



# Handling Internal Reviews under the Freedom of Information Act and Environmental Information Regulations

## 1 Introduction

Anyone who has requested information from the University under either the Freedom of Information Act 2000 or Environmental Information Regulations 2004 may request an internal review if they are not satisfied with the University's response. A request for an internal review must be submitted within 2 months of receiving that response.

An internal review is most likely to be submitted if:

- the information was not received within the time specified by the relevant legislation;
- the wrong information was received;
- not enough information was received;
- no information was received.

If a complainant says the wrong information was received, it may be that they did not adequately specify which information they wanted. In the case of not enough information, or no information, an exemption was probably applied to the data.

This policy has been developed to support the University's commitment to openness and accountability.

## 2 Causes of requests for internal reviews

### 2.1 Time period exceeded

Under the Freedom of Information Act and Environmental Information Regulations, the University has 20 working days to respond to a request. Prompt acknowledgement of an applicant's request for information will make the start date of the response period clear to both parties.

Time spent waiting for a response from the applicant for clarification of his request or payment of any required fees does not count as part of the response period.

There are provisions within the legislation for extension of the response time period. Applicants must be kept informed if it will take longer than the prescribed time to respond to their request.

### 2.2 Inadequate Specification

Before we can respond to a request, the applicant must provide enough information for us to be able to identify and locate the data requested. If necessary, the Information Access Officer will correspond with the applicant to obtain that information. However, it is always possible that the applicant might feel that the data provided was not the data he/she wanted.

### 2.3 Exemptions

#### 2.3.1 *Absolute Exemptions*

Some data may not be disclosed because an *absolute exemption* exists within the legislation. This means the information cannot be provided because:

- of the subject matter
- disclosure is prohibited by a court order
- it is personal data
- it is already publicly available.

If an applicant is asking for his/her own data, the request will be handled under the procedures for Data Protection Act requests. If the data requested concern someone else, then confidentiality considerations will apply.

If the requested information is already published, for example, on the University's website, then the applicant will be advised to access it via the Internet. If the applicant has no Internet access, or is otherwise unable to obtain the information, then a copy will be provided.

#### 2.3.2 *Qualified Exemptions*

In some cases, there is no absolute exemption to releasing the requested information, but it may be of a sensitive nature. At such times, the **public interest test** must be applied. If

the Information Access Officer decides it is not in the public interest to supply the information, all or part of the data may be withheld.

### 2.3.2.1 Public Interest Test

The Freedom of Information Act and Environmental Information Regulations are designed to promote the disclosure of information. If information is to be withheld, the public interest in withholding the information must be greater than the public interest in disclosing it. In other words, if disclosing the information would promote accountability and transparency on the part of the University, or understanding on the part of the public, then the information should probably be disclosed.

“Public interest” is not defined in the legislation. The determination of what is in the public interest will vary over time, and from case to case. Four important points to remember are:

1. there is no general public interest in non-disclosure;
2. what is in the public interest is not necessarily the same as what interests the public;
3. where the arguments for and against disclosure are evenly balanced, the outcome should be disclosure; and
4. the possibility that disclosure may cause embarrassment to the University is **not** a valid argument for non-disclosure.

## 3 Procedures for Handling Requests for Internal Reviews

### 3.1 Acknowledgement

When a request for an internal review is received, the Information Access Officer will log the request. He/she will then send a letter to the complainant to let them know the request has been received, and that we will try to respond within 20 working days.

If the reason for the request is that the wrong information was received, the Information Access Officer will contact the complainant directly and try to resolve the problem.

### 3.2 Consideration by Internal Review Panel

The Information Access Officer will ask the Internal Review Panel to evaluate the complaint. He/she will provide a copy of the:

- original request
- information provided to the applicant
- letter which accompanied the information, and
- particulars of the complaint

to the Panel.

The Panel will evaluate the complaint on the basis of the original request and the information that was provided, any confidentiality considerations or exemptions that were applied, and, where necessary, will apply the public interest test.

Comprehensive records must be kept on the progress of the Panel's deliberations and the outcome. These will assist the Information Commissioner if he/she needs to make further investigations.

### **3.3 Notification of Decision**

#### ***3.3.1 To the Information Access Officer***

Following its deliberations, the Internal Review Panel will notify the Information Access Officer of its decision. The Panel may:

- a) completely uphold the Information Access Officer's decision
- b) partially uphold the decision
- c) reverse the decision.

The Panel will include its reasons with the notification.

#### ***3.3.2 To the Complainant***

The Information Access Officer will notify the complainant of the Panel's decision. The notification will include the reasons for the decision.

If the Information Access Officer's decision regarding the release of the requested information was reversed, the requested information will also be provided.

If the Information Access Officer's decision was upheld, the complainant will be advised of his/her rights of appeal to the Information Commissioner within 2 months of receiving the Panel's decision.

## **4 The Internal Review Panel**

### **4.1 Composition**

The Internal Review Panel will be composed of 3 senior members of the University, selected from the Executive Board.

### **4.2 Convening and Notification**

The Panel will aim to meet within two weeks of the receipt of a complaint and other supporting documents from the Information Access Officer.

When the Panel finishes its deliberations, it should notify the Information Access Officer, in writing, of its decision within five days.

### 4.3 Consideration of Complaint

When considering a complaint, the Panel should discuss the following:

1. Why was part or all of the requested information not disclosed?
2. If an exemption was claimed, was it the right one? If not, which exemption(s), if any, should have been claimed?
3. Was the public interest test correctly applied?

Reasons both for and against claiming one or more exemptions, and both for and against disclosure in the public interest, must be included in the Panel's notification to the Information Access Officer.

## 5 References and Further Guidance

Further information can be found in the following documents:

Megan Carter and Andrew Bouris, *Freedom of Information: Balancing the Public Interest* (UCL Constitution Unit, 2006) (<http://www.ucl.ac.uk/spp/publications/unit-publications/134.pdf>)

The Public Interest Test. Information Commissioner's Office. ([http://www.ico.org.uk/for\\_organisations/guidance\\_index/~/\\_media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/the\\_public\\_interest\\_test.ashx](http://www.ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/the_public_interest_test.ashx))

Freedom of Information: Procedural Guidance. Ministry of Justice. (<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/procedural-guidance>)