Right to Information Policy

September 2022

HERIOT-WATT UNIVERSITY
RIGHT TO INFORMATION POLICY

CONTENTS

1. INTRODUCTION

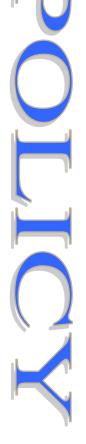1.1   This policy affirms the University's commitment to upholding the statutory public right of access to information held by the University Group. It recognises that we do so not only because we must comply with the law but also because it supports our Mission, Values, and strategic objectives.

1.2   Information sharing and knowledge transfer is at the heart of what we do. Creating and exchanging knowledge to benefit society is at our core; it is our mission. It aligns with our Values and the respect we have for our communities and the individuals within them.

1.3   By upholding the public right to access information held by the University we support accountability, transparency and good governance. Proactive publication of key information about the University (such as its policies, governance, decisions, expenditure and performance) has practical benefits for members of the University, external stakeholders and the general public alike by increasing knowledge and understanding of our work. It also strengthens the bonds of trust essential to build flourishing communities.

1.4   As a Scottish Public Authority, Heriot-Watt University is committed to uphold these rights to access information under freedom of information laws while applying proportionate and appropriate exemptions under the law to protect information that is genuinely confidential.

1.5   This policy sets out a framework of governance and responsibilities for managing rights to access information under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EISRs). The policy complements the University's Data Protection Policy which sets out roles and responsibilities for managing personal data and data subject requests from individuals about their own personal information.

2. PURPOSE

2.1   This policy supports transparency and accountability, which are fundamental to our reputation and the trust of our students, colleagues and all our stakeholders.

2.2   By promoting transparency and accountability, two principles set out in the University Information Governance and Records Management Policy, this policy supports data accuracy and consistency which in turn contributes to good decision-making. Proactive publication of key information presents a strong and positive profile, promoting the University to potential students, staff and supporters and helps to enhance the University's profile and reputation. This helps the University "lead by example" in demonstrating that it upholds the standards set out in the Scottish Higher Education Code of Good Governance.

2.3   It is a fundamental principle of a democratic society that organisations receiving public funding should be accountable for the decisions they make and the rationale for their decisions, how they operate, how they spend public money, and how they deliver services.

2.4   Compliance with freedom of information law supports fundamental human rights set out in the [United Nations Universal Declaration of Human Rights](#) and the Council of Europe [European Convention on Human Rights.](#) It also supports the University's commitment to the United Nations Sustainable Development Goal 16 Peace, Justice and Strong Institutions. This policy explicitly addresses Target 16.10 "Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements". It also supports Targets 16.6 and 16.7: "Develop effective, accountable and transparent institutions at all levels" and "Ensure responsive, inclusive, participatory and representative decision-making at all levels".

2.5   This Policy and its supporting procedures and guidance support University compliance with its obligations as a Scottish Public Authority under freedom of information law. It follows the recommendations set out by [Scottish Ministers' Code of Practice on the discharge of functions by Scottish Public Authorities under FOISA and the EISRs, issued under section 60 of FOISA](#). The Code sets out best practice to "support and encourage Scottish public authorities to act in both the letter and spirit of the law".

2.6   This policy sets out at a high level how University meets its obligations under FOI law and clarifies the distinction between our rights to access information under FOI law and our rights as data subjects under Data Protection laws. By explaining the information we will make public and how we will protect genuinely confidential information, this policy provides clarity about the University's obligations and how we apply the exemptions. This in turn will manage expectations of internal and external stakeholders and support our duties of transparency and accountability.
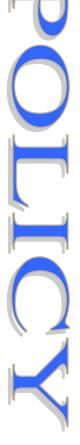
3. OBJECTIVES

3.1   By implementing this policy, the University will meet its obligations under FOISA and the EISRs and grasp the opportunities afforded by transparency and accountability to apply the University [Values](#) (belong, inspire, collaborate and celebrate), maintain the trust of its stakeholders and enhance its reputation.

> *"A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority."*
> *(FOISA s.1(1))*

3.2   FOISA places four main obligations on the University:

1. Proactively publish certain types of information through the University Publication Scheme to promote openness and accountability. "[T]here is a specific public interest in information about:

   - authority decisions, and the facts and analysis that inform them
   - the functions and services provided by authorities, including the cost of services and their performance". (FOISA s.23(3))

   Information we proactively publish is exempt from the requirement to respond to individual requests for it and is an opportunity to demonstrate the University's Values. Requirements and expected practice are set out in Part 2

s.3 of the [Scottish Ministers' Code of Practice on the Discharge of Functions by Scottish Public Authorities under section 60 of FOISA](#) (FOISA s.60 Code).

2. Respond to individual requests for information within statutory deadlines (normally 20 working days) and to respond to reviews where the applicant (the person making the request) is not satisfied with the University's response. Requirements and expected practice are set out in Part 2 of the [FOISA s.60 Code](#).

3. Provide advice and assistance to applicants. The University has a duty to provide advice and assistance at all stages, including before a request is made, to clarify what information the applicant seeks, whilst we process a request, and after we have responded. When providing advice and assistance we must consider the particular circumstances of the applicant and have regard to our duties under equalities law. Requirements and expected practice are set out in Part 2 s.5 of the [FOISA s.60 Code](#).

4. Manage information in accordance with the [Scottish Ministers' Code of Practice on Records Management issued under Section 61 of FOISA](#). The University [Information Governance and Records Management Policy](#) has also been scoped to meet this obligation.

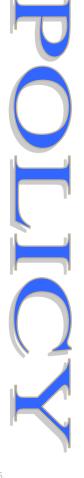## 4. SCOPE

What information is included in the Policy

4.1 This policy applies to all information of any age, in any format, that is held by the Heriot-Watt University Group or on its behalf by third parties.

Which information requests are covered by the Policy

4.2 This policy applies to all requests for information, whoever the applicant may be, where the information would not normally be disclosed to the applicant in the routine course of business. Requests do not have to mention freedom of information when submitted, therefore it is very important for all colleagues who receive an information request that falls outwith their business-as-usual process to forward it immediately to FOI@hw.ac.uk for advice and action. All colleagues are asked to follow the guiding principle: 'If in doubt, don't delay, send it to FOI today.'

Who is affected by the Policy

4.3 All members of the University community, including members of the governing body, employees, contingent workers and students and all members of the public have the right to request information held by the University. If someone is not satisfied with the response to their request, they have a statutory right to ask the University to review its response to the request. If they remain dissatisfied, they have the right to complain to the Office of the Scottish Information Commissioner (OSIC), who may then issue an enforcement notice instructing the release of information if OSIC finds in favour of the applicant.

4.4 Employees and contingent workers have responsibilities to support compliance with the policy as summarised under section 5.1.

Where the Policy applies

4.5 As the University operates internationally, through its campuses in the United Kingdom, Dubai and in Malaysia and through arrangements with partners in other jurisdictions, the remit of this Policy includes our global campuses and activities and shall pay due regard to applicable legislation in each relevant country. Although the freedom of information laws referenced in this policy are Scottish, their scope applies to all information held by or on behalf of the Group irrespective of where the information is held.

4.6 Anyone, anywhere in the world can make a valid request for information to the University Group.

5. LINES OF RESPONSIBILITY (ALSO SEE THE DIAGRAM IN APPENDIX 1)

5.1 **All employees and contingent workers** are responsible for:

- Maintaining accurate and reliable records of their work in line with the University's Information Governance and Records Management Policy.
- Recognising information requests to which this policy applies (see para 4.2 above) and forwarding them immediately to FOI@hw.ac.uk for action.
- Co-operating with the Information Governance Officer (Information Rights) and other members of the Information Governance Division by retrieving information that is relevant to a request promptly and sharing it securely with the Information Governance Division.

5.2 **The Information Governance Officer (Information Rights)** is responsible for recommending relevant policy and procedures for the management of information rights requests, for maintaining the University Publication Scheme and for managing responses to requests within statutory deadlines, where necessary delegating specific requests and tasks to other members of the Information Governance Division. The Information Governance Officer (Information Rights) is responsible for considering exemptions to determine whether they can be applied in response to individual requests, determining whether a fee is appropriate, where applicable, and for reporting request compliance statistics to the Office of the Scottish Information Commissioners (OSIC).

5.3 **The Head of Information Governance** (IG) is responsible for recommending information governance policies and conducting reviews of responses, making recommendations on the applicability of exemptions to the Global Director, GaLS and the Secretary of the University in cases where an applicant has requested a review of the University's response to a request or there is disagreement over whether an exemption to the public right of access is lawful or appropriate. Where the Head of Information Governance has managed a request under review, responsibility for the review will be assigned to another member of the Information Governance Division who was not involved in responding to the original request.

5.4 **The Global Director of Governance and Legal Services** (GaLS) has senior management responsibility for information governance.

5.5 **The Secretary of the University** has senior management accountability for information governance, reporting to the University Executive and the Audit and Risk Committee on relevant risks and issues. The Secretary of the University is

also responsible for decisions on reviews for requests for information and considering the recommendations of the Head of Information Governance or the member of the Information Governance Division conducting the review.

6. MONITORING AND EVALUATION

6.1 The **Head of Information Governance** monitors the implementation of this Policy and the underpinning Programme (see section 7 below), reports on progress to the **Global Director of Governance and Legal Services** and considers measures to enhance effective information management and responds to developments in the regulatory and risk environment.

6.2 The **Global Director of Governance and Legal Services** owns the strategic information governance risk. The **Head of Information Governance** liaises with the **Head of Assurance Services** to advise the Global Directors to ensure information governance risks are captured and adequately monitored at local and strategic levels.

6.3 The **Information Governance Officer (Information Rights)** provides University-wide advice, guidance and training and has overall day-to-day responsibility for developing the procedures to apply the Policy (see section 7 below) and supporting its implementation by working collaboratively in partnership with colleagues in Schools and Professional Service Directorates. The IGO (IR) maintains comprehensive records of information rights requests and compiles statistics on compliance to the Office of the Scottish Information Commissioner (OSIC) and for reporting to the Global Information Governance and Data Protection Committee and the Audit and Risk Committee.

6.4 The **Global Information Governance and Data Protection Committee** (GIGDPC) reviews and recommends information governance, data protection and security related policies and procedures, monitoring the effectiveness of controls and recommending measures to comply with legal obligations.

7. IMPLEMENTATION

7.1 The Information Governance Division will provide training and guidance for all staff, maintaining the IG Essentials mandatory e-learning course and guidance on the staff intranet.

7.2 The Division will provide advice and guidance to Information Asset Owners and Information Asset Managers on:

- Identifying information for proactive publication through the Publication Scheme
- Their responsibilities for:
  - Managing information
  - Facilitating the retrieval of information
  - Providing information in response to requests

Proactive publication

7.3   The Information Governance Division will maintain the Publication Schemes and Guides to Information for the University and its wholly owned subsidiary companies on the University website in accordance with the [principles set out by OSIC](#) and provide guidance promoting the right to access information and advice on how to make information requests. The Division will liaise with the digital communications specialists in Information Services and Marketing, Recruitment, Admissions and Communications to optimise the website search engine to facilitate searches to retrieve relevant information for different constituencies of users. For instance, a search should be able to distinguish Finance Committee from Finance programmes and HR policies from HR research papers

7.4   The Policy and Governance Division within GaLS will maintain the section of the University Publication Scheme relating to University governance and committees.

Individual requests for information

7.5   The Information Governance Division will maintain and apply consistent procedures for timely management of information rights requests and application of exemptions.

8.   RELATED POLICIES, PROCEDURES AND FURTHER REFERENCES

Policies

8.1   This Policy should be read in conjunction with all other University information governance policies, which are reviewed and updated as necessary to meet the University's business needs and legal obligations. Relevant policies are published on the University website at: https://www.hw.ac.uk/uk/about/policies.htm. These include:

- [Data Protection Policy](#)
- [Information Security Policy Framework](#), and its constituent policies and procedures
- [Information Governance and Records Management Policy](#)
- [Research Data Management Policy](#)
- [Research Publication Policy](#)
- [Postgraduate Research Degree Candidate Code of Practice](#)

Procedures

8.2   This Policy should be read in conjunction with University information governance procedures, which are reviewed and updated as necessary to meet the University's business needs and legal obligations. Relevant procedures are published on the University website at: https://www.hw.ac.uk/uk/about/policies.htm. These include:

- Data Protection: Procedures for responding to personal data requests
- Procedures for responding to FOI and Environmental Information Requests

Legal requirements

8.3   Freedom of information laws:

- [Freedom of Information (Scotland) Act 2002 (FOISA)](#)
- [Environmental Information (Scotland) Regulations 2004 (EISRs)](#)

8.4   Statutory codes of practice:

- [FOISA section 60 Code of Practice on Discharging the Functions of Public Authorities](#)
- [FOISA section 61 Code of Practice on Records Management](#)

8.5   The Office of the Scottish Information Commissioner (OSIC) provides:

- [Briefings and guidance](#) on all aspects of FOISA and the EISRs, including detailed guidance on the application of exemptions
- [Model Publication Scheme and publication scheme advice](#)
- A database of [decision notices](#), which includes the text of decisions the Commissioner has made in relation to cases they have investigated

8.6   [The Scottish Code of Good Higher Education Governance 2017](#)

9.   DEFINITIONS

Applicant	A person who makes a request for information
Contingent worker	A person who does work for the University and is not directly employed on the payroll (I.e. does not receive a University payslip). Examples include but are not confined to casual worker, consultant, someone employed via a temping agency, an Adjunct Professor, Professor Emeritus, Visiting Scholar, a student on a work experience placement or a volunteer.
Held by	Information created or received by a Scottish Public Authority or another organisation acting on its behalf. This does not include information that a Scottish Public Authority holds solely on behalf of another organisation or information held in confidence having been supplied by a Minister of the Crown or by a department of the Government of the United Kingdom
Information	Details (data, facts, opinions etc.) about something. Information is sometimes defined as data endowed with meaning and purpose. Information can be in any format, of any age. Information includes, but is not confined to, paper and electronic documents and records, email, voicemail, still and moving images and sound recordings, the spoken

word, data stored on computers or tapes, transmitted across networks, printed out or written on paper, carried on portable devices, sent by post, courier or fax, posted onto intranet or internet sites or communicated using social media.

| **Information Rights Requests** | A request for information held by a Scottish Public Authority under FOISA and the EISRs or:

a request by a living individual to any organisation for or relating to their own personal data under applicable data protection law. Note that requests by individuals for their own personal data fall under the remit of the University Data Protection Policy and its underpinning procedures. |
|---|---|
| **Scottish public authority** | An organisation that has legal responsibility for compliance with FOISA and the EISRs under Schedule I of FOISA and Chapter 2 Section 7 of the UK Data Protection Act 2018 |

10. FURTHER HELP AND ADVICE

10.1   For further information and advice about this Policy and any aspect of records management and information governance contact:

Head of Information Governance and Data Protection Officer

Information Governance Division
Governance and Legal Services
Telephone: +44 0131 451 3219/3274
Email: FOI@hw.ac.uk or InfoGov@hw.ac.uk

11. POLICY VERSION AND HISTORY

Version No	Date of Approval	Approving Authority	Brief Description of Amendment
V2	N/A	N/A	Minor amendments requested by the Global Information Governance and Data Protection Committee to highlight the global scope of the policy and its support for the University Values; clarify definition of contingent worker and need to optimise search engine to retrieve relevant publications.
V3	N/A	N/A	Minor amendments requested by the Joint HR-TU Policy Review Group to include reference to

Version No	Date of Approval	Approving Authority	Brief Description of Amendment
			relevant research policies and codes of practice.
V4	23/08/2022	University Executive	Dates of approval and "in effect from" added

POLICY

12. APPENDIX 1: LINES OF RESPONSIBILITY

All employees & contingent workers
- Maintaining accurate records
- Recognising information requests
- Responding promptly to requests for information from the FOISA team

Information Governance Officer (Info Rights)
- Advises on policy
- Co-ordinates publication scheme
- Manages responses within statutory deadlines
- Reports statistics to OSIC

Head of Information Governance
- Recommends on IG policies
- Conducts reviews of responses

Global Director of GaLS
- Senior management responsibility for IG

Secretary of the University
- Senior management accountability for IG
- Responsibility for decisions on reviews for requests