

# ROYAL BOTANIC GARDEN EDINBURGH

## FREEDOM OF INFORMATION

### **Introduction**

1. The Freedom of Information (Scotland) Act 2002 introduces a general statutory right of access to all types of 'recorded' information of any age held by Scottish public authorities. Subject to certain conditions and exemptions, any person who makes a request for information will be entitled to receive it. The applicant may express a preference for receiving the information in a particular format, in summary, or by asking to inspect a record. The Act is fully retrospective and will apply to information of any age.

### **The Garden Publication Scheme**

2. The Garden has developed a Publication Scheme, which has been approved by the Scottish Information Commissioner, setting out how we intend to publish different classes of information we hold. The Information Commissioner is an independent public official whose duties will include:

- the promotion of good practice;
- approving and assisting in the preparation of publication schemes;
- providing information on the operation of the Act; and
- enforcing compliance with the Act.

3. The Publication Scheme has been developed with in mind the principle of the public interest in allowing access to the information we hold about:

- the provision, cost and standard of our service provision;
- factual information or analysis informing decision making; and
- the reasons for the decisions made by ourselves.

4. The Publication Scheme also outlines exemptions to the provision of information which will be adopted by the Garden and any fees which may be charged for the provision of information. The Publication Scheme which will be published as a separate document is attached as an Annex to the policy and it is important that all staff become fully conversant with the terms of the Publication Scheme and in particular the Publication List (section 14 of the Scheme).

### **Information Requests**

5. *“A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority”*. Section 1 of the Freedom of Information (Scotland) Act 2002

Under the Act, there will be no restrictions on who may apply to the Garden for information, although the request must be in a “recordable format\*”. All recorded communications to the Garden seeking information must be considered as FOI requests, although the applicant does not have to quote the Act or give reasons for requesting the information. Staff should respond to verbal requests for information in the same way as you do now. If the request does not include sufficient information to enable us to identify the information requested then the Garden has a duty to advise and assist the applicant in order to help them frame the request accordingly. The Garden will not have to comply with repeated or vexatious requests if we have recently responded to an identical or substantially similar request from the same person.

### **Using the Act - the 3 step process**

#### **Step 1**

6. An applicant makes a request (in a recordable format\*) to the Garden for information that they think we hold, the Garden must respond, in writing, within 20 working days by:

- advising them that it does not hold the information **OR**
- releasing the information to them (fees regulations may apply) **OR**
- refusing to release it

If the Garden refuses to release the information, we must:

- disclose that we hold the information **AND**
- specify the exemption in the Act that we claim **AND**
- state why the exemption applies

(The Garden may decide to release some, but not all of the information requested. This does not affect the applicant’s rights to require a review or appeal to the Commissioner as set out below.)

#### **Step 2**

7. If the Garden has refused to release the information and the applicant is dissatisfied with this, or the reasons given, s/he can require Garden to review its refusal. The request for a review must be in a recordable format\* and be within 40 working days of receiving the initial refusal.\*\* Again, the Garden must respond to the applicant in 20 working days, either

- Releasing the information to the applicant **OR**
- Upholding our initial decision (refusing to release the information)

### **Step 3**

8. If the Garden upholds its initial decision and the applicant is still dissatisfied, s/he can make an application (in a recordable format\*) to the Scottish Information Commissioner for a decision. The Commissioner may try to effect a settlement between the applicant and the Garden, but if this fails, he will investigate the complaint and issue a decision. If he decides that the information should be released, he can force the Garden to give it to the applicant.

\* “recordable format” means information that is written down or recorded in some way. So you can make an information request in a letter, e-mail, taped message or even video, but unrecorded telephone calls or conversations over the counter do not count as “freedom of information requests”.

\*\*If the Garden has failed to release the information or issue a refusal notice within 20 working days of the initial request, the applicant can ask them to review their decision as soon as the 20 days are up.

### **FOI Enquiries**

8. All FOI enquiries received by any staff across the Garden should be referred immediately to Jane McCrorie, who has been appointed FOI coordinator for the Garden, for consideration and response, where appropriate Jane will consult with line Divisions prior to responding to requests.

### **Staff Enquiries**

9. General enquiries should be addressed to Gary Love, Head of Personnel on Ext. 2989 or Jane McCrorie on Ext. 2870.

Personnel Department  
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