



How to 'open government'

A guide to making the most out of your rights to request information from the Scottish Government

Data Protection Act 1998

Freedom of Information (Scotland) Act 2002

Environmental Information (Scotland) Regulations 2004

This guide explains how to use your rights to access information held by the Scottish Government. It sets out our commitment to you about how we will handle your requests for information, and includes guidance on using your rights under legislation responsibly

Legislation

Data Protection Act 1998

The Data Protection Act gives you the right to know what information is held about you, and sets out rules to make sure that this information is handled properly.

Freedom of Information (Scotland) Act 2002

The Freedom of Information (Scotland) Act gives you the right to request information and for it to be given to you unless there are good reasons not to.

Environmental Information (Scotland) Regulations 2004

The Environmental Information (Scotland) Regulations give you the right to request information about the environment and for it to be made available unless there are good reasons not to.

Where to start

Before making a request

We already make a large amount of information publicly available - mainly on the Scottish Government website at www.scotland.gov.uk, but if you prefer to have it in printed format this is usually possible, on request from our central enquiry unit - ceu@scotland.gsi.gov.uk or phone 08457 741 741.

There are various ways of locating information in addition to the general search facility on our website. For example, if you are interested in a particular area of government work you can access a lot of information just by looking at the topic pages on the website. A large number of publications, information on consultations, statistical information, and research are already available on the website too.

You might not need to request information at all as it may well already be available, so we recommend that you look or enquire first.

Are we the right people to request information from?

It may be that you are seeking information that we simply do not have, relating to the functions or work of another authority, or that we only hold it on someone else's behalf. If you are unsure if this is the case before you make a request please ask, as we may be able to direct you to make your request to another authority holds the information.

What's the difference between the legislation?

If you are seeking your own personal information, your request will be treated as a 'subject access request' under the Data Protection Act.

Otherwise, requests for information will be covered by either the Freedom of Information Act or the Environmental Information Regulations. The Freedom of Information Act and the Environmental

Information Regulations are very similar, but there are some differences which are explained more later.

What if I'm not sure which legislation applies?

If after reading this guide you are still not sure, you don't have to specify which legislation you are requesting information under - that's for us to work out. But if you do know then it can help us if you label your request appropriately when you make it.

How to request information

Freedom of Information requests should be made in writing (which includes email).

Requests for environmental information can be made in writing or orally.

Data protection 'subject access requests' should be made in writing and include documented evidence of who you are (e.g. copies of your driving licence, passport or birth certificate).

Please ensure you provide your name, an address for correspondence (which could be email), and if possible a telephone number.

There are various ways of contacting us:

Email us at ceu@scotland.gsi.gov.uk or phone 08457 741 741

Complete an online request form at:

<http://www.scotland.gov.uk/About/HaveYourSay/infoRequest>

Write to us at:

The Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

How you should word your request

Please be specific about the information that you are looking for - it helps us to identify what you require and answer your request more promptly. For example, does a specific date or time period apply? Are there any references you can give that will help us to identify the information - such as the names of a particular working group or task force? How did you find out about the topic or information you are seeking?

While you do not have to explain why you want the information, if you are happy to do this it may help us to answer your request more satisfactorily.

Will there be a fee?

The Scottish Government does not charge for making requests or for providing information under Freedom of Information or the Environmental Information Regulations, but we will refuse to deal with a request where we estimate that it will cost more than £600 to locate, retrieve and provide the information.

If you can be as precise as possible about the information you are seeking, it will help to keep your request within this cost limit. Requests for specific information are less likely to exceed this cost limit and can be answered much more quickly than requests for 'all information' on a subject.

Splitting up a single request in to many related requests in order to deliberately avoid this cost limit will not necessarily ensure that your requests do not in fact exceed the cost limit.

However, Data protection subject access requests will require payment of a fee of £10 before we start to search for your information.

Advice and assistance

If you are unsure about what information you are looking for, or about how to word your request in order to make it more specific - please ask. If we receive a request and do not understand it or think we need more information from you to identify and locate the requested information then we will contact you. Communicating effectively in this way with us can help to ensure you get the information you are looking for.

Thoughtful request making

Requests that are vexatious will be refused, for example if they are deliberately burdensome or frivolous and seek to disrupt our work. Please think carefully before making your request. Consider whether it is reasonable and purposeful.

If you make a number of requests, think about whether you have made the same or substantially similar request previously. Requests that are repeated without a reasonable time period having elapsed since they were first submitted will be refused.

Making requests thoughtfully will help ensure that they do not impose unreasonable and significant demands on the financial and human resources of the Scottish Government.

What happens next?

Timescales

The Scottish Freedom of Information Act does not allow public authorities to extend the 20 working day deadline to provide a response, however if a request is complex or involves large amounts of information, meeting this deadline may not always be possible. The Environmental Information Regulations provide the same deadline, but does allow us to extend this to up to 40 working days if a request is complex or involves large amounts of information.

We will aim to respond to your request within 20 working days (40 calendar days if you have made a Data Protection subject access request).

Following the tips in this guide for being specific about the information you require should help ensure that we can meet your request more effectively, however where we are not able to respond to your request within the deadline, we aim to contact you to explain why and advise that we are working on providing you with a response.

Understanding our response

Why we don't always provide information

The Scottish Government encourages openness and transparency. We will provide you with the information you have requested where we can. Where this has not been possible, we will explain why.

We may not be able to provide information because:

It is not held (see 'Are we the right people to request information from?').

Complying would exceed the cost limit (see 'Will there be a fee?').

The request is vexatious or repeated (see 'Thoughtful request making').

Exemptions/exceptions apply. The Freedom of Information Act and the Environmental Information Regulations expressly recognise that some information cannot be provided. There are therefore a number of **exemptions** (or in the case of Environmental Information, **exceptions**) that may apply to information you have requested.

Some exemptions are '**absolute**', which means that if the information falls within a particular category, it will not be provided. However, most exemptions require us to explain to you why there will be '**substantial prejudice, harm, or inhibition**' to the Scottish Government

or others if we released the information, and why it is not in the **public interest** to provide the information.

Your right to review and appeal

If we have handled your request under the Freedom of Information (Scotland) Act or the Environmental Information (Scotland) Regulations, our response will always advise you who you should contact to request that we carry out an internal review of our response. Tell us why you are unhappy with our response within 40 working days, and it will be looked at afresh. We will aim to provide you with our review response within 20 working days.

If you remain unhappy with our response, you then have the right to appeal to the Scottish Information Commissioner. You should keep copies of all the correspondence you have had with us, as if you decide to appeal to the Scottish Information Commissioner you will be asked to provide these.

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS
Telephone: 01334 464610
www.itspublicknowledge.info

If you are unhappy with a response you have received to a Data Protection subject access request, or have a complaint about the way we have handled personal information, you can contact the UK Information Commissioner at:

The Information Commissioner's Office
Wycliffe House, Water Lane
Wilmslow, Cheshire
SK9 5AF
Telephone: 08456 30 60 60
www.ico.gov.uk