

FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS POLICY

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Policy Statement

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs) create a statutory right for individuals to request information held by public authorities and aims to embed a culture of openness within the public sector.

As a listed public authority, UK Research and Innovation (uses all appropriate and necessary means to ensure that it complies with the Freedom of Information Act 2000, The Environmental Information Regulations 2004, and associated codes of practice.

The benefits from such openness need to be balanced with the rights for privacy enshrined in the General Data Protection Regulations (GDPR) 2016/679 or any UK Data Protection legislation in place at the time, and the Human Rights Act 1998.

Management Statement

This policy sets out UK Research and Innovation's (UKRI's) approach to compliance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs). It ensures that UKRI conducts its business with a presumption of openness while establishing appropriate safeguards, underpins all operational procedures and activities connected with implementing the Freedom of Information Act and Environmental Information Regulations, establishes a balance between disclosure and necessary privacy and maintains staff and public trust and confidence.

The Freedom of Information and the Environmental Information Regulations Policy has been agreed with the Trade Union Side and complies with statutory legislation, and HM Revenue and Customs requirements. For the purposes of this policy the use of the word 'employee' covers UKRI employees, including those employed on temporary or fixed term contracts. It may also apply to non UKRI employees such as visitors, agency staff, and students. For advice on the application of the policy contact the UKRI HR team.

References

General Data Protection Regulations 2016/679

Data Protection Act 2018

Human Rights Act 1998

Freedom of Information Act 2000

Environmental Information Regulations 2004

Protection of Freedoms Act 2012

Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions under 7. Cabinet Office. Freedom of Information Code of Practice 2018

Lord Chancellor's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000, November 2002

The Freedom of Information and Data Protection Act (Appropriate Limits and Fees) Regulations 2004

1. Principles

- 1.1 UKRI supports openness, transparency and dialogue with all stakeholders and believes that improved access to information about UKRI will enhance the nature of its relationships.
- 1.2 This policy compliments the UKRI Data Protection Policy. UKRI will apply such exemptions as necessary to protect data subjects and their personal information in compliance with the GDPR or other UK data protection legislation in place at the time.
- 1.3 UKRI believes that, public authorities must be allowed to discharge their functions effectively. UKRI and will use the exemptions contained in the FOIA and EIRs as necessary.

2. Scope

- 2.1 All information held by UKRI, which includes but is not limited to, all draft documents, agendas, minutes, emails, diaries, handwritten notes and all other recorded information.
- 2.2 This policy applies to all UKRI employees, whether permanent, temporary, contractors, consultants or secondees.
- 2.3 The policy applies to any enquiry that is deemed not to be of a routine nature or where FOIA or EIR are specifically stated in the communication.
- 2.4 UKRI will respond to requests received abiding by the meaning of the Act and the Regulations as clarified by guidance issued by the Information Commissioner's Office and relevant case law.

3. Policy on Access to Information

4. Publication Scheme

- 4.1.1 As required under Section 19 of FOIA UKRI will maintain a Publication Scheme detailing the information that UKRI already publishes and the information it intends to publish in the future. It will set out the format in which the information is available and state whether a charge will be made for the provision of that information.

5. General Rights of Access

- 5.1 In line with FOIA guidelines UKRI will accept a request for information when it is made in writing (including by electronic means), stating the name of the applicant includes an address for correspondence, and clearly sets out the information requested; requests must be legible and accessible for subsequent reference.
- 5.2 Requests for information may be handled under the appropriate information access regime even if the applicant does not mention FOIA or EIRs when making an enquiry that UKRI

considers falls within the scope of the legislation, even when it could also be handled as business as usual.

5.3 UKRI will respond to all requests, wherever practicable, by the means requested by the requester. It reserves the right to refuse a requested means of response where this technically difficult, expensive or impractical.

5.4 UKRI will liaise with the requester where providing a response by the means requested falls within the above criteria.

6. Charges and Fees

6.1 UKRI will not charge for information that it has chosen to publish in its Publication Scheme and will endeavour to provide information free of charge whenever possible. UKRI may charge a fee for providing hard copies, multiple copies or copying onto portable media. Any fees will be in line with Information Commissioner's Office (ICO) guidance.

6.2 Where UKRI chooses to charge for information published through the publication scheme or make a charge arising from an information request under general rights of access, a fees notice will be issued to the applicant. Applicants will be required to pay the fee within a period of three months beginning on the day on which the fee notice was given to them. If payment of the fee is not received within the given period, the request will be considered void and removed from active consideration.

7. Conditions, Exemptions and the Public Interest Test

7.1 UKRI will withhold some or all the information requested, where that information fits the terms of one or more of the exemptions under FOIA or EIR. UKRI will apply these exemptions fairly and objectively recording all decisions and their reasoning behind them.

7.2 If an exemption is listed as qualified, then a Public Interest Test will be undertaken. UKRI will apply the public interest test fairly and objectively, recording all decisions and the reasoning behind them. All EIRs exemptions require a public interest test.

7.3 UKRI logs all requests for information for monitoring purposes and may deem a request vexatious (FOIA s14) or manifestly unreasonable (EIR 12(4)(b)) for persistent and/or inappropriate requests.

8. Time Limits for Compliance with Requests

8.1 UKRI will provide its response to a request within the time period allowed under both legislations except where:

8.1.1 a qualified exemption is being considered and further time (up to a maximum of a further 20 days) is required to consider an associated Public Interest Test.

8.1.2 the request is complex and requires the gathering and analysis of large volumes of information under EIR UKRI will engage the option of extending the response time to a maximum of forty days.

8.2 If UKRI chooses to apply an exemption to any information or refuses the request, it will inform the applicant of this decision, in writing, within twenty working days. This policy will be

regularly reviewed to incorporate any legislative change. Trade Unions may request that the policy is reviewed.

9. Means by which Information is Conveyed

9.1 Wherever possible, UKRI will provide the information in the format requested. In determining whether it is practicable to communicate information by a means, UKRI will consider all the circumstances, including cost. If UKRI decides that it is not reasonably practicable to comply with the request it will explain why and provide the information in a format it deems reasonable.

10. Refusal of Requests

10.1 UKRI has the right to refuse a request for information. If this right is invoked the applicant will be informed within twenty working days of the receipt of the request.

10.2 Where exemptions are applied UKRI will state which exemption and justify why it has been applied. If applying a qualified exemption UKRI will undertake a public interest test to determine whether in maintaining the exemption outweighs the public interest in disclosure. UKRI reasoning for maintaining an exemption will be communicated to the requester.

10.3 UKRI will provide the requester with details of how to request an internal review of an outcome to a request, and how to seek a decision from the UK Regulator (ICO) if they remain dissatisfied by the outcome of the internal review.

11. Transferring Requests for Information

11.1 Where UKRI receives a request for information which it does not hold either all or part of, but is known to be held by another public authority, UKRI will:

11.1.1 consult the other authority to ensure it does hold the information

11.1.2 advise the requester and offer to transfer the request, with the requesters consent to the other authority.

11.2 Where the requester objects to the transfer UKRI will advise who holds the information sought should they wish to submit a further request.

11.3 Requesters will be notified once a request transfer has been completed.

11.4 For all requests UKRI will apply the definition of 'holding information, as provided by the ICO FOI guidelines, the section 45 code of practice, and the ICO EIR code of practice.

12. Third Parties

13. Consultation with Third Parties

13.1 In some cases, the information requested may include information about a third party. UKRI will normally disclose that information unless an exemption applies, or the disclosure would lead to a breach of confidence. In these cases, UKRI will consult with the third party to try obtaining their consent to the disclosure, unless such a consultation is not practicable, for

example because they cannot be located or because the costs of consulting them would be disproportionate.

13.2 UKRI recognises that in some cases the disclosure of information may affect the legal rights of a third party, for example where information is subject to the common law duty of confidence or where it constitutes “personal data” within the meaning of the GDPR. Where information constitutes “personal data” within the GDPR, UKRI endeavours to ensure that it meets its obligations under both acts.

13.3 Where the interests of the third party that may be affected by a disclosure do not give rise to legal rights, UKRI may still consult them if their views would help to determine: whether an exemption under the Act applies to the information requested where the public interest lies.

13.4 If UKRI feels that consultation is not appropriate because the cost of consultation would be disproportionate, UKRI will consider the most reasonable course of action to take in light of the requirements of the FOIA and the individual circumstances of the request.

13.5 Consultation will be regarded as unnecessary where:

13.5.1 UKRI does not intend to disclose the information relying on some other legitimate ground under the terms of the legislation

13.5.2 the views of the third party can have no effect on UKRI’s decision e.g. where there is other legislation preventing or requiring the disclosure of this information

13.5.3 no exemption applies and so under the Act’s provisions, the information must be provided.

13.6 Where the interests of a number of third parties may be affected by a disclosure and there is a representative organisation which can express views on behalf of them, UKRI will consider it sufficient to consult that representative organisation. If there is no representative organisation, UKRI may consider that it would be sufficient to consult a representative sample of the third parties in question. The fact that the third party has not responded to consultation does not relieve UKRI of its duty to disclose information under the FOIA, or our duty to reply within the time specified in the Act.

13.7 In all cases, it is for UKRI, not the third party (or representative of the third party) to determine whether information should be disclosed. A refusal to consent to disclosure by a third party does not, in itself, mean information can be withheld.

14. Contracts with Third Parties

14.1 UKRI will not agree contractual terms designed to restrict disclosure of information relating to the contract beyond the restrictions permitted by the legislation. Unless an exemption under the legislation is applicable to requested information, UKRI may disclose that information, regardless of the terms of contract.

14.2 When entering into contracts with non-public authority contractors wherever possible, UKRI will question non-disclosure. Where, exceptionally, it is necessary to include non-disclosure provisions, UKRI will discuss with the contractor and identify information which should not be disclosed. Any acceptance of such confidentiality provisions must be for good reasons and



capable of being justified to the Information Commissioner, who has the authority to require the release of information if it is deemed in the public interest.

14.3 UKRI will not agree to hold information “in confidence” which is not confidential in nature. Exemptions in relation to information provided by third parties only applies if the disclosure of the information to the public would constitute a breach of confidence actionable by that, or any other party.

14.4 UKRI, not the contractor, is responsible for disclosing information under the legislation. UKRI will take steps to prevent contractors from disclosing information, provided to them by UKRI and which is exempt from disclosure under the legislation, by appropriate contractual terms.

15. Accepting Information in Confidence from Third Parties

15.1 UKRI will only accept information in confidence from third parties if obtaining that information is essential for UKRI to operate effectively and where the information could not be provided otherwise. This policy will be regularly reviewed to incorporate any legislative change. Trade Unions may request that the policy is reviewed.



16. Complaints and Requests for Internal Review

16.1 Compliance with FOIA and EIRs requires notification to a requester of the mechanism for seeking an internal review of a response where they are dissatisfied with the outcome of their request. As part of each request response UKRI will provide details of how to request an internal review. This policy will be regularly reviewed to incorporate any legislative change. Trade Unions may request that the policy is reviewed.

17. Designated “Qualified Person”

17.1 The UKRI CEO is designated the “Qualified Person” within UKRI for the purposes of the application of a section 36 exemption (Prejudice to the effective conduct of public affairs). This policy will be regularly reviewed to incorporate any legislative change. Trade Unions may request that the policy is reviewed.

18. Training

18.1 Staff assigned responsibility for handling and processing requests for information will receive appropriate training and development opportunities as necessary. This policy will be regularly reviewed to incorporate any legislative change. Trade Unions may request that the policy is reviewed.



19. Appendix A - Document Control Sheet

Version Control

Version Number	Status	Revision Date	Author(s)	Summary of Changes
0.1	Draft	29/02/2019	Mark Hinder	
1.0	Published	18/10/2019	Mark Hinder	Review by Trade Unions
2.0	Published	20/02/2020	Mark Hinder	UKRI rebranding

Distribution for Review

Name/Group	Title/Function	Version	Review by date

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David Hyett – Head of Information Governance	By email	Jan 2019

Publication

Version	Effective from Date	Owner	Author	Review Date
0.1	28/02/2019	David Hyett – Head of Information Governance	Mark Hinder – Head of Information Rights	28/02/2020
2.0	20/02/2020	David Hyett – Head of Information Governance	Mark Hinder – Head of Information Rights	28/02/2021

20. Policy Review

20.1 This policy should be regularly reviewed and agreed upon by management and Trade Unions, to incorporate any legislative change