

POLICY

THE BRITISH LIBRARY FREEDOM OF INFORMATION POLICY

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Document Control Summary

Rationale

To provide a clear policy for the management of requests made under the Freedom of Information Act 2000

Policy to be read in conjunction with this policy

Records Management Policy 2004

Authorship

This Policy document was developed by The British Library's Records Manager

Consultation Process

This Policy was circulated for comment and amendment to The British Library's Executive Team

Ratification History

Approved by the Executive Team on 14 July 2008

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1 Introduction

The Freedom of Information Act 2000 (the Act) came into force for all public bodies on 1 January 2005. It ushers in a new disclosure regime for accountability and transparency in decision-making. The Act imposes a duty:

1. To confirm or deny that the information requested is held.
2. If the information is held, to communicate it to the applicant.

The Information Commissioner's Office (ICO) is the independent regulatory authority for the Act, and the avenue of appeal for requests that have not been resolved to the applicant's satisfaction.

Anyone may make a request in writing for recorded information held by or on behalf of The British Library, and the Library must comply promptly, and in any case within 20 working days. Unless subject to one of 23 exemptions described by the Act, the information must be supplied.

2 Scope

The purpose of this document is to define The British Library's Freedom of Information Policy:

- The duties imposed by the Act and how the Library intends to discharge those duties
- Responsibility for ensuring compliance
- Complaints and appeals
- The role of the Information Commissioner.

The procedure for responding to requests is outlined in the *Procedure for Handling Requests under the Freedom of Information Act 2000*.

3 Roles and responsibilities

The Executive Team has overall responsibility for Freedom of Information in The British Library. Operational responsibility is delegated to the Strategic Planning Manager & Head of Corporate Information Management.

The Qualified Person for determining whether disclosure would be likely to prejudice the effective conduct of public affairs (Section 36) is the Chairman of The British Library Board, who has the final say on disclosure.

4 Publication Scheme

The Library maintains a Publication Scheme, listing the classes of information and the documents that it routinely publishes or intends to publish. The Publication Scheme is on The British Library website and hard copies of documents can be obtained from the Corporate Information Management Unit. The Scheme will be reviewed annually, following the latest advice from the Information Commissioner's Office.

A disclosure log will also be maintained on the website where documents provided in response to requests will be published for viewing or downloading.

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5 Codes of Practice

The Library will comply with the Act, and act in accordance with the Codes of Practice issued by the Secretary of State for Constitutional Affairs under Sections 45 and 46 of the Act.

The purpose of the Section 45 Code is to facilitate disclosure by setting out good administrative practice, and standards for the provision of advice to applicants. It also covers consultation with third parties to whom the information relates or those likely to be affected by a disclosure of information (Section 9), the implications of confidentiality provisions in contracts, and the provision of a complaints procedure.

The Section 46 Code promotes good records management, based on the premise that 'any freedom of information legislation is only as good as the quality of the records to which it provides access' (Foreword). In accordance with the Records Management Policy 2004 the Corporate Information Management Unit is responsible for implementing the British Library's approach to records management.

6 Handling and tracking of requests

Information Champions are responsible for the processing and monitoring of Freedom of Information requests.

The dedicated routes for valid information requests are:

- The email address foi-enquiries@bl.uk
- By post to:
Corporate Information Management Unit
The British Library
Floor 4, Zone 9
96 Euston Road
London
NW1 2DB
- By fax to 020 7412 7093.

All Freedom of Information requests will be logged by Information Champions and tracked by the Corporate Information Management Unit. This will aid identification of repeat, similar or vexatious requests. Multiple requests for information on a particular subject will lead to consideration for its addition to the Publication Scheme during the annual review.

Where there is reason to believe that some or all of the information requested is held by another public body, the Library will contact the applicant and provide information about where to re-direct the request. In some cases the request may be transferred directly to the other authority.

Requests from representatives of the media will be discussed with the Press Office before a response is provided.

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7 Exemptions and the Public Interest Test

There are 23 exemptions from the right of access. Eight are designated 'absolute', meaning that if an absolute exemption applies, there is no further need to consider the request. The others are known as 'qualified' exemptions and require a public interest test to be applied, to consider whether the public interest in withholding the information outweighs the public interest in disclosing it.

Where an exemption is deemed to apply to some or all of the information requested, the applicant will be notified in writing. The relevant exemption will be cited and any information that is not exempt will be provided.

Where a qualified exemption is being considered, the Library must conduct a public interest test to determine whether it is in the public interest to release the information. A Review Panel will be convened to conduct the test. Since the Act contains a presumption in favour of disclosure, in cases where there is equal weight between withholding information and disclosing it, the information will be disclosed.

In determining whether disclosure would be likely to prejudice the effective conduct of public affairs (Section 36 of the Act), the designated Qualified Person will decide on disclosure. In The British Library this is the Chairman of The British Library Board. If legal opinion is thought to be necessary, it will be sought by the Corporate Information Management Unit.

8 Personal Information

Where an applicant makes a request for his or her own personal data, the request will be treated as a subject access request under the Data Protection Act 1998.

If the request includes personal information about a third party, the information will be provided, unless disclosure would breach any of the data protection principles. The key issues in this regard are fairness and lawfulness, and these will be considered fully before disclosure is made.

9 Third party information

In accordance with the Act, where a request is made for information about a person other than the applicant or The British Library (a third party), or disclosure may affect the interests of that third party, The British Library will consult the third party promptly in order to determine whether an exemption applies, and to aid the decision on disclosure. However, the decision will be made by the Library.

10 Fees

The British Library will follow the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Accordingly, all requests that cost less than £450 to process (the 'appropriate limit') will be complied with free of charge.

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If the estimated cost of compliance exceeds £450, the duty to comply with a request does not arise. Such requests will not be processed, and the applicant will be provided with a refusal notice. This is based on the principle that charging creates a two-tier system of access to information based on the ability to pay. However, mindful of the duty to provide advice and assistance, where the cost of complying with a request would exceed the appropriate limit, the applicant will be helped in modifying the request in order to bring the cost below the limit.

In calculating the cost of a request, the Library may only take into account the time taken to determine whether it holds the information, and to locate and retrieve it. It may not take into account the time taken to consider exemptions and to seek and obtain legal advice, to consider whether a request is vexatious, to obtain authorisation to provide the information or to calculate fees. Costs are calculated at an hourly rate of £25, the equivalent of two and a half working days.

Disbursements (postage, photocopying, printing, CDs etc.) costing less than £35 will not be charged to the applicant, but will be charged in full at or above that level. Applicants will be informed about such charges in a fees notice.

The Library will not charge for information listed on its Publication Scheme except where specifically indicated on the Scheme.

11 Complaints

Any written reply from the applicant expressing dissatisfaction with the Library's response to a request will be treated as a complaint, whether or not the applicant has expressly stated a wish to have the decision reviewed. This includes appeals against decisions against disclosure. The Chief Executive is responsible for handling complaints and appeals and will be supported by a Review Panel, chaired by a Director.

Complaints received more than two months after the initial decision will not be considered.

If dissatisfied with the outcome of the review, the applicant may seek a review by the Information Commissioner, who has powers to uphold or overturn the decision. The Commissioner has the power to enter premises and inspect all documentation relating to the initial request, and to take an independent decision on disclosure. A decision notice or enforcement notice is then issued which, if ignored, may lead to a fine or imprisonment for contempt of court.

The British Library will abide by the decisions of the Information Commissioner's Office, unless it considers itself to have grounds for an appeal to the Information Tribunal.

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