FREEDOM OF INFORMATION GUIDELINES:

Freedom of Information (Scotland) Act 2002

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INTRODUCTION

1. Purpose of the Guidelines
The Guidelines are to help you comply with:

- **The University’s Court-approved Freedom of Information policy** (the Policy), available at [foi.st-andrews.ac.uk/doc.jsp?id=353](http://foi.st-andrews.ac.uk/doc.jsp?id=353)

- **The Freedom of Information (Scotland) Act 2002** (the Act), available from the Office of the Scottish Information Commissioner (the Commissioner) at [www.itsspublicknowledge.info/foiactcontents.htm](http://www.itsspublicknowledge.info/foiactcontents.htm)

- **The Environmental Information (Scotland) Regulations 2004** (the Regulations). The Regulations are briefly discussed below. More comprehensive guidance is available at [http://foi.st-andrews.ac.uk/doc.jsp?id=807](http://foi.st-andrews.ac.uk/doc.jsp?id=807)

2. Feedback and Questions
If you have feedback on how to improve the Guidelines or any other aspect of the University’s performance under the Act, or have any questions about Freedom of Information please contact:

Mark Robinson
Information Management Coordinator
Email: foi@st-andrews.ac.uk
Tel: 44 (0) 1334 461780
Fax: 44 (0) 1334 462759

3. Key Points of the Act
The key points of the Act are as follows:

- The Act provides a general right of access to recorded information held by the University

- Anyone from anywhere in the world has a statutory right to:
  
  - Obtain all the information covered by the University’s Publication Scheme (Scheme)
  
  - Request all information held by the University, regardless of:
    
    - When it was created (i.e. the Act is retrospective)
    
    - By whom (see point under concerning ‘held’)
    
    - The form in which it is now recorded (includes e.g. emails, paper records)

- Information is deemed to be held by the University if it is held:
  
  - By the University, other than on behalf of another person
  
  - By another person on behalf of the University

- Information is to be provided within 20 working days of initial receipt of the request

- There is a presumption that information will be disclosed

- Information can only be withheld from disclosure if an exemption applies

- Fees can be charged in certain circumstances
• Environmental information is dealt with under the Environmental Information (Scotland) Regulations 2004

• Personal information is dealt with under the Data Protection Act 1998

4. Currency of the Guidelines
The Guidelines are updated without notice. Printed copies may soon become outdated.

5. Compliance with the Policy
Compliance with the Policy is compulsory for all staff employed by the University. If you fail to comply with the Policy you may be subject to disciplinary action under the University's disciplinary policies. The policies are available through the Scheme, Category 9, class ‘Discipline’.

You are responsible for familiarising yourself with the Policy and these Guidelines.

6. Coverage of the Act
The Act applies to all Scottish Public Authorities and therefore applies to:

• The University of St Andrews

• Subsidiary companies wholly owned by the University

• Subsidiary companies wholly owned by the University and one or more other Scottish Public Authority

7. Coverage of the Policy and the Guidelines
The Policy and the Guidelines apply to:

• The University of St Andrews

• Subsidiary companies wholly owned by the University

The Policy and the Guidelines do not apply to:

• Subsidiary companies wholly owned by the University and one or more other Scottish Public Authority

• University spin-out companies

• The University's Students' Association

• The Athletic Union

8. Offences under the Act
There are a number of offences under the Act and you should be aware of these.

It is an offence under section 65 of the Act, to, with the intention of preventing the disclosure by the University of information, alter, deface, block, erase, destroy or conceal a record held by the University. Both the University and staff individually, if found guilty of an offence under this section, are liable, on summary conviction to a fine not exceeding level 5 of the standard scale, currently £5,000.

It is also an offence under Schedule 3, section 10 of the Act, to intentionally obstruct the Commissioner in the execution of a warrant to enter and search premises, inspect and seize documents or other material and to inspect, examine, operate and test any equipment found in which information held by the University may be recorded. A staff member who intentionally obstructs the person executing the warrant or who fails, without reasonable excuse, to give assistance to that person, if found guilty of an offence, is liable, on summary conviction to a fine not exceeding level 5 of the standard scale, currently £5,000.
9. **Training and awareness**

The Information Management Coordinator will arrange training and awareness for you through a combination of means including:

- Material on the Freedom of Information website at [www.st-andrews.ac.uk/foi](http://www.st-andrews.ac.uk/foi)
- An introductory WebCT course at [www.st-andrews.ac.uk/foi/foishortcourse](http://www.st-andrews.ac.uk/foi/foishortcourse)
- Providing material for the induction pack for new staff
- Group or individual training on request

Personal training will also be provided if you are responsible for uploading information to and maintaining information in the Scheme.

Training and awareness material is also available from:

- The JISC Legal Information Service Freedom of Information pages at: [www.jisclegal.ac.uk/freedomofinformation/freedomofinformationPub.htm](http://www.jisclegal.ac.uk/freedomofinformation/freedomofinformationPub.htm)
- The Commissioner at: [www.itspublicknowledge.info](http://www.itspublicknowledge.info)

10. **Providing advice and assistance to applicants**

The Act places a duty on the University to provide advice and assistance to applicants and potential applicants as far as it is reasonable to expect the University to do so.

You should be aware that many applicants will be unfamiliar with the Act and you should be either prepared to explain the key provisions to potential applicants requiring assistance or refer them to the Information Management Coordinator.

11. **Meeting the applicant’s preference**

Applicants are entitled to request that the information they seek be e.g.:

- Provided in permanent form or in another form acceptable to them e.g. on paper, CD, floppy disk, etc.
- Provided in digest or summary form
- Made available for inspection

The University is, as far as is reasonably practicable, to meet the applicant’s preference. If you cannot meet that preference please contact the Information Management Coordinator before responding to the applicant. The University will not however, provide multiple copies of the same information to the one applicant.
FEES AND CHARGING

12. Overview

The University is able to charge fees for the provision of information whether that information is available through the Scheme or provided on request.

The University’s stance on charging fees is as follows:

- Fees will not be charged for the provision of information available through the Scheme where the applicant requests the information be provided in another format, unless the request makes excessive demands on University resources.

- It is unlikely that fees will be charged for the provision of information made in response to a request where in complying with that request any fee that could be charged falls under the upper limit of £600 set by Regulation 5 of The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004.

- A fee may be charged where compliance with a request would exceed the upper limit of £600 set by Regulation 5 of The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004. Such requests will be dealt with on a case by case basis.

The University’s stance on fees will be reviewed regularly and if you think that the circumstances warrant a fee being charged, please contact the Information Management Coordinator before responding to the applicant.

When a fee is charged payment can be made by credit card on the University's secure web-site at www.st-andrews.ac.uk/finance, by cheque or by cash in person.

Fees for information available from the University's Special Collections Department and Museum Collections where a separate fee scale is in force, items sourced through inter-library loan, and priced material such as booklets, are not affected.

13. Fees Regulations

Please see:


PUBLICATION SCHEME

14. Introduction
Adopting a Scheme is a requirement of Section 23 of the Act. A Scheme must specify:

- The classes of information which the University publishes or intends to publish
- The manner in which information in each class is, or is intended to be, published
- Whether the published information is, or is intended to be, available to the public free of charge or on payment

It is the responsibility of Heads of School and Directors of Unit to ensure that the information for which they are responsible and which belongs in the Scheme is both uploaded and maintained.

The University’s Scheme is at http://foi.st-andrews.ac.uk/PublicationScheme/PublicationScheme.html

15. How to upload to and maintain information in the Scheme
You can only upload to and maintain information in the Scheme if you have authorisation to do so. If you require authorisation please contact the Information Management Coordinator.

Guidance on how to upload and maintain information can be found in the User Manual accessible from the upload and maintenance screens.

16. Presentation of records
The first page records must provide:

- The University's name i.e. University of St Andrews
- The title of the record

It would be very useful if records also included details of:

- Function title of the owner of the record and their School or Unit
- The record approval date
- The source or parent record e.g. 2004-2005 Course Catalogue

For guidance on the University’s House Style see www.st-andrews.ac.uk/publications/universityhousestyle/index.shtml

For guidance on the University's Corporate Identity see www.st-andrews.ac.uk/reprographic/ID

17. Format of records
In the interests of accessibility the preferred format for records in the Publication Scheme is as a pdf document. Acrobat writer, the software for converting documents to pdf, is available from www.st-andrews.ac.uk/its/software/licensed.html

18. Currency of information
When uploading information to the Scheme owners of records are, among other things, required to select a retention period. Shortly before the end of this period the owner will receive a system generated email advising that the retention period is about to expire. The owner is then required to carry out one of the following actions:

- Revise the record and the retention date
• Revise the retention date
• Delete the record
• Archive the record

Should the owner not undertake one of the above they will receive a system generated email each day until the necessary action has been undertaken.

19. Sole source of information
As the Scheme is to be the sole and authoritative source of the information it contains, any information in the Scheme is not to also appear elsewhere on the University website. If you wish, you may link to the Scheme itself or to specific records from your School or Unit websites. School and Unit websites will continue to provide information that is not required to be available through the Scheme.

Freedom of Information places emphasis on proactively publishing information. The University Scheme is an important tool that can be used by Schools and Units to publish information the University feels to be useful to staff, students and the public. The more information there is available through the Scheme the fewer requests the University, and therefore you, will be required to deal with.

20. Information to be uploaded by Schools
Heads of Schools are to ensure that the information listed in the diagram at www.st-andrews.ac.uk/foi/usingthePS/schoolscrib is uploaded to and then maintained in the appropriate classes of the Scheme.

21. Information to be uploaded by Units
Heads of Units are to ensure that the following information is uploaded to and then maintained in appropriate classes of the Scheme:

• Category 3, Units – Structure, then select your Unit
  o Terms of reference of the main Unit committee
  o Papers of meetings held by the main Unit committee
  o Terms of reference of the student liaison group (if one exists for your Unit)
  o Meetings papers of the student liaison group (if one exists for your Unit)

• Unit specific information e.g., Financial Regulations, Procurement tender documentation, commercialization outcomes, Human Resources policies, Health and Safety statistics, etc.

22. Removing exempt information from records to be uploaded
Some of the records you will upload to the Scheme may contain information you consider to be exempt from disclosure. As the University is looking for consistency in application of exemptions, please contact the Information Management Coordinator to determine whether or not the exemption being considered should be applied.

Any information that is deemed to be exempt is to be removed from the document concerned and uploaded separately to a secure part of the Scheme. Information removed from a record is to be replaced with text which sets out which exemption has been applied. For example, the text concerning an exemption under section 33 of the Act would read:

“Information has been removed as it is exempt from disclosure under Section 33 of the Act – Commercial interests and the economy”.
REQUESTS FOR INFORMATION

23. Introduction

Anyone, anywhere in the world can make a request for recorded information the University holds and they will be entitled to receive it, provided no exemptions apply. When making their request, applicants do not need to mention the Act nor do they need to explain why the information has been requested.

Requests must:

- Be in writing or some other form with some permanency capable of being used for subsequent reference (Most requests will be made by email or letter)
- State the name and address of the applicant (It does not have to be the applicant’s real name and the address can be any one or more of postal address, email, fax or telephone number as appropriate)
- Describe what information is required

When dealing with requests, you **must**:

- **Act immediately.** Requests must be complied with promptly and certainly within 20 working days of initial receipt at the University. For a definition of working day see [www.itpublicknowledge.info/faqspas.htm](http://www.itpublicknowledge.info/faqspas.htm). The Commissioner has made an internal decision that the 20 working day period will begin on the next working day after receipt (regardless of the format of the request)
- Make sure the date of receipt is clearly marked on the request. If you are not sure when the request was received, find out
- When a request is to be handled by another staff member, either forward the request to that staff member or to the Information Management Coordinator
- Provide advice and assistance to the applicant if necessary
- Comply with the applicant’s preference for the information to be provided in a particular format
- Not give applicants the impression that they are obliged to disclose the nature of their interest or that they will be treated differently if they do so
- Refer requests from the Press to the Press Office
- Contact your Head of School or Unit or other appropriate member of staff when any of the points **under** concerning responding to non-routine requests are applicable

24. Responding to routine requests

Where you would normally provide the information requested and none of the circumstances in the paragraph under apply, then do so. You may need to advise someone in your School or Unit of the request and the action you have taken, but there is no need to involve the Information Management Coordinator.

Similarly, if someone asks for information in the Scheme it would usually be enough to refer them to the Scheme unless they have requested that the information be provided in another format.

While requests must be complied with within 20 working days of receipt, the University has undertaken to meet the following targets for the provision of information in the Scheme where the applicant requires
the University to provide the information concerned in a different format:

- Paper copies: within 7 working days of receipt of the request or of any required fee
- Email: within 7 working days of receipt of the request
- Information in any other format: within 20 working days of receipt of the request or of any required fee
- Request for inspection: within 7 working days
- Requests for urgent dispatch of information: to be met whenever possible

25. Responding to non-routine requests

In all cases where, following any necessary consultation, the following circumstances apply, the Information Management Coordinator must be contacted before responding to the applicant. The circumstances are:

- The University does not hold the information requested
- You think an exemption may apply and all or part of the information requested should be withheld from disclosure
- You think a fee should be charged
- The 20 working day deadline may or will be exceeded
- Additional information is required from the applicant before you can deal with their request
- You cannot meet the applicants preference concerning format
- You think the request is repeated, vexatious or part of an organised campaign
- The request is extensive, concerns more than one School or Unit, etc.
- You are not sure how to handle the request
- You are unsure who should answer the request

The Information Management Coordinator must be involved when requests fall into the above circumstances as there are certain procedures to follow and the University is looking for consistency in e.g. the application of exemptions and charging of fees. In addition, when requests fall under some of the circumstances listed above, the University is required to report that occurrence to the Commissioner.

26. Oral requests including voice mail requests

The Act does not apply to oral requests. It is commonsense however to deal with an oral request, including voice-mail requests which include a method of contacting the requestor, as though the Act did apply. When you can not immediately provide the information requested, you should note the name and contact details of the applicant and of the information they have requested and if possible confirm those details with the applicant at the time. If not able to get confirmation at the time, send the details to the applicant either by email, fax or letter (the latter together with a stamped addressed envelope) for them to confirm or amend as required. The 20 working day period starts on the working day following that on which the confirmation is received.

If you have voicemail please check it regularly and when away from the University for an extended period of time you should make arrangements for your voicemail to be checked regularly.
The Commissioner’s guidance on voicemail requests is at www.itspublicknowledge.info/faqspas.htm

27. Email requests

The 20 working day timeframe in which to respond to an email request commences from the first working day following receipt of that request, **whether or not you have opened and read the message**.

If you use out-of-office or some other means of automatically notifying those who have emailed you of your absence, an applicant is still entitled to assume that their request has been received by the University. It will be helpful however, when composing an out-of-office message, to include the following, or similar: “If your email concerns a request for information under the Freedom of Information (Scotland) Act 2002, please redirect your request to foi@st-andrews.ac.uk”.

When you are away from the University for an extended period of time you should make arrangements for your email to be checked regularly.

The Commissioner’s guidance on email requests is at www.itspublicknowledge.info/faqspas.htm

28. Postal requests

You should ensure that processes are in place so that your work related mail does not remain unopened for lengthy periods and that the date of receipt of any request is noted.

When you are away from the University for an extended period of time you should make arrangements for your mail to be checked regularly.

29. Requests for information made to mailing lists

An email to a discussion group could be a request for information. For further advice see the Commissioner’s guidance at www.itspublicknowledge.info/faqspas.htm
EXEMPTIONS

30. Introduction
Information must be released unless any of the exemptions apply. The exemptions are narrowly drawn and in some are subject to tests such as whether releasing the information would or would be likely to prejudice substantially certain interests of the University. Some exemptions are also subject to a public interest test. If, after applying the appropriate tests, the information requested is deemed to be legitimately covered by an exemption, the University need not release that information, although it may do so if it wishes.

Exempt information includes but is not limited to information e.g.

- Otherwise accessible
- Prohibited from disclosure by other enactments
- Intended for future publication
- Which may prejudice substantially the effective conduct of public affairs
- Which may prejudice substantially the commercial interests of any person or of the University
- Where disclosure would constitute an actionable breach of confidence
- Which is personal information under the Data Protection Act 1998
- Which may endanger the physical or mental health or the safety of an individual

31. Substantial prejudice
Many of the exemptions only apply if disclosure of the information would or would be likely to prejudice substantially certain interests of the University e.g. the University’s commercial interests.

The term "prejudice substantially" is not defined in the Act. However, paragraph 72 of the Code of Practice under section 60 of the Act makes it clear that the University should consider disclosing the information unless the prejudice caused would be real, actual and of significant substance.

Ultimately, the decision about whether disclosing information would or would be likely to prejudice substantially certain interests of the University is a subjective one, and one which must be made on a case-by-case basis. Even if this test has been met, the public interest test may also have to be applied.

32. Public Interest test
The "public interest" has been described as something that is of serious concern or benefit to the public not merely of individual interest. It has also been stated that public interest does not mean "of interest to the public" but "in the interest of the public". The term is not defined in the Act and it may change over time and according to the circumstances of each situation. Because of this, the University will need to make a judgment based on the circumstances of each case and in the light of any emerging guidance or best practice.

For further guidance on the public interest test please see:

- The document jointly produced by Dundas & Wilson and the JISC Legal Information Service at www.jisclegal.ac.uk/publications/foiundaswilsonpublicint.htm
- Paragraphs 73 to 75 of the Code of Practice under section 60 of the Act at www.scotland.gov.uk/library5/government/sedfpa-00.asp
33. Application of exemptions in specific cases: Teaching materials

The University considers that teaching materials are exempt from disclosure under section 33(1)(b) of the Act as disclosure “... would, or would be likely to, prejudice substantially the commercial interests of...” the University. This exemption does not apply to publicly available information such as course catalogues.

If you receive a request for teaching materials please contact the Information Management Coordinator before responding to the applicant.

For further guidance please see:

- Guidance prepared under the auspices of Universities Scotland at [www.st-andrews.ac.uk/foi/FOITeachingMaterials](http://www.st-andrews.ac.uk/foi/FOITeachingMaterials)


34. Further guidance on the exemptions

For further guidance on the exemptions please see:

- Universities Scotland guidance at [www.st-andrews.ac.uk/foi/FOIExemptions](http://www.st-andrews.ac.uk/foi/FOIExemptions)

- The Commissioner’s briefings at [www.itpublicknowledge.info/briefings.htm](http://www.itpublicknowledge.info/briefings.htm)

MULTIPLE, REPEATED AND VEXATIOUS REQUESTS

35. Multiple requests and requests part of an organised campaign
If you receive multiple requests for information or requests which appear to be part of an organised campaign please contact the Information Management Coordinator before responding to the applicants.

36. Repeated requests
Where the University has already complied with a request for information from an applicant, it can refuse to comply with a subsequent request from that applicant which is identical or substantially similar unless there has been a reasonable period of time in between the making of the request complied with and the subsequent request. If you think that a request is ‘repeated’ please contact the Information Management Coordinator before responding to the applicant. The University must tell the applicant in writing that the request is judged to be repeated and the University may have to provide justification for its decision to the Commissioner.

For further guidance see paragraphs 25 and 26 of the Code of Practice under section 60 of the Act at www.scotland.gov.uk/library5/government/sedfpa-00.asp

37. Vexatious requests
The University is not obliged to comply with a vexatious request. The Act does not define the term vexatious and if you think that a request is vexatious please contact the Information Management Coordinator before responding to the applicant. Irritation or nuisance caused by the applicant should not, by themselves, justify deciding that an application is vexatious. The University must tell the applicant in writing that the request is judged to be vexatious and the University may have to provide justification for its decision to the Commissioner.

For further guidance see paragraphs 23 and 24 of the Code of Practice under section 60 of the Act at www.scotland.gov.uk/library5/government/sedfpa-00.asp
GENERAL GUIDANCE

38. Copyright
Information available through the University’s Scheme falls into two categories:

- Information where the copyright resides in a third party: As the University’s rights to hold and use such material do not extend to others, applicants are advised to seek the consent of the third party concerned should they wish to copy or reproduce the information the University has provided.

- Information where the University owns the copyright: Applicants are advised that information obtained from the Scheme can be copied or reproduced without formal permission provided it is copied or reproduced accurately, is not used in a misleading context and provided that the source of the material is identified and the copyright status acknowledged.

The University can release information which is third party copyright in response to a request without breaching the Copyright, Designs and Patents Act 1988 as a result of The Freedom of Information (Scotland) Act 2002 (Consequential Modifications) Order 2004.

The Commissioner’s guidance on copyright is at www.itspublicknowledge.info/faqspas.htm.


39. HEI specific guidance
HEI specific guidance about a number of matters including commercial enterprises, contracts, dissertations, quality, teaching materials etc. is available at:

- The JISC Legal Information Service Freedom of Information pages at: www.jisclegal.ac.uk/freedomofinformation/freedomofinformationPub.htm

- The University of St Andrews Freedom of Information pages at: www.st-andrews.ac.uk/foi

40. Minute taking
Guidance on how to take minutes is at www.st-andrews.ac.uk/foi/recordsmanagement/minutes.

The guidance has been written to facilitate the disclosure of information while at the same time denoting when and why information has been redacted. It is also intended that the guidance will lead to greater consistency in minute taking across the University.

41. Questionnaires and Surveys
It is not uncommon for Schools and Units to receive questionnaires and surveys. These would count at least in part as requests under the Act. All you are required to do is to answer the questions for which you hold recorded information. You do not need to amass information that you do not already hold, and you do not need to give an opinion.

You are not required to create new information in order to respond to a questionnaire or survey. However, compiling information from a variety of sources is not considered to be creating new information.

The Commissioner’s guidance is at www.itspublicknowledge.info/faqspas.htm.
42. Review of decisions and Appeal to the Commissioner

If an applicant is dissatisfied with the way their request is dealt with they can ask the University to review how it handled that request. Applicants could request a review because e.g. the University was late in replying or failed to reply to a request, withheld all or part of the information requested, set a fee that the applicant was unhappy with, or did not provide the advice and assistance the applicant they felt they should have received. The University has 20 working days in which to conduct the review and respond to the applicant. If following the review the applicant remains dissatisfied they can appeal to the Commissioner.
ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

43. Overview
Requests for access to environmental information come under the Act in the first instance. Such a request is then exempted under section 39 of the Act and is to be dealt with under the Regulations.

While there are differences between the Act and Regulations, the University is looking to wherever possible, adopt a common procedure for dealing with requests under both regimes.

44. Main differences between the Act and the Regulations
The main differences between the Act and Regulations are:

- Requests for environmental information can be in any form, including verbal
- Additional bodies to those listed in Act may be covered by the Regulations
- A 40 working day response time can apply when cases are complex and voluminous
- The fee charging regimes work differently
- Information is withheld under an ‘exemption’ in the Act and under an ‘exception’ in the Regulations

45. Main similarities between the Act and the Regulations
The main similarities between the Act and Regulations are:

- Both regimes are fully retrospective
- An authority has 20 working days to respond to requests (in all but the most complex requests for environmental information)
- Authorities are required to proactively publish as much information as possible
- Authorities have a duty to provide advice and assistance
- The Commissioner enforces both regimes

46. Further guidance on the Regulations
Further guidance is available at http://foi.st-andrews.ac.uk/doc.jsp?id=807 or alternatively please contact:

Mark Robinson
Information Management Coordinator
Email: foi@st-andrews.ac.uk
Tel: 44 (0) 1334 461780
Fax: 44 (0) 1334 462759
DATA PROTECTION ACT 1998

47. Overview
Requests made for personal data held by the University fall under the Data Protection Act 1998. If you wish to make a request about information the University holds concerning yourself then you will need to make a Subject Access Request under the Data Protection Act 1998.

If you wish to make a request about information the University holds concerning someone other than yourself then you will need to make a request under the Act. The Data Protection Principles apply to such requests.

48. Further guidance on Data Protection
Further information and a request form are at www.st-andrews.ac.uk/dataprot/ or alternatively please contact:

Alison Aiton
Data Protection Coordinator
Email: dataprot@st-andrews.ac.uk
Tel: 44 (0) 1334 463528
Fax: 44 (0) 1334 462759