

Freedom of Information Act 2000: Questions and Answers

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Data Protection Officer	1 May 2022	1 May 2025

Guidance

Freedom of Information Act 2000: Questions and Answers

Who needs to know about the Guidance?

Members of Staff who respond to Freedom of Information requests

Purpose of the Guidance

This Guidance sets out the details about the Act in the form of a 'question and answer' sheet.

The University is a public authority for the purposes of the Act.

The Act provides public access to information held by public authorities. It does this in two ways:

- public authorities have to publish certain information about their activities; and
- members of the public can request information from public authorities.

The Act covers any recorded information held by a public authority

Public authorities spend money collected from taxpayers and make decisions that significantly affect many people's lives. Access to information helps the public make public authorities accountable for their actions and allows public debate to be better informed and more productive.

Contacts

Governance and Legal Service is responsible for:

- Providing advice and assistance
- Guidance and templates
- Organising training

The team can be contacted by emailing: dp.officer@canterbury.ac.uk.

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Key points about Freedom of Information

- Everybody has a right to access official information.
- Almost any question in writing (even an email) could be a freedom of information request.
- A requester does not need to give us a reason for wanting the information.
- We must justify refusing information we hold following a request.
- Any staff member (even a part-time or temporary worker) could receive an information request.
- It covers almost all information held by the University – regardless of the date or person creating it. It includes those outside the University.
- Some information may be exempt from disclosure: Governance and Legal Services (dp.officer@canterbury.ac.uk) will deal with these exemptions.
- We need to consider any information we release under the Act as if released to the world at large
- It is a personal criminal offence to destroy information subject to an information request

What is the Freedom of Information Act (FOIA) 2000?

The FOIA establishes two rights of access to information:

- the right to be informed in writing whether the public authority holds the information requested; and
- if that is the case, the right to have that information communicated to the enquirer.

What is the difference between the Data Protection Act 2018 and the Freedom of Information Act (FOIA)?

It is important to distinguish requests made under the UK General Data Protection Regulation (GDPR) from those made under the FOIA.

Where an individual wants to access the information we hold that specifically refers to them, it constitutes a Subject Access Request under the GDPR. Such enquiries should usually be referred straight to the Data Protection Officer, though if the request is for a limited amount of information easily available to you (e.g. a specified document held in your files), you should provide it without referring the matter further.

A request for information about the University and its activities, or any other material held in our records, is a Freedom of Information request. Where it is unclear the nature of the request, or it appears to cover both personal and corporate information, you can seek advice from Governance and Legal Services.

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Who can request information?

Anyone can request information under FOIA, regardless of age, nationality or location.

What information is covered by FOIA?

Any information held by the University is eligible for release. The right of access applies to information recorded in any form. It includes:

- information held electronically (such as on a laptop computer or an electronic system)
- the information recorded on paper (such as a letter, memorandum or papers in a file)
- sound and video recordings (such as a CD or videotape, including CCTV)
- notes written in the margins of a document, notepad or post-it note

These rights of access are legally enforceable. FOIA is entirely retrospective, and these rights apply to all information, no matter how recent or old.

What is a Publication Scheme?

All public authorities must produce, maintain, and disclose information under a Publication Scheme.

The Publication Scheme records the type of information that the University will make available proactively. The Scheme follows the model set out by the Information Commissioner.

A Publication Scheme is not just a list of documents the University publishes.

Rather than specifying individual documents, it describes 'classes' or kind of information. It may also prescribe a charge for providing the information.

The University maintains a Publication Scheme setting out the information available without being asked.

The University includes links to key documents to make the Publication Scheme as user friendly as possible.

The Publication Scheme is reviewed periodically.

How can an individual make a request?

FOIA requires that all requests:

- are in writing (but this can include emails)
- state clearly what information is required
- state the name of the applicant, and an address for correspondence

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The request does not have to refer to the Freedom of Information Act. Therefore, all requests for information need treating as requests for information under FOIA.

What information need supplying?

FOIA entitles individuals to have access to information, not to documents. It may often be the case that the easiest way is to supply a copy of the relevant document since a document may contain the information requested.

However, a document may also contain a great deal of other information. It is only necessary to supply the information requested.

What happens when an individual makes a request?

On receiving a request, it is necessary to respond as soon as possible and not later than 20 working days after receiving the request.

The reply has to confirm or deny whether the University holds the information and either provide the information requested if held or explain the refusal, quoting an exemption under FOIA.

How should I deal with a request?

The overwhelming number of requests for information may be dealt with as it is clear that the information requested can easily be provided.

There will be other situations when it is unclear which category a request falls into or where a request requires more complex or sensitive handling. These requests need passing to Governance and Legal Services.

Advice on these matters is available from the University Solicitor or Assistant University Secretary.

What happens if I do not understand the request?

Under FOIA, the University has a duty to advise and assist requesters.

If you do not understand the request, there is a need to contact the enquirer to clarify what is required to provide the requested information.

What happens if I wish to refuse the request?

There are 23 exemptions from the rights of access under FOIA. These exemptions mark out the limits of the right of access to information under FOIA.

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If information is properly exempt, there is no right to access it under FOIA.

Most of the exemptions relate to governmental functions, but FOIA provides for exemptions for

- Information accessible to the applicant by other means
- Information intended for future publication, including research information
- Prejudice for the effective conduct of public affairs
- Prejudice to law enforcement
- Personal information
- Information provided by someone outside the University in confidence
- Legal professional privilege
- Trade secrets and commercially sensitive information

However, applying the exemptions is not straightforward. If you wish to use one of the exemptions, it is essential to contact Governance and Legal Services immediately.

What is the public interest test?

Most exemptions are 'qualified', meaning that the exemptions are subject to a public interest test.

It is not sufficient to establish that the information falls within a qualified exemption terms. It is also necessary to consider whether the public interest requires release of the information.

The issue is: Does the public interest in withholding the information outweigh the public interest in disclosing the information?

Before applying one of these exemptions, you must immediately seek advice from Governance and Legal Services.

What is the prejudice test?

Some exemptions are also subject to a prejudice test.

For FOIA, 'prejudice' means causing harm in some way. Some exemptions apply if disclosing the information we hold would harm the interests covered by the exemption. In the same way, confirming or denying whether you have the information can also cause prejudice.

Deciding whether disclosure would cause prejudice is called the prejudice test.

To decide whether disclosure (or confirmation/denial) would cause prejudice:

- we must be able to identify a negative consequence of the disclosure (or confirmation/denial), and this negative consequence must be significant (more than trivial);

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- we must be able to show a link between the disclosure (or confirmation/denial) and the negative consequences, showing how one would cause the other; and
- there must be at least a real possibility of the negative consequences, even if we can't say it is more likely than not.

What does it cost?

Should the request be for information in the University's Publication Scheme, the Scheme states whether (and how much) the University charges for providing the information.

Should the request for information form outside the Publication Scheme, there is no charge for providing the information, provided the cost to the University of providing that information does not exceed £450. The basis of these costs is £25 per hour per person. The calculation is regardless of the actual cost or rate of pay. The limit will be exceeded if these activities take longer than 18 hours.

There will be no charge to the person requesting the information except in very rare circumstances.

A charge may be made for photocopying and postage. However, the information is likely to be available electronically in most instances. Those requesting the information normally expect to receive the information as an email attachment.

The University will not charge where the cost is £10 or less. The application of the Fees Charging Policy is set out in Freedom of Information: [FOI Fee Charges](#).

What happens if I refuse the request?

Anyone whose request for information is refused or ignored has the right to ask the University to review that decision.

The procedures for requesting a review are set out in [Information Access Appeals and Complaints](#).

We may only refuse a request if it falls under one of the exemptions or because we do not hold the information.

If we refuse a request, the reply must identify which exemption it is applying, giving details of how to apply for an internal review of the decision to refuse.

Should the University continue to refuse the request after an internal review, the requester may complain to the Information Commissioner's Office (ICO).

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How many requests can an individual make?

FOIA does not specifically limit the number of requests an individual can make.

The University can reserve the right to refuse any vexatious or repeated requests. It may include repeated requests from the same person for the same information, or requests intended to disrupt the University's work.

Vexatious request

A vexatious request is determined by the information requested, not the person making the request.

An individual cannot be classified as a vexatious requestor. Only request can be vexatious.

An individual can make as many requests for information as the person wishes. Therefore they cannot be labelled as vexatious.

Each request needs determining on a case-by-case basis. If a request is not genuinely seeking access information, but aimed at disrupting the University's work, or harassing individuals in it, then it may well be vexatious.

Repeated requests

Where the University previously complied with a person's request, there is no need to comply with a repeated request from the same person.

However if a reasonable period elapsed between compliance with the first request and receipt of the second, the second request requires a response as the information may have changed.

How can the requester use the information received?

FOIA does not place restrictions on how the requester may use the information we supplied. A disclosure under FOIA is to the world at large.

However, FOIA does not transfer copyright in any information supplied under it.

Can the information be requested in a different format?

An individual may request supplying the information in any form.

However, the University may consider the cost of supplying the information in the requested form before complying with the request. In particular, an individual may ask for information in permanent form, in summary form, or for permission to inspect records containing the information.

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However each request needs individual consideration, and there must be no blanket refusal. To meet our obligations under equality legislation, it may be essential for us to provide the information in a different format.

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