



## EDINBURGH NAPIER UNIVERSITY

### Freedom of Information (Scotland) Act 2002

#### Right of Review

#### 1. Background

- 1.1 Edinburgh Napier University is committed to complying with the Freedom of Information (Scotland) Act 2002 and to fostering a culture of openness and transparency. The University also believes it is in everyone's interest to resolve complaints as quickly as possible and within the prescribed time period as detailed in s.21 of the Act.
- 1.2 The procedures outlined below are for Freedom of Information reviews only. All other complaints should be dealt with through the University's other complaints procedures.

#### 2. How to request a review

- 2.1 If an applicant requests information and is dissatisfied with the outcome of the request they can ask for a review. Reasons that an applicant might request a review include:
  - the applicant believes information was withheld;
  - the applicant is dissatisfied because some or all of the information requested was withheld;
  - the University has not replied to the original request for information within the allotted time period; or
  - the applicant thinks the University did not provide the advice and assistance that it should have.
- 2.2 The applicant must request a review in writing or some other recorded form e.g. audio tape, and must include an address for correspondence.
- 2.3 The request for review must describe the original request and explain the grounds for dissatisfaction e.g. detail exactly which decision relating to which part of their request they are dissatisfied with. In most cases the applicant must specifically state that they want the decision to be reviewed.
- 2.3 Request for review should be sent to the Senior Governance Officer (Records Manager) in the first instance:

Address: Senior Governance Officer (Records Manager)  
Governance Services  
Room 5.B.18, Sighthill Campus  
Edinburgh Napier University



EH11 4BN

Email: [foi@napier.ac.uk](mailto:foi@napier.ac.uk)

Fax: 0131 455 6269

- 2.4 Where an applicant has difficulty in making a request this way please telephone 0131 455 6257 for advice and assistance.
- 2.5 The applicant has forty (40) working days to lodge a review request starting from either:
- Twenty (20) working days after the University receives the original request for information; or
  - The date that the applicant received a response from the University. The response could include the release of the information, the issuing of a fees notice, a refusal notice or a reply that the information is not held by the University.

### **3. Review Process**

- 3.1 Following the receipt of a request for review the University will acknowledge receipt of the request and will conduct the review and send a response to the applicant within twenty (20) working days.
- 3.2 Following the receipt of the request for review by the Senior Governance Officer (Records Manager) the matter will be referred to the Assistant Secretary or University Secretary for consideration and decision. If the Assistant Secretary or University Secretary has had previous involvement with the original request and decision such that their impartiality could be questioned, the matter will be referred to another appropriate member of senior staff for consideration and decision.
- 3.3 The reviewer will consider the original request, information held by the University, and the original decision/s and their rationale in order to arrive at a decision afresh. The University will ensure that the review procedure is fair and impartial, and enables different decisions to be taken, in compliance with the section 60 Code of Practice.
- 3.4 Governance Services will keep a record of all reviews; the process, reasoning and their outcome.
- 3.5 The decision of the officer who conducts the review is final.

### **4. Possible Outcomes of the Review Process**

- 4.1 The review may result in the following outcomes:



- I. It may be decided that information that was initially withheld should be released. In this case, the information should be released as soon as possible and certainly within the allowed time for dealing with a review request.
- II. It may be found that the University's staff did not follow the correct procedures for dealing with a freedom of information request. If this is the case, the University will ensure that it takes steps to remedy the situation and prevent its recurrence.
- III. It may be decided to confirm the original decision. If this is the case, the applicant will be informed of their right to apply to the Scottish Information Commissioner, and how to do this.

## **5. Subsequent Action**

- 5.1 If the applicant is dissatisfied with the outcome of the review, or if they have not had a response within the allotted timescale, they can ask the Scottish Information Commissioner to intervene. Although the Act sets a six-month time limit for this, the Scottish Information Commissioner can waive this period if they choose. The applicant may withdraw the complaint at any time if they so wish.
- 5.2 If the case goes to the Scottish Information Commissioner, they will decide whether or not to pursue it. They may choose not to pursue the complaint if it is decided that it is vexatious or trivial. If they decide to pursue it, they will inform the University and invite the University's comments. The Scottish Information Commissioner will try to resolve the complaint between the applicant and the University; if this is not possible a decision will be made on the case and both sides informed. The normal time available for this is four months. If the Commissioner decides that the applicant's complaint was justified, they will contact the University to let it know how it has failed in its obligations under the Act, what it must do to remedy the situation, and how much time it has to do this.
- 5.3 The Commissioner also has the right to request further information; if they do so, the University must supply the information within the given deadline, regardless of whether the information is confidential or restricted in any other way. Only if the material is legally privileged may the University refuse to supply it. In extreme cases, the Commissioner may apply for a warrant to enter the premises to seize information.
- 5.4 If the Commissioner finds that the University is not complying with its duties under the Act – for example, if it is not providing the help and assistance that it should – a decision may be made to issue an enforcement notice which informs the University which part of the Act it is not complying with and how it can remedy the situation.

**6. Further information**

- 6.1 Further information is available from the Scottish Information Commissioner's website: <http://www.itspublicknowledge.info>

**Senior Governance Officer (Records Manager)  
May 2010 (Updated March 2015)**