Freedom of Information Act 2000 Policy
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Equality and Human Rights Commission · www.equalityhumanrights.com  
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1. Policy statement

The Equality and Human Rights Commission (‘the Commission’) is committed to complying with the provisions of the Freedom of Information Act 2000 and Freedom of Information (Scotland) Act 2002 (together ‘FOIA’) and any related legislation which is applicable.

FOIA enables anyone, anywhere in the world, to request any recorded information held by, or on behalf of, the Commission. There is no need for the applicant to explain their reasons for the request, or that it is a request under FOIA. Requests for information must be made in writing, which includes emails. The request must state the name and address of the person applying for the information and the required information.

Information will be provided if it is held, unless one or more of the exemptions listed in the legislation applies. Information which is exempt does not have to be provided.

2. Responsibilities

All staff are responsible for ensuring that Freedom of Information requests they receive are dealt with in accordance with the FOIA and in compliance with this policy. Staff should forward all initial requests for information received by the Commission to the Correspondence Unit. All requests must be dealt with promptly and in line with this policy. If requests are made verbally staff must ask the applicant to put their request in writing (appropriate assistance will be provided to applicants with access requirements) to the Correspondence Unit at the addresses given in section 8 below.

The Commission's Executive Leadership Team has overall responsibility for this policy. Directors and Executive Directors are responsible for ensuring implementation and compliance with this policy.

3. Dealing with requests

The FOIA provides public access to information held by public authorities as:

- public authorities are obliged to publish certain information about their activities,
• members of the public are entitled to request information from public authorities.

Recorded information held by the Commission is subject to the requirements of the FOIA. The type of information which may be requested can be paper or electronic and may include draft documents, agendas, minutes, emails, diaries and even rough handwritten notes.

Where a valid request is received, there is a duty on the Commission to confirm or deny whether it holds the information and if it does hold it, to provide the information so long as an exemption does not apply. If information has been requested but is not held, the Commission will inform the applicant of this. In exceptional cases the Commission may not be able to either confirm or deny if the information requested is held.

If a request is unclear, the Commission will ask for clarification as soon as possible to enable us to proceed with considering the request. The Commission will provide advice and assistance to help people make requests under the FOIA. We will aim to acknowledge requests for information within five working days of receipt. The Commission aims to respond to all requests promptly and in any event within 20 working days following receipt of a valid request. The applicant will be informed if it is not possible to comply with this timescale and given an indication of when the response is likely to be provided.

4. Exemptions

The FOIA does not entitle applicants to be given all information held by the Commission. The FOIA sets out exemptions from the right of access to information.

In broad terms, there are two kinds of exemptions:

• Absolute exemptions – the right to information is completely over-ridden by the exemption

• Qualified exemptions – where an exemption may be applied, but the Commission must weigh up competing interests to decide whether it serves the interests of the public better to withhold or disclose the information. This is known as the public interest test.

Although there might be occasions when it is appropriate to rely on an exemption, provision of information is an integral part of the Commission’s work. Therefore, we
aim to disclose as much information as possible and rely on exemptions only in limited circumstances.

Where a request is refused a refusal notice must be issued setting out the section of FOIA being relied upon and in most instances explain the reasons for its decision, including the details of any public interest and prejudice tests. The refusal notice will also outline the complaints procedure with relevant details and inform the requester of their right to complain to the Information Commissioner.

(i) Data Protection Act 1998
The Commission is under a legal duty to protect personal data as required by the Data Protection Act 1998 (DPA) and other privacy legislation. The Commission will carefully consider its responsibilities under the DPA before disclosing any personal data about living individuals. If responding to a request under the FOIA would breach the DPA, it may be exempt from disclosure. In deciding whether to refuse a request on this basis, we will consider whether it would be unfair to the individual concerned to disclose their personal data. Any request made by an individual for their own personal data will be treated as a subject access request under the Data Protection Act 1998.

(ii) Vexatious requests
While we are committed to providing information, we sometimes receive requests which can be deemed ‘vexatious’.

Some of these requests can be costly for public bodies such as the Commission to handle, and responding to them may be an inappropriate use of staff time.

In determining whether a request may be vexatious we will consider whether it is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation. Where we believe the request to be vexatious, we will issue a refusal notice unless we have already done so in response to an earlier vexatious or repeated request from the same individual, and it would be unreasonable to issue another one.

(iii) Repeated requests
The Commission can refuse requests if they are repeated, whether or not they are also vexatious.
(iv) Confidentiality

If we receive information from someone else and complying with a request for that information would be a breach of confidence that is actionable, the information may be exempt from disclosure.

(v) Legal privilege

If complying with a request would reveal information that is subject to ‘legal professional privilege’ or the equivalent Scottish rules, then it may be exempt from disclosure. These long-established rules exist to ensure people are confident they can be completely frank and candid with their legal adviser when obtaining legal advice, without fear of disclosure.

(vi) Cost limit

The Commission reserves the right to refuse requests where the cost of providing the information would exceed the statutory cost limit. This limit is currently £450, which equates to 18 hours’ work at a statutory rate of £25 per hour. We are only allowed to take into account staff costs spent on the following activities:

- **Determining** whether we hold the information requested
- **Locating** the information or documents containing the information
- **Retrieving** such information or documents
- **Extracting** the information from the document containing it (including editing or redacting information)

We are not allowed to include the estimated cost of staff time taken in deciding whether any exemptions apply to the disclosure of information requested.

(vii) Other exemptions

There are also other exemptions that the Commission might apply and these include:

- information already reasonably accessible
- information intended for future publication
- research information
- security bodies and national security
- court records
- parliamentary privilege
- communications with the royal family
• endangering health and safety
• if complying with the request would prejudice or would be likely to prejudice investigations, law enforcement, audit functions, the effective conduct of public affairs, defence, the effectiveness of the armed forces, international relations, relations between the UK Government, the Scottish Executive, the Welsh Assembly and the Northern Ireland Executive, the economy or the financial interests of the UK, Scottish, Welsh or Northern Irish administrations, and/or
• trade secrets and prejudice to commercial interests.

We will also not disclose information if complying with a request for information:
• is not allowed under law
• would be contrary to an obligation under EU law, or
• would constitute contempt of court.

5. Charges for information

Information provided in response to requests will be provided electronically, subject to reasonable adjustments (please refer to section) and will be free of charge where possible. The Commission may need to charge in some circumstances, for example where the costs are significant. In such cases the Commission will notify the applicant in advance and the Commission will not charge where costs incurred are below the threshold of £10.

If we estimate the cost of dealing with the request to be ‘significant’, i.e. over £10, we will issue a ‘Fee Notice’ informing the applicant of the required fee before processing the request for information and as soon as possible within the 20 working day deadline following receipt of the request. Once we issue a Fee Notice, the 20 working day time limit for responding stops and will start again only when we receive payment.

We will follow Information Commissioner’s Office (ICO) guidance on what we can and cannot charge for. The maximum disbursement we can charge in these cases is limited to the specified costs of postage, printing and photocopying disbursements outlined below:

Copying or printing (black and white)
A4 sheet 5p
A3 sheet 10p (Larger sizes depend on costs charged to the Commission)

Copying or printing (colour)
A4 30p
A3 50p (Larger sizes depend on costs charged to the Commission)
CDs (if the information is already held electronically) 10p per CD

**Microfiche/microfilm**
10p per frame

**Converting to electronic format**
Depends on costs charged to the Commission

**Converting to microfiche or microfilm**
Depends on costs charged to the Commission

**Postage**
At the prevailing Royal Mail rates.

Where we are required by other legislation to provide information in a particular form or language at no additional cost, for example on audio tape, to comply with the Equality Act 2010, we will make no charge for providing the information in this way. Please see section 9.

Any fees or disbursement costs paid to us are non-refundable. Fees and disbursement costs that we charge should be paid by cheque or postal order, made payable to ‘The Equality and Human Rights Commission’ and sent to:

The Equality and Human Rights Commission
Finance Department
3rd Floor Arndale House
The Arndale Centre
Manchester
M4 3AQ

**6. Publication Scheme**

The Commission has adopted the Information Commissioner’s Model Publication Scheme.

The Scheme sets out what information the Commission will make available, classified by type of information, and how this information can be accessed. It also details how much it will cost if there are any charges. The Scheme can be accessed using the following link to our website:

7. Complaints

Anyone who has made a request for information to the Commission under the FOIA is entitled to request an internal review if they are unhappy with the way their request has been handled.

Internal reviews will be carried out afresh by a senior member of staff who was not involved with the original decision (appropriate assistance will be provided to requesters with access requirements).

A request for review may involve:
- a request for a review of a decision to withhold information
- a complaint about the handling of a request for information, or
- a complaint about the Commission’s Publication Scheme,

The Commission may ask the applicant for clarification of the grounds of their complaint if the grounds are not clear.

A request for an internal review should be sent to the contact details set out in section 8 below.

An internal review will consider whether or not the request was handled appropriately, in line with the requirements of the FOIA. Applicants wishing to ask for an internal review must do so within 40 working days of the date of the Commission’s final response to their request.

The Commission will acknowledge the request for an internal review within five working days and aims to respond within 20 working days of receipt. In a small number of cases, the response may take longer. In these circumstances, the Commission will notify the requester, explain why more time is needed and give an estimate of the completion date.

Anyone who is unhappy with the outcome of an internal review is entitled to complain to the ICO.
8. Contact details

Email: foi@equalityhumanrights.com

Postal address:
The Equality and Human Rights Commission
Correspondence Unit – Freedom of Information Request
Arndale House
Arndale Centre
Manchester
M4 3AQ

For anyone who is unable to contact us in writing and requires a reasonable adjustment because of a disability, please call us on: 0161 829 8327.

We also provide an online sign video service for British Sign Language (BSL) Users.

9. Reasonable adjustments and alternative formats

This policy is also available in Welsh.

The Commission is committed to equal opportunities and our aim is to make our policy easy to use and accessible to all of our stakeholders. We will take reasonable steps to accommodate any reasonable adjustments required to enable access to this policy or to provide responses to requests in other formats, and provide such assistance as may reasonably be required.

Should a copy of this policy be required in another language or format (such as braille, audio CD, large print or Easy Read) please get in touch with us using the contact details set out in section 8 above.
Contacts

This publication and related equality and human rights resources are available from the Commission’s website: www.equalityhumanrights.com.

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

Website www.equalityadvisoryservice.com
Telephone 0808 800 0082
Textphone 0808 800 0084
Hours 09:00 to 20:00 (Monday to Friday)
10:00 to 14:00 (Saturday)
Post FREEPOST Equality Advisory Support Service FPN4431

Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com. The Commission welcomes your feedback.

Alternative formats

This publication is also available as a Microsoft Word file from www.equalityhumanrights.com. For information on accessing a Commission publication in an alternative format, please contact: correspondence@equalityhumanrights.com.

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