



Maritime
Academy
Trust

Freedom of Information (FOI) Procedure

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1. Introduction

- 1.1 The Freedom of Information Act (2000) places a statutory obligation on all public bodies to publish details of all recorded information that they hold and to allow the general public to have access to this information on request, except where an exemption applies e.g. personal or confidential data.
- 1.2 Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.
- 1.3 The Act does not give people access to their own personal data (information about themselves) such as their health records or credit reference file. If a member of the public wants to see information that a public authority holds about them, they should make a Subject Access Request under the General Data Protection Regulations (2018).

2. The Freedom of Information Act (FOIA)

- 2.1 The main features of the FOIA are:
 - A general right of access to information held by public authorities.
 - Sets out exemptions from the duty to provide information.
 - Places a requirement on public authorities to exercise discretion; they may have to determine not only whether an exemption applies but also the extent to which it may apply (some exemptions are conditional and depend on where the balance of 'public interests lie').
 - Make arrangements in respect of costs and fees.
 - Places a duty on public authorities to adopt publication schemes.
 - Public Authorities must make arrangements for enforcement and appeal.
 - Places a duty to provide advice and assistance to people who wish to make, or have made requests for information, and
 - Outlines Codes of Practice.
- 2.2 The FOIA is overseen by the Information Commissioner who has the ability to monitor organisational compliance, issue undertakings, serve information and enforcement notices and, if needed, initiate court proceedings to ensure compliance.

3. Managing Requests for Information

- 3.1 As defined in Section 8 of the FOIA, to meet all the requirements of a valid FOI request, a request must:

- Be in writing
- State the name of the applicant and a valid address for correspondence (email address is valid)
- Describe the information requested
- Be received in a legible form
- Be capable of being used for subsequent reference

3.2 The term 'in writing' covers requests submitted by letter and electronic form, including those sent via Social Media (e.g. Twitter and Facebook) and the request does not have to make any direct reference to the Act, or be the sole or main theme of the requester's correspondence.

3.3 When a request is received an acknowledgement will be issued within 5 working days.

3.4 A full response will be provided within 20 working days of the date that the request is received.

3.5 In the event that a request is ambiguous the requestor will be asked for clarification. The time for compliance will not begin until the necessary clarification has been received.

4. Charges

4.1 The Trust does not charge a fee for requests but does retain the right to impose a charge for communication costs, such as photocopying, printing and postage.

4.2 In the event that the cost of complying with a request will exceed the limited stated in the legislation, the Trust retains the right to recover full costs including those associated with staff time.

4.3 When making a determination regarding as to whether the cost limit has been exceeded the Trust will consider the following:

- Time spent determining whether the information is held;
- Time spent finding the requested information, or records containing the information;
- Time spent retrieving the information or records; and
- Time spent extracting the requested information from records

4.4 In the event that a fee is applied the request will be issued with a fees notice. The request for information will not be completed until the fee is paid.

5. Refusal of Requests

5.1 The Trust is not obliged to comply with a request for information in the following situations:

- Where the cost of compliance exceeds the appropriate limit
- Where a fees notice has been issued but remains unpaid after three months
- Where a request is vexatious or repeated
- Where an exemption applies

6. Exemptions

6.1 There are a number of exemptions listed within the FOIA. These are agreed reasons which under certain circumstances allow a public organisation to legitimately withhold requested information.

6.2 Only in cases where it is considered to be in the public interest to withhold information will a request be refused. The requestor will be advised of the reasons for a refusal along with the particular exemption.

7. Vexatious/Repeated requests

7.1 Should an applicant make a 'vexatious' or 'repeated' request for identical or substantially similar information, the Trust Data Protection Officer will inform the applicant in writing that the request will not be fulfilled.

7.2 The Trust will offer assistance to the individual, by indicating why they consider the request is vexatious or repeated.

8. Complaints

8.1 Complaints will be dealt with in accordance with the Trust complaints procedure. Should the complainant wish to take the matter further, it may be referred to the Information Commissioners Office.

Appendix 1 - Exemptions

Exempt Information under Part 2 of the FOI Act – The Exemptions

The Freedom of Information Act (2000) identifies two types of exemptions:

Absolute – which do not require a test of prejudice or the balance of public interest to be in favour of non-disclosure.

Qualified – by the public interest test, which require the public body to decide whether it is in the balance or public interest to not disclose information.

With the exception of section 21 (information available by other means) exemptions apply not only to the communication of information, but also to the duty to confirm or deny, if that itself would disclose information that is reasonable to withhold.

Absolute Exemptions:

- Section 21 - Information accessible to the applicant by other means
Information which is already in the public domain, such as that which is published in the Publication Scheme
- Section 23 - Information supplied by, or relating to, bodies dealing with security matters This applies only to information supplied by or relating to security bodies
- Section 32 - Court Records Information that is only held as part of the documentation for a court, tribunal case or a statutory inquiry

- Section 34 - Parliamentary Privilege Where disclosure would infringe the privileges of either House of Parliament
- Section 40 - Personal Information Information which is personal to the person making the request
- Section 41 - Information provided in confidence An 'actionable' breach of confidence where disclosure would constitute a breach of confidence which would lead to legal action being taken
- Section 44 - Legal Prohibitions on Disclosure Where disclosure of information is prohibited by any other law or regulation, or if it would be a contempt of court

Qualified Exemptions:

- Section 22 - Information intended for future publication, where publication was planned at the time the request was made, for example, an annual report, or the results of an investigation. Applicants will be advised when the information will be published and how it can be obtained.
- Section 24 - National Security Information that is not covered by Section 23 under the Absolute Exemption category above, but exemption is needed to safeguard national security. This requires a certificate signed by a Minister of the Crown.
- Section 26 - Defence Information likely to prejudice national defence or the activities or our armed forces, or those of allies
- Section 27 - International Relations Information likely to prejudice the United Kingdom's international relations or interests, for example, information obtained in confidence from another State or international court.
- Section 28 - Relations within the United Kingdom Information likely to prejudice relations between the United Kingdom Government, Wales, Scotland or Northern Ireland
- Section 29 - The economy Information likely to prejudice the economic interests of the United Kingdom or part of the United Kingdom, or the financial interests of the government
- Section 30 - Investigations and proceedings conducted by public authorities Information held for the purpose of criminal investigations and proceedings, and information obtained from confidential sources relating to these or civil proceedings arising out of them.

- Section 31 - Law enforcement Information not covered by Section 30 above, and which is likely to prejudice a wider range of investigative activities.
- Section 33 - Audit Applies to information held by public authorities which have functions relating to audit (for example, the National Audit Office), or which examine the economy, efficiency and effectiveness of the use of resources of other public authorities. Information is exempt if its disclosure is likely to prejudice those functions.
- Section 35 - Formulation of Government Policy Information held by a government department or the National Assembly for Wales, relating to the creation of government policy.
- Section 36 - Prejudice to the effective conduct of public affairs Information that may inhibit the ability of the authority to conduct its business effectively should that information be made freely available in the public domain - Use of this exemption requires sign off from the Chief Executive in receipt of a recommendation to do so by a National Director.
- Section 37 - Communication with Her Majesty etc. and honours This applies to information that relates to communications with Her Majesty, members of the Royal family or Royal household, or the conferring of honours, for example, recommendations for individuals to receive an honour in the New Year's Honours List.
- Section 38 - Health and Safety Information that would, or would be likely to, endanger the physical health, mental health or safety of an individual.
- Section 39 - Environmental Information Exempted under Freedom of Information but the request will be dealt with in accordance with the Environmental Information Regulations.
- Section 40 - Personal information about a third party Information which is personal to someone other than the person making the request
- Section 42 - Legal Professional Privilege This exemption applies where a claim to legal professional privilege could be maintained in legal proceedings, for example advice provided by a lawyer to his client, or information relating to ongoing legal proceedings.
- Section 43 - Commercial Interests Such as trade secrets, and to information which if disclosed could harm/prejudice the commercial interests of any person, including the authority holding it.

