

## **SUBMITTING A REQUEST / COMPLAINT - Freedom of Information (FOI)**

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### **Eligible Persons**

In order to be eligible to submit FOI requests, a person has to be a resident in Malta and to have been so for a period of at least five (5) years. Such person has to be also either a citizen of Malta or a citizen of any other member state of the European Union or a citizen of any other state the citizens of which have a right, in virtue of any treaty between such state and the European Union, to be treated in Malta in the same manner as citizens of member states of the European Union.

### **Obtaining a copy of the Forms**

Application Forms (and Complaints Forms) will be available for download from this website, from the Freedom of Information website at <http://www.foi.gov.mt> or can be obtained on site from the Corporation's office. Alternatively, applicants who are in a possession of an e-ID, can submit a request directly through the above-indicated portal.

### **Information to be provided**

When filling in the application form, applicants will be required to provide contact details and to give an indication of the document/information that they wish to obtain. They will also need to indicate the format in which they wish to receive such document/information, namely as a hard copy/print-out, as an electronic copy, in the form of a summary/excerpt of contents or by on-site inspection of the document/information in question. A copy of the identity card or residence permit will need to be submitted together with the application form, however this does not apply in the case of applications submitted through the FOI portal.

### **Types of requests**

In essence, one may ask for any article that is held by a Public Authority and on which information has been recorded in whatever form, including electronic data, images, scale models and other visual representations, and audio or video recordings, regardless of whether the information can be read, seen, heard or retrieved with or without the aid of any other article or device. One may also ask for documentation which contains policies, principles, rules or guidelines in accordance with which decisions or recommendations are made in respect of members of the public (including bodies corporate and employees of the Public Authority in their personal capacity). Furthermore eligible persons have the right to request information (in the form of a written statement) on a decision or recommendation made in their respect or in respect of a body corporate which they represent.

### **Acknowledgements**

FOI requests will be duly acknowledged by the Public Authorities. The acknowledgement forms will include a unique reference number and an indication of the date by when the response will be given. The forms shall also include specific information related to the Public Authority, such as its address, telephone numbers, e-mail addresses, opening hours and also details of its internal complaints procedure.

### **Checks to be carried out by the Public Authority**

On receipt of the application form, the Public Authority will verify whether the request qualifies as an FOI request and will inform the applicant accordingly if this is not the case. If it transpires that additional information/documentation is required, applicants will be contacted by the Public Authority to whom the request has been submitted and they will be provided with all possible assistance in order to ensure that such request complies with the provisions of the Act. This notwithstanding, when submitting an FOI request, applicants are not required to provide any justifications for requesting any particular documentation / information.

The Public Authority will also verify whether the requested document / information is held at its end. If this is not the case such Public Authority will seek to identify the proper entity to whom the request should be submitted and will transfer such application accordingly, informing the applicant in the process. If no alternative entity is identified, (meaning that the document/information cannot be traced at any Public Authority, the applicant will be informed accordingly.

### **Processing of request**

Once it establishes that a request is an FOI request and can be addressed from its end, the Public Authority will determine whether it can provide the applicant with the document/information requested in full or in part or whether it will refuse the request. Prior to taking a decision in this regard, the Public Authority shall consider whether any of the exemptions listed in the FOI Act apply. The Public Authority will submit notification of whether the request will be accepted or not within 20 working days from its receipt however it can apply an extension of up to an additional 40 workings days.

### **Payment of Fee**

When submitting a response to the applicant, the Public Authority shall indicate whether any fees apply. If applicable, such fees shall cover only the costs related to making a document available to the applicant, namely man-hours of processing, costs of photocopies/faxes and digital media and costs related to inspections. Notwithstanding the above, the total applicable fee shall not exceed €40. No additional fees can be incurred for submitting applications or complaints. The application of fees is regulated by L.N. 158 of 2010.

### **Remedial Action**

If the applicant is not satisfied with the response provided by the Public Authority vis-à-vis its request, the applicant is entitled to submit a complaint to the same Public Authority. If, subsequently, the applicant remains unsatisfied with the response received, he/she may lodge an appeal with the Information and Data Protection Commissioner. If the applicant remains dissatisfied with the outcome of the appeal he/she may appeal to the Information and Data Protection Tribunal and, subsequently, to the Court of Appeal. Complaints may be submitted for the following reasons:

- The Request has not been deemed to be an FOI request.
- The Public Authority has applied an extension to the 20-working day deadline to notify the applicant whether access would be given to the document / information requested.
- The Public Authority has imposed a fee which is deemed to be excessive.
- The document is not being provided in the requested format.
- The request is being refused.
- The Public Authority does not respect the 20 working day deadline (or the deadline indicated in the notification of extension, if applicable) for submitting a response.

### **Receiving documentation / information**

Whenever a Public Authority communicates a decision to an applicant that access to a document/information will be granted, the applicant shall also be invited to effect payment of fees (if applicable). Within 10 working days following payment, the Public Authority will provide the document/information in the same format as the applicant had originally requested or, if this is not possible, in any other format deemed appropriate by the Public Authority. Applicants who submit requests through the FOI portal ([www.foi.gov.mt](http://www.foi.gov.mt)) may be provided with the possibility of downloading the document/information directly from the site.

If no fee will be charged, the document/information will be provided within 10 working days following notification. The request shall be considered to have been abandoned by the applicant if payment is not effected within 20 working days following notification by the Public Authority.