Dealing with requests for information: a guide for all staff

Freedom of Information (Scotland) Act 2002

DEALING WITH REQUESTS FOR INFORMATION: A GUIDE FOR ALL STAFF

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1. The Act

The Freedom of Information (Scotland) Act 2002 is intended to allow anyone to obtain information from public bodies, such as the University. This places three basic requirements on us:

- that we routinely put in the public domain as much information about ourselves as is reasonably possible
- that we ensure that, where an individual requires information that we hold but have not already published, we provide the enquirer with the relevant information
- that we have in place a properly structured approach to managing records to ensure that essential records of our activities are created and maintained and can be retrieved in a timely fashion.

This guide is specifically designed to help you identify and deal with requests for information that come under the terms of the Act.

2. The University’s Publication Scheme

As required by the Act, all of the information that the University commits to make available to the public is listed in our Publication Scheme, which describes both the types of information available and where it can be located. The University’s Publication Scheme is available on the University’s web site at www.foi.stir.ac.uk. You may print hard copies of the scheme for reference, or if requested by an enquirer, but should always refer to the scheme online for the most up-to-date version.

3. The right to request information

The right to request information under the Act extends to anyone who wishes to make an enquiry – whether they are an employee or student of the University, an employee of some other organisation or any other member of the public. There is no limitation on who may make an enquiry – the law gives the right to minors and adults alike, and foreign nationals (even those based abroad) are equally entitled to request information.

Enquirers’ reasons for requesting information are not relevant and they are not obliged to disclose these when making their request. Although it may be helpful in answering their enquiry to know why they are asking, you should not give the impression that they are obliged to do so. Enquirers need not quote (or even be aware of) the Act, or their rights under it, when making a request for information. The only requirement the law places on an enquirer is that they must make their enquiry in writing or other permanent form for it to have the authority of a request made under the terms of the Freedom of Information (Scotland) Act. The Act also places a formal duty on us to advise and assist enquirers when making their request.

Oral enquiries (e.g. those made over the telephone) do not have the force of the law. However, if you receive such an enquiry (and it is not something you can easily answer there and then) you should advise the enquirer how to make the request official (in writing or other permanent form) and direct them to the “Guide to Requesting Information from the University” on the FOI section of the website, www.rec-man.stir.ac.uk/foi, to assist them in making the request.
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When an individual makes a written request for information (this includes emails and faxes, as well as letters), we must provide them with that information, except in a handful of cases where exemptions apply (this issue is covered in Section 7). In many cases this will mean supplying them with instructions about how to find information which is already available on the website or through the Publication Scheme. In some cases, however, an enquirer may ask for information that the University does not usually make available to the public. In these cases, we will have to provide that information directly to them. The most important thing to remember is that any email/letter/fax you receive that asks for information may constitute a Freedom of Information request and must be responded to in accordance with the law.

To assist you in dealing with the implications and practicalities of the Freedom of Information (Scotland) Act, one member of staff in your department/section/centre has been nominated as the Freedom of Information Departmental Representative (FOI Rep). Each FOI Rep. will take responsibility, within their own department or section, for dealing with those information requests where you are unsure how to respond. Your Head of Department will inform you who your FOI Rep. is and this person should also be your first point of contact if you have any doubts or problems relating to a request. Should your FOI Rep. be unavailable, the University has also established a University FOI Unit, which can be contacted on ext. 6672/6670 or at foiunit@stir.ac.uk which can also advise on such matters. While the FOI Reps. and the FOI Unit can help you deal with information requests, if the request is of a type you would routinely answer, you should continue to do so.

In all cases, a response must be provided within twenty working days of receiving a written enquiry. This is a very short response time so, if you are in any doubt as to whether an enquiry may be a Freedom of Information enquiry, or you cannot respond from the records available to you, please contact your departmental FOI Rep. immediately.

4. Data Protection vs. Freedom of Information

It is important to distinguish requests made by individuals under the terms of the Data Protection Act from those made under the terms of the Freedom of Information (Scotland) Act. Basically, if an individual wishes to see information we hold that relates to themselves, then this is a Subject Access Request made under the terms of the Data Protection Act. Such enquiries should be referred straight to the University Data Protection Officer at data.protection@stir.ac.uk or ext 6670/6672.

If an individual is asking for general information about the University, its activities, or any other material held in our records, then this is a Freedom of Information request. If it is not possible to tell exactly what sort of request is being made, or a request appears to cover elements of both laws, such enquiries should always be referred to your FOI Rep. in the first instance.

5. Handling requests for information

If you are contacted directly by an individual requiring information – either face-to-face, or on the telephone and it is not information you would routinely supply or can easily provide, you should ask them to submit the request in writing (email/letter/fax) and refer them to the “Guide to Requesting Information from the University”.
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If you are contacted in writing or other permanent form by an individual requiring information, then you should immediately treat this as a Freedom of Information request and act as set out in Section 6. NB. If your role involves distributing information on request in any case (e.g. if you are involved in sending out University prospectuses) then you should continue to deal with these requests as normal (but please note that the law now requires that you respond within 20 working days).

6. Responding to requests for information

If you receive an email, letter or fax asking for information that is readily available in your department then you or your FOI Rep. must provide a copy of this direct to the enquirer within twenty working days. A copy of the University’s FoISA Copyright Declaration (appended) should be sent out with all documents provided.

Alternatively, if the University already publishes the information requested, you or your FOI Rep. must provide the enquirer with instructions on how to find the information. Usually, it should be enough to direct them to our Publication Scheme, either at our web site or in printed form (which you should provide if requested), or to information published on the University’s website.

If you receive such a request, please check whether you can comply from the records you hold. If:

- you cannot respond and/or you do not know where/if the information can be found
- it is not clear what information is being requested
- the request appears to cover potentially problematic or exempt information (for example, information that might contain the personal details of an employee or student)
- the applicant has a disability and has requested the information in an alternative format (e.g. Braille)

then you should forward the request to your FOI Rep. immediately.

The process for dealing with enquiries is also described in the attached flow chart “Handling Information Requests”. Generally, departments/sections should only respond directly to any enquiries that can be dealt with simply and completely within that department/section. Your FOI Rep. and the FOI Unit should deal with any other more complex enquiries.

7. Other relevant issues

(i) Exemptions - The law does permit the University certain exemptions from the usual requirement to respond to information requests. These include information that may be commercially sensitive or confidential, and personal information that relates to individuals other than the enquirer. If you receive an information request that covers information that is not in our Publication Scheme and that includes information about individuals (staff, students etc) or commercially sensitive or confidential information, then please pass the request to your FOI Rep. immediately. NB. The FOI Unit will always take responsibility for refusing any request – refusal should not be undertaken by anyone else.
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(ii) Complaints and appeals - In any case where the University declines to respond (or fails to respond fully) to an information request, the enquirer has the right to appeal to the University and, once our own review process has been exhausted, to appeal to the Scottish Information Commissioner. Should anyone complain in writing to you about the nature and/or content of any response you must forward this complaint to your FOI Rep. and the FOI Unit immediately.

(iii) Clarification - The University has the right to ask an enquirer for more details to clarify their request in cases where it may not be immediately clear what information they require. If you are dealing with an enquiry you must be sure that you are clear what information you have been asked to provide: if not, then ask your departmental FOI Rep. to approach the enquirer for clarification. Please note that the clock on the 20 working days does not start counting down until the clarification is received.

(iv) Costs and fees – The Act allows for a percentage of costs beyond the first £100 to be recovered through a fee and sets an upper cost limit of £600 beyond which requests need not be answered. The vast majority of requests will not require any charge, but if a request appears to be excessively time consuming, refer it to your FOI Rep. who will confer with the FOI Unit as to whether any fee should be levied, or the request refused on cost grounds. NB. The FOI Unit will always take responsibility for issuing fees notices or refusing any request – refusal should not be undertaken by anyone else.

8. In summary

Please be aware of the implications of the Freedom of Information (Scotland) Act, and please make sure that, if you receive a written request for information you cannot easily answer, you immediately pass the details to your departmental FOI Rep. or, if unavailable, the FOI Unit. Crucially, always remember that:

- individuals may ask for us to provide them with much of the information held by the University, whether held at departmental or central level

- any request in writing has the force of the Act, whoever it is addressed to

if in doubt refer any potential/apparent information request to your departmental FOI Rep - we may have only twenty working days to respond.

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Handling Information Requests

Enquiry received

- Enquiry is on standard DP form and is Subject access request
- Enquiry is oral
- Enquiry is in writing

Enquiry is Subject Access Request

Advise to submit in writing/direct to information request guide

Inform Data Protection Officer

Enquiry is DP

Enquiry cannot be determined

Inform Data Protection Officer

Enquiry is for information in the P.S.

Enquiry is for information not in the P.S. and/or not immediately available and/or request is unclear

Enquiry can be answered from information that is locally available and not exempt

FOI Rep/FOI Unit Level

FOI Rep. determines nature of enquiry (consulting FOI Unit if required)

Enquiry is for information in the P.S.

Data is not wholly exempt

Provide details of how to find the information in published materials.

Enquiry Concluded

Data is wholly exempt

Provide information required, plus explanation of any exempt/unavailable data

Enquiry Concluded

Inform enquirer that enquiry cannot be answered, providing reasons and request for review details

Enquiry Concluded