

Freedom of Information Act 2000 Policy and Procedure for Handling Requests

Responsibility for Policy:	University Secretary
Relevant to:	All Staff
Approved by:	Longstanding LJMU Policy
Responsibility for Document Review:	Executive Assistant (Governance & Information Compliance), Secretariat
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RELEVANT DOCUMENTS

- Freedom of Information Act (2000)
- Data Protection Act (1998) and the General Data Protection Regulations from 25th May 2018
- Environmental Information Regulations (2004)

RELATED POLICIES & DOCUMENTS

- LJMU FOI Appeals & Complaints Procedure
- LJMU Data Protection Act 1998 Policy and the General Data Protection Regulation Policy from 25th May 2018
- LJMU Publication Scheme
- Records Management Policy
- Records Retention Schedule

Introduction

The aim of the Freedom of Information Act (FOIA) 2000 is to promote a culture of openness and accountability amongst public sector bodies and therefore facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do, and how they spend public money.

The main features of the Act and duties placed on LJMU are:

- A general right of public access to recorded information held by the University, subject to certain conditions and exemptions.
- A duty to inform the requestor whether the University holds the information requested, and
- Except in the case of exemptions, to communicate the information to him or her
- A duty to adopt and maintain a scheme, approved by the Information Commissioner, which relates to the publication of information by LJMU and to publish information in accordance with the scheme.

The Act also:

- Created a new office of Information Commissioner with wide powers to enforce the rights created by the Act and to promote good practice, and a new Information Tribunal.
- Placed a duty on the Lord Chancellor to publish Codes of Practice for guidance on specific issues.

Publication Scheme

Adopting a publication scheme is a requirement of the Freedom of Information Act [FOIA] 2000. A publication scheme sets out the kinds of information that a public authority should make available routinely. The information should be easy for the authority and any individual to find and use.

Further details about the kind of information the University is expected to routinely publish can be found in the ICO's definition document for Universities at <https://www.ljmu.ac.uk/about-us/public-information/data-protection-and-freedom-of-information-and-public-sector-information/freedom-of-information>

Following the recommendation of the ICO, LJMU publishes routine information on its website, including a disclosure log outlining the FOIA requests received by the University and the responses provided.

Responsibilities and Accountabilities

All Freedom of Information requests received by the University will be handled centrally by the University's Secretariat. Any member of staff receiving a request for information, which they consider is a Freedom of Information request, must contact the Secretariat on 0151 231 3550 or email Secretariat@ljmu.ac.uk. The Secretariat is happy to give advice and guidance to establish who should deal with such requests.

The Accountable Person (under the Act) is the Vice Chancellor & Chief Executive.

Procedure for Handling FOIA requests

The procedure provides an overview on how the University handles FOIA requests and meets its obligations under the Act.

1. An Individual's Rights

1.1 Subject to the exemptions in the Act, any person can make a request to LJMU for information. They must be informed whether the University holds the information, and if so the information must be communicated.

The request must satisfy certain conditions:

- It must be in writing, and this includes e-mails
- It must state the name of the requester
- It must provide an address for correspondence [this can be an email address]
- It must describe the information requested

1.2 The request does not have to mention the Act by name, and can be from anyone of any age, nationality or location. It is not necessary for the individual making the request to explain why they want the information.

2. Duty to provide assistance

2.1 The request must be clear enough to be able to identify and locate the information requested. However if it is not clear, it is the responsibility of LJMU staff, as far as it is practicable, to provide assistance to the requester to enable him or her to describe more clearly the information requested.

Examples of types of assistance are:

- Providing an outline of the different kinds of information which might meet the terms of the request.
- Providing a general response to the request, and setting out options for further information that could be provided on request.

2.2 If clarification is required, the most appropriate method of communication should be used.

2.3 A detailed record must be kept of any letters, e-mails and telephone conversations with the requestor in the course of providing advice and assistance.

2.4 If, after providing assistance, the requestor still fails to describe the information in such a way for it to be identified and located, LJMU will inform him/her that it is unable to comply with the request and no further clarification will be sought.

2.5 LJMU will disclose any information which has been successfully identified and found and is not covered by an exemption, or the limits under the Fees Regulations, i.e. if the cost of searching and collation exceeds £450, the equivalent of 18 hours of staff time. The Secretariat will be responsible for disclosing information under the FOIA.

- 2.6 If it is not possible to fully comply with the request, it will be explained to the requestor why this is the case and details provided of the University's FOI Appeals & Complaints Procedure and their rights under section 50 of the Act. A copy of this procedure is available at <https://www.ljmu.ac.uk/about-us/public-information/data-protection-and-freedom-of-information-and-public-sector-information/freedom-of-information>
- 2.7 The University is not obliged to comply with a request for information if the costs of complying would exceed the "appropriate limits" set out in the Fee Regulations. However, consideration will be given to providing an indication of what information could be provided within the cost ceiling, and the requestor will be given the opportunity to review and modify their request.
- 2.8 The University will not provide assistance to requesters whose requests are considered vexatious as defined in section 14 of the Act.

3. Information Covered by the Right of Access

- 3.1 All information held by LJMU is covered by the right of access. It is important to remember that the Act entitles individuals to have access to information and not to documents, although the most appropriate way to provide the information may be to supply a copy of the document in which the information is held.
- 3.2 Information subject to the right of access can be held in various forms:
- Electronically (such as on PCs, laptops or an electronic records management system)
 - Recorded on paper (such as a letter, memo, report or papers in a file)
 - Sound and video recordings (such as a DVD, CD, CCTV or video tape)
 - Information in storage
 - Notes written in the margins of a document, note pad or on a post-it note.

4. Information that has been deleted or amended.

- 4.1 The right of access applies to information held by LJMU at the time the request is received. Information must **not** be deleted or amended after the request has been received. Altering, defacing, blocking, erasing, destroying or concealing information in these circumstances may constitute a criminal offence and an individual committing the offence may be held personally responsible.
- 4.2 If requested information has been deleted after a request has been received, but unknowingly, i.e. not aware of the request, this would not be in breach of the Act.
- 4.3 The University has a Records Management Policy and Records Retention Schedule to ensure consistent record-keeping across the University, which must be considered by all staff who create, receive and use records. The Records Management Policy is available to staff on the website at <https://policies.ljmu.ac.uk/UserHome/Policies/ViewPolicyStart.aspx?id=91&l=1>. The Records Retention Schedule can be found at <https://www2.ljmu.ac.uk/secretariat/121756.htm>.

5. Assessing Requests for Information

Requests can take the following forms:

5.1 Straightforward/Routine Requests:

A good example is a request for the LJMU Prospectus and other marketing/recruitment documents. These types of requests will be dealt with as normal, routine business, and not under the FOIA.

5.2 Other Requests

This refers to requests for information which go beyond the normal day-to-day correspondence. In these circumstances, the request will be forwarded to the Secretariat.

5.3 Subject Access - the Data Protection Act (DPA) 1998 and the General Data Protection Regulation from 25th May 2018

Any request from an individual seeking personal information about themselves is considered under the FOI Act as a Data Subject Request (SAR) which refers the matter to be dealt with under the Data Protection Act, 1998 or the General Data Protection Regulation from 25th May 2018. In all circumstances SARs should be forwarded to the Secretariat. Medical Information is dealt with by the University's Occupational Health Service.

The University's Data Protection Policy can be found at: <https://www.ljmu.ac.uk/about-us/public-information/data-protection-and-freedom-of-information-and-public-sector-information/data-protection>

5.4 Access to Environmental Information - the Environmental Information Regulations 2004

Revised Environmental Information Regulations (EIR), 2004, also came into force on 1 January 2005. They give access rights specifically to information relating to any decisions, activities and policy formulation that may have an impact on the environment. The definition of environmental information is broad and any request for environmental information must be dealt with under the EIR regulations and should be directed to the University's Secretariat.

6. Time Deadlines

6.1 Information requested must be provided within **20 working days**.

6.2 Additional time can be added to the 20 working days for the following reasons:

- Fees: The timescale is put on hold if a fee is requested and remains on hold until the fee is paid.
- Applying the Public Interest Test: If the information being sought has to be considered under an exemption to which the Public Interest Test applies, then the timescale is extended by a "reasonable period", but no later than an additional 20 working days. The requestor will be informed of the proposed extension date which should be realistic and reasonable in the circumstances of the case.

If it proves not possible to meet the estimated date, the requestor will be informed of the reasons for the delay and kept informed of progress.

In general, if there is a justifiable reason for being unable to respond within the 20 working days, the requestor must be informed and given a date when the information will be provided to them.

7. Fees

7.1 The fees regulations reflect the Government's approach that there will be no financial barrier to people in exercising their rights under the legislation. You can find further guidance from the Information Commissioner's Office at <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

7.2 LJMU has guidance notes on the application of the Fees Regulations <https://www.ljmu.ac.uk/about-us/public-information/data-protection-and-freedom-of-information-and-public-sector-information/freedom-of-information>

8. Form of the Disclosure

8.1 The requestor may ask for the information to be released in a particular format, such as paper or electronic copies; as a summary/digest; or may wish to visit an office to inspect a record. When considering whether the information can be released, the format should be considered but the University is not obliged to disclose information in the requestor's preferred format if the information is part of the Publication Scheme, although it is good practice to assist where practicable.

8.2 Whilst it will be remembered that the public's right of access is to information and not documents, wherever possible and where the request for a particular format is considered reasonable, the University will disclose in the required format.

8.3 Particular consideration will be made regarding format requests from anyone with a disability.

8.4 If the information being requested is only routinely provided in English, there is no legal requirement to provide it in another language.

9 Publishing datasets for re-use

9.1 Public authorities must publish under their publication scheme any dataset they hold that has been requested, together with any updated versions, unless they are satisfied that it is not appropriate to do so. So far as reasonably practicable, they must publish it in an electronic form that is capable of re-use.

9.2 If the dataset or any part of it is a relevant copyright work and the public authority is the only owner, the public authority must make it available for re-use under the terms of a specified licence. Datasets which the Crown owns the copyright or the database rights are not relevant copyright works.

9.3 The Datasets Code of Practice recommends that public authorities make datasets available for re-use under the Open Government Licence. The term 'dataset' is defined in Section 11(5) of the Freedom of Information Act 2000 (FOIA). The terms 'relevant copyright work' and 'specified licence' are defined in

Section 19(8) of the FOIA. The Information Commissioner's Office (ICO) has published guidance on the dataset provision in FOIA. This explains what is meant by "not appropriate" and "capable of re-use".

10. Exemptions

10.1 The Act provides detailed guidance on what information is exempt. In doing so it provides the Government's present view but in the light of practical experiences and developments in case-law, this is likely to change. These exemptions permit the University to withhold some or all of the information requested, where that information fits one or more of the exemptions. Exemptions are considered by the Secretariat.

10.2 There are 2 types of exemptions:

(a) Absolute Exemptions:

- Information accessible to the requestor by other means [S21], such as the University's website and the University's Publication Scheme: requestors will be directed to the website.
- Information supplied by, or relating to, bodies dealing with security matters S23
- Court records S32
- Parliamentary privilege S34
- Personal Information (where the requestor is the subject of the information) S40
- Information provided in confidence e.g. from lawyers S41
- Where disclosure is prohibited by law S44

(b) Qualified exemptions:

- Information intended for future publication S22
- National security S24
- Defence S26
- International Relations S27
- Relations within the United Kingdom S28
- The economy S29
- Investigations and proceedings conducted by public authorities S30
- Law enforcement S31
- Audit Functions S33
- Formulation of government policy S35
- Prejudice to effective conduct of public affairs S36
- Communications with Her Majesty S37
- Health and safety S38

- Environmental Information (to be access through the Environmental Information Regulations) S40
 - Some personal Information S40
 - Legal professional privilege S42
 - Commercial Interests S 43
- 10.3 Some exemptions can only be applied by central government.
- 10.4 In considering exemptions, each request will be considered on its own merits.
- 10.5 Any decision on whether requested information is exempt under the Act, must be done so in conjunction with the Secretariat.
- 10.6 In determining whether information falls into one of the qualified exemptions under the Act, it may be necessary to apply the Public Interest Test. In short, the question to ask is: Does it serve the interests of the public better to withhold or to disclose the information? This determination is usually carried out by the Manager, Secretariat.
- 10.7 Even if the information is exempt from disclosure, LJM U is still obliged to inform the requestor whether it holds the information, unless doing so would in itself prejudice some relevant interest after applying the Public Interest Test. This is known as the Duty to Confirm or Deny.
- 10.8 If the information is complex or incomplete and therefore misleading, this may in itself not be sufficient justification for withholding it.
- 10.9 Guidance on the application of the FOI exemptions is available from the Secretariat.

11. Refusal of a Request

- 11.1 Where a request for information is refused, or where some of the information being sought is being withheld, LJM U must notify the requestor on which exemption has been applied; why the exemption has been applied; and explain why the balance of the Public Interest favours non-disclosure. This notification is provided by the Secretariat.
- 11.2 Particular care and attention will be given to the writing of all responses that withhold or partially withhold information, and must be done so in consultation with the Secretariat.

12. Vexatious Requests

- 12.1 Under certain circumstances an individual request or a series of requests can be determined as “vexatious” under Section 14 of the FOIA. If a request or requests are vexatious, the University can refuse to respond. Vexatious requests are usually repeated requests asking for the same information in a slightly different format, or deliberately time-consuming requests.
- 12.2 Any decision to refuse a request under Section 14 should only be made by the Secretariat. The Secretariat will seek legal advice if deemed necessary.

13. Formally Responding to a Request

- 13.1 LJMU follows the good practice advice provided by the Information Commissioner's Office (ICO).
- 13.2 A response letter must always inform the requestor of their right of appeal to the University and their right to complain to the Information Commissioner and how they can exercise this right.
- 13.3 All responses must be accompanied by a copy of the LJMU Freedom of Information Appeals and Complaints Procedure <https://www.ljmu.ac.uk/about-us/public-information/data-protection-and-freedom-of-information-and-public-sector-information/freedom-of-information>

14. Complaints

- 14.1 The FOIA gives certain rights to members of the public to seek review of the University's decision on disclosure if they are dissatisfied with the way a request for information has been handled.
- 14.2 Any recipient of a disclosure from the University must be automatically informed of those rights on how they can appeal or complain against how their request has been handled. See 13.3 above.
- 14.3 Throughout the Appeals and Complaints Procedure, the requestor must be kept fully informed on the progress of the appeal/complaint and the next stage in the process. The appeal should, in any event, be concluded within 20 working days.
- 14.4 The University has an Appeals and Complaints Procedure, which is available at: <https://www.ljmu.ac.uk/about-us/public-information/data-protection-and-freedom-of-information-and-public-sector-information/freedom-of-information>

15. External Advice

- 15.1 The Secretariat will seek external advice as and when necessary, including the University's lawyers.

16. Monitoring

- 16.1 For monitoring purposes, the Secretariat maintains a record of all requests for information.
- 16.2 LJMU will maintain a disclosure log on its website and provide an annual report on the University's compliance with information legislation to the Strategic Management Team and the Audit Committee. Monthly performance indicators are also interrogated by the Strategic Management Team.
- 16.3 This policy will be reviewed biennially or in light of any new legislative changes.

17. Provision of Guidance and Useful Links

Secretariat:

0151 231 3550, Secretariat@ljmu.ac.uk

LJMU Freedom of Information WebPages:

<https://www.ljmu.ac.uk/about-us/public-information/data-protection-and-freedom-of-information-and-public-sector-information/freedom-of-information>

The Office of the Information Commissioner:

<http://www.ico.org.uk>