



Nottingham Trent
University

Governance and Legal Services

Freedom of Information policy

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1. Introduction

The Freedom of Information Act (the "FOIA") places two forms of disclosure obligations on entities which are defined under that legislation as "public authorities" (this includes Nottingham Trent University ("NTU")):

- 1) To proactively publish information under a "Publication Scheme". The Publication Scheme for NTU is available on the [website](#) for view and contains direct links to the documents listed or, for those documents available in hard copy only, email links to the relevant departments; and
- 2) To respond to requests for recorded information held by or on behalf of NTU.¹

In relation to point 1) above, **Legal Services** is responsible for ensuring that the Publication Scheme is kept up to date in relation to the official information it provides access to. It is the responsibility of the relevant department listed to ensure that Legal Services is provided with updates and amendments to the listed information on a regular basis.

With regard to point 2) above, **Legal Services** is responsible for dealing with all requests under the FOIA. These requests may enter NTU in a variety of forms. Information can be requested by letter, email, social media or by telephone (in this case the request must be put in writing) and NTU must then respond to the request within 20 working days from the day following the receipt of the request (see further below). To assist NTU in this, Legal Services has an [online form](#) which directs the request straight into Legal Services. As well as the online form there is a direct email – foi.enquiries@ntu.ac.uk.

Any requests and enquiries in relation to the FOIA received across NTU should be forwarded to Legal Services immediately upon receipt. Schools or Professional Services Departments may be asked to provide information to support a response to an FOIA request and will be asked to do so in a timely manner.

2. What does the FOIA say and what are its aims?

Section 1 of the FOIA sets out the rights of any person making a request for information, which are:

- the right to be informed whether or not the information requested is held by the public authority; and, if so,
- the right to have that information communicated to them.

However, those rights are not absolute and where appropriate, statutory exemptions from disclosure may apply; see further details below.

The duty to confirm or deny that information is held may still exist, even if the information is exempt from disclosure.

There is also a general duty under the legislation to provide advice and assistance.

¹ The Environmental Information Regulations 2004 (the "EIR") provide an alternative disclosure framework in respect of "environmental information", as defined in that legislation. This Policy concerns FOIA only, but where the EIR apply, the University will respond under that legislation, instead of the FOIA. It should be noted that requests for environmental information may be made verbally under the EIR.

3. Requests for Information

All colleagues should know how to recognise a request. The key elements of a request under the FOIA are:

- 1) Requests should be in **“writing”**. This includes email and could even include a text message as well as letters;
- 2) It should state the **name** of the applicant (which may be an individual or a company or organisation) and a correspondence address/email address;
- 3) It should describe the information requested;
- 4) It does **not** need to refer to the FOIA;
- 5) It does **not** need to be for information about the applicant;
- 6) The **motive** for the request and identity of the requestor, at the point of receipt of request, is **irrelevant**;
- 7) An applicant does have the right to state what their **preference** is for the form of the response, i.e. receiving a copy of the information, inspecting the information or receiving a summary of the information.

3.1 Dealing with Requests for Information

Legal Services should be informed of the request, and have it passed to them **in all cases no more than 2 days following receipt of the request**.

When a request is received, Legal Services will consider:

- a) Is the request in the appropriate form?
- b) Is a cost involved?
- c) When did the 20 working day time limit start?
- d) Is the disclosure exempt? If so, why?
- e) If an exemption does apply, what information needs to be given?
- f) Has the applicant stipulated a preferred manner for response? If so, can this be satisfied?

3.2 Requests: The Fees

There are separate fee provisions which will stipulate what may be charged to the person making the request in order to deal with that request.

Fees information is available from Legal Services.

3.3 The Time Limits

NTU must respond to a request **promptly and no later than 20 working days following receipt** of the request (s10(1) FOIA). “Working days” is defined in the FOIA as meaning any day other than a Saturday, Sunday, Christmas Day, Good Friday or other bank holiday. It is important to note that other NTU closure days are **not** excluded from the calculation.

The 20 day clock starts on the day after NTU receives the request. Failure to respond in the time limit would amount to a breach of s10 of the FOIA. This means that logging the request when it is received is key.

A request is received when it arrives at NTU and not when it is received by the appropriate person to deal with that request. However, in respect of email, if there is an automated ‘out of office’ which details where requests should be re-directed, the date of receipt is the day the request is received by the person it should be redirected to. Colleagues must put an out of office message on their emails when they are away from NTU which directs emails to colleagues who are available, and make provision to check post delivered to colleagues who may be away from NTU i.e. when on annual leave or working from home.

If Legal Services reasonably requires further information in order to identify and locate the information requested, it will inform the applicant as soon as possible. The 20 working day period will in those circumstances only begin the day after NTU receives the necessary clarification.

3.4 Refusal of a Request

Section 2 of the FOIA sets out the circumstances under which a request may be **refused**:

- Absolute exemptions; where the right to know is wholly disappplied;
- Qualified exemptions; where a statutory exemption from disclosure is on its face engaged, but the University must then consider if it is in the public interest to provide disclosure or to maintain the exemption from disclosure.

All exemptions will be applied to FOIA requests by Legal Services and assumptions regarding this should not be made by colleagues in receipt of the request. A full list of exemptions is included in this policy at Appendix A. This list is provided for information and assistance when Legal Services may request information/documentation from relevant areas.

There are also certain circumstances under which NTU is not required to respond to requests under the FOIA. These include where the request is vexatious, is a repeat of a previous request, or the costs of compliance exceed the limit prescribed by law. The decision to invoke these exemptions will be taken by Legal Services and individual recipients of requests should not decline to respond without directing the request in the usual manner provided by this policy.

If NTU establishes that an exemption applies to all or part of the information requested, disclosure is not required in respect of the information which is exempt from disclosure. However, a notice for refusal still needs to be given in a manner which complies with the formal requirements of the FOIA.

3.5 What is the “Public Interest”?

When considering the application of qualified exemptions, NTU will need to balance the public interest both in favour of disclosure and maintaining the exemption.

The public interest factors which are relevant will vary from request to request and from time to time. It follows that the public interest balance must be assessed on a “case by case”, individual basis. Generally speaking, however, there is usually a public interest in promoting transparency, accountability and public understanding.

3.6 Records Management

Good records management should be viewed as a benefit to NTU and not a burden. NTU has produced a [Retention Schedule](#) to ensure that it has a transparent and consistent position. The Retention Schedule is managed by Legal Services and contains all the relevant official and corporate documentation produced by NTU. This provides a definitive guide as to how and where corporate information is stored.

It is expected that each School and Professional Services Department will have their own document management system, based on the NTU-wide retention Schedule. There are risks which could arise as a result of inefficient/poor document management, such as:

- Inability to recover documents which leads to delays and a failure to meet deadlines;
- Making the assessment of a request more difficult;
- A risk of disclosure of records when they are inappropriate;
- Elevated costs of compliance;
- Potential increase for complaints and repeated requests; and
- Potential implications for NTU’s compliance with data protection legislation.

All colleagues should be aware that under s77 of the FOIA it is a criminal offence to alter, deface, block, erase, destroy or conceal information held by NTU which is subject to a request, with the intention of preventing the disclosure of information to which the requestor would have been entitled.

4. Complaints Procedure

NTU has a complaints procedure (“Internal Review Procedure” provided at Appendix B which will enable any applicant to make a complaint if they are dissatisfied with NTU’s response to a request under the FOIA.

The Internal Review Procedure in relation to the FOIA is managed by Legal Services.

5. Contact

The contact for Freedom of Information is: foi.enquiries@ntu.ac.uk

You can also contact Legal Services directly:

Tracy Landon, Legal Services Manager and Data Protection Officer (tracy.landon@ntu.ac.uk);

Lindsey Peggs, Information Governance Manager (lindsey.peggs@ntu.ac.uk).

6. Appendices

Please see:

- Appendix A: Exemption List;
- Appendix B: Internal Review Procedure; and
- Appendix C: Flowchart to provide a quick reference guide to dealing with requests.

6.1 Appendix A: Exemption List

Exemption	Section No	Category according to ICO guidance
Information accessible to applicant by other means	21	Absolute
Information intended for future publication	22	Qualified
Research Information	22A	Qualified
Information supplied by, or relating to, bodies dealing with security matters	23	Absolute
National Security	24	Qualified
Defence	26	Qualified
International relations	27	Qualified
Relations within United Kingdom	28	Qualified
The economy	29	Qualified
Investigations and proceedings conducted by public authorities	30	Qualified
Law enforcement	31	Qualified
Court records	32	Absolute
Audit functions	33	Qualified
Parliamentary privilege	34	Absolute
Formulation of government policy, etc	35	Qualified
Prejudice to effective conduct of public affairs	36	Qualified
Communications with Her Majesty, etc and honours	37	Qualified
Health and safety	38	Qualified
Environmental information	39	Qualified
Personal information	40	Absolute
Information provided in confidence	41	Absolute
Legal Professional Privilege	42	Qualified
Commercial Interests	43	Qualified
Disclosure prohibited by an enactment or would constitute contempt of court	44	Absolute

6.2 Appendix B: Internal Review Procedure

As part of the official FOI response by NTU, the requester is informed of the Internal Review Procedure.

Requests for an internal review can be made under the following categories:

- a) Did not respond within the mandatory timescale;
- b) Incorrect/erroneous application of an exemption
- c) Incorrect/incomplete information provided.



Requests for internal reviews must be submitted by the requestor in writing to the Head of Governance and Legal Services at Nottingham Trent University or by [email](#) within 40 working days of the date of the response to the original request.



Request will be passed by Legal Services to an “investigator”, along with all information held pertaining to the original request and any decisions made.



The requester to receive a standard acknowledgement letter, confirming receipt of the request, providing the investigator’s contact details and the relevant category(ies) the request is being investigated under. This letter to be sent within 5 working days of the request being received.



The investigation of an internal review request is dealt with in a manner appropriate to the nature of that request, maintaining records and evidential trails. The investigation will normally be completed within 20 working days of the receipt of the request. If this cannot be achieved regular updates will be provided to the requester. In all circumstances, the University will endeavour not to exceed 40 working days for its full response.



A formal response to the request will be provided, giving:

- a) Full details of the actions taken to investigate the request.
- b) The decision of the University with regards to the request, and the reasons for it.
- c) If deciding in favour of the requester, the remedial action being taken to correct the problem and the timescales for this.
- d) Contact details for the Information Commissioner’s Office in case requester is not satisfied.

6.3 Appendix C: Flowchart

