



The University of
Nottingham

Freedom of Information – Manual of Office Procedures June 2008



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MOP 1.0 Right of Access to Information
Brett Dodgson
June 2008

Right of Access to Information

The Freedom of Information Act 2000 gives individuals the right to request access to information held by public authorities, including the University. Under Section 1(1) of the Act, any person making a request for information has the right:

- to be informed in writing whether the information requested is held;

and

- where the information requested is held, to have it communicated to them;

Access Requests

To exercise these rights, a request must be made in writing (letter or email). Further information on making a request for information under the Act can be found at:

www.nottingham.ac.uk/freedom-of-information

The request must state the name of the applicant and an address for correspondence – an email address is sufficient in the latter respect. Requests may be made to any member of staff in the University. If you receive a request for information that you would release routinely, please handle this as normal. If you receive a request for information that would not release routinely or a request which specifically mentions the Act, please forward it to the Governance and Logistics team in the Academic Services Division.

Where it is not clear what information is being sought, the University is permitted to request further details/clarification from the applicant (Section 1 (3)).

Requests must be responded to within twenty working days in one of the following ways:

- confirming the information requested is not held;
- providing the information requested;
- issuing a refusal notice (see [MOP 5.0](#));
- issuing a fees notice (see [MOP 4.0](#));

"Working days" here means any day other than a Saturday, Sunday, or public holiday. University close days not falling on a public holiday are still classed as working days.



MOP 2.0 Exemptions to the Right of Access
Brett Dodgson
June 2008

Exemptions to the Right of Access

Section 1 (1) of the Freedom of Information Act gives individuals a general right of access to information held by the University. However, Section 2 makes provisions for categories of information which are exempt from this general right of access. These exemptions are set out in full in Sections 21 to 44:

Section 21	Information accessible to the applicant by another means;
Section 22	Information intended for future publication;
Section 23	Information supplied by, or relating to, bodies dealing with security matters;
Section 24	Information relating to national security;
Section 25	Supplementary provisions to Sections 23 and 24;
Section 26	Information relating to defence matters;
Section 27	Information relating to international relations;
Section 28	Information relating to relations within the UK;
Section 29	Information relating to the economy;
Section 30	Information relating to investigations and proceedings conducted by public authorities;
Section 31	Information relating to law enforcement;
Section 32	Court records, etc.;
Section 33	Information relating to audit functions;
Section 34	Information covered by Parliamentary privilege;
Section 35	Information relating to the formulation of government policy;
Section 36	Information prejudicial to effective conduct of public affairs;
Section 37	Communications with Her Majesty, etc.;
Section 38	Information relating to health and safety;
Section 39	Environmental information;
Section 40	Personal information;
Section 41	Information provided in confidence;
Section 42	Information covered by legal professional privilege;
Section 43	Information relating to commercial interests;

Section 44 Information where disclosure is prohibited;

Full guidance on all these exemptions is available from the website of the Information Commissioner's Office:

www.ico.gov.uk

Further guidance on those exemptions most likely to be relevant to requests received by the University is provided in the appendices to this MOP.



MOP 2.0 Appendix One – Absolute and Qualified Exemptions
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Absolute and Qualified Exemptions

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

Exemptions are of two types – "absolute" and "qualified".

Absolute Exemptions

In the case of absolute exemptions, the general right of access is wholly disappplied. Where an absolute exemption applies, the University is not obliged to comply with the request. The absolute exemptions are:

Section 21	Information accessible to the applicant by another means;
Section 23	Information supplied by, or relating to, bodies dealing with security matters;
Section 32	Court records, etc.;
Section 34	Information covered by Parliamentary privilege;
Section 40	Personal information;
Section 41	Information provided in confidence;
Section 44	Information where disclosure is prohibited;

Qualified Exemptions

In the case of qualified exemptions, the University must consider whether the public interest favours disclosing the information or withholding it. The exemption applies only where the public interest favours withholding the information. In the event that the public interest is evenly balanced between disclosure and withholding, the information should normally be disclosed. The qualified exemptions are:

Section 22	Information intended for future publication;
Section 24	Information relating to national security;
Section 26	Information relating to defence matters;
Section 27	Information relating to international relations;

Section 28	Information relating to relations within the UK;
Section 29	Information relating to the economy;
Section 30	Information relating to investigations and proceedings conducted by public authorities;
Section 31	Information relating to law enforcement;
Section 33	Information relating to audit functions;
Section 35	Information relating to the formulation of government policy;
Section 36	Information prejudicial to effective conduct of public affairs;
Section 37	Communications with Her Majesty, etc.;
Section 38	Information relating to health and safety;
Section 42	Information covered by legal professional privilege;
Section 43	Information relating to commercial interests;

Public Interest Test

In the case of qualified exemptions, the University is obliged to consider the public interest. This is not defined in the Act, but is taken to mean things that serve the public interest rather than things which are merely of interest to the public.

In general, the public interest favours disclosure and there is a presumption in favour of disclosure running through the Act. Factors that favour disclosure include:

- furthering the understanding and participation in the public debate of issues of the day;
- promoting accountability and transparency in the University's decision making and use of public money;
- promotion of information affecting public health;

Factors against disclosure are those set out in the exemptions themselves – for example, avoiding harm to the University's commercial interests. It is important to note that the following do not constitute valid public interest reasons for withholding information:

- where a private rather than a public interest favours withholding information;
- where the information is felt to be too complicated for public use or is incomplete;

In the first case, the Act is clear that only public interest factors should be considered – it is not simply a means by which private embarrassment is avoided.

In the second case, the Information Commissioner's Office has stated that neither of these are grounds for withholding information. Where the information requested is particularly complicated or is incomplete, it is good practice to provide additional commentary/context as appropriate.

Where the University is considering the public interest, the Act requires it to make a decision "within such time as is reasonable in the circumstances". The Information Commissioner's Office has stated that public authorities should aim to respond to all requests within twenty working days even if the public interest test needs to be applied. Where the public interest considerations are particularly complicated, it is acceptable to take longer – but no more than forty working days.

If having considered the public interest the balance is in favour of disclosure, the request should be complied with as normal. Where the balance is in favour of withholding the information, a refusal notice should be issued which makes full reference to the public interest test (see [MOP 5.0](#)).

In cases where the public interest considerations are particularly complicated and additional time is needed, a refusal notice should be issued within twenty working days. This should follow the format above but should also explain that the request remains under consideration. When a final decision has been reached, the procedure above should be followed as appropriate – i.e., the information should be disclosed or a final refusal notice issued.



MOP 2.0 Appendix Two – Prejudice Test
Brett Dodgson
June 2008

Prejudice Test

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

As well as distinguishing between "absolute" and "qualified" exemptions (see [MOP 2.0 Appendix One](#)), exemptions are categorised as class- or prejudice-based.

Class-Based Exemptions

In the case of class-based exemptions, the general right of access is wholly disapplied by virtue of information falling within the categories of information covered by that exemption. No further test is required, unless the exemption is also a qualified one in which case the public interest test is applied.

Prejudice-Based Exemptions

In the case of prejudice-based exemptions, it is not sufficient simply to show that information falls within the categories of information covered by that exemption. In addition, it is necessary to show the harm ("prejudice") that would be caused by disclosing the information. Once prejudice has been established, the exemption is engaged and, if applicable, the public interest test is considered.

The following are prejudice-based exemptions:

Section 26	Information relating to defence matters;
Section 27	Information relating to international relations;
Section 28	Information relating to relations within the UK;
Section 29	Information relating to the economy;
Section 31	Information relating to law enforcement;
Section 33	Information relating to audit functions;

Parts of the following exemptions are prejudice-based:

Section 36	Information prejudicial to effective conduct of public affairs;
Section 43	Information relating to commercial interests;

Finally, two exemptions follow a different format but essentially operate in the same way as prejudice-based exemptions:

Section 24	Information relating to national security;
Section 38	Information relating to health and safety;

Prejudice Test

To show the prejudice that would be caused by disclosure, the "prejudice test" must be applied. The test serves two purposes:

- establishes the nature of the prejudice;

and

- establishes the likelihood of that prejudice occurring;

In establishing the nature of the prejudice, it is important that the University identifies this clearly and specifically. The Information Commissioner's Office has advised that public authorities are expected to have evidence of a causal relationship between the disclosure and the prejudice. The degree of prejudice that must result is not specified, but it must be more than trivial.

In establishing the likelihood of the prejudice occurring, prejudice must be at least more likely than not. The chance of prejudice occurring must be more than a hypothetical possibility – the University must demonstrate a real and significant risk. While the University is not expected to prove exactly what would happen as a result of disclosure, it is not sufficient to offer unsupported opinion; it must be able to show reasonable evidence for its view.



MOP 2.0 Appendix Three – Effective Conduct of Public Affairs
Brett Dodgson
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Effective Conduct of Public Affairs

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

Section 36 provides an exemption for information where disclosure would:

- inhibit, or be likely to inhibit, the free and frank exchange of views or provision of advice;

or

- otherwise prejudice the effective conduct of public affairs;

Section 36 provides a qualified exemption and the University must consider the public interest in deciding whether the exemption applies.

Inhibit the Free and Frank Exchange of Views or Provision of Advice

This part of the exemption applies if disclosure would have the effect of inhibiting the ability of University staff or others, when deliberating or providing advice, to express themselves openly, honestly, and completely or to explore extreme options. In this context, "deliberating" refers to the evaluation of competing arguments or considerations.

Generally, information is not covered by this part of the exemption where it consists of purely factual material of background information – the information must reveal something of the decision making process.

Moreover, there must be clear and specific evidence for a detrimental impact on the substance or quality of deliberations or advice.

Prejudice to the Effective Conduct of Public Affairs

While everything the University does could be described as "public affairs", the Information Commissioner's Office has stated that this part of the exemption applies only where disclosure would prejudice its ability to offer an effective public service or to meet its wider objectives.

Qualified Person

Neither part of this exemption may be used unless the criteria described apply "in the opinion of a qualified person". The qualified person is usually a senior figure within the public authority; for the University it is the Vice Chancellor.

The Information Commissioner's Office has defined a "reasonable opinion" as:

"one which lies within the bounds of reasonableness, or range of reasonable opinions, and can be verified by evidence. Any opinion which is not outrageous, or manifestly absurd, or made with no evidence, or made on the basis of irrelevant factors or without consideration of all relevant factors, will satisfy the test".

Effectively then, the opinion of the qualified person is here used instead of the prejudice test (see [MOP 2.0 Appendix Two](#)) – though of course some of the factors considered are likely to be the same or similar.

In the case of statistical information, however, it is not necessary to seek the opinion of the qualified person with respect to this exemption and a decision can be made as normal. In place of this, the prejudice test must be considered before the exemption is applied. Here "statistical information" refers to analyses, projections, and metadata as well as to the statistics themselves – i.e., numerical data that may take the form of a table, graph, or simply be a sum total. Statistics must be derived from a recorded or repeatable methodology and commentary on this also falls within the definition.

Where this exemption is used and the applicant requests a review, this may not be appropriate given the seniority of the qualified person. In such cases, it is at the discretion of the University whether to hold a review or refer the applicant directly to the Information Commissioner's Office.



MOP 2.0 Appendix Four – Health and Safety
Brett Dodgson
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Health and Safety

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

Section 38 provides an exemption for information where disclosure would, or would be likely to, endanger the health and safety of any individual regardless who that is – i.e., it may be a member of staff, the applicant, or anyone else.

The exemption covers endangerment to the physical health, mental health, or safety of any individual. It is important to note that "mental health" means more than mental distress; the Information Commissioner's Office has issued guidance stating that endangerment to mental health implies a situation where disclosure would lead to or exacerbate a mental illness or psychological disorder.

Where the exemption is applied on the grounds that disclosure would endanger the physical or mental health of an individual, the University is expected to have evidence to support this – i.e., the written opinion of a medical practitioner.

Although the term "endanger" is used rather than prejudice, the effect is the same and the prejudice test must be applied before this exemption can be used.

Section 38 provides a qualified exemption and the University must consider the public interest in deciding whether the exemption applies.



MOP 2.0 Appendix Five – Environmental Information
Brett Dodgson
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Environmental Information

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

Section 39 provides an exemption for information where this constitutes "environmental information". The meaning of this should be applied broadly, but in general is likely to include anything falling under the remit of the University's Estates Division.

The effect of Section 39 is to ensure that access to environmental information is dealt with under the terms of the Environmental Information Regulations 2004. Any requests for environmental information should be forwarded to [Gavin Scott](#) in Estates.



MOP 2.0 Appendix Six – Personal Data
Brett Dodgson
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Personal Data

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

Section 40 provides an exemption for information where this constitutes "personal data" – i.e., data which relates to an identifiable individual.

Under Section 40, personal data is exempt from disclosure where:

- the applicant is the data subject;
- the applicant is not the data subject but disclosure would breach one of the eight data protection principles;

In the first case, the applicant has no right of access under the Act; however, they are likely to have a right of access under the Data Protection Act 1998. Accordingly, a valid refusal notice should be issued (see [MOP 5.0](#)) and the applicant advised to make a Subject Access Request.

In the second case, the most applicable principle is that personal data must be processed "fairly and lawfully". In this respect, this essentially means that personal data should not be disclosed to a third party without the data subject's consent. Accordingly, where consent has not been given, a valid refusal notice should be issued.

Section 40 provides an absolute exemption and there is no requirement to consider the public interest in deciding whether the exemption should be applied.



MOP 2.0 Appendix Seven – Information Provided in Confidence
Brett Dodgson
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Information Provided in Confidence

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

Section 41 provides an exemption for information where this has been provided in confidence. For this exemption to apply, two conditions must be met:

- the information must have been obtained by the University from another person;

and

- disclosure of the information would give rise to an actionable breach of confidence;

The exemption does not cover information generated by the University itself – only information obtained from another "person". Here a person may be an individual, company, other public authority, or any other legal entity. However, it would cover information generated by the University where this is based on confidential information provided by a third party and revealing that information would also reveal the confidential material.

There are normally two ways in which the University would identify as confidential material provided to it:

- where explicit conditions are attached to its subsequent use or disclosure;
- where conditions are not stated explicitly but are obvious or implied from the circumstances;

The second condition of this exemption is that disclosure of the requested information would give rise to an actionable breach of

confidence – i.e., the aggrieved party would have the right to take legal action against the University should the requested information be disclosed. There are two considerations in respect of this:

- the University must be satisfied that the information is in fact confidential;
- the aggrieved party must have the legal standing to take action;

The information itself must therefore have the necessary "quality of confidence". There are two key parts to this:

- the information need not be highly sensitive, but nor should it be trivial;
- the information must not be readily available by other means;

However, the duty of confidence is not absolute. There are three cases in which confidential information may be disclosed:

- where consent has been given by the person to whom the duty of confidence is owed;
- where disclosure is required by law;
- where there is an overriding public interest served by disclosure (this is not the same as the public interest test applied under the Act);

It is also important to note that:

- the duty of confidence continues even after the death of the person to whom that duty was owed;
- marking documents as "confidential" or inserting confidentiality clauses into contracts does not confer exemption under the Act – information must satisfy the criteria described above;

Section 41 provides an absolute exemption and there is no requirement to consider the public interest in deciding whether the exemption applies.



MOP 2.0 Appendix Eight – Information Relating to Commercial
Interests

Brett Dodgson
June 2008

Information Relating to Commercial Interests

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44.

Section 43 provides an exemption for information relating to commercial interests. Specifically, information is exempt from disclosure if:

- the information constitutes a trade secret;

or

- disclosure would prejudice the commercial interests of any person or legal entity;

Trade Secrets

The term "trade secret" is not defined in the Act and it can have a broad meaning. It covers not only secret techniques or formulae, but also things such as customer details, pricing structure, etc. where these are not generally known and offer a competitive advantage.

In determining whether information constitutes a trade secret, it may be useful to look at the following:

- whether the information is used for the purposes of trade;
- whether it is clear from the nature of the information that disclosure would be harmful or would offer an advantage to competitors;
- whether the information is already available;

- whether it would be easy for competitors to discover or reproduce the information for themselves;

The part of the exemption relating to trade secrets is not prejudice based (see [MOP 2.0 Appendix Two](#)). When the information requested does constitute a trade secret, there is no need to consider the harm disclosure would cause.

However, Section 43 is a qualified exemption and this covers both parts. Accordingly, the public interest must be considered before the exemption is applied.

Please note though that the trade secret part of this exemption features an anomaly regarding compliance with Section 1 (1) of the Act – i.e., the applicant's right to be informed whether the information is held. In all requests involving trade secrets, the University must confirm whether the information is held.

Where it has been determined that the information requested constitutes a trade secret and where, having considered the public interest, it has been decided to apply the exemption and withhold that information, the University must still confirm that the information is held. However, where confirming that information constituting a trade secret is held would itself prejudice commercial interests, it may be appropriate to rely on the second part of the exemption as described below.

Commercial Interests

Trade secrets are a specific example of a "commercial interest", but the term can be applied more broadly to a person's ability to participate competitively in the exchange of goods or services. This part of the exemption applies to information where disclosure would have a detrimental effect on that ability.

The part of the exemption relating to commercial interests more broadly is prejudice based. The prejudice test must be applied before this exemption can be used (see [MOP 2.0 Appendix Two](#)). When applying the prejudice test to this exemption, it may be appropriate to consult with any other parties likely to be affected by disclosure (e.g., commercial partners). This is recommended by the Information Commissioner's Office. However, it is important to note the following:

- the twenty working day deadline (see [MOP 1.0](#)) must be adhered to even where consultation such as this is appropriate/necessary;

- although other parties should be consulted, it is the University who decides whether the exemption applies;
- where the exemption is applied on the basis of prejudice to the commercial interests of a third party, the University must have evidence from the third party to support this;

As noted, Section 43 is also a qualified exemption and this covers both parts. Accordingly, the public interest must be considered before the exemption is applied.

Finally, the anomaly noted with trade secrets and the obligation to confirm whether the information is held does not apply in respect of commercial interests. Accordingly, where the second part of this exemption is applicable, it applies to both disclosing the information and confirming whether the information is held.



MOP 3.0 Vexatious and Repeated Requests
Brett Dodgson
June 2008

Vexatious and Repeated Requests

Section 1 (1) of the Freedom of Information Act gives individuals a general right of access to information held by the University. However, under Section 14 of the Act, the University is not obliged to comply with such a request where that request is:

- vexatious (Section 14 (1));

or

- repeated (Section 14(2));

Vexatious Requests

The term "vexatious" is not defined by the Act; given its application in other legal contexts however, it is reasonable to treat a request as vexatious if it is designed to subject the University to inconvenience, harassment, or expense. The approach of the Information Commissioner's Office has been that a request may be treated as vexatious where:

it would impose a significant burden on the public authority in terms of expense or distraction;

and it meets at least one of the following criteria:

- it clearly has no serious purpose or value;
- it is designed to cause disruption or annoyance;
- it has the effect of harassing the public authority;
- it can otherwise fairly be characterised as obsessive or manifestly unreasonable;

Given these criteria, it is important to consider both the intention and the effect. Even if the applicant does not intend to cause inconvenience or harassment, the request may still be vexatious if it imposes a significant burden – i.e., complying with the request would cause the University to divert a considerable amount of resources from its core business. It is also important to note that it is the request – rather than the applicant – which must be vexatious.

Requests may be identified as vexatious if, for example:

- the applicant makes their intentions clear;
- the University has independent knowledge of the applicant's intentions;
- the request clearly has no serious purpose or value;
- the effect of redaction would make the information worthless;
- the request is for information which is clearly exempt;
- the request can fairly be characterised as obsessive or manifestly unreasonable;

Where the request is solely for the purpose of going over the same ground as a previously closed complaint which has exhausted available procedures and where it would impose a significant burden, it may well be vexatious. A useful test is to judge whether the information would be released to any other applicant.

Where the request contains abusive or offensive language or is threatening in tone, it is not automatically to be considered as vexatious – the tests described above should still be applied.

Repeated Requests

The Act states that where the University has previously complied with a request, it is not obliged to comply with a subsequent request where this is:

- from the same applicant;
- for the same or substantially similar information;

unless a reasonable period of time has passed between the two requests. (It is for the University to determine what constitutes a "reasonable" amount of time).

The University is not permitted to refuse requests from different applicants on the grounds that they are repetitious – the requests must have been made by the same applicant. If the University believes the requests are submitted as part of a campaign aimed at causing inconvenience it may be appropriate to refuse them as vexatious.



MOP 4.0 Appropriate Limit and Fees
Brett Dodgson
June 2008

Appropriate Limit and Fees

Section 1 (1) of the Freedom of Information Act gives individuals a general right of access to information held by the University. Under the Act the majority of costs associated with complying with requests for information are borne by public authorities themselves. However, the Act also sets out situations in which public authorities may apply fees in relation to such requests.

Appropriate Limit

Policy on fees relating to requests for information is based on the concept of the "appropriate limit". This can be defined as the reasonable maximum cost that public authorities may expect to incur in handling a request. This is set at £450.

When estimating whether the appropriate limit would be exceeded in handling a request, the costs are limited to those the University could reasonably expect to incur in:

- determining whether it holds the information;
- locating the information;
- retrieving the information;

It may not take into account time spent on activities other than those described – e.g., time taken to decide whether a request meets the requirements of the Act.

All public authorities use the same hourly rate of £25 per person when estimating staff-time costs, regardless of actual costs.

Aggregate Requests

In certain cases, the costs of answering more than one request may be aggregated for the purpose of estimating whether the appropriate limit would be exceeded. Requests can be aggregated if:

- the requests are made to the same public authority;
- the requests relate to the same or similar information;
- the requests are received within a space of sixty consecutive working days;
- the requests are from the same person or from “different persons who appear to the public authority to be acting in concert or in pursuance of a campaign”;

Requests Above the Appropriate Limit

Under the Act, where the University receives a request which would cost more than the appropriate limit, it may choose to either decline to answer the request or answer it in return for a fee.

Although the University is permitted to decline to answer a request that would exceed the appropriate limit, it is good practice in the first instance to discuss the request with the applicant. In this way it may be possible to refine the request and bring it below the appropriate limit.

Where the University chooses to answer a request that exceeds the appropriate limit and charge a fee for doing so, the maximum charge permitted is the sum of:

- the costs which the University is entitled to take into account using the criteria described above;

and

- the cost of communicating the information to the applicant;

However, there is nothing to prevent the University from charging less than this or making no charge at all.

It is important to note that should the University choose to answer a request exceeding the appropriate limit, it is no longer obliged to comply with the limit of twenty working days for answering requests.

Requests Below the Appropriate Limit

Where compliance with a request would cost less than the appropriate limit, the fees that can be applied are much more restricted and the University bears the majority of the costs relating to the request. Authorities may develop their own policies on

charging fees below the maximum and have the discretion to charge a lower fee or waive any fee altogether.

In cases where the appropriate limit is not exceeded, the maximum fee that may be charged is based on the University's estimate of the costs it reasonably expects to incur in:

- informing the applicant whether it holds the information;
- communicating the information to the applicant;

No account can be taken of staff time where the appropriate limit has not been met.

The University's policy is that fees of this type will not generally be charged when the amount is under £50 – however, School/Departments have discretion in this respect should they wish to seek reimbursement of their actual costs.

In calculating these costs, the following rates have been agreed for use within the University:

- B&W copying per A4 page @ 5p (single sided) and 7p (double sided);
- Colour copying per A4 page @ 10p
- Postage/Packing @ actual costs;

Fees Notices

If it is proposed to charge a fee, the University must issue a fees notice to the applicant stating the estimated fee. When a fees notice is issued, the applicant has three months to pay – if no payment is received within that time, the University is not obliged to answer the request.

Where it is proposed to charge a particularly high fee, it is good practice for the fees notice to be accompanied by an invitation to the applicant to discuss whether a free or cheaper alternative format might equally well meet their needs.

If the actual cost of answering the request turns out to be greater than the estimated cost charged by way of a maximum fee, the University must bear the additional cost.

If the actual cost of answering the request turns out to be less than the estimated cost, authorities are encouraged to refund the difference to the applicant.



MOP 5.0 Refusal Notices
Brett Dodgson
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Refusal Notices

Section 1 (1) of the Freedom of Information Act gives individuals a general right of access to information held by the University. However, it also specifies a number of cases where the right of access does not apply and the request may be refused. Under Section 17 of the Act, where a request is refused, the University must issue a valid refusal notice.

Refusal notices may be issued where:

- the request is for exempt information (see [MOP 2.0](#));
- the request is vexatious or repeated (see [MOP 3.0](#));
- compliance with the request would exceed the appropriate limit (see [MOP 4.0](#));

Where it is necessary to issue a refusal notice, this must be done promptly and no more than twenty working days after the request was received.

In the case of requests which are vexatious or repeated, it is not necessary to issue a further refusal notice if the applicant has already been issued with a notice on these grounds in relation to a recent and similar request and doing so again would be unreasonable.

If the information requested is not held, the applicant should be sent a written notice to this effect. Again, this should be done promptly and no more than twenty working days after the request was received.

All refusal notices and notices confirming that information is not held must include details of the University's complaints procedure and the right of applicants to appeal to the Information

Commissioner's Office (see [MOP 8.0](#)). An information sheet containing this information is available for use with refusal notices.

Exempt Information

Section 2 of the Freedom of Information Act makes provision for categories of information which are exempt from the general right of access. These exemptions are set out in full in Sections 21 to 44 (see [MOP 2.0](#)).

Where a refusal notice is being issued on the grounds that the request is for exempt information, the notice must include:

- details of which exemption is being relied upon;

and

- the reasons why that exemption applies;

In explaining the application of an exemption, the extent of that explanation will depend on the nature of the request and the exemption being relied upon. It should never be necessary to disclose exempt information simply for the purpose of explaining that exemption.

The refusal notice may require additional explanation if:

- a qualified exemption is being applied (see [MOP 2.0 Appendix One](#));

and/or

- a prejudice based exemption is being applied (see [MOP 2.0 Appendix Two](#));

In the case of qualified exemptions, the University must consider whether the public interest in complying with the request outweighs any public interest in applying the exemption. Where a qualified exemption has been applied, the refusal notice must also make full reference to the public interest test.

The view of the Information Commissioner's Office is that the refusal notice should explain the reasoning that the University has followed in deciding why the public interest on one side outweighed that on the other.

In the case of prejudice based exemptions the University must consider not only whether the information falls within the category of information covered by the exemption, but also the degree of harm that would be caused by disclosing that information. Where a prejudice based exemption has been applied, the refusal notice must also explain the likely harm that would be caused by disclosure.

Again, the view of the Information Commissioner's Office is that it is not sufficient simply to say that disclosure would be harmful. The refusal notice should explain what harm would be caused, the likelihood of that harm occurring, and how severe that harm would be.



MOP 6.0 Duty to Provide Advice and Assistance
Brett Dodgson
June 2008

Duty to Provide Advice and Assistance

Under Section 16 of the Act, the University has a duty to provide reasonable advice and assistance to applicants and potential applicants.

The University fulfils this obligation primarily through its website:

www.nottingham.ac.uk/freedom-of-information

Applicants and potential applicants may also contact Academic Services Division directly should they need further assistance.

It is particularly important to provide reasonable advice and assistance where:

- further details are needed before a request can be dealt with, such as when it is not clear what information is being requested;
- a refusal notice is being issued on the grounds that an exemption applies (see [MOP 2.0](#)) or the request is over the appropriate limit (see [MOP 4.0](#));

In these cases it is good practice to provide such advice and assistance as is needed to assist the applicant in making a valid request.



MOP 7.0 Publication Schemes
Brett Dodgson
June 2008

Publication Schemes

Under Section 19 of the Act, the University is obliged to adopt and maintain a publication scheme. The scheme provides access to information which is openly available without request – primarily through the University's website.

Currently, the University's publication scheme is available from:

www.nottingham.ac.uk/freedom-of-information

The information it contains is grouped in the following categories:

- governance;
- financial resources;
- human resources;
- physical resources;
- student administration and support;
- information services;
- teaching and learning;
- research and development;
- external relations;

The Information Commissioner's Office has recently (May 2008) released revised guidance on the structure of such schemes. It is planned that the University's revised publication scheme will be live by the end of 2008.



MOP 8.0 Complaints Procedure
Brett Dodgson
June 2008

Complaints Procedure

It is good practice to include details of the University's complaints procedures with all response to requests made under the Freedom of Information Act – whether that information is being disclosed or not. Where a refusal notice is being issued, the University is obliged to advise the applicant of its complaints procedure and of their right to appeal to the Information Commissioner's Office.

Stage One Complaints

Applicants who are unhappy with the way in which their request was handled are asked to contact Academic Services Division in the first instance for a review of their case. Academic Services Division will respond within twenty working days.

Stage Two Complaints

Should the applicant still not be satisfied with the handling of their request, they are asked to contact the Director of Academic Services who will reconsider both the original response and subsequent review. Again, a response will be issued within twenty working days.

Stage Three Complaints

If the applicant remains dissatisfied they may appeal to the Information Commissioner's Office. The Information Commissioner's Office will consider appeals only where the applicant has exhausted the University's complaints procedure – i.e., they should have gone through Stages One and Two above. An exception to this may be where a request has been refused under Section 36 (see MOP 2.0 Appendix Three). As the use of this exemption requires the consideration of the University's qualified person (i.e., the Vice Chancellor), it is at the discretion of the University whether to hold a review or refer the applicant directly to the Information Commissioner's Office.



MOP 9.0 Contacts and Further Support
Brett Dodgson
June 2008

Contacts and Further Support

These MOPs are designed for use by University staff with enquiries relating to the disclosure of information held by the University.

Internal Resources

If you need further assistance regarding requests for information, in the first instance please speak to your line manager or School/Department administrator.

For further support regarding applicable exemptions, the appropriate limit, or these MOPs please speak to Academic Services Division:

Tel: 0115 8466 925 (ext. 66925)
Email: freedom-of-information@nottingham.ac.uk

The University's freedom of information website has links to these MOPs as well as advice for anyone wanting access to information we hold:

www.nottingham.ac.uk/freedom-of-information

External Resources

The Information Commissioner's Office is the statutory body set up to oversee the working of the Data Protection and Freedom of Information Acts. Their website has a range of resources for the public and practitioners:

www.ico.gov.uk

A copy of the full Freedom of Information Act 2000 is available from the Office of Public Sector Information. Please visit their website at:

www.opsi.gov.uk