



UNIVERSITY
of
ABERTAY DUNDEE

University guidelines for managing information enquiries: freedom of Information (Scotland) Act 2002

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Approved By	Vice Principal and Deputy Vice Chancellor
Approval Date(s)	21-Apr-09
Review Date	30-Jun-12
Version	2.2
Document Type	Guideline
Activity/Task	Information and knowledge management/Freedom of information
Retention Schedule	
Document Location	\\UAD.AC.UK\DFS\ISWG\InformationManagement- FilePlanPilot\FOI\Procedures&Guidance\
Keywords	Freedom of information

Version Control Table

Version number	Purpose / Changes	Author	Date
1.0	Initial University guidelines	C Milne	Dec 2004
2.0	Revised guidelines – clearer instruction on formalising responses where no information held, application of exemptions, standard text to be included within enquiries	C Milne	30/03/09
2.1	Revised guidelines – expansion of the duty to provide advice and assistance – revised (unapproved) code of practice for Scottish public authorities	C Milne	22/12/09
2.2	Minor updates incorporated – clearer instruction on issuing guidance on reviews following the issuance of an information not held notice incorporated	C Milne	09/02/10

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Overview

Every day people approach the University seeking information on our activities. The University takes an open and positive approach to providing information to those who wish to engage with it. The Freedom of Information (Scotland) Act (the Act or FOISA) came into force on 1 January 2005. This Act provides people with fundamental rights, protected by law to seek and receive information i.e. *“a person who requests information from a Scottish public authority is entitled to be given it by the authority.”* Section 1(1) FOISA.

Enquirers (referred to in the Act as an applicant) can ask for any kind of information held by a Scottish public authority, which is held and recorded on paper, computer files (including e-mail), video, microfiche etc. Under the Act, an applicant can only ask for information which is recorded. For example, it is not possible to ask for an opinion that has not been put on record.

The FOISA requires Scottish public bodies to make some changes in how they manage and respond to requests for information. These guidelines explain how University staff should respond to information requests, as per the requirements of the Act. These guidelines will also be made available to members of the public through the University's Freedom of Information publication scheme – to provide a sense of how applicants seeking information can expect to be treated.

How will the Act affect the University?

In the main, enquiries for information should be dealt with as normal as part of your every day duties i.e. business as usual. However, there are a number of changes required. In summary the University must now:

- Respond (in writing) to information requests within 20 working days;
- Release the information requested (unless this can be withheld through the application of a suitable exemption(s));
- Confirm where information requested of it is not held;
- Explain where information has been withheld, stating the exemption(s) available under FOISA which have been applied, and the reasons for doing so. This may also include an additional balancing exercise referred to as the public interest test;
- Providing an appropriate level of advice and assistance to applicant's to help ensure that where possible the information sought from the University is provided;
- Explain to applicant's how to make a complaint to the University if they are unhappy with how their information request has been managed, and how to ultimately seek a decision from the Office of the Scottish Information Commissioner;
- Where called to do so undertake a review of how an information request was managed.

How does the FOISA define an information request?

Any request for information which:

- Is in writing (or any permanent form) e.g. e-mail, voice-mail etc. and;
- States the name of the inquirer, along with a contact address (this can be an e-mail address); and
- Describes the information requested

should be recognised as a request for information under the FOISA, and managed in line with these guidelines.

When making an information request, an applicant **does not** have to state that they are asking for information under Freedom of Information etc. Any request for information in a recorded form, which holds the applicant's name and contact details is a valid information request. This can include questionnaires!

Dealing with enquiries for information

In the main, enquiries for information should be dealt with as normal as part of your every day duties i.e. business as usual. If you receive a query, and you have the information and do not believe there is any problem in releasing it, you should do so. However, if you:

- do not know the answer, or;
- cannot find the information requested by the enquirer, or;
- are unsure as to whether the information can be released; or
- believe that the request for information should be refused (either in whole or in part)

then you should do the following.

Is the answer available via the University Publication Scheme?

- Check the University's [Publication scheme](#):

The Publication Scheme is designed to provide easy access to information on the University and its activities. In many cases it is likely that, where people seek information on the University, the answer will be found within the publication scheme. If the information requested of the University is available there, you should then direct the enquirer to the publication scheme.

If you do not know the answer, or cannot find the information requested by the applicant, or you are unsure as to whether the information can be released

- Requests for information which cannot be resolved as part of normal business should be logged, by either completing the Freedom of Information [online form](#), or by passing details of the enquiry to foi@abertay.ac.uk These enquiries are reviewed and assigned to a member of staff within the University, for their attention (for example, enquiries on student pass rates will be directed to the Registrar) Details of these enquiries are logged and progress monitored to help ensure that the University makes a response within 20 working days;
- If an applicant asks for information in person and you cannot provide the information requested etc. please make every effort to complete the online enquiry form with the applicant – being mindful of the duty to provide advice and assistance. (See these guidelines: *Duty to provide advice and assistance*).

If you believe that information requested should be withheld either in whole or in part?

It is no longer possible for Scottish public authorities to refuse to release information requested of them, where the request has been received in writing etc. without providing good reason. When withholding information (i.e. refusing an information request) Scottish public authorities are now required to observe a number of technicalities. This includes being able to apply one of the strictly defined exemptions available under Part 2 of the FOISA. **Where you believe that information should be withheld** please contact either:

- The Information Manager with responsibility for the managing and advising on freedom of information, Chris Milne, Tel (01382) 308864 or e-mail c.milne@abertay.ac.uk or
- The Secretary to Court and Head of Secretariat, Sheena Stewart, Tel (01382) 308040 or e-mail s.stewart@abertay.ac.uk

An assessment will be made of the exemptions available under the Act in consultation with all relevant parties as to whether the information can or cannot be withheld. Where information can be withheld the appropriate refusal notice will be drafted and issued, otherwise the information will be released. Again, this process will be carried out with the appropriate level of consultation.

FOISA does not require the automatic release of information requested of the University. If you believe that information should not be released, please discuss this with your line manager.

Receiving Requests

Anyone can make a request for information (within or out with the UK), **to any member of staff within the University** and will be entitled to receive a response, even if information has not been released the University must write to the enquirer explaining why it has not been possible to respond in full. The University is only required to provide information which it holds in recorded form e.g. word processed documents, minutes, hand written notes, e-mails, video. The age of the information held is of no relevance. Normally requests must be received in writing, however where this is not the case the enquirer should be helped to complete the online Freedom of Information enquiry form or to submit a written request to the University.

As requests for information can be directed to the University via e-mail and in writing, and a 20 day time-limit applies it is important that e-mail and written correspondence are checked timely, and requests for information dealt with promptly. When staff are likely to be away for any period of time, an **Out of Office** message should be set-up advising people to re-direct any requests for information to the School or Service office.

If you receive a request for information from a journalist or the media, please also advise the University Director of Communications, Mr Kevin Coe.

Duty to provide advice and assistance

Section 15 of the Act requires that a reasonable level of advice and assistance is provided to help applicants retrieve the information they have requested. The requirements of the University in this regard are further detailed in a Code of Practice (commonly referred to as the Section 60 Code) issued by Scottish Ministers. While not exhaustive, the following list sets out a number of the standards which the University should observe – the following should be borne in mind when providing advice and assistance:

- The University must provide appropriate advice and assistance to enable an enquirer to clearly describe the information they are seeking – enquirers may not understand University processes or terminology. If required a reasonable level of assistance should be provided to help an enquirer submit an information enquiry to the University;
- The aim of providing advice and assistance is to help the enquirer identify precisely the information being sought, not to determine the enquirer's aims or motivation;
- Advice and assistance should be provided as soon as reasonably possible – the Scottish Information Commissioner will take a hard stance where a Scottish public authority takes an unreasonable length of time to provide support;
- Where there is doubt as to what an enquirer is seeking you should seek clarification from the enquirer in writing. Clarification should only be sought where it is reasonable to do so. The Scottish Information Commissioner will take a hard stance against any public authority that uses clarification as a means of delaying dealing with an information request;
- If clarification is not received you should progress with the information enquiry and disclose as much information as possible – explaining why the University's response may be limited. The enquirer should be provided with details as to how to seek a review of the management of their information enquiry by the University (see these guidelines ***how to respond to an information request***);
- If it is not possible to make a response in the absence of clarification from the enquirer – please contact the Information manager with responsibility for managing and advising on freedom of information – Chris Milne Tel (01382) 308864 or e-mail c.milne@abertay.ac.uk

- For a request to be valid under the Act – the identity of the true applicant must be known. i.e. Where an information request is made by a person acting on behalf of another (e.g. a solicitor) and the other person is unnamed (e.g. my client) then the request will not be valid;
- If this situation arises please contact the Information manager with responsibility for managing and advising on freedom of information – the University will then contact the agent acting on behalf of the enquirer and attempt to progress the enquiry;
- The Act requires that the University responds to all information requests within 20 working days. If it transpires that there may be a delay in replying within the prescribed time limit - please contact the Information manager with responsibility for managing and advising on freedom of information. The University will then issue an apology to the applicant along with an estimated response date;
- If information requested of the University is not held – and it is known that the information is held by another public authority, you should provide the applicant with the contact details of that authority (see these guidelines: ***responding to an information request - information not held***).

Responding to an information request

Where it is clear that the information request should be responded to formally as a request under the Act (e.g. the applicant has cited the Act in their enquiry) and the information has been released in full, best practice requires that the request should also advise the applicant who to contact if they are unhappy with the management of their information enquiry. Please include the following wording as part of the University's response:

Your right to seek a review of how your information request was managed

If you are not satisfied with our response or our reasoning set-out above, you have forty working days in which to request a review of our decision. Any request should be put in writing and should be sent to Professor Nicholas Terry, University of Abertay Dundee, at the address provided below. The request should:

- (a) detail your request for a review of our decision to be undertaken;
- (b) describe the nature of your original request; and
- (c) explain the reasons why you are dissatisfied with our response.

Professor N Terry
 Vice Principal and Deputy Vice Chancellor
 University of Abertay Dundee
 Bell Street
 Dundee
 DD1 1HD
 Tel (01382) 308016
 E-mail n.terry@abertay.ac.uk

If you remain dissatisfied with how your request for information has been dealt with, you also have the right to apply to the Scottish Information Commissioner for a decision as to whether we have handled your request properly.

Information relating to your right to seek review is available from the Scottish Information Commissioner's web page at:

<http://www.itspublicknowledge.info/faqs.htm> or by contacting the Scottish Information Commissioner's Office at the following address:

Scottish Information Commissioner,
Kinburn Castle,
Doubledykes Road, St Andrews,
Fife KY16 9DS
Telephone: 01334 464610
Fax: 01334 464611
E-mail: enquiries@itspublicknowledge.info
Website: www.itspublicknowledge.info

This concludes the University's response to your enquiry.

Note: where either the Information Manager with responsibility for freedom of information or the Secretary to Court and Head of Secretariat have issued a notice(s) under the Act e.g. where an exemption and/or the public interest test have been applied to withhold some or all of the information requested of the University – the Act (specifically Section 19) requires that the University provide the applicant, in writing with details of its FOISA complaints process and how to ultimately seek a decision from the Office of the Scottish Information Commissioner.

Responding to an information request: information not held

In addition to advising applicants who to contact within the University if they are unhappy with the management of their information request, where the University does not hold any or all of the information requested of it, it has to state so in writing. Where information requested is not held, please use the following wording when making a response:

Information not held

Section 17 of the Freedom of Information (Scotland) Act 2002, requires that enquirers are informed in writing where information requested is not held by a Scottish public authority. With reference to your enquiry, I can confirm that the information requested [insert appropriate details] is not held by the University.

[If you are certain that the information requested is held by another Scottish public authority, then please advise the enquirer as to how the information could be obtained i.e.]

However, I understand that the information you have requested is held by [add details], so you may wish to contact them directly to request it. [Please insert appropriate contact details if known].

You should also advise provide the applicant with summary details of the search that was undertaken to locate the information that was requested. This is important, as an applicant may not understand why the University does not hold information requested of it – and they may wish to challenge that assertion. Understanding how a search was undertaken may prove useful in this regard.

Again, where the University has not provided an applicant with the information requested of it (either in whole or in part) the University must also as part of the response, provide details of its FOISA review process and how an individual can ultimately seek a decision from the Office of the Scottish Information Commissioner. See these guidelines: responding to an information request.

What else may I need to know?

Complaints made/request for a review

If an applicant requests a review of the management of their information request by stating so in writing (they may cite Section 20 of the Act) or where a person has written and it is obvious that they are expressing dissatisfaction with how the University has managed their information

request, including where a complaint has been made that the enquirer has not received a response from the University – please contact the Information Manager with responsibility for freedom of information. The University is required to review such matters formally. A review will be instigated and a copy of the University procedures for undertaking a review will be provided to the applicant.

Is a fee payable?

In some circumstances the University may charge a fee. If it is believed that the cost of responding to an information request is likely to exceed £600, please contact the Information Manager with responsibility for freedom of information. If the cost of responding to the request will exceed £600 (the upper cost limit) the enquirer will be so advised in writing by the University. However, the University will also seek to advise how some of the information requested could be released within the fee limit. If the University were to fail to help an applicant source some of the information requested (where possible) it is likely that it will have failed to uphold its requirement to provide advice and assistance as per Section 15 of the Act.

Records Management

To assist the University in responding effectively to requests for information, a records management programme is being developed. The University is seeking to improve the management of its information assets to help staff in their duties and to provide a better service with those who wish to engage with UAD.

University Freedom of Information Publication Scheme

Please take a few moments to familiarise yourself with the University's Publication scheme. This is one of the main sources used to disseminate information on our activities. The publication scheme is reviewed and updated regularly.

Questions

If you have any questions on Freedom of Information, or any enquiries about how to respond to requests for information, please contact in the first instance:

- The Information Manager with responsibility for the managing and advising on freedom of information, Chris Milne, Tel (01382) 308864 or e-mail c.milne@abertay.ac.uk or
- The Secretary to Court and Head of Secretariat, Sheena Stewart, Tel (01382) 308040 or e-mail secretariat@tay.ac.uk

Further Information

The University Portal contains links to useful resources on Freedom of Information, within the Information Management section. Abertay Knowledge also provides access to relevant guidance and policies. Further developments on Freedom of Information and Records Management developments will be made available on the University Portal. Guidance on managing information requests under the Environmental Information Regulations are published separately.