**Freedom of Information Requests Standard Operating Procedure**

The Standard Operating Procedures (SOPs) are practical guides on what the University must to do in order to comply with Freedom of Information and Data Protection Laws. Details of who is responsible for this SOP and the definitions used in it are set out in Annex A.

**Freedom of Information requests**

**IT IS A CRIMINAL OFFENCE TO CONCEAL, ALTER OR DELETE INFORMATION TO PREVENT DISCLOSURE IN RESPONSE TO A REQUEST.**

**1 Scope**

1.1 The Freedom of Information (Scotland) Act 2002 (FOISA) gives individuals the right to request certain information from the University as a public body.

1.2 This SOP details the process to be followed by the University where a request for information is received in terms of the FOISA.

**2 Does a Freedom of Information (FOI) request have to be in writing?**

2.1 In order to be valid, the request should be in writing and state the following:

* the name and address (or e-mail address) of the applicant
* a description of the requested information.

2.2 If the request is not valid, the University has an obligation to provide advice and assistance to applicants. For example, if a person wishes to make a request in person or by telephone, to assist, the request should be written down and actioned as if it had been provided in writing.

 2.3 It is important to remember:

* requests do not need to mention any legislation by name to be valid
* requests can be submitted via social media
* the applicant does not need to specify that they are making a FOI request
* the applicant can be located anywhere in the world.

**3 How long does the University have to respond to a FOI request?**

3.1 The University has 20 working days from receipt of the request to respond.

3.2 If the request is not clear, the applicant should be contacted for clarification. The 20 day time limit will not start to run until the further information has been received.

**4 What should you do if you receive a FOI request?**

4.1 If you receive a FOI request you should forward the request and any related information you have to Information Governance using the e-mail address freedomofinformation@dundee.ac.uk.

4.2 Information Governance will note the time, date and any other information and will manage the request (with appropriate input from other relevant areas of the University) once they receive the email from you.

4.2 If you do not think that it would be appropriate for the University to disclose the information for any reason, you should let Information Governance know. They can then decide what to do with the request.

**5 What will Information Governance do when they receive a FOI request?**

### Acknowledge receipt of the request

5.1 Information Governance shall write to the applicant to acknowledge receipt of the FOI request. Template 1 in Annex B should be used.

### Obtain and collate information

5.2 Information Governance shall seek to obtain the information needed to be able to respond to the FOI request. This may involve them contacting members of the University and/or third parties who hold information on behalf of the University, to get the relevant information. Such requests for information should not identify the applicant.

5.3 Information Governance shall collate any information received and consider whether any of the information is exempt from disclosure. Information Governance may redact and remove information as appropriate.

5.4 Exemptions can be relied upon to prevent disclosure in specific circumstances. Further details of exemptions are at Annex C. If Information Governance are not sure whether an exemption may apply to the FOI, they should consult Legal for advice.

### Prepare a response to the applicant

5.5 Information Governance shall prepare a draft response to the applicant. Template letter 2 in Annex B should be used.

5.6 The response should include an explanation to the applicant that they have the right to request a review within 40 days.

5.7 Where appropriate, views should be sought from third parties who have a material interest in the relevant information. However, the University has sole discretion in whether information should be disclosed.

### Provide reasons for refusing a request

5.8 When a decision has been made to refuse a request, it is not enough to simply state that the information will not be provided. The reasons for not providing the information to the applicant must be given.

### Take practical steps when responding

5.9 When responding to a request, Information Governance shall take the following practical steps:

* use the applicant’s preferred method of communication (if indicated) or the same method used by the applicant in submitting the request
* retain copies of all correspondence and information sent
* check the any information that should not be disclosed is not included or has been permanently redacted from the disclosed copies
* include a schedule or a list of documents enclosed
* if sending the response by e-mail:
	+ send the letter with the response and the information as attachments
	+ request a “read receipt”.

**6 What if the requestor is unhappy with the decision?**

6.1 If a requestor is unhappy with a decision made under this procedure then they can request that the decision is reviewed.

6.2 Any request for a review should be sent to Information Governance using the e-mail address freedomofinformation@dundee.ac.uk. The SIGO shall decide how to respond.

**7 How long should the University take to respond to a request to review a decision?**

7.1 The University should ensure that a review takes no longer than 20 working days from the date the request is received.

**8 What will the SIGO do with a request to review a decision?**

8.1 A review will normally be carried out by the SIGO. However, if the SIGO has previously involved in the FOI request then the SIGO should pass the matter to another member of senior staff to consider the review. This may be the Director of Legal or their nominee.

## What can the reviewer do?

8.2 The SIGO or the Director of Legal (or nominee) shall make a fresh decision based on all of the available evidence. They may decide to:

* confirm the original decision
* replace the original decision with a different one.

## What must a response include?

8.3 The response to the requestor must include details of the requestor’s right of appeal which is mentioned at 9.1 below.

**9 What if the requestor is not happy with the review outcome?**

9.1 If a requestor is not satisfied with the outcome of the review then they may submit an appeal to the Office of the Scottish Information Commissioner (OSIC). If, following an appeal, OSIC finds that the University has wrongly withheld information, the University may be ordered to disclose it.

**10 Further reading**

10.1 For additional information and further reading about FOIs, please see:

* the University’s website – Freedom of Information
* the guidance of the Office of the Scottish Information Commissioner
* the Scottish Ministers’ Code of Practice

**Annex A**

**Definitions**

|  |  |
| --- | --- |
| **Definition** | **Meaning**  |
| **Data Protection Laws** | means any law, statute, subordinate legislation regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of personal data, electronic communications and privacy to which a party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the UK GDPR |
| **DPO** | Data Protection Officer |
| **FOISA** | Freedom of Information (Scotland) Act 2002 |
| **FOI** | Freedom of Information |
| **IG** | The University’s Information Governance Team |
| **ICO** | Information Commissioner |
| **OSIC** | Office of the Scottish Information Commissioner |
| **personal data** | Any information relating to an identified or identifiable Data Subject. |
| **SOP** | Standard Operating Procedures  |
| **SIGO** | Senior Information Governance Officer |

**Who is responsible for the SOPs?**

### Data Protection Officer (DPO)

The DPO is responsible for implementing and overseeing the University’s compliance with the Standard Operating Procedures (SOPs).

The DPO shall provide such guidance, resources and training in Data Protection as required in order for University staff to have a reasonable level of awareness in respect of Data Protection laws and regulation as they apply to their role. The SOPs form part of this.

### General need for compliance

All University staff are responsible for complying with the SOPs and ensuring that any matters relating to data protection are actioned appropriately and in a timely manner. Staff are also expected to attend any training relating to data protection as required.

If a member of University staff is found to have willfully or negligently breached this procedure, they may be subject to the University’s disciplinary procedures.

**Who is the University’s DPO?**

The University’s DPO is Richard Parsons. His contact details are set out below:

|  |  |
| --- | --- |
| Email | dataprotection@dundee.ac.uk  |
| Telephone | 01382 384082 |

**General duties of the DPO**

In terms of Article 39 of the UK GDPR, the DPO shall have at least the following tasks:

* to inform and advise the University and its employees about our obligations to comply with the UK GDPR and other data protection laws;
* to monitor compliance with the UK GDPR and other data protection laws, and with our data protection polices, including managing internal data protection activities; raising awareness of data protection issues, training staff and conducting internal audits;
* to advise on, and to monitor, [data protection impact assessments](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/);
* to cooperate with the ICO; and
* to be the first point of contact for the ICO and for individuals whose data is processed (employees, students etc).

**Duties of the DPO in relation to FOI requests**

When it comes to Freedom of Information, the DPO shall:

* exercise general oversight of the process and management of requests by staff members
* respond to any queries from staff concerning freedom of information
* monitor the University’s performance in responding to requests
* provide training
* maintain the publication scheme which explains what information the University routinely places into the public domain.

**Annex B**

**Templates**

**Template 1 – FOI Acknowledgement/Request for further clarification**

Date: [@@@]

[Requester name and address and/or e-mail]

Dear [@@@],

**Letter acknowledging receipt of a request for information**

**Reference: [@@@]**

Thank you for your [letter / e-mail / fax] dated [@@@] requesting information about [@@@]. We received your request on [@@@].

|  |
| --- |
| [Acknowledgment:We are currently considering your request and will provide a response within twenty working days.If you have any queries about this request do not hesitate to contact me. Please remember to quote the reference number above in any future communications.] |

**OR**

|  |
| --- |
| [Requesting further information or clarification:From our preliminary assessment, it is clear that we will not be able to answer your request without further clarification.We require further information in order to identify and locate the information you have asked for. In particular, it would be useful to know [description of further information required and the reason why it is required (if appropriate)].Once you have clarified your request, I will be able to begin to process your request. If I do not receive clarification within three months your request will be considered to have lapsed. Please note that under section 1(3) of the Freedom of Information (Scotland) Act 2002, a public authority need not comply with a request unless any further information reasonably required to locate the information is supplied.If you have any queries in relation to this letter do not hesitate to contact me. Please remember to quote the reference number above in any future communications.If you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance, and within 40 working days of receiving this letter, to request a review of the actions of the University of Dundee in handling your request.Should you wish to do so, contact details are: [name, job title, address and e-mail]. Please also provide details of why you are requesting a review. If, after receiving the internal review response, you remain dissatisfied, you have six months within which you may appeal to the Scottish Information Commissioner; Scottish Information Commissioner Kinburn Castle Doubledykes Road St Andrews Fife KY16 9DSWebsite: [www.itspublicknowledge.info](http://www.itspublicknowledge.info) Should you wish to appeal against the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.] |

Yours sincerely,

[@@@]

[Name, job title, address, telephone and e-mail]

**Template 2 – Response to FOI request**

Date: [@@@]

[Requester name and address and/or e-mail]

Dear [@@@],

**Request for information**

**Reference: [@@@]**

I refer to your recent request for information dated [@@@] which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease or reference your request is replicated below together with the response.

Your request:

[@@@]

Response to the request:

|  |
| --- |
| [Providing all of the information:The information you requested is enclosed with this letter along with a Schedule of Information. If you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance, and within 40 working days of receiving this letter, to request a review of the actions of the University of Dundee in handling your request.] |

**OR**

|  |
| --- |
| [Full refusal: In accordance with Section 16(1) (Refusal of request) of the Freedom of Information (Scotland) Act 2002, this letter represents a Refusal Notice.After considering your request, we confirm that we hold information relevant to your request but that we consider the information to be exempt from disclosure in accordance with Section [ ] ([Title of Section]) of the Freedom of Information (Scotland) Act 2002.; [**Confidentiality**(1) Information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings is exempt information.**(2) Information is exempt information if—****(a) it was obtained by a Scottish public authority from another person (including another such authority); and****(b) its disclosure by the authority so obtaining it to the public (otherwise than under this Act) would constitute a breach of confidence actionable by that person or any other person**][If not apparent, insert additional explanation of why the exemption applies].[If the exemption is not absolute, insert explanation why the public interest in maintaining the exemption outweighs that in disclosure of the information or why substantial prejudice would be likely to occur if the information was disclosed.]If you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance, and within 40 working days of receiving this letter, to request a review of the decision of the University of Dundee.] |

Should you wish to do so, contact details are: [name, job title, address and e-mail]. Please remember to quote the above reference number in your correspondence and to provide details of why you are requesting a review.

If, after receiving the internal review response, you remain dissatisfied, you have six months within which you may appeal to the Scottish Information Commissioner:

Scottish Information Commissioner

Kinburn Castle

Doubledykes Road

St Andrews

Fife

KY16 9DS

Website: [www.itspublicknowledge.info](http://www.itspublicknowledge.info)

Should you wish to appeal against the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

If you have any queries in relation to this letter do not hesitate to contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

[@@@]

[Name, job title, address, telephone and e-mail]

**[Where disclosing information, include a list or a Schedule of Information detailing all documents or information released]**