



# **FREEDOM OF INFORMATION ACT POLICY**

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## EXECUTIVE SUMMARY

This Policy, based on similar work undertaken by Imperial College, and guided significantly by the provisions of the Secretary of State Code of Practice<sup>1</sup> provides guidance on the handling of requests for information under the Freedom of Information Act 2000 (FOIA).

UEA commits to complying with the Act and all associated Codes of Practice issued pursuant to the Act. This includes a commitment to proper records management processes and procedures.

Not all valid requests for information that fall within FOIA will be treated within the FOIA request handling process. For example, those received as normal course of business will continue to be treated in that manner.

Responsibility for the process of dealing with requests for information made under FOIA rests with the Registrar & Secretary. The Director of Information Services has delegated authority to act on behalf of the Registrar in all aspects of the management and implementation of those processes unless the Registrar determines otherwise. Primary operational responsibility for the administration of FOIA will rest with the Information Policy and Compliance Managers (IPCMs). The Managers will be assisted by other members of the ISD Strategy, Policy and Compliance team, and Faculty/Unit Contacts will be consulted on the location of information and applicability of exemptions. Deans of Faculty and the Registrar will be responsible for compliance with FOIA in their Faculties/Divisions.

UEA will encourage receipt of requests via a webpage specifically designed for that purpose. However, UEA will accept all written requests and commits to complying with the requirement to assist requesters. UEA will acknowledge receipt of all requests with the IPCMs cooperating with Faculty/Unit Contacts to locate documents, estimate time of recovery and establish the need to assess fees. A tracking system records all requests, inclusive of time to respond and outcome.

UEA has twenty (20) working days to respond to any request under the FOIA. The IPCMs will inspect all information and make a determination in relation to possible exemptions from disclosure. The IPCMs will take into account the need to consult 3<sup>rd</sup> parties where necessary, consult with the Press Office as appropriate, and will sign off on release of information. Where appropriate, authority for release will be exercised on behalf of the University by the Registrar & Secretary or the Director of Information Services acting on his or her behalf.

Where any information is not disclosed, UEA will inform the applicant of his/her right of complaint under the UEA complaints procedures, and will also inform the applicant of the reason for non-disclosure.

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<sup>1</sup> Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part I of the Freedom of Information Act 2000 Issued under section 45 of the Act. London: HMSO, 2004.

## ACKNOWLEDGEMENTS

This Policy is substantially based on work undertaken and published by Imperial College, London and UEA wishes to thank Imperial College for permission to liberally use the structure and wording of their Policy as the model for the UEA Policy.

## DEFINITIONS

**1. Terms.** Throughout this document the following terms are used:

- a. "The Act" means the Freedom of Information Act 2000.
- b. "Information Commissioner's Office (ICO)" refers to the regulatory body for the Act.
- c. "DPA" means the Data Protection Act 1998, relating to the processing of personal data, and applying in the UK up to 25 May 2018.
- d. "GDPR" means the General Data Protection Regulation, regulation 2016/679 of the European Parliament, relating to the processing of personal data, and applying in the UK from 25 May 2018.
- e. "The EIR" means the Environmental Information Regulations 2004.
- f. "Formal Request" means a written request for information under the provisions of the Act.
- g. "UEA" means the University of East Anglia.

## INTRODUCTION

**2. Purpose of Policy.** This Policy provides guidance on the handling of requests for information submitted under the Freedom of Information Act 2000 ('the Act').

**3. FOIA Obligations on Institutions.** The Act requires that institutions implement and maintain an effective system for responding to requests for information. UEA will comply fully with the Act and it will place in the public domain as much information about its activities as is practicable, and, subject to the exemptions permitted under the Act, will make all other information available on request. In particular, it will conform to the Secretary of State's Code of Practice on the Discharge of Public Authorities' Functions<sup>2</sup>.

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<sup>2</sup> <https://www.gov.uk/government/publications/code-of-practice-on-the-discharge-of-public-authorities-functions-under-part-1-of-the-freedom-of-information-act-2000>

**4. UEA Publication Scheme.** UEA has a publication scheme<sup>3</sup> which details the classes of information that it is required to make publicly available, together with details of how the information can be obtained and any associated cost.

## **5. Application of Policy**

a. UEA regularly receives requests for information as part of the normal course of business. Members of staff will be expected to continue dealing with these requests as normal. Standard business requests for confidential information or personal data should be considered in consultation with the heads or managers of relevant departments.

b. This Policy relates to requests for information where a member of UEA is unable to respond to the request, the request is exceptional or the information requested is not covered in the UEA's Publication Scheme, or not subject to release as business as usual. All requests of this nature must be passed to the appropriate FOIA Contact<sup>4</sup> as a matter of urgency. The appropriate FOIA Contact will then contact the IPCMs who will consider the request and work with the appropriate faculties or divisions to locate the information. The IPCMs will also consider any exemptions that might apply to releasing the information and determine any associated fees.

**6. Summary of information.** The Act mandates public authorities to provide the information requested, but does not specify the content or form of the information to be provided. Therefore, it is permissible to prepare and provide a summary that contains the requested information if the requester agrees to accept a summary.

**7. Documents.** Requests for documents will be handled in accordance with ICO guidance.

## **DATA PROTECTION**

**8. Interaction with DPA.** Personal information must always be obtained, processed, stored and disclosed in accordance with the Data Protection Act<sup>5</sup>-and successor legislation - the GDPR<sup>6</sup>. The University offers guidance on our obligations under privacy legislation<sup>7</sup>.

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<sup>3</sup> <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/freedom-of-information/publication-scheme>

<sup>4</sup> <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/freedom-of-information/foi-eir-contacts>

<sup>5</sup> <http://www.legislation.gov.uk/ukpga/1998/29/contents>

<sup>6</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

<sup>7</sup> <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/data-protection>

## RECORDS MANAGEMENT

**9. Requirement for Records Management.** FOIA provides the public with wide rights of access to UEA's records and therefore requires UEA to implement and maintain a comprehensive records management system. There is a duty under the Secretary of State Code of Practice<sup>8</sup>, issued pursuant to s.46 of the FOIA, to have certain records management policies and practices in place. While it is essential that UEA complies with the Act in implementing a Records Management system, good record keeping practice is important in its own right.<sup>9</sup>

**10. UEA Records Management Commitment.** UEA commits to the creation and maintenance of a systematic and planned approach to the management of all records within the organisation that ensures, from the moment a record is created until its ultimate disposal, that the organisation can control both the quality and quantity of information it generates; can maintain that information in a manner that effectively services its needs and those of its stakeholders; and it can dispose of the information appropriately when it is no longer required. This commitment extends to both paper-based and electronic records.

## RESPONSIBILITIES

**11. The Registrar and Secretary.** The Registrar or his delegate will review complaints where the Director of Information Services has been materially involved in any decision which is the subject of a complaint. The Registrar retains final responsibility in determining whether or not information is released or is subject to exemptions.

**12. Director of Information Services.** The Director of Information Services, acting on behalf of the Registrar of UEA, has delegated authority for the overall management of FOIA administration and procedures, and their implementation, unless determined otherwise. In circumstances where there are issues surrounding the release of information which cannot be resolved by the IPCMs, particularly where the application of exemptions is contentious with those holding the information, the Director will become involved. In exceptional circumstances matters may be referred to the Registrar for resolution, either at the request of the Director or the Registrar.

Management of the administration of requests may be delegated to the Assistant Director Strategy, Policy and Compliance.

The Director is also responsible for reporting FOIA activities to the University by way of submission of an Annual Report via the formal UEA Committee structure. The Director has the responsibility for conducting formal internal reviews of

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<sup>8</sup> <https://ico.org.uk/media/for-organisations/research-and-reports/1432475/foi-section-46-code-of-practice-1.pdf>

<sup>9</sup> Further information on records management is available from <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/records-management>

release decisions that are appealed (see Annex E), unless the Director has been materially involved in the decision being reviewed.

**13. Information Policy and Compliance Manager.** The IPCMs are responsible for:

- a. Working with Faculties and Units to ensure they are aware of their responsibilities under the Act by way of training, promotion and awareness activities and materials.
- b. Ensuring all requests under the Act are handled in accordance with the all statutory obligations under the Act, the Secretary of State Code of Practice, associated regulations, ICO guidelines, and UEA policies.
- c. Determining at first instance whether the Act is the appropriate legislative regime or mechanism under which to consider any request for information.
- d. Assisting and advising individuals and organisations making requests under the Act.
- e. Ensuring that, in considering requests for information and accepting or refusing them, the public interest is properly assessed and exemptions are properly applied.
- f. Ensuring information is released within the timescales specified within this Policy (see Para. 20).
- g. Maintaining the Publication Scheme.
- h. Keeping the UEA's Freedom of Information Policy under review.
- i. Maintaining the Freedom of Information request management database.
- j. Maintain the UEA Freedom of Information web pages.
- k. Alerting the Registrar or Press Office of cases where required.

**14. UEA Faculties/Units.** Faculties/Units are responsible for:

- a. Ensuring that they comply with these procedures and that local arrangements are in place to this end.
- b. Retrieval of information in any form of storage upon request from the IPCMs.
- c. Liaising with their own and other Faculties & Units to retrieve information.
- d. Ensuring that adequately trained ~~and aware~~ staff are available to act as FOIA Contacts.

**15. Faculty/Unit FOIA Contacts.** Faculty/Unit Contacts are responsible for:

- a. Ensuring that all requests for information are passed on promptly to the IPCMs and systems are in place for checking and, if necessary, redirecting the post and electronic mail of staff absent from UEA.
- b. Assisting the IPCMs in locating and retrieving information.
- c. Assisting the IPCMs in drafting the UEA's response to a request, inclusive of advising on potential exemptions, and preparing the information in a suitable form, electronic or physical, for disclosure to the applicant.
- d. Informing the IPCMs of changes to any information covered by the Publication Scheme, including changes to URL addresses.

**16. Members of UEA.** Individual Members of UEA are responsible for:

- a. Knowing their responsibilities under the Act.
- b. Ensuring that, when they are absent from UEA for any reason, arrangements are in place for their post and electronic mail to be checked or redirected (for example by means of an out of office message) to someone who can deal with it promptly.
- c. Responding to requests for information within the normal course and scope of their duties, and, where a request is outside this scope, or they are unable to do so, referring the request to the Faculty/Unit FOIA Contact.
- d. Seeking advice when they are uncertain on how to respond to a request.

**17. The Vice-Chancellor.** The Vice-Chancellor is the qualified person under Section 36 of the FOIA who may certify that information is exempt from disclosure as disclosure would prejudice the free and frank exchange of views, provision of advice, or the conduct of public affairs.

## **RESPONDING TO REQUESTS FOR INFORMATION UNDER THE ACT**

### **18. General**

- a. UEA will offer a web interface as the means by which requests are submitted to UEA but acknowledges that any written communication received at any level of the institution is potentially an FOIA request.
- b. Where requests are not sent via the web interface, the IPCMs and relevant FOIA Contact will determine how each request is to be handled.

## **19. Initial Request - Assisting the Applicant**

- a. There is an obligation on UEA to provide advice and assistance to those making requests under the Act. The duty on UEA is to provide advice and assistance "so far as it would be reasonable to expect [it] to do so"<sup>10</sup>.
- b. Not all potential applicants will be aware of the Act, or Regulations made under it. Members of UEA receiving requests must draw these to the attention of potential applicants who appear to be unaware of them.
- c. A request for information under the Act must be made in writing (which can include e-mail). Where a person is unable to submit a written request, the member of staff must assist the applicant and should refer them to the appropriate FOIA Contact or to the IPCMs.
- d. Further details on assisting applicants and dealing with requests can be found in Annex A.

## **20. Initial Request – Initial Actions**

a. Determination of request status - UEA regularly receives requests for information as part of the normal course of business. Members of staff will be expected to continue dealing with these requests as normal. Requests for information where:

- (1) a member of UEA is unable or unsure if it is appropriate to respond to the request, or
- (2) the request is explicitly made under the Act,
- (3) the request is out of the normal course of business AND
- (4) the information requested is not covered in the UEA's Publication Scheme, should be considered and treated as formal FOIA requests.

The IPCMs will also determine whether the request is valid based on the requirements of the Act<sup>11</sup>, and will determine the appropriate legislative regime under which to consider the request (FOIA or EIR).

b. Initial Handling of Request – A valid request will be logged within the request tracking system and a pro forma acknowledgement of the request will be sent to the contact details provided by the requester. The request documentation will be filed and the request administration assigned to a member of the ISD Strategy, Policy and Compliance team.

c. Identifying If and Where Information is Held

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<sup>10</sup> <http://www.legislation.gov.uk/ukpga/2000/36/section/16>

<sup>11</sup> <http://www.legislation.gov.uk/ukpga/2000/36/section/8>

(1) Documents and information stored electronically will be accessed and obtained from centralised and distributed sources: document archives, email mailboxes, filestore, networked and individual PCs and so on, and work will be done in cooperation with the individuals, Faculties and/or Units concerned. This work will be coordinated by the Faculty/Unit FOI Contact.

(2) Paper documents will be identified and recovered by staff within the relevant Faculty or Unit.

d. When UEA does not hold the Information - In addition to providing the information which UEA does hold as part of the request where it believes another public authority holds some or all of the information it must redirect the applicant to enable him or her to pursue his or her request.

## **21. Timescale for Responding to Requests**

a. The Act requires that replies to requests for information be made within 20 working days.

b. The 20 day period starts the day after a request is received by an institution, regardless of whether the institution recognises that it is, in fact, a request.

c. The IPCMs aim to make all decisions within 20 working days, including those where it needs to consider where the public interest lies in respect of an application for exempt information.

d. The Act allows for extra time to be taken in responding to a request when applying the Public Interest Test. If the information being sought has to be considered under an exemption to which the public interest test applies, then the timescale can be extended by a 'reasonable period'. Although there is no statutory time limit on how long the 'reasonable period' may be, UEA will, under section 17(2), give an estimate of the date by which we expect to reach such a decision.

e. Where clarification is required from a requester in order to allow the University to identify the information requested, the time for response will not start until such clarification is received. However, the total amount of time to respond remains at 20 working days. Where such clarification applies only to a portion of the request, the remainder of the request will be processed as per usual practice.

f. In those instances when it is not possible for UEA to deal with an application within 20 working days, we will:

(1) Give an estimate of the date by which we expect to reach such a decision.

(2) Ensure that our estimates are realistic and reasonable in the circumstances of the particular case, taking account, for example, of the need to consult third parties where this is necessary. A record should be maintained detailing how any such estimates were arrived at.

(3) Comply with our estimates unless there are good reasons not to do so. If we exceed our estimate, we will apologise to the applicant and explain the reason(s) for the delay. If the IPCMs find, while considering the public interest, that the estimate given is proving unrealistic, he/she must keep the applicant informed. A record of instances where estimates are exceeded will be kept, and where this happens more than occasionally, the IPCMs will take steps to identify the problem and rectify it wherever possible.

**22. Retrieval of Requested Information.** The Faculty / Unit contact will:

- a. Assist the IPCMs to locate and retrieve the information requested.
- b. Advise the IPCMs if they believe there are any reasons under the Act why the information should be withheld pursuant to an applicable exemption.
- c. Advise the IPCMs if they believe there are any reasons why third parties may need to be consulted.
- d. Advise the IPCMs if locating, retrieving and extracting the requested information will exceed 18 hours (the appropriate limit) and provide details on the time calculation.
- e. IPCMs may if necessary and with departmental agreement conduct central searches for information following an agreed protocol.

**23. Release of requested information.** Unless directed otherwise by the Registrar or the Director of Information Services, the IPCMs will respond to all requests. Subject to such approvals as may be required by this Policy, the information will be released where the IPCMs are first satisfied that:

- a. The release of any information complies with the privacy legislation.
- b. The information requested or any part thereof is not subject to an exemption under the Act.
- c. Where appropriate, the public interest is better served by disclosure than non-disclosure.
- d. Where appropriate, consultation has taken place with third parties. Further details can be found in Annex B.
- e. Where appropriate, the Press Office, Director of Information Services or Registrar has been informed of any information that is being released.
- f. Any release of datasets will conform to the provisions of the Protection of Freedoms Act (2012).<sup>12</sup>

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<sup>12</sup> <http://www.legislation.gov.uk/ukpga/2012/9/section/102>

**24. Fee Charging.** UEA has discretion to charge applicants a fee in accordance with the Fees Regulations in respect of requests made under the general right of access.

**25. Refusal of Request.** UEA will exercise, as appropriate, its statutory right to refuse the release of information under the Act where an exemption applies or where the request would take too long to complete, or where it is vexatious/repeated.

a. Where UEA relies on an exemption to refuse a request for information, the IPCMs must inform the applicant which exemption has been claimed, and why that exemption applies.

b. The Act also requires UEA, when withholding information (other than under an "absolute" exemption), to state the reasons for claiming that the public interest in maintaining the exemption outweighs the public interest in disclosure. The IPCMs must consider and specify the public interest factors (for and against disclosure) taken into account before reaching the decision. Further details on the exemptions that may be claimed under the Act are available in Annex C.

c. The IPCMs must provide details of the complaints procedure, including how to make a complaint, and must inform the applicant of his or her right to complain to the Information Commissioner if he or she is still dissatisfied following the UEA's review.

**26. Transfer of Requests under FOIA.** There are limited situations in which it is appropriate for the UEA to transfer a request to another institution. Where UEA

- does not hold the requested information
- is aware another institution holds the information
- has secured consent of the requester of the transfer, and
- has informed the holding authority of the transfer

UEA may transfer the request to other authority. The IPCMs will determine whether a formal transfer, or simply providing the requester with details of the holding authority and letting them contact the holding authority themselves is the best course of action.

**27. Contracts and 3rd Party Confidence.** UEA will make clear in all our dealings with third parties of our obligations under the Freedom of Information Act. Further details are given in Annex B and in Annex D.

## COMPLAINTS PROCEDURE

**28. Applicability.** The complaints procedure may be used by any person who considers that UEA is not complying with its Publication Scheme, or who wishes to complain about the handling or outcome of their request. Further details are in Annex E.

## TRACKING AND REVIEW OF FOIA ADMINISTRATION

### 29. Tracking Requests.

For monitoring purposes the IPCMs will keep a record of all requests. This will include requests where all or part of the requested information is withheld. Information to be gathered includes identity and category of requester, categorisation of request itself, exemptions claimed, and any other metadata that is relevant and required for the analysis and administration of the Act.

The IPCMs will also keep a record of all complaints and of their outcome.

**30. Disclosure Log.** The IPCMs will ensure that a disclosure log<sup>13</sup> of the last five years of completed requests is maintained and available for public view on the UEA website. The IPCMs will also ensure that any information available in the disclosure log meets the requirements of the Data Protection Act 1998.

**31. Publication Scheme Updating.** Where information is released, it is good practice to add the released information to the institutional Publication Scheme. The IPCMs will encourage Faculties/Units to update the Publication Scheme to include any material that is the subject of repeated requests.

**32. Policy Review Process.** The Policy will be reviewed every two years by the Information Strategy and Services Committee.

## CONTACTS

**33. Enquiries and complaints.** Any enquiries or complaints about this Policy, the Publication Scheme, or a request for information should be directed to:

Information Policy and Compliance Manager  
University of East Anglia  
Norwich Research Park  
Norwich  
NR4 7TJ

Tel: 01603 59 3523/2431

Fax: 01603 591010

E-mail: [foi@uea.ac.uk](mailto:foi@uea.ac.uk)

**34. Information Commissioner's Office<sup>14</sup>.** The official regulator for the Freedom of Information Act is:

Information Commissioner's Office  
Wycliffe House  
Water Lane

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<sup>13</sup> <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/freedom-of-information/disclosure-log>

<sup>14</sup> <https://ico.org.uk/global/contact-us/postal-addresses/>

Wilmslow  
Cheshire  
SK9 5AF

Telephone: 0303 123 1113

<http://www.ico.org.uk/>

# ANNEXES

## **ANNEX A – ASSISTING APPLICANTS & DEALING WITH REQUESTS**

1. When a person is unable to submit a written request, the IPCMs and/or Faculty / Unit Contact will provide further assistance as appropriate.
2. Where the request is vague or ambiguous UEA is obliged, as far as practicable, to assist the applicant in clarifying the request. The purpose of this is to clarify the nature of the information sought, not to determine the aims or motivation of the applicant.
3. If, following the provision of such assistance, the applicant is still unable to describe the information requested in a way that would enable UEA to identify and locate it, UEA is not expected to seek further clarification. It is, however, required to disclose any information that has been successfully identified and explain to the applicant why it cannot take the request any further. It must also provide the applicant with details of the UEA's Complaints Procedure.
4. The University, in line with ICO guidance, will place a time limit on the ability of requesters to respond to a request for clarification; specifically 60 calendar days from the date that the clarification request is sent to a requester. If a response is not received by the deadline, the request will be closed. Any response to a request for clarification received after the expiry of the deadline will be handled as a new request.
5. It is UEA policy not to charge fees where the cost of complying with a request would exceed the 'appropriate limit' as defined by section 12 of the Act and the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004/3244. Where UEA is not obliged to supply the information requested because the cost of doing so would exceed the "appropriate limit" (i.e. cost threshold), and where UEA is not prepared to meet the additional costs itself, it should nevertheless provide an indication of what information could be provided within the cost ceiling.
6. UEA is not expected to nor will provide assistance to applicants whose requests are deemed vexatious within the meaning of the Act.

## **ANNEX B – CONSULTATION WITH THIRD PARTIES**

1. In some cases the disclosure of information pursuant to a request may make mention, or affect the legal rights of, a third party. Members of staff must always remember that, unless an exemption provided for in the Act applies in relation to any particular information, the University will be obliged to disclose that information in response to a request. Members of staff will inform third parties of our obligations under the Act where appropriate in the course of their work (see Annex D).
2. In some cases, a disclosure of information cannot be made without the input of a third party. In such instances, the IPCM must consult that third party with a view to seeking their opinion on the disclosure where practicable.

3. Consultation should take place where:
  - a. The views of the third party may assist UEA to determine whether an exemption under the Act applies to the information requested.
  - b. The views of the third party may assist UEA to determine where the public interest lies under Section 2 of the Act.
  - c. The legal rights of the third party would be affected by the disclosure of requested information.
4. Consultation will not be undertaken where:
  - a. UEA does not intend to disclose the information relying on some other legitimate ground under the terms of the Act.
  - b. The views of the third party can have no effect on the decision regarding release.
  - c. No exemption applies and so, under the Act's provisions, the information must be provided.
5. Where the interests of a number of third parties may be affected by a disclosure and those parties have a representative organisation which can express views on behalf of those parties, UEA may, if it considers consultation appropriate, consider that it would be sufficient to consult that representative organisation. If there is no representative organisation, UEA may consider that it would be sufficient to consult a representative sample of the third parties in question.
6. The fact that the third party has not responded to consultation does not relieve UEA of its duty to disclose information under the Act, or its duty to reply within the time specified in the Act.
7. In all cases, it is the responsibility of UEA, not the third party (or representative of the third party) to determine whether or not information should be disclosed under the Act. A refusal to consent to disclosure by a third party does not, in itself, mean information should be withheld.

## **ANNEX C – REFUSAL OF REQUEST**

1. Some of the information held by UEA may be regarded as exempt information and will not be provided in response to a request. UEA will not refuse any request for information, or element thereof, unless it believes a valid exemption applies to that information. It is the responsibility of the IPCMs in consultation with the departmental FOIA contact to determine which exemptions apply to the requested information.
2. However, the exemption in Section 36 applies where, in the reasonable opinion of a qualified person, disclosure would be likely to inhibit the free and frank

provision of advice or exchange of views or otherwise prejudice the effective conduct of public affairs. The Vice-Chancellor is the qualified person in the case of UEA. In considering an exemption under the terms of Section 36, the Vice-Chancellor may have regard to the views and analysis of those who provided the information in question, of senior colleagues and advisers, and of the Information Policy and Compliance Manager. As only the Vice-Chancellor is qualified to take a decision under Section 36, it follows that such a decision is not open to review by a more senior colleague in the event of a complaint.

3. Before relying on an exemption, the IPCMs may be obliged to consider whether the release of the information would, or would be likely to, cause prejudice to the interests which the exemption protects, and/ or whether the public interest in withholding the exempt information outweighs the public interest in releasing it.

4. Only the information to which an exemption applies will be withheld. Thus, if a particular document had been requested which contained some exempt information, only those specific items of exempt information could be withheld. The rest of the document would still have to be released.

5. Where a refusal notice is warranted, the IPCMs will specify each and every exemption that has been claimed and will give a full explanation of what information is subject to the exemption and why the exemptions applies to the noted information. If an exemption is based upon prejudice to the interests of any party, the University will define the nature and extent of the prejudice resulting from the release of the information. Where the public interest test is required, the IPCMs will state the reasons why the public interest in non-disclosure outweighs that in favour of disclosure.

6. A record will be kept of all requests where information is withheld and of the reasons for the refusal in each and every case.

7. Any refusal notice will include details of the complaints procedures of the University in relation to requests under the Act, and will advise the requester of their right of subsequent appeal to the Information Commissioner's Office.

8. If information is not held by the University, a refusal notice is not required, but the University will inform the requester that it does not hold the requested information.

## **ANNEX D – CONTRACTING PRACTICE**

1. When entering into contracts UEA should minimise the use of contractual terms which purport to restrict the disclosure of information held by UEA and relating to the contract beyond the restrictions permitted by the Act. UEA cannot "contract out" its obligations under the Act.

2. When entering into contracts with non-public authority contractors, UEA will discourage, wherever possible, the inclusion in any contract confidentiality clauses that unjustifiably restrict the release of information relating to the terms

of the contract, its value and performance from disclosure. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, UEA will explore the option of agreeing with the contractor a schedule of the contract that clearly identifies information which should not be disclosed. UEA recognises that, when drawing up any such schedule, any restrictions on disclosure provided for could potentially be overridden by its obligations under the Act.

3. UEA will ensure that third parties are aware that any information received described as in confidence will not be exempted from release unless it is, in law, truly received in confidence. It should be aware that the exemption provided for in the Act only applies if information has been obtained by UEA from another person, and the disclosure of the information to the public, other than under the Act, would constitute a breach of confidence actionable by that, or any other, person.

4. It is for UEA to disclose information pursuant to the Act, and not the body with whom UEA contracts. However, UEA may wish to protect from disclosure by the contractor, by appropriate contractual terms, information which it has provided to the contractor, which would clearly be exempt from disclosure under the Act. In order to avoid unnecessary secrecy, any such constraints should be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, UEA will not impose terms of secrecy on contractors.

5. The University, as standard practice, will take appropriate steps to ensure that any third parties with whom we contract, or who supply the University with information, are aware of the University's duty to comply with the Act, and that therefore information will have to be disclosed upon request unless an exemption applies.

## **ANNEX E – COMPLAINTS PROCEDURE**

### Receipt of complaint

1. Any written correspondence from an identifiable applicant expressing dissatisfaction with the UEA's response to a valid request for information, or that UEA is not complying with its Publication Scheme, will be treated as a complaint.

2. For a complaint to be valid, it must be received within 60 calendar days of the issuance of the response to the requester. Any complaint received after that date will neither be acknowledged nor actioned in any way. This time limit will be posted on the University website and will be made clear to the requester in any response letter.

3. Complaints will be handled in accordance with the procedure outlined below, even if the applicant does not state a wish for UEA to review its decision or its handling of the application.

4. Complaints will be acknowledged and the complainant will be informed of UEA's target date for completion of the internal review generated by the complaint. Where it is apparent that the internal review will take longer than the target time

(for example because of the complexity of the particular case), UEA will inform the applicant and explain the reason for the delay.

5. UEA's target time for a response is no longer than twenty (20) working days from the receipt of the complaint, which accords with ICO guidance.

6. Target times for response to a complaint will be kept under review and the University will follow best practice and ICO guidance in this matter.

7. When acknowledging the complaint, the IPCMs will inform the complainant about its internal complaints procedure, and of their right to contact the Information Commissioner should they be dissatisfied with the response to their complaint.

#### Outcome of Complaint

8. Where the outcome of an internal review is that information should be disclosed which was previously withheld, the information in question will be disclosed as soon as practicable.

9. Where the outcome of an internal review is that UEA staff have not properly followed the procedures within UEA, UEA will apologise to the complainant. UEA will also take appropriate remedial measures to prevent similar errors occurring in future.

10. Where the outcome of an internal review is that an initial decision to withhold information is upheld, or is otherwise in the UEA's favour, the requester will be informed of his or her right to apply to the Information Commissioner, and will be given details of how to make an application, for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

#### Processing of Complaint

11. General – The University will have in place a procedure for dealing with complaints in relation to the handling of requests under the Act as set out in Paragraphs 12 to 14 below.

12. Informal resolution – There may be instances where the matter can be resolved quickly by the IPCMs and without recourse to a formal review; for example providing information inadvertently omitted, or correcting a misunderstanding.

13. Formal review – Where an informal resolution of a complaint is neither possible nor advisable, a formal internal review of the complaint will be conducted.

a. The review will be conducted, where practicable, by a staff member who played no material role in the original decision. Additionally, any such person will have sufficient training and knowledge of the Act to undertake the review. In most

instances the Director of Information Services will conduct the review, with assistance from the IPCM who did not handle the original request. Where appropriate, the review may be undertaken by another senior member of staff; normally the Registrar, a Pro-Vice-Chancellor, or the Vice-Chancellor.

b. The review will consider afresh the reasonableness of the decision and handling of the request.

c. The review will be impartial and will be free to substitute a different decision on a reconsideration of all factors relevant to the issue.

d. The outcome of the review will include the reasons for outcome of the review, details of any changes to the original decision, including precise citation of any exemptions added, where appropriate an explanation of any reconsideration of the public interest, and advise the complainant of his or her right to appeal the result of the internal review to the Information Commissioner's Office.

e. The outcome of the review will be communicated to the complainant promptly and any action required to be undertaken by the University as a result of the review will be carried out as soon as practicable.

f. The University will keep records of all complaints and their outcome and monitor their own performance in handling complaints.