

Are verbal requests valid?

Guidance on requests made by phone or voicemail



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Glossary and abbreviations

Term used	Explanation
FOISA	Freedom of Information (Scotland) Act 2002
EIRs	Environmental Information (Scotland) Regulations 2004

Are verbal requests valid?

Introduction

1. This briefing provides guidance to public authorities on responding to information requests which are left on voice-mail or which are otherwise recorded during telephone calls. It considers whether these requests are valid under the Environmental Information (Scotland) Regulations 2004 (the EIRs) or the Freedom of Information (Scotland) Act 2002 (FOISA) and sets out the responsibilities of public authorities when dealing with requests made this way.

Are voicemail requests valid?

EIRs

2. Under the EIRs, a request for environmental information may be made in any form (including verbally). Therefore, all voice-mail requests which include a method of contacting the requester are valid.

FOISA

3. Section 8(1)(a) of FOISA states that requests must be:
 - (i) in writing (email, fax, etc.) or
 - (ii) in another form which, *by reason of its having some permanency, is capable of being used for subsequent reference* (recording made on audio or video tape, etc.).
4. If an authority's voicemail system allows voice-mail records to be permanently stored and subsequently referred to (and the requester describes the information and includes a name and address for correspondence), then the request is valid.
5. If the system does not have this functionality (e.g. if the system automatically deletes records after a period of time and there is no way to transfer them onto other systems for storage), then the request is unlikely to be valid under FOISA.
6. Authorities have a duty, under section 15 of FOISA, to provide advice and assistance to requesters. So, even if a request is invalid, the authority should contact the requester (if possible) to advise them to submit the request in writing or in another recordable format.

Are information requests recorded during a telephone call valid?

EIRs

7. Under the EIRs, a request for environmental information may be made in any form (including verbally). Therefore, all requests made by telephone (and not just those that are recorded) which include a method of contacting the requester should be dealt with as a valid request.

FOISA

8. Section 8(1)(a) of FOISA states that requests must be:
 - (i) in writing (email, fax, etc.) or

- (ii) in another form which, *by reason of its having some permanency, is capable of being used for subsequent reference* (recording made on audio or video tape, etc.).
9. If a request is made during a telephone conversation, its validity will depend on the capability of the authority's telephone system, what advice is given at the time and whether the conversation is being recorded.
10. A request is likely to be valid if:
- (i) the recording can be stored permanently; **and**
 - (ii) the recording can be subsequently referred to or saved separately as a file on another system; **and**
 - (iii) the requester describes the information sought; **and**
 - (iv) the recording includes the name and contact details of the requester.
11. A request is unlikely to be valid if:
- (i) the conversation is not recorded; **or**
 - (ii) the recording cannot be saved permanently or transferred to a file for access and storage on another system; or the recording does not include a description of the information sought or the name and correspondence address of the requester.
12. Authorities have a duty, under section 15 of FOISA, to provide advice and assistance to requesters. So, even if a request is invalid, the authority should tell the requester what they need to do to make a valid request.

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