

## ACCESS TO INFORMATION POLICY STATEMENT

### Introduction

In order to increase public participation in governance and decision making, the Scottish and UK Governments have enacted legislation which establishes a statutory right of access for the public to recorded information held by public authorities. Edinburgh Napier University (the University) is subject to this legislation and is committed to promoting and actively developing a culture of openness, transparency and accountability as embodied in the legislation. This ensures:

- the general right of access the public have to information about the activities and decisions of the University as a public authority, subject to any applicable exemptions or exceptions, and, separately;
- the right of access by data subjects to personal data held by the University as a Data Controller.

These rights are prescribed by:

- The General Data Protection Regulation EU 2016-679 (GDPR)
- The Data Protection Act 2018 (DPA 2018)
- The Freedom of Information (Scotland) Act 2002 (FOISA)
- The Environmental Information (Scotland) Regulations 2004 (EIRs)

The GDPR and DPA 2018 (Data Protection legislation) came into force in May 2018 and apply across the United Kingdom, with legislative compliance being overseen by the UK Information Commissioner (ICO), whilst FOISA and its associated regulations, the EIRs, which came into force in January 2005, apply only in Scotland and are overseen by the Office of the Scottish Information Commissioner (OSIC). The Information Commissioners are responsible for the promotion and enforcement of the respective Acts and their associated regulations. They publish guidance and Codes of Practice, investigate and assess compliance in the event of a complaint and conduct audits. They also have powers to impose enforcement measures for breaches of the legislation, including financial penalties on individuals and organisations. Organisations can be fined up to €20m for serious breaches of data protection legislation.

Whilst FOISA and EIRs are concerned purely with access to information, Data Protection legislation deals with both access to and the protection of personal data – the University has a separate [Data Protection Policy statement](#) and publishes comprehensive guidance in the [Data Protection Code of Practice](#). Whilst the two sets of legislation are complementary it should be recognised that there are differences between them which are detailed in the associated guidance documents provided by [Governance Services](#).

### Purpose

The purpose of this policy statement is to ensure that all employees of the University are aware of the obligations placed on the University and its employees by the legislation. The University has a statutory duty under both sets of legislation to provide access to, and respond to requests for, information. This policy underlines the University's commitment to Access to Information, outlines how the University will comply with its obligations and

establishes a framework for managing requests received, which underpins our detailed procedures for compliance generally and with specific reference to FOISA and EIRs.

## **Scope**

This Policy Statement applies to all employees of the University who keep records or manage information, that is, create, receive, store, retrieve, use and dispose of recorded information.

This Policy Statement covers information which is recorded in all and any formats, whether physical or electronic, including email, images and databases.

## **Responsibilities**

### Employees

All employees are responsible for facilitating compliance with the legislation. This will include ensuring that they receive training which enables them to recognise requests for information under the legislation which cannot be dealt with as part of their normal daily duties and that they understand their responsibilities in this regard. Employees must familiarise themselves with the legislation to ensure that their actions do not leave the University in breach of the Acts.

All employees must co-operate with Governance Services to ensure thorough searches are conducted for information which is requested, and that the information is provided promptly to enable Governance Services to respond within the statutory timescales. Good records management practices must be observed in order to ensure information is readily available.

Employees dealing with contracts and agreements must ensure that these documents contain appropriate Data Protection legislation and FOISA clauses and if necessary seek advice from Governance Services.

### Managers

All managers are responsible for the management of access to information within their areas; including the promotion of access to information within their services/school/faculty and ensuring their team members receive appropriate training and/or re-training and are aware of their responsibilities with regards to the legislation.

### Governance Services

Governance Services will provide:

- A central service to collate information and issue responses;
- Briefing sessions to all staff, and more in-depth training for those responding to requests and providing information for responses; and,
- Advice and guidance, and ensure that procedures are available and up-to-date

### The University Secretary

The University Secretary has overall responsibility for ensuring the University complies with the legislation.

## **Policy Statement**

Edinburgh Napier University is committed to:

- Complying with the legislation to provide a statutory right of access to information it holds. The University recognises that under FOISA and EIRs this is a general right of access and this extends to any person who may request information and a specific right by data subjects to personal information under Data Protection legislation.
- Providing a centralised service for co-ordinating and responding to requests for information.
- Ensuring that all employees are aware of their responsibilities under the legislation and the consequences of non-compliance with this policy statement or breaches of the legislation, through the provision of on-going training and awareness raising programmes, advice and guidance.

## **Obligations and Duties**

The University recognises its duty to provide:

- Advice and guidance when necessary to those requesting information as recommended by the legislation.
- Access to information when requested, unless the information is exempt under the provisions of the legislation and may therefore be withheld.
- Information on the options for further recourse in the event that the requestor is dissatisfied with the response.
- Information proactively through a publication scheme which meets the approval of OSIC for FOISA.
- Explanations, citing the relevant sections of FOISA or the EIRs and, where necessary, public interest test arguments, if information requested under this regime is withheld.
- A fair and impartial review procedure in respect of requests handled under FOISA and the EIRs.

## **Sanctions for Non-Compliance**

It is a criminal offence to wilfully conceal, damage or destroy information in order to avoid responding to a request for information. Both Information Commissioners have powers to take enforcement action for breaches of the legislation, which may result in significant financial penalties. The University may take internal disciplinary action in the event of a breach of this Policy Statement or of the legislation.

## **Contact**

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