**SECTION 6.3 FREEDOM OF INFORMATION POLICY**

**Introduction**

The Freedom of Information (Scotland) Act 2002 gives a general statutory right of access to all types of recorded information held by the Royal Botanic Garden Edinburgh. 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**

The Garden has developed a Publication Scheme, which sets out how we publish different classes of information we hold.

The Publication Scheme has been developed with the principle of the public interest in mind 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.

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](http://www.rbge.org.uk/assets/files/about_us/Public_Scheme_2011.pdf) is published as a separate document.

**Information Requests**

 *“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 are no restrictions on who may apply to the Garden for information, although the request must be in a recordable format1. 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**

An applicant makes a request (in a recordable format1) 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**

If the Garden has refused to release the information and the applicant is dissatisfied with this, or the reasons given, s/he can request the Garden to review its refusal. The request for a review must be in a recordable format1 and be within 40 working days of receiving the initial refusal2. 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 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, the Commissioner will investigate the complaint and issue a decision. If the decision is that the information should be released, the Garden is required to release the information to the applicant.

1 **recordable format** means information that is written down or recorded in some way for example by letter, e-mail, taped message or even video, but unrecorded telephone calls or face to face conversations do not count as freedom of information requests.

2 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 day target is reached.

**FOI Enquiries**

8. All FOI enquiries received by staff across the Garden should be referred immediately to the FOI coordinator for consideration and response. Where appropriate the FOI coordinator will consult with other Divisions prior to responding to requests.