

Cyngor Cyllido Addysg  
Uwch Cymru  
Higher Education Funding  
Council for Wales



## **Higher Education Funding Council for Wales**

### **Access to Information Policy**

## 1 Access to Information Policy

### 1.1 Purpose

This Policy sets out the basis upon which the Higher Education Funding Council for Wales (HEFCW) makes information available. It includes details of:

- the principles guiding our approach to openness;
- the principles under which we will publish information or make it available on request; and
- the circumstances in which we may withhold information.

It also provides details of how to request information held by HEFCW.

### 1.2 Scope

HEFCW routinely makes a wide range of information available, including through newsletters, reports, Council papers, consultation documents, and press releases. Much of this information can be accessed directly via HEFCW's website ([www.hefcw.ac.uk](http://www.hefcw.ac.uk)). HEFCW also makes a variety of information available to institutions, partner funding bodies, stakeholders and staff, as part of normal administrative processes.

## 2 Principles of Our Approach to Openness

Our approach to openness follows that set out in the National Assembly for Wales' *Code of Practice on Public Access to Information*. We are committed to the following principles, by which we will meet our commitments and obligations under the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004, and the relevant codes of practice and guidance issued by government departments and by the Information Commissioner:

### Principle 1: Maximising Openness

<b>We will be as open as possible</b>
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- We will be as open as possible and only withhold information if it falls into one of the exempt categories (see **Annex A**), or if disclosure would breach any other provision of law.
- **Annex B** shows the tests ('public interest' and 'substantial harm' tests) we will apply in deciding whether to disclose or withhold information under this Policy.
- Our staff will receive guidance and training on maximising openness
- We will continuously seek opportunities to publish information unless it is exempt under this code.
- HEFCW Council agendas, minutes and papers (since December 2002) are published via our website, subject to Freedom of Information

Act exemptions. Copies of papers from HEFCW Council meetings prior to December 2002 can be obtained on requested, though some of these too may be exempt from disclosure.

## **Principle 2: Using Clear Language**

### **We will present our business in clear language, in line with our bilingual policies and taking account of different needs**

- We will use plain, gender-neutral language in our dealings with the public.
- We will produce documents in English and Welsh in accordance with our Welsh Language Scheme
- We will respect the differing needs of different sectors of the community.

## **Principle 3: Maintaining a Publication Scheme**

### **We will maintain a Publication Scheme**

- Our Publication Scheme states our commitment to make information publicly available and sets out:
  - the information we promise to publish as a matter of course;
  - how this information will be published;
  - whether the information is available free of charge or not.
- The Scheme is published on our website.
- People without access to the Internet can request a copy of the Scheme or the documents listed in it by contacting our office.

## **Principle 4: Publishing on the Internet**

### **We will publish information on the Internet**

- Our website holds information that falls within the categories (information classes) listed in our Publication Scheme.
- As we move to develop a separate web presence for HEFCW, we will ensure that our new website:
  - conforms to international and national standards for accessibility;
  - provides search facilities, feedback and contact forms for further enquiries about the availability of information; and
  - provides information bilingually in accordance with our Welsh Language Scheme

## **Principle 5: Respecting Privacy, Confidentiality and Law**

**We will respect personal privacy, the duty of confidence, and all laws governing the release of information**

- Before we reply to a request that will involve disclosing information about third parties whose interests are likely to be affected by disclosure, we will normally consult them to ensure that any disclosure complies with the law.
- Examples of legislation covered by this principle include the Official Secrets Act 1989, the Data Protection Act 1998, the Human Rights Act 1998, the Environmental Information Regulations, and the Freedom of Information Act 2000. Another example is the law of defamation.

## **Principle 6: Prompt and Comprehensive Responses**

**We will provide prompt and comprehensive responses to requests for information**

- We will send information you request and which is not exempt promptly and, in any case, within legal time limits.
- We may send information in several instalments to ensure that you receive as much as possible as early as possible.
- The law sets basic time limits and sets out how, in some circumstances, we may take longer. If we need to take longer, we will write to you explaining why and giving a new deadline.
- Any information we disclose will be in the language in which we hold the information.
- If we receive a request in Welsh, the covering letter for our reply will be in Welsh.
- We do not have to obtain information we do not hold. If we think that another public authority holds some or all of the information, we will consult them and you about transferring your request. We will transfer the request if you agree or, if not, we will provide contact details for the other public authority.
- We will always be as open and helpful as possible but will, where appropriate, handle vexatious and repeated requests in line with the law.
- If we refuse to send you information, we will send a refusal within the legal deadline and tell you how you can appeal against our decision (see Principle 7).

## **Principle 7: Right of Appeal**

**We will provide a right of appeal where an enquirer is not satisfied with the response received**

- We will try to provide the information you request and to avoid providing too much or too little. If this does not satisfy your needs, you are encouraged to contact the person who responded to your request to discuss ways of providing the information needed.
- If you are unhappy with our decision about your information request you may ask us, in writing, to conduct an internal review. That review will be carried out by a senior member of staff who has not previously been involved with the request. We will inform you of the outcome of the internal review as soon as possible.
- If you are unhappy with the outcome of the internal review, you may refer the matter to the office of the Information Commissioner

## **Principle 8: Providing Information Free of Charge**

**We will provide information free of charge where possible**

- Our aim is to avoid charging if we can. We will use our discretion when deciding whether or not to charge, even if we are legally entitled to charge.
- We are allowed to charge for information. We charge for some publications (our Publication Scheme shows which). We may charge £10 for Data Protection Act subject access requests.
- We will only make charges for anything other than subject access requests and publications in exceptional circumstances. Any charges we do make will be in keeping with the government's Fees Regulations.
- We may review this principle in the light of experience.

### **3 Status**

This Policy applies to the recorded information held by HEFCW. The Policy does not override any legal provisions that require or prevent the disclosure of information.

### **4 Review of this Policy**

We will review this Policy to ensure that we continue to meet legal requirements governing access to information.

## **5 Requests For Information**

### **5.1 Providing Advice and Assistance**

We will, as far as is reasonable and possible, provide advice and assistance when dealing with requests for information. (Contact details are provided below.) Much of the information we publish is available directly from our website ([www.hefcw.ac.uk](http://www.hefcw.ac.uk)).

### **5.2 Making a Request**

You can request information held by HEFCW in a number of ways:

- in writing, including by fax or email. The best way to do this is to use our dedicated 'Request for Information' proforma, available on our website or from our office. All requests under FoI must be made in writing.
- by phone or in person if:
  - you are unable to put your request in writing because of a disability or for some other reason;
  - you are requesting environmental information

If your request is not in writing, we will write to you to confirm what information you asked for.

When requesting information, you must:

- give a name and address to which a reply may be sent
- give enough detail for us to identify what information you want. If your request does not contain enough detail for us to decide what information you want, we will seek clarification from you
- provide proof of identity if requesting your own personal data. You may be asked to pay a small fee for such requests.

You may tell us how you would prefer to receive the information. Whenever reasonable, we will provide information in the format you prefer. If we cannot do this, we will explain why.

### **5.3 Which Law Applies?**

You do not need to mention which law you think applies to your request for information. We will gather the information you seek and examine it to see which laws apply and then apply them. This may mean that we apply more than one law to your request.

## 6 Contact Details

- 6.1 Please return your completed 'Request for Information' proforma (available from our website, or in hard copy from our office) to:

Higher Education Funding Council for Wales  
Linden Court  
The Orchards  
Ilex Close  
Llanishen  
Cardiff  
CF14 5DZ

Tel: 029 2076 1861  
Fax: 029 2076 3163  
E-mail: [info@hefcw.ac.uk](mailto:info@hefcw.ac.uk)

You may also write, fax or email your information request, but please make sure you provide as much detail as possible to enable us to identify the information sought and also that you include:

- your name and the address to which you want the information sent
- precise details of the information you would like
- the way you would like the information to be sent to you (for example, as hard copy, via e-mail or on a computer disk)

- 6.2 The office of the Information Commissioner can be contacted at:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel 01625 545700  
Fax 01625 524510  
E-mail: [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

## ANNEX A

### LIST OF EXEMPTIONS

This list is intended as a quick reference to the exemptions and tests we will use in deciding whether or not an exemption applies to information that has been requested. For the full text of each exemption, you should refer to the appropriate legislation.

#### Derived from the Freedom of Information Act 2000

FoI Act section	Exemption	Absolute or Qualified	Public interest test?	Substantial harm test?
21	Information accessible to applicant by other means	Absolute	No	No
23	Information supplied by, or relating to, bodies dealing with security matters	Absolute	No	No
40 (1)	Personal information (about applicant)	Absolute	No	No
40 (2)	Personal information about others where the circumstances described in section 2(3)(f)(ii) FoI Act are the case	Absolute	No	No
41	Information provided in confidence	Absolute	No	No
44	Prohibitions on disclosure	Absolute	No	No
32	Court records, etc.	Absolute	No	Yes
34	Parliamentary privilege	Absolute	No	Yes, except when a certificate has been issued under S34(3)
40 (2)	Personal information about others where the circumstances described in section 2(3)(f)(ii) FoI Act are not the case	Qualified	Yes	No
39	Environmental Information	Qualified	Yes	No
24	National Security	Qualified	Yes	Yes, except when a certificate has been issued under S24(3)
22	Information intended for future publication	Qualified	Yes	Yes
26	Defence	Qualified	Yes	Yes
27	International relations	Qualified	Yes	Yes
28	Relations within the United Kingdom	Qualified	Yes	Yes
29	The economy	Qualified	Yes	Yes

<b>Fol Act section</b>	<b>Exemption</b>	<b>Absolute or Qualified</b>	<b>Public interest test?</b>	<b>Substantial harm test?</b>
30	Investigations and proceedings conducted by public authorities	Qualified	Yes	Yes
31	Law enforcement	Qualified	Yes	Yes
33	Audit functions	Qualified	Yes	Yes
35	Formulation of government policy, etc.	Qualified	Yes	Yes
36	Effective conduct of public affairs	Qualified	Yes	Yes
37	Communications with Her majesty, etc. and honours	Qualified	Yes	Yes
38	Health and safety	Qualified	Yes	Yes
42	Legal professional privilege	Qualified	Yes	Yes
43	Commercial interests	Qualified	Yes	Yes

#### **Derived from the Environmental Information Regulations**

<b>EIR 2004 regulation</b>	<b>Exception</b>	<b>Public interest test?</b>	<b>Substantial harm test?</b>
12 (4) a	Information not held when request received	Yes	No
12 (4) b	Request is manifestly unreasonable	Yes	No
12 (4) c	Formulated in too general a manner	Yes	No
12 (5) g	Protection of the environment to which the information relates	Yes	No
12 (4) d	Material is still in course of completion, unfinished documents or incomplete data	Yes	Yes
12 (4) e	Internal communications	Yes	Yes
12 (5)	Where disclosure would adversely affect:		
12 (5) a	International relations, defence, national security or public safety	Yes	Yes
12 (5) b	Course of justice, fair trial, criminal or disciplinary inquiry	Yes	Yes
12 (5) c	Intellectual property rights	Yes	Yes
12 (5) d	Confidentiality of proceedings of a public authority where confidentiality is provided by law	Yes	Yes
12 (5) e	Confidentiality of commercial or industrial information where confidentiality is provided by law to protect a legitimate economic interest	Yes	Yes

EIR 2004 regulation	Exception	Public interest test?	Substantial harm test?
12 (5) f	Interests of person who provided information where that person: (i) not under legal obligation to have supplied the information (ii) did not supply it in circumstances where the public authority is entitled to disclose the information apart from these regulations (iii) has not consented to disclosure	Yes	Yes

**Derived from the Data Protection Act 1998**

The Data Protection Act 1998 and orders made under it set out exemptions from the duty to provide access to your personal data. We will apply them as they appear in the legislation.

## ANNEX B

### **How we will apply the public interest and substantial harm tests to exemptions**

Annex A shows, exemption by exemption, whether the public interest and substantial harm tests are applied to information falling under the exemptions. This annex sets out what each test means:

- If Annex A shows that an exemption is absolute, and that we will apply neither the public interest test nor the substantial harm test, it means that we will rely on that exemption and not disclose the information.
- If Annex A shows that an exemption is absolute, and that we will apply the substantial harm test, it means that we will only rely on the exemption if disclosing the information would cause or be likely to cause substantial harm to the purpose which the exemption aims to protect;
- If Annex A shows that an exemption is qualified, and that we will apply only the public interest test, it means that we will only rely upon the exemption if the public interest in withholding the information for the purpose that the exemption aims to protect, outweighs the public interest in disclosing the information;
- If Annex A shows that an exemption is qualified, and that we will apply the public interest test and the substantial harm test, we will only rely upon the exemption if disclosing the information would cause or be likely to cause substantial harm to the purpose which the exemption aims to protect. Even if disclosure would cause or be likely to cause such substantial harm, we will not rely upon the exemption unless that harm outweighs the public interest in disclosure of the information.