

Information on the Freedom of Information Act and the Data Protection Act

This data is not at all meant to be comprehensive, just some guidelines on what the acts in essence mean, and how they apply to you. For more information contact the CUSU Services Officer, at services@cusu.cam.ac.uk, or follow the online reference. Most of this information was taken from online sources.

1. Freedom of Information Act, 2000

- **About:** The Freedom of Information Act gives any person the legal right to ask for and be given any information which is held by a public authority, except for certain exemptions. It also requires public authorities to have publication schemes- a guide on the information they have which is publicly available.
- **Reference:** <http://www.dca.gov.uk/foi/index.htm>
- **How to make a request:** Any person can make a request under the Act - there are no restrictions on your age, nationality, or where you live. All you have to do is write to (or email) the public authority that you think holds the information you want. You should make sure that you include (1) your name (2) an address where you can be contacted (3) a description of the information that you want.
- You don't have to mention the Freedom of Information Act, but there is no reason not to if you want to. You should try to describe the information you want in as much detail as possible - for example "minutes of the meeting where the decision to do X was made", rather than "everything you have about X". This will help the public authority find the information you need.
- Public authorities must comply with your request promptly, and should provide the information to you within 20 working days (around a month). If they need more time, they must write to you and tell you when they will be able to answer your request, and why they need more time.
- **What you can ask for and who you can ask :** The Freedom of Information Act applies to all 'public authorities' - this includes (1) central and local government (2) the health service (3) schools, colleges (including Cambridge colleges¹) and universities (4) the police (5) lots of other non-departmental public bodies, committees and advisory bodies.
- **Exemptions:** You can ask for any information at all - but some information might be withheld to protect various interests which are allowed for by the Act. If this is case, the public authority must tell you that they have withheld information and why.

¹ Part 1 of Schedule 1 of the Act specifies those bodies which are public authorities for the purposes of the Act and the governing bodies of those FE and HE organisations which are covered are referred to at no. 53 <http://www.opsi.gov.uk/ACTS/acts2000/00036--s.htm> . Nearly all HE and FE institutions are covered by this- under 53 (1) (e) colleges of a university receiving funding from HEFCE are included.

- There are a number of exemptions to the Freedom of Information Act. See <http://www.opsi.gov.uk/ACTS/acts2000/20000036.htm>. They relate to (1) Information accessible to applicant by other means (2) Information intended for future publication (3) Information supplied by, or relating to, bodies dealing with security matters (4) National security (5) Certificates under ss. 23 and 24: supplementary provisions (6) Defence (7) International relations (8) Relations within the United Kingdom (9) The economy (10) Investigations and proceedings conducted by public authorities (11) Law enforcement (12) Court records, etc (13) Audit functions (14) Parliamentary privilege (15) Formulation of government policy, etc (16) Prejudice to effective conduct of public affairs (17) Communications with Her Majesty, etc. and honours (18) Health and safety (19) Environmental information (20) Personal information (21) Information provided in confidence (22) Legal professional privilege (23) Commercial interests (24) Prohibitions on disclosure.
- **What it costs:** Most requests are free. You might be asked to pay a small amount for making photocopies or postage. If the public authority thinks that it will cost them more than £450 (or £600 for a request to central government) to find the information and prepare it for release, then they can turn down your request. They might ask you to narrow down your request by being more specific in the information you're looking for.
- **If your request is refused:** If a public authority is withholding all or some of the information that you have asked for, they must tell you why - for example, to protect national security or someone's health and safety.
- **Your right of appeal:** If your request is refused, you should first ask the public authority for an internal review of their decision. Someone in the authority who was not connected with the initial decision should carry out this review. If you have already done this, or the public authority refuses to review their decision, you can appeal to the independent Information Commissioner. The Commissioner has the power to investigate the way the public authority handled your request and the answer they gave. If the Commissioner agrees that they have wrongly withheld information, the Commissioner can order them to disclose it to you.
- **The information you receive:** You may request that the information be given to you in a particular form. However, a public authority may take into account the cost of supplying the information in this form before complying with your request. In particular, you may ask for information in permanent form, in summary form, or for permission to inspect records containing the information.
- **Copyright:** The Freedom of Information Act does not place restrictions on how you may use the information you receive under it. However, the Act does not transfer copyright in any information supplied under it. If you plan to re-produce the information you receive, you should ensure that you will not be breaching anyone's copyright by doing so.
- **Delays in releasing information:** There may be cases where material cannot be released at once as it may need to be confirmed at a later date. For instance, a college may not release certain committee minutes until that committee has met again and agreed on the minutes.
- **Publication schemes:** all public authorities, and hence colleges, are obliged to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Commissioner.

Authorities must publish information in accordance with its publication scheme, and from time to time to review their publication schemes. A publication scheme must (1) specify classes of information which the public authority publishes or intends to publish (2) specify the manner in which information of each class is, or is intended to be, published, and (3) specify whether the material is, or is intended to be, available to the public free of charge or on payment. In adopting or reviewing a publication scheme, a public authority shall have regard to the public interest (1) in allowing public access to information held by the authority, and (2) in the publication of reasons for decisions made by the authority.

- **Freedom of Information and Cambridge University:** (from <http://www.admin.cam.ac.uk/univ/information/foi/>)
- **Reserved Business at colleges:** Reserved Business is not explicitly mentioned in the act, however the act does have a direct bearing on reserved business. Some colleges may ensure that Reserved Business only corresponds to what is exempt under the act, to ensure that it is clear that this information does not become public. This may include Commercial Interests, personal information or Information relating to Investigations or Proceedings conducted by public authorities. Others may have reserved business as partially what is exempt under the act plus a few additional items- the latter would be viewable, though, if a Freedom of Information request is made.

2. Data Protection Act- Making a Subject Access Request

- **About:** The Data Protection Act 1998 gives you the right to access information held about you by organisations. The act governs how organisations can use the personal information that they hold - including how they acquire, store, share or dispose of it.
- **Reference:** <http://www.dca.gov.uk/foi/datprot.htm>
- **What are my rights under data protection:** The Data Protection Act 1998 gives you the right to see the personal information held about you by businesses and organisations in the public and private sectors. This is known as the right of 'subject access'.
- You also have a right to have inaccurate data corrected, destroyed, blocked or erased, and to seek compensation for any damage or distress caused to you by such inaccuracy. Inaccurate data means information which is incorrect, or misleading about any matter of fact. You can apply to a court for an order to enforce this right.
- The Act also governs the way in which organisations may use the personal information you supply to them, and you have the right to require organisations to stop, or not to begin, using your personal information for direct marketing purposes.
- **Who can I ask for information:** Almost all organisations which hold or use your personal information are required to supply your information on request.
- **How do I make a request:** You should write to the 'Data Controller' at the organisation holding your data. Your letter should include your name and

contact details. The organisation may ask you for further information in order to confirm your identity, and to locate the information you require.

- **What does it cost to make a request:** Most organisations can charge you a fee of up to £10 (including VAT). Credit Reference Agencies may only charge you up to £2 (including VAT) for providing your information. You may be charged up to £50 for health records which are not held in electronic form.
- **How long does it take:** Organisations have 40 calendar days to answer your request, counting from the date they receive the request.
- **What if my request is refused:** Organisations are allowed to refuse your request if (1) disclosing the information would also mean giving out information about someone else, or identifying them as the source of confidential information. (In this situation, the organisation is not obliged to grant your request unless the other person has consented to their information being disclosed, or it is reasonable in the circumstance to answer the request without their consent (2) disclosing the information would be likely to prejudice the prevention or detection of crime, or the apprehension or prosecution of offenders (3) Certain health, education or social work records are also exempt, as well as confidential references supplied by the organisation.
- If you believe your request has been refused wrongly, you should contact the Information Commissioner's Office for further advice.
- **What if the information I am given is wrong:** If an organisation is holding incorrect information about you, you have a right to have that information corrected, erased, destroyed or blocked from further disclosure. If the inaccuracy of the data has caused you damage or distress, you have a right to seek compensation from the organisation. If the organisation refuses to correct or destroy the information, you can apply to a court for an order requiring them to do so. The court will only grant an order if the information is incorrect or misleading about any fact (not opinions).