
TITLE: Dealing with Access Applications in the Context of Administrative Release of Information

Access applicants must be provided with sufficient information about the differences between the FOI and administrative release processes when contacted to confirm that their access request can be dealt with administratively, ie outside of FOI.

Regardless of the processing method, FOI Coordinators should always engage with applicants to discuss important issues that affect the management of the access application. Provided agreement is reached, keeping open channels of communication with the applicants will often lead to successful resolution of issues to the satisfaction of both sides. Examples of issues which can be settled by negotiations include:

- Refinement of the application scope (clarifying exactly which documents are required and excluding unnecessary documents instead of dealing with a request for everything that is on the record)
- Exclusion of third party personal information (other than the applicant's)
- Exclusion of documents that would be exempt under FOI
- Most effective method of providing access (for example, documents scanned on a CD, summary report, arrangement to inspect the document in the office or as otherwise agreed)
- Mutually acceptable timeframes for processing an application (extended or reduced depending on the needs of the applicant and the workload/operational requirements of the Health Service).

Assessment if Administrative Release of Information is appropriate

Administrative release will not always be a suitable method of release.

Although not necessary, it may be useful if FOI Coordinators review the information in scope before discussing the option of administrative release with the applicant as that might provide more insight into relevant issues. It might also provide reasons why the application should be referred for FOI processing.

The option of administrative release **may not be appropriate** and should not be discussed with the applicant if:

1. The application is for 'non-personal' information (\$30 application fee applies), ie while it may involve health information, it concerns a person other than the applicant
2. The scope relates to information other than health or medical records which relate to the applicant or the person on whose behalf the application is made

3. The nature of the information is sensitive or it may adversely impact on a person's health
4. Third parties must be consulted (other than consultations for 'prescribed personal details') before a decision can be made
5. When examining the documents at first glance, some information appears to qualify as exempt matter and requires consideration of various factors to decide if that is indeed the case.

If any of these situations apply, the application must be discussed with the applicant and their consent obtained to be processed under the FOI Act.

Identifying the purpose of the request can be relevant!

Provided the guidelines for administrative release have been met, the application should be processed outside of the FOI Act where the information requested is for purposes such as the following examples:

- continuing medical treatment and specialist care given by health professionals outside of the Health Service,
- assessment of claims for compensation due to work related injuries,
- assessment of claims for compensation due to injuries from motor vehicle related accidents,
- criminal injuries compensation claims, claims for asbestos related diseases and/or other actions that do not have the Health Service as a party involved,
- insurance related claims for access to superannuation or other insurance benefits or entitlements.

Applications where the information is needed for the purposes of initiating or continuing a claim or legal action against the Health Service should stay under FOI processing for thorough consideration of exemptions. Legal advice should be sought where the application deals with matters of particular complexity.

Explaining the process of administrative release to the applicant

If the FOI Coordinator is satisfied after preliminary checks that the requested documents can be released administratively, **the option** should be given to the applicant.

Applicants **should be advised** that:

- The Health Service aims wherever possible to release personal health information administratively as it is quicker and less formal than using the process prescribed by the FOI Act
- If any subsequently revealed information or issues make the administrative release process no longer suitable, the application will be processed under the FOI Act

- The applicant can lodge a new request if for whatever reason, more information is still needed after the documents are released administratively
- Administrative release is used where most, if not all of the requested information can be released, so review rights available only under FOI may not be as significant.

Administrative release is optional!

The applicant does not have to agree to administrative release but can opt to have the application processed under FOI.

In that case, all requirements under the FOI Act must be followed when processing the application.

Note:

Where an access applicant has applied under the FOI Act, the application has to be processed accordingly. Should the applicant **withdraw the FOI application** in favour of having the request processed administratively, the FOI application must be withdrawn first. FOI Coordinators must send a written notice to the applicant to gain consent and confirm their election to withdraw the FOI application.

Timeframes

The 21-day time period is the maximum period for processing access applications administratively. Health Services should finalise the applications as soon as practicable.

Authorisation

Only an officer who is authorised to make decisions under the FOI Act, ie a delegated FOI decision-maker can decide on the appropriate method of processing an access application (FOI or administratively)

No Longer Applicable - Rescinded 7 August 2020

Administrative Release of Information (AR): Step by Step Processing Guide

Stage 1 – Day 1 to 2

Receipt and review the application

- Check if the application is about personal health information.
- Check if the applicant has provided satisfactory evidence of his identity and in case of agent applicant, evidence of the agent's identity and written authority of authorisation (not older than 6 months).

Liaise with the applicant

- Contact the applicant by phone to advise that the application will be processed administratively and to find if there are any reasons why they would prefer that their request is processed under FOI.
- Warn the applicant that if the documents prove to be complex, you may decide that you need to process the application under FOI after all.
 - You may need to send a letter if not possible to contact the applicant by phone.
- *If the applicant agrees to have the application processed administratively, register the request in the AR register.*

Stage 2 – Day 3 to 5

Establish if the information is held

- Search and locate records falling in scope of the request.
- If necessary, liaise with operational areas to obtain assistance with search and retrieval efforts.
- If the records cannot be found, or they have been destroyed, inform the applicant first and find out if he or she still wishes to continue with the application. If so, proceed to make FOI decision under section 26.
- If too many records are covered by the request, you should try to renegotiate the scope with the applicant in order to bring it to a manageable level. If the applicant refuses to reduce the scope you may need to process the request under FOI especially if the information is sensitive and involves third parties.

Stage 3 – Day 6 to 14

Examine the information in scope and refer to the AR Guidelines:

Are you satisfied that using the AR process is appropriate in the case?

- You should use the FOI process if:
 - sensitive, or otherwise contentious matters are involved,
 - you require the opinions of third parties in order to make a decision on access (not including prescribed personal details),
 - you are concerned about causing prejudice or harm to a person's physical or mental health as a consequence from releasing the information.
- *Once you have decided that it is more appropriate to process the request under FOI, enter it into the FOI register. Update the register for administrative release.*

Stage 4 – Day 15 to 20

Prepare the information for release – redact the information you decide to withhold

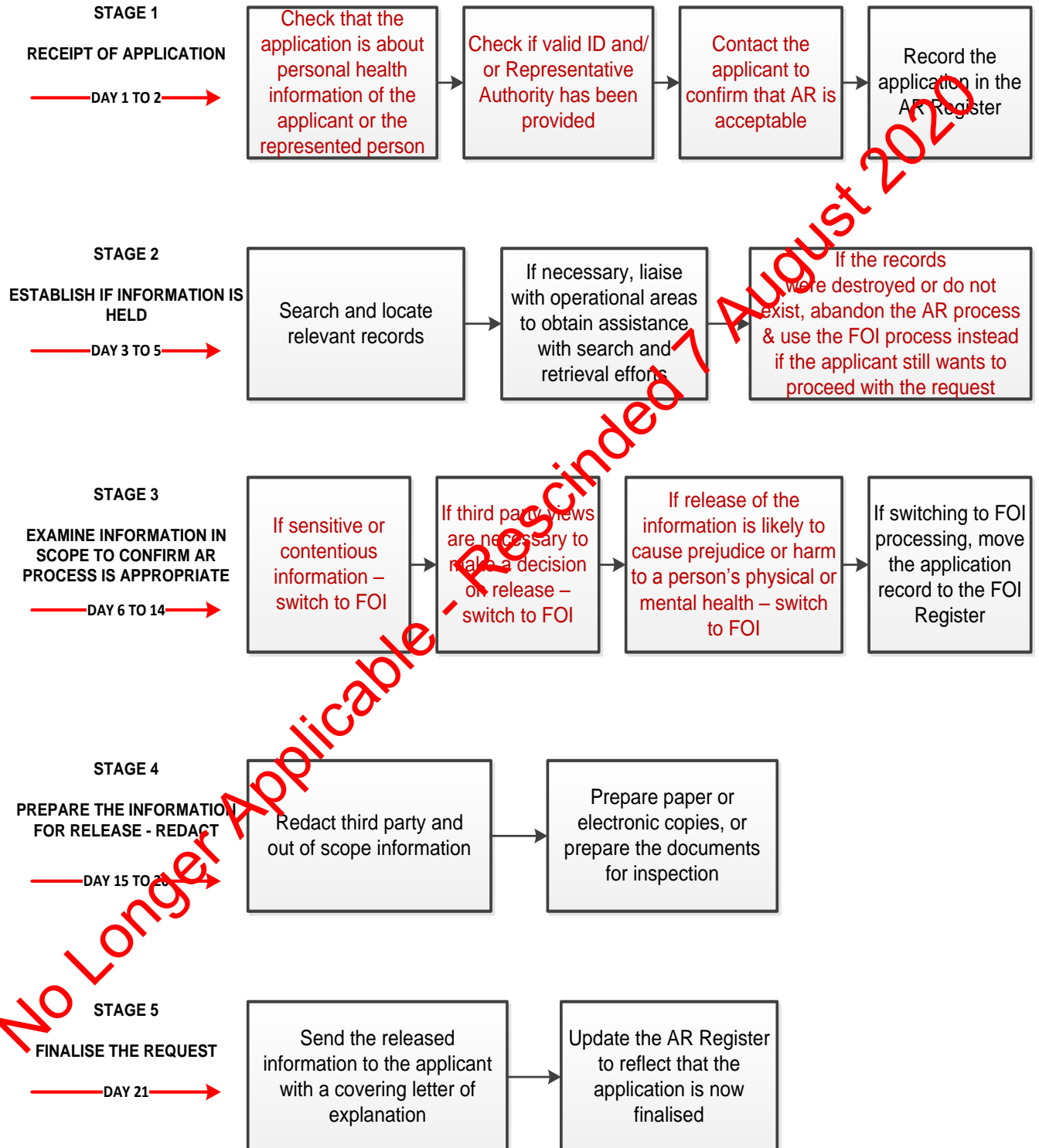
- Edit out irrelevant or out of scope information.
- Edit out third party information.
- Make copies, using paper or electronic medium or organise the documents for access by inspection.

Stage 5 – Day 21

Finalise the request – respond to the applicant

- Send the released documents to the applicant with a covering letter providing any explanations if relevant.
- *Update the AR register to reflect that the application has been finalised.*

FLOWCHART: ADMINISTRATIVE RELEASE OF INFORMATION PROCESS GUIDE



QUICK REFERENCE SHEET

Applying the guidelines for administrative release of information

#	Criteria points to consider	Yes ¹	No
1.	The applicant requests information about them, OR	✓	
2.	The applicant is an authorised representative of the person whose information they request, OR	✓	
3.	The applicant has an existing family or legal relationship with the person about whom the information is.	✓	
4.	The scope of the request includes personal health records.	✓	
5.	The information is not sensitive or contentious.	✓	
6.	It is unlikely that the released information will adversely affect the health of the applicant or another person.	✓	
7.	Decision can be made without consultations with third parties.	✓	
8.	There is no exempt information contained in the subject records.	✓	
9.	The applicant has no objections to the information being released administratively.	✓	
10.	The applicant has been made aware that the process of administrative release has no review mechanism.	✓	

¹ **Access applications** meeting the above criteria points should be processed administratively, outside of the FOI legislation.

Each criterion must be met in order to release information administratively.

CHECKLIST for applying the administrative release of information guidelines

1. THE APPLICANT REQUESTS INFORMATION ABOUT THEM

Key point to consider:

- Do identity checks validate that the applicant is the same person as the one to whom the records relate?

2. THE APPLICANT IS AN AUTHORISED REPRESENTATIVE OF THE PERSON WHOSE RECORDS THEY REQUEST

Key points to consider:

- Is there written evidence confirming that the applicant is acting on the person's behalf?
- Is the evidence sufficient proof that the person has consented to their personal information being released to the applicant?

3. THE APPLICANT HAS AN EXISTING FAMILY OR LEGAL RELATIONSHIP WITH THE PERSON ABOUT WHOM THE INFORMATION IS

Key points to consider:

- Is there evidence that the applicant is the person's **closest relative** based on the ranking provided in the *Guardianship and Administration Act 1990* under the definition of a 'nearest relative'?
- Is there evidence that the applicant is the **parent or legal custodian of the child** to whom the information relates?
- Is there evidence that the applicant is the **guardian** of the person?

4. THE SCOPE OF THE REQUEST INCLUDES PERSONAL HEALTH RECORDS

Key points to consider:

- Is the information in scope related to the person's health, illness or disability (eg. notes about admission to a hospital or health service, medical test results, diagnosis, treatment etc)?

5. THE INFORMATION IS NOT SENSITIVE OR CONTENTIOUS

Key points to consider:

- Does the applicant need the information for the purposes of further treatment or ongoing care?
- Are there no legal or other complex issues arising from the health care service that was provided to the person?

6. IT IS UNLIKELY THAT THE RELEASED INFORMATION WILL ADVERSELY AFFECT THE HEALTH OF THE APPLICANT OR ANOTHER PERSON

Key points to consider:

- Are there no indications that providing the information could present a serious threat to the life or health of the applicant or another person, including harm to the person's physical or mental health?

7. DECISION CAN BE MADE WITHOUT CONSULTATIONS WITH THIRD PARTIES

Key points to consider:

- Can third party personal information be excluded or outscoped from the documents released to the applicant?
- Can information be released without consulting with third parties?

8. THERE IS NO EXEMPT INFORMATION CONTAINED IN THE SUBJECT RECORDS

Key points to consider:

- Can information be fully released to the applicant?
- Is there no content that would qualify as exempt matter under FOI at first glance (eg. third party information) or requires more detailed examination to determine if this is the case?

9. THE APPLICANT HAS NO OBJECTIONS TO THE INFORMATION BEING RELEASED ADMINISTRATIVELY

Key points to consider:

- Was the applicant advised of the differences between administrative release and FOI?
- Did the applicant consent to administrative release?

10. THE APPLICANT HAS BEEN MADE AWARE THAT THE PROCESS OF ADMINISTRATIVE RELEASE HAS NO REVIEW MECHANISM

Key points to consider:

- Was the applicant informed that FOI always remains an available option to access information?
- Is there no disadvantage to the applicant caused by the administrative processing of the access request?

ADMINISTRATIVE RELEASE – EXAMPLE TELEPHONE SCRIPT

Hi Mr Smith, my name is Paula and I am calling to let you know that we have received your request for a copy of your medical records related to your latest admission to our hospital.

Can I ask Mr Smith, why do you require this information? How do you want us to provide you the information? Do you need to have this information by a certain date for some reason? Will it be more helpful if we provide you with a discharge summary of your latest admission as the most important details are already included in it?

I wish to inform you that depending on the complexity of the information you've requested, we may be able to provide it to you in two ways:

The first one is under the FOI Act and requires us to follow a strict and formal process, consult with third parties and give you a formal response. Because this process is more involved it can take up to 45 days for us to complete your request.

The second one is a lot quicker and more informal and so long as your request does not involve sensitive and complex information we may be able to give you the requested information much sooner than if we are to follow the FOI process. We expect that it would take us no longer than 21 days to process your application.

We may still edit out bits of information that makes mention of other people because it is not what you have asked for and also because we need to fulfil our obligation to protect their privacy.

I must tell you that under this administrative process you may not be able to ask us to review the outcome in case you feel that we have not provided you with the correct information, however, I would also like to emphasise that we would not normally use this administrative process if we are to find that for some reason we cannot give you all of the information you requested. In such case, we would automatically follow our obligations under the FOI law and you will have the option to exercise your rights to review.

Are there any questions you would like to ask me about the information release process? Are you happy for us to process your request administratively?

Thank you Mr Smith. If you think of any questions while we are processing your application feel free to contact me. My number is ____/ I will send you a letter to confirm our conversation which has my contact details in case you need to contact me.

No Longer Applicable - Rescinded 7 August 2020

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