

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002: PROCEDURES FOR UNDERTAKING A REVIEW

Introduction

- 1 Under section 20 of the Freedom of Information (Scotland) Act 2002 any applicant who is dissatisfied with the way an authority has dealt with a request for information may require the authority to review its actions and decisions.
- 2 Applicants who request information under the Environmental Information (Scotland) Regulations 2004 also have the right to request a review. These guidelines should also be used in the event that a review is requested under these regulations.
- 3 The University is obliged to have in place appropriate and accessible procedures for handling reviews. These guidelines lay out the procedures that will be undertaken when the University of Stirling receives a request for a review.
- 4 If the University responds to an Information request by refusing to disclose information in whole or in part, or by saying that we do not hold the information requested, the University must notify the applicant at the time of the response that they have the right to request a review and a subsequent right to appeal to the Scottish Information Commissioner.

Request for a review

- 5 The guidance for submitting a review request can be found in the document *Rights for Review and Appeal* that can be found at:
<http://www.stir.ac.uk/media/services/registry/planning/legalcompliance/RightsofReviewandAppeal.pdf>
- 6 A request for a review must be made no later than 40 working days following receipt of the response to the original request for information¹. The request must also explain what issue the applicant is dissatisfied with e.g. the application of exemptions/exceptions, the handling of the request or the fact that no response was received to the original request within the time limit. The applicant does not need to specifically ask for a review. They do however, need to specify why they are dissatisfied with the original decision in order for the review request to be valid.
- 7 The request must also state the name of the applicant and an address (this can be an email address).

¹ If the University did not respond to the original request for information then a review should be requested no later than 40 working days following the expiry of the period for responding to the request (20 working days).

8 If a request for a review does not meet these requirements the University has a duty to advise and assist the applicant in making a valid review request.

9 The University does not have to conduct a review if the review request or the original request is deemed to be vexatious. However, the University must explain this to the applicant and include information on their rights of appeal to the Scottish Information Commissioner.

Review obligations

10 The University has 20 working days to respond to the request for a review from the date the request was received by the University.

11 The review process must be:

- fair and impartial
- able to reach a different decision if appropriate
- straightforward and capable of reaching an outcome promptly
- handled by staff who were not involved in the original decision, wherever possible

12 The reviewer should record the process undertaken when considering the review request and produce a review report in order that the University can learn from any good or bad practices identified. Where the review report highlights procedural errors, the University should promptly take steps to prevent such errors reoccurring.

13 In the event that no response was made to a request then the review should:

- deal with the procedural failure, apologising to the applicant and taking necessary steps to prevent a similar occurrence in the future; and
- make a decision on the initial information request itself; and
- inform the requester of their right, if dissatisfied with the response, to make an application to the Scottish Information Commissioner.

14 In these circumstances it may be appropriate for the original case handler to continue dealing with the request and issue the review response rather than appointing a separate reviewer.

Review procedures

15 The University Secretary must be informed when a request for a review is received, and the University should write to the applicant acknowledging the request for a review.

16 On receipt of a request for a review the review procedure will be led by the Academic Registrar. In the event of the absence of the Academic Registrar, or in the event that they had significant involvement in the original case, an alternative lead will be appointed by the University Secretary.

17 For a straight forward review the Academic Registrar may decide to deal with the review without convening a Review Panel. However, for more complex or potentially controversial cases a Review Panel should be convened. The membership of the Panel

will be agreed between the Academic Registrar and University Secretary but will normally consist of the Academic Registrar or Review Leader, another senior member of staff and a member of staff with some experience of Freedom of Information. This should not normally be any officer who was involved in the response but in any event the Freedom of Information representative will only have an advisory role and will not be involved in determining the Panel's decision.

18 The Review leader will consult with the staff who dealt with the initial enquiry to get an understanding of the rationale underpinning the University's initial response. Where appropriate a revised search for information will be undertaken, if possible by a person not directly connected to the initial enquiry. The Review leader will also be responsible for seeking legal advice if required.

19 Where a review panel has been established it should meet within two weeks of the review request being made.

20 Once the outcome of the review has been decided either by the Academic Registrar or the Review Panel the final response to the review will be signed off by the University Secretary.

21 The review may result in one or more of the following decisions and outcomes:

- that all or part of the information initially withheld should be released
- that the University did not follow the correct procedures for dealing with the request for information. If this is the case the Review leader or Panel may make recommendations to remedy the situation and prevent its recurrence
- that the original decision should be upheld.

22 A record will be kept of the process taken during the review consideration.

23 The applicant will be informed of the outcome of the review within the time allowed for the review and informed about their right to complain to the Scottish Information Commissioner if they are still not satisfied.