The James Hutton Institute

Freedom of Information Policy

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Approved By: SMG
Date: 26 June 2017

Summary of Changes Since Previous Version:

New Policy.

Contents

1.0   Overview

The James Hutton Institute ('Hutton') is committed to the principles which underpin the Freedom of Information (Scotland) Act 2002 ('FOISA') and the Environmental Information (Scotland) Regulations 2004 ('EISR'). The legislation provides a general right of access to much of the information held by the Hutton thus ensuring greater openness, transparency, and accountability.   The Hutton recognises the right to access information and will not restrict an applicant's access to information unless a statutory exemption (FOISA) or exception (EISR) applies. In order to comply with its statutory obligations under FOISA and EISR the Hutton will ensure that:

- Information routinely published by the Hutton will be made publicly available and freely accessible via its Publication Scheme.
- All requests for information will be administered in an efficient and timely manner in accordance with the Section 60 Code of Practice on the Discharge of Functions which accompanies FOISA and the Section 62 Code of Practice on the Discharge of Functions which accompanies EISR.
- In the cases where a statutory exemption or exception applies due consideration will be given to whether or not the information is disclosed, whilst also giving appropriate regard to the statutory public interest and harm tests where applicable.

2.0   Policy Statement

This policy has been developed to ensure that the Hutton complies with FOISA and EISR. It applies to all information held by the Hutton, including information held by all departments and staff irrespective of the format in which the information is stored e.g. electronic, paper, etc. This policy also covers information held by third parties on behalf of the Hutton.

3.0   Aims

The aim of this policy is to provide a framework to manage the Hutton's statutory obligations under FOISA and EISR. Specific aims include:

- To ensure the effective management of the Hutton's publication scheme and ensuring information is openly published in accordance with the requirements of FOISA.
- To ensure effective management of all requests under FOISA and EISR and effective compliance with the section 60 Code of Practice on the Discharge of Functions by Public Authorities under FOISA.

4.0 **Relationship to Other Policies**

This policy has been written with regard to the other relevant Hutton policies, namely:

• Data Protection Policy

• Complaints Policy

5.0 **Responsibilities**

5.1 The Hutton is considered a Scottish Public Authority for the purposes of FOISA and EISR and so is obliged to comply with and implement their provisions. The Hutton must therefore maintain a general right of access to the information it holds, proactively publish information regularly via its Publication Scheme, and maintain its records in accordance with the regulatory environment as defined in the FOISA section 61 Code of Practice: Records Management.

5.2 The Hutton's Information Governance Officer reports directly to the Head of Research Support and is responsible for;

- processing any and ALL requests for information made under FOISA and EISR and dealing with any routine freedom of information matters;
- processing and administering all FOISA and EISR requests for review received by the Hutton liaising with the Scottish Information Commissioner where required;
- developing FOISA and EISR guidance and training for all Hutton staff;
- maintaining and reviewing the Hutton's Publication Scheme;
- maintaining and reviewing the Hutton's FOISA and EISR policy and procedures and any relating documentation;
- recording the Hutton's FOISA and EISR statistics and compiling the quarterly statistical reports for submission to the Scottish Information Commissioner;
- liaising with the Scottish Information Commissioner on any FOISA and EISR related matters including investigations, appeals and the Hutton Publication Scheme.

5.3 ALL staff must be aware of the Hutton's obligations under FOISA and EISR. Where a member of Hutton staff is unsure as to whether or not they are in receipt of an information request within the scope of FOISA or EISR they should contact the Information Governance Officer without delay who will then take the appropriate action.

5.4 Staff may receive requests for personal information. If an applicant is requesting personal information about themselves or about another individual (and can prove that they are acting as that person's representative) then the request for information should not be administered under FOISA. Requests for personal information are Subject Access Requests (SAR) and must be dealt with under the Data Protection Act 1998. SARs must be made in writing and (if required) proof of identity requested from the applicant, prior to a response being provided within 40 calendar days. In most cases, third party personal information should not be disclosed unless consent has been sought and provided by the third party.

5.6   The Information Governance Officer records, processes and responds to all SARs and all requests of this nature if received by a member of staff should be forwarded without delay to the Information Governance Officer in order that the appropriate action can be taken.

6.0   **Identifying and Processing Requests**

6.1   The Information Governance Officer will co-ordinate and respond to all requests for information made under FOISA and EISR.

6.1   A valid FOISA application must include the following;

- be in a permanent format that can be referred back to e.g. letter, e-mail, voicemail (which can be saved), cassette or video recording;
- a real name (not a pseudonym), with an address (postal or e-mail) to which a reply can be sent;
- a description of the information requested which is clear and understandable.

        In the case of EISR applications, VERBAL requests for information can be made and these should be written down by the member of staff to whom the request has been made.

6.2   Applicants do NOT have to refer to the legislation (either FOISA or EISR) in their request and they are also NOT required to provide a reason as to why they want the information or what they intend to do with the information.

6.3   ALL staff have a statutory duty to provide advice and assistance to individuals who wish to make a request for information to the Hutton.   Accordingly, should a member of Hutton staff receive an enquiry from an individual relating to a request for information, if the enquiry is <u>NOT</u> a business as usual request, they should advise the applicant to direct their enquiry in writing to the Hutton's Information Governance Officer as follows;

        By Post: By E-mail:
        Information Governance Officer   foi@hutton.ac.uk
        The James Hutton Institute
        Invergowrie
        Dundee
        DD2 5DA

6.4   The statutory timescale to respond to a FOISA request is 20 working days and the period starts from the date the request is received by the Hutton. It is therefore vital that each application is dealt with immediately to avoid delay and also to avoid breaching the deadline for response. Accordingly, all staff should ensure that any FOISA request for information they receive is passed to the Information Governance Officer without delay.

6.5   The EISR permit an extension to the statutory response time from 20 to 40 working days, where the organisation believes that the complexity and volume of the request would make it impractical to comply or reach a decision about whether to refuse a request within 20 working days. However, it is still vital that each application is dealt with immediately to avoid delay and also to avoid breaching the deadline for response. Accordingly, all staff should ensure that any EISR request for information they receive is passed to the Information Governance Officer without delay.

7.0   **Exemptions and Refusals**

7.1   The Act includes a number of exemptions that can be applied that will lead to a partial or full refusal notice being served. The application of exemptions will be administered by the Information Governance Officer as part of the processing of information requests. If information is being withheld the refusal notice must include the following information:

- Confirmation that the Hutton holds the information being requested (if applicable)
- That the information requested is exempt
- The exemption(s) that apply
- Why the exemption(s) apply
- To explain why disclosure is not in the public interest if relevant

8.0   **Publication Scheme**

8.1   The Publication Scheme is recognised as a key instrument for the Hutton to communicate with its stakeholders and the public. As such it is vital that the information is kept up-to-date and that all information within the classes is published externally in the manner as prescribed within the publication scheme.

8.2   FOISA also requires Publication Schemes for any wholly-owned company, both active and dormant. If a wholly-owned company is created or there is a change in the status of the company e.g. an active company becomes dormant, the designated officer must inform the Information Governance Officer immediately in order that the correct measures are taken to either create, or amend an existing Publication Scheme.

8.3   The Hutton's Publication Scheme is available for viewing on the Hutton website. It can also be provided in alternative formats as required in relation to the Disability Discrimination Act, such as audio. Please note that there is no charge for providing this information in an alternative format.

9.0   **Complaints/Reviews**

9.1   If a complaint or request for review is received after a request for information, FOISA and EISR state that the requester is entitled to an internal review of the original decision by the Hutton.

9.2   The review of FOISA and EISR decisions will automatically be referred to the Director of Finance and Company Secretary. When a review of a decision is undertaken, as far as possible, the Information Governance Officer, involved in the original decision, will not form a part of the review process.

9.3   If after the review by the Hutton the applicant is still not satisfied they can then direct their complaint to the Office of the Scottish Information Commissioner.

10.0   **Monitoring**

10.1   In order to support compliance with FOISA and EISR and the Section 60 Code of Practice, the Hutton will seek to monitor the following (but not exclusively):

- Compliance in supplying information within statutory deadlines i.e. 20 days
- Number of reviews requested
- Review decisions made

11.0   **Training**

11.1   FOISA and EISR require that ALL staff must be made are of their obligations under the Act.

11.2   The Information Governance Officer will ensure that up to date information in relation to FOISA and EISR is available via the staff intranet, bringing any statutory changes to the attention of staff as soon as they occur.

11.3   The Information Governance Officer will also provide additional FOISA and EISR training and awareness-raising through regular attendance at Hutton management meetings and information sharing sessions as required.

Title	Freedom of Information Policy
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Owner	Information Governance Officer
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Audience	All
Related Documents	Data Protection Policy, Complaints Policy
Subject/Description	Following the Freedom of Information (Scotland) Act 2002 this policy outlines the obligations, rights and responsibilities of the Hutton and individuals as regards all requests for information received.
Group	Finance and Corporate Services
Department	Research Support