



Freedom of Information (Scotland) Act 2002 and Environmental Information Regulations Policy

POL-NWH-002

Lead Officer (Post):	Vice-Principal Operations
Responsible Office/ Department:	Governance
Responsible Committee:	Audit and Risk Management Committee
Date policy approved:	01/08/2023
Date policy last reviewed and updated:	n/a
Date policy due for review:	01/08/2026
Date of Equality Impact Assessment:	July 2023
Date of Privacy Impact Assessment:	n/a

Accessible versions of this policy are available upon request. Please contact UHI North, West and Hebrides for further details.

Policy Summary

Overview	To demonstrate compliance with the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIR) and summarise the roles and responsibilities within UHI North, West and Hebrides College around Data Protection.
Purpose	The purpose of this policy is to ensure the College is compliant with both FOISA and EIR legislative regimes by setting out a framework to manage its obligations in relation to requests for information. An auditable compliance trail will be generated through implementation of this framework. Relevant internal and external references are listed at Section 9, Appendix 1.
Scope	This policy applies to all employees and users of UHI North, West and Hebrides college information, including members of the Board of Management, unless the context makes it clear that this is not the case. The scope of this policy extends to contractors, other third parties, or members of partnership organisations who may hold college information subject to FOISA and EIR, as outlined in college contractual documentation.
Consultation	RICM IT Services and RICM System Integration teams and Partnership Board.
Implementation and Monitoring	Vice-Principal Operations
Risk Implications	Failure to comply with either legislative regime, resulting in a complaint to the commissioner and potential for reputational damage.
Link with Strategy	UHI North, West and Hebrides ICT and Records Management Strategy
Impact Assessment	Equality Impact Assessment: No action required.
	Privacy Impact Assessment: n/a

1. Policy Statement

- 1.1 The Freedom of Information (Scotland) Act 2002 (FOISA) gives the public a general right to access recorded information held by public authorities including Further Education Colleges. The Act promotes greater openness and accountability across the public sector, therefore facilitating a better understanding of how public bodies carry out their business, why they make the decisions they do and how they spend public money.
- 1.2 Under FOISA, it is the duty of every public body to adopt and maintain a publication scheme to facilitate the proactive release of information. A publication scheme is a document describing the information that the College publishes or otherwise makes available as a matter of routine. In accordance with the legislation, the College shall maintain and publish via the College website a publication scheme which is in line with Section 23 of the Act, based on the Model Publication Scheme which is approved by the Scottish Information Commissioner.
- 1.3 The publication scheme shall be reviewed and updated by the Freedom of Information Officer in line with review of this policy.
- 1.4 The College will be in breach of the Act if it does not adopt an approved scheme and/or does not publish information in accordance with the scheme it has adopted. The College will compile and publicise a guide to the specific information made available under the scheme.

2. Definitions

- 2.1 **UHI and partners:** UHI is an integrated university, made up of a distinctive partnership of independent colleges and research institutions. The partners are: UHI Argyll, UHI Inverness, UHI Moray, UHI North, West and Hebrides, UHI Perth, UHI Shetland, Highland Theological College UHI, Orkney College UHI, Perth College UHI, Sabhal Mòr Ostaig, and Scottish Association for Marine Science (SAMS).
- 2.2 FOISA Freedom of Information (Scotland) Act 2002
- 2.3 The Act Freedom of Information (Scotland) Act 2002
- 2.4 EIR Environmental Information (Scotland) Regulations 2004
- 2.5 UK GDPR UK General Data Protection Regulations
- 2.6 SIC Scottish Information Commissioner
- 2.7 College UHI North, West and Hebrides

3. Purpose

- 3.1 The purpose of this policy is to ensure the College is compliant with both FOISA and EIR legislative regimes by setting out a framework to manage its obligations in relation to requests for information. An auditable compliance trail will be generated through implementation of this framework. Relevant internal and external references are listed at Section 11, Appendix 1.

4. Scope

- 4.1 This policy applies to all employees and users of UHI North, West and Hebrides information, including members of the Board of Management, unless the context makes it clear that this is not the case.
- 4.2 The scope of this policy extends to contractors, other third parties, or members of partnership organisations who may hold college information subject to FOISA and EIR, as outlined at the time of signing in college contractual documentation.

5 Roles and Responsibilities

5.1 The FoI Officer is responsible for:

- The review of this policy and the associated FOISA & EIR procedure.
- Ensuring that the arrangements for dealing with requests for information and (formal) reviews are implemented in accordance with this policy and the associated procedures.
- Acknowledging and responding to all FOI and EIR requests for information within the 20-working day legal turnaround time.
- Determining what exemptions may be applied and consulting with subject matter experts within the College as necessary.
- Issuing responses to requests.
- Maintaining an internal log of requests for reporting and audit purposes.
- Organising an internal review panel upon receipt of a request for review.
- Liaising and sharing information with the Scottish Information Commissioner if required.
- Arranging training, including during staff induction, relating to this policy and associated procedures.

5.2 All employees and members of the Board of Management are responsible for complying with College FOISA and EIR policy and procedures. This includes:

- Reading, understanding, and always operating within the FOISA and EIR policy and procedures.
- The Executive Leadership Team are responsible for managing and championing compliance with the Policy.
- Identifying potential FOI/EIR requests received by their team and alerting the FOI Officer without delay.
- Responding to instructions from the FOI Officer to retrieve and return relevant information, within the stated legal deadline; departmental managers are responsible for ensuring the return of information on behalf of their department.
- Departmental managers are responsible for reviewing and updating sections of the publication scheme, upon request from the FOI Officer or sooner if required.
- Attending training sessions as required.

6 Exceptions

6.1 Some information is exempt from disclosure and so does not have to be provided:

- When the request is vexatious or repeated.
- When the cost of compliance exceeds the appropriate limit.
- When the information falls under one of the exemptions.

Exemptions are either absolute or qualified (See Section 11, Appendix 2). If the exemption is qualified, the College will conduct a 'public interest test' to determine whether the requested information should be withheld or released.

6.2 The interface between FOISA and data protection legislation must be carefully considered:

- Requests for personal data will be managed under the College Data Protection Policy, and the UK GDPR legal framework will apply.
- If the FOISA response involves the disclosure of third-party personal data, then the principles of the UK GDPR will inform any decision regarding the release of information.

6.3 Where the FoI Officer considers that a request for information should be refused, all relevant papers will be considered by another member of the Executive Leadership Team (ELT) before the response is sent.

6.4 The member of the ELT will have taken no part in the preparation of the papers and, so far as is practicable, will be independent of the area(s) of the College to which the request refers.

6.5 The decision to refuse to provide information will be communicated to the applicant, with reasons for the refusal. The applicant has the right to request a review of the decision.

7 Appeals and Formal Reviews

7.1 If the applicant is dissatisfied with the FOI response issued by the College, they are encouraged to submit requests for review in writing to the FoI Officer. However, in line with legislative requirements, requests submitted in permanent form using any College contact method will be accepted.

7.2 Review responses will be issued within the 20-working day statutory deadline.

7.3 A formal review panel will be established by the FoI Officer, chaired by another member of the ELT, which will review the decision and agree a response.

7.4 The FOI Officer is responsible for sending the review decision outcome to the applicant.

7.5 Further appeals subsequent to the outcome of the review panel, may be raised directly with the regulator by writing to: [The Scottish Information Commissioner](#), Kinburn, Doubledykes Road, St Andrews, Fife, KY16 9DS.

8 Compliance

8.1 It is not permitted either to decide not to hold information appropriate for the College, or to destroy such information, to avoid the implications of the Act.

- 8.2 The Act also specifies that it is a criminal offence to destroy or erase information once it has been requested (unless the information would be exempt from disclosure or is scheduled to be destroyed per the Record Retention and Disposal Policy).
- 8.3 Failure to comply with the requirements of the Act in holding, releasing or destroying information will render staff liable to disciplinary action. Deliberate actions or omissions may be deemed to be gross misconduct.

9 Review

- 9.1 A review of this policy will take place every three years or earlier if required by changes in the legislation.

10 Legislative Framework

- Freedom of Information (Scotland) Act 2002
- Environmental Information (Scotland) Regulations 2004
- Data Protection Act 2018
- UK General Data Protection Regulations (UK GDPR)

11 Related Policies, Procedures, Guidelines and Other Resources

Appendix 1 – References

- Internal
 - Data Protection Policy
 - FOISA & EIR Procedures
 - Records Management Policy
 - Records Management Procedures
- External
 - Data Protection Act 2018
 - Environmental Information (Scotland) Regulations 2004
 - Freedom of Information (Scotland) Act 2002
 - Scottish Ministers s60 Code of Practice
 - UK General Data Protection Regulations (UK GDPR)

Appendix 2 – FOISA Exemptions

The exemptions include:

- Qualified
 - Information intended for future publication (s.27)
 - Investigations and proceedings (s.34)
 - Law enforcement (s.35)
 - Audit functions (s.40)
 - Health and safety (s.39)
 - Some personal information (s.38)
 - Commercial interests (s.33)
- Absolute
 - Information accessible by other means (s.25)
 - Court records (s.37)

- Personal information (s.38)
- Information provided in confidence (s.36)
- Information whose disclosure is prohibited by law (s.26)

12 Version Control and Change History

Version	Date	Endorsed / Approved	Amendment(s)	Author
0	June 2023		New policy for UHI NWH	Jennifer O'Neill
1				
2				
3				
4				