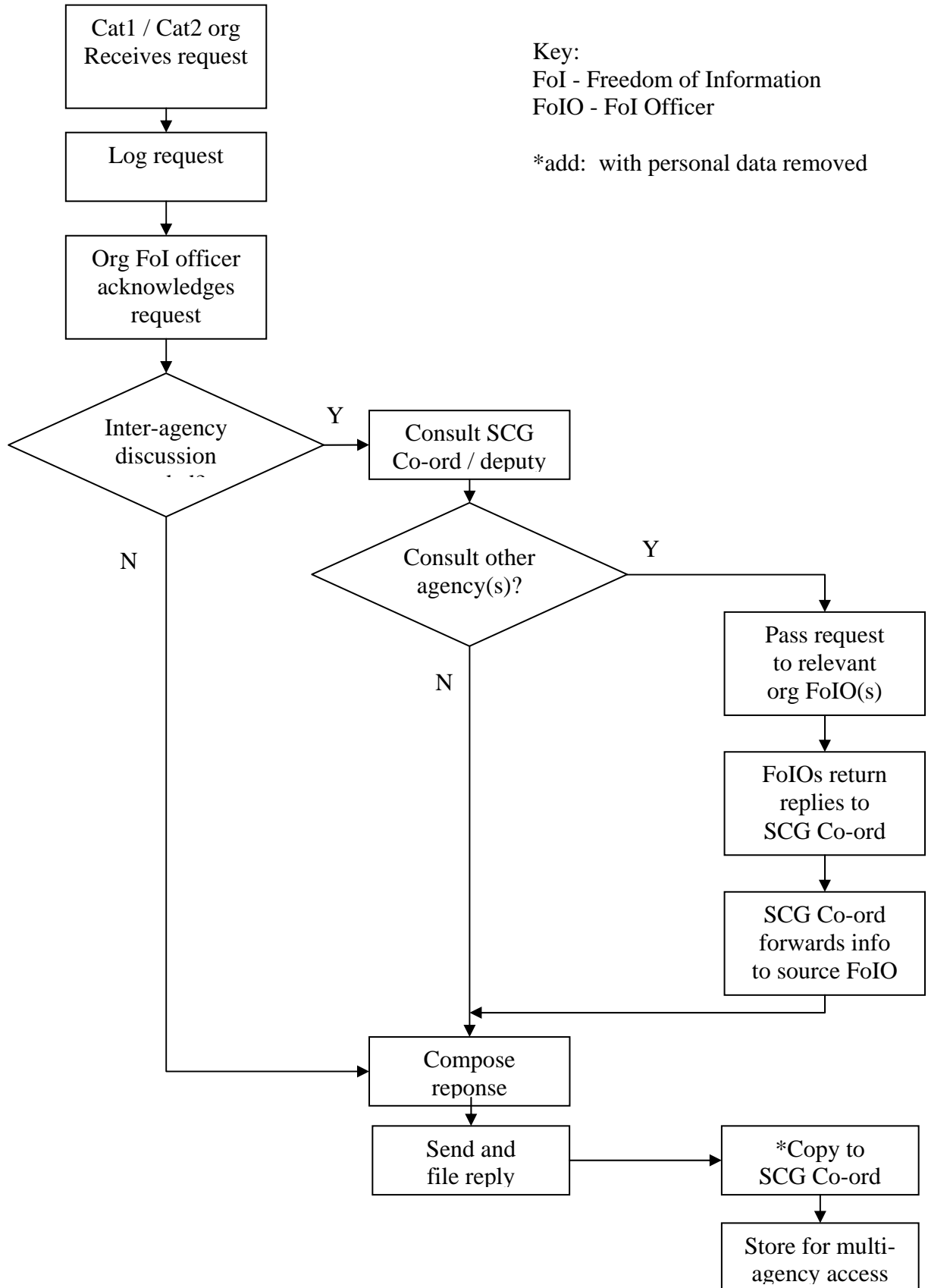
6. Recommendations

- 6.1 HIEPG are requested to approve request for information procedures.
- 6.2 Highlands and Islands Strategic Co-ordinating Group are requested to approve request for information procedures.

Date:

Appendices:

Request for Information Procedures



Guidance for Local Authorities and Metropolitan Authorities on National Security considerations when dealing with requests under the Freedom of Information Act and Environmental Information Regulations for information held under Major Hazard and Environmental Pollution Prevention Regulations.

This guidance is to assist in identifying what information may have to be withheld on the grounds of National Security, when responding to requests made under the Freedom of Information Act (FOI) and Freedom of Information (Scotland) Act (FOI Scotland) or Environmental Information Regulations (EIR) and the Environmental Information (Scotland) Regulations (EIR Scotland). It was developed following advice from the Center for the Protection of National Infrastructure (CPNI) and the Chemical and Pipelines Emergency Planning Liaison Group (CAP EPLG), the national policy forum chaired by the Health and Safety Executive that includes representatives of the Local Government Association and emergency planners. Should a public authority receive a request for this information, they should consult the CPNI, or the Department for Constitutional Affairs (Ministry of Justice from 9 May) for advice. The guidance is of particular relevance to information held as a result of Regulatory requirements (see annex 1 for an indicative list). Consideration of withholding information on the grounds of National Security is not intended to interfere with Companies complying with their legal obligations under relevant regulatory regimes to inform their employees, and where required members of the public, of actions to be taken in the event of an emergency situation. It is government policy to inform the public of the robust measures that are in place to avoid or minimise the risk of incidents at Major Hazard sites. There is, however a significant need to maintain national security and public safety by minimising the risk of a successful attack on these sites. This means that each request for information has to be considered on its merits and the appropriateness of applying exemptions will depend on the specific request and the nature of the information. Whilst much of the information supplied to Authorities can be released as it would have no adverse affect on national security, there is a risk of and adverse effect to national security or public safety from releasing certain pieces of information supplied under various regulatory regimes, specifically that which would assist the carrying out of an attack or the undermining of the emergency response. Information in the following categories should be considered for redaction under the National Security exception in EIR (Reg 12(5)(a)) / EIR Scotland (Reg 10(5)(b)) and the FoIA National Security exemptions (sections 24) FoIA Scotland (section 31) on the basis that to release the information would have an adverse affect on national security or not safeguard national security respectively.