

## 1 Changes from Last Issue

New Policy

## 2 Purpose and Scope

The Scottish Parliament has passed legislation (The Freedom of Information (Scotland) Act 2002, Designation of Persons as Scottish Public Authorities Order 2013 and the Environmental Information (Scotland) Regulations Act 2004) which means that the KLCT, along with other Scottish Leisure Trusts, will be subject to freedom of information and environmental information law from 1 April 2014. The new legislation effectively designates Scottish Leisure Trusts (for the purposes of FOI and EIR) as Scottish Public Authorities. In practice this means that KLCT will have new statutory duties, including:

- Responding to requests for information that we hold;
- Providing advice and assistance to people who want to request or have requested information; and
- Adopting and maintaining a publication scheme which sets out the information that we will make public and how to access it.

This policy and procedure sets out how WLL will comply with this new legal requirement.

## 3 Reference Documents

### Internal

Model Publication Scheme (MPS) 2014

Guide to Information available through the MPS

Information, Retention and Archiving Policy

E-mail Archiving and Retention Policy

Data Protection Policy

Customer Feedback and Complaints Policy

### External

The Freedom of Information (Scotland) Act 2002, Designation of Persons as Scottish Public Authorities Order 2013

The Environmental Information (Scotland) Regulations Act 2004

## 4 Policy

4.1 It is the policy of KLCT to comply with its legal duties under The Freedom of Information (Scotland) Act 2002, Designation of Persons as Scottish Public Authorities Order 2013 and the Environmental Information (Scotland) Regulations 2004).

4.2 FOI is an opportunity for value-added engagement with our customers and other stakeholders. Organisations with strong FOI practices are able to manage corporate risk more effectively and improve their reputation with a wide range of stakeholders.

## **Flow Chart**

### **5 Procedure for Dealing with Requests**

#### **5.1 How to identify a Freedom of Information (FOI) request**

We get many requests for information but not all will be requests under FOI. If a request for information mentions FOI or legislation, is complex, is sensitive or confidential then treat it as an FOI request (even though it may not mention FOI specifically in the request). If it is a normal 'business as usual' request for information (such as for class timetables, dates of courses, etc.) then deal with it in the normal way. If in doubt seek advice from the FOI Officer or treat requests as an FOI requests and follow this procedure.

Requests have to come in a recordable format such as a letter, e-mail, text, facebook posting or even a recorded phone message. If a request comes by text, a facebook posting or a recorded phone message applicants will be advised to put their request in letter or e-mail format.

Applicants can be from anywhere in the world but must be over 12 years of age, state their true name, a contact address or e-mail address and what information they are requesting. The information request must be sufficient to enable us to retrieve the information. If the request is too vague or too broad then the applicant will be asked by the FOI Officer to make their request more specific. The applicant does not have to say why they want the information.

It is our duty to provide any recorded information available at the time of the request. We are not required to create any information or re-create it if destroyed (i.e. under our retention policy. See section 5.5 below). It should be noted that if information held is destroyed or altered following a request this is a criminal offence and the individual who destroyed or altered the information could be prosecuted.

A section on the website will explain how to make a request and include a dedicated e-mail address which will go directly to the FOI Officer.

#### **5.2 Environmental Information Regulations (EIR) Requests**

When a request comes in the FOI Officer will determine whether it is an FOI request or an EIR request. This is important as EIR requests have different rules. EIR legislation gives people the right to ask for information that 'relates to the environment' and such requests can be verbal (FOI requests must be in a recordable format) and if we do not hold the information the request can be passed to another authority if we believe that authority holds the information. And, again unlike FOI the response time for EIR requests can be extended to 40 working days if required.

#### **5.3 Publication Scheme**

KLCT has adopted the Scottish Information Commissioners Model Publication Scheme (MPS) 2014 and provides a Guide to Information available through the MPS. Both documents are available on our website in the FOI section. These documents tell applicants where to find much of the information we hold. Applicants, in many cases, will be referred to these documents.

## Flow Chart

### 5.4 How to deal with a FOI request

When a FOI request is received in an acceptable recordable format pass it to the FOI Officer who will:

- (a) Record it on the FOI Tracker (see section 5.9 below)
- (b) Acknowledge the request and inform the applicant that a full response will be received within 20 working days, or seek clarification about the request (e.g. if unclear or too broad)
- (c) Determine if FOI or EIR request
- (d) Assess the request:
  - Do you hold the information
  - Is it available
  - Do you require further clarification?
  - How long will it take to respond?
  - Will it cost over £100
  - Are there reasons not to release?
- (e) Send a request to appropriate officer(s) to search and retrieve the information and give a deadline to return the information to the FOI Officer (normally within 15 working days)
- (f) Respond to the applicant within the deadline of 20 working days and note right to review
- (g) Conclude by updating FOI Tracker

It should be noted that clock starts ticking at the time of receipt of the request in an acceptable recordable format. If the request is not in an acceptable recordable format (e.g. facebook posting, text, phone message) the applicant will be invited by the employee who received the request to make their request by letter or e-mail (giving the address noted in section 5.10 below or by using the dedicated e-mail address).

If we do not hold the information requested or have destroyed it (under our retention policy) then we must tell the applicant this within 20 working days. Similarly if we believe the information requested to be exempted from release (see section 5.6 below) we must tell the applicant why we believe this to be the case, again within 20 working days.

It is acknowledged by the Scottish Information Commissioner that retrieving, collating, making copies etc. to respond to requests costs money, and in some cases we can make a charge for this. In summary if the cost of providing the information is £100 or less then we must provide it free of charge. If it costs between £100 and £600 we can make a charge of 10% of the cost to the applicant. If it costs over £600 we can refuse the request, but we need to tell the applicant how we calculated the cost.

### 5.5 Review and Appeal

If the applicant is unhappy with the response received from the FOI Officer they have the right to ask for a review of their case by writing to the FOI Reviewing Officer at the address below. The Reviewing Officer will be a member of the Senior Management Team and not the FOI Officer who made the response. It is important that the review is independent and fair. The Chief Executive will nominate the Reviewing Officer in each case.

## Flow Chart

The Galleon Leisure Centre  
99 Titchfield Street  
Kilmarnock  
Ayrshire  
KA1 1QY

If the applicant is unhappy with the response from the Reviewing Officer they can appeal to the Scottish Information Commissioner by writing to the address below:

The Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

### **The attached flow chart illustrates the request, response and review process**

The process mirrors our complaints procedure in that there is an internal response, the opportunity for an internal review by a separate officer and a final right of appeal to an outside body.

### **5.6 What information is exempt from disclosure?**

The vast majority of information we hold will be released to applicants on request, or more likely will be contained in our publication scheme (see section 5.3 above). Some information, however, will not be released if we believe it to be exempted from the Act, such as:

- If the request is vexatious or repeated
- Commercial Interests and the Economy – information can be withheld where it can be demonstrated that release would be likely to cause real and actual harm to a relevant commercial, financial or economic interest; or if it constitutes a trade secret; or if it would be likely to prejudice substantially the commercial interests of KLCT.
- Confidential – for example information which a claim to confidentiality of communications could be maintained in legal proceedings; or if information was obtained by KLCT from a third party and its disclosure by KLCT would constitute a breach of confidence actionable by that third party.
- If it breaches the Data Protection Act or our Data Protection Policy

Further information on exemptions is available at [www.itspublicknowledge.info/briefings](http://www.itspublicknowledge.info/briefings)

If we believe information is exempted from release the FOI Officer must tell the applicant why we believe this to be the case within 20 working days. If the applicant disagrees they have the right to ask for a review (see section 5.5).

## Flow Chart

### 5.7 Information Retention

KLCT has policies on 'Information, Retention and Archiving', and 'E-mail Archiving and Retention'. These policies state how long certain categories of information will be retained. The practice adopted by KLCT will be to retain information for the current year plus two unless there are legal reasons to hold information longer or if our policies state that we will hold information longer. It should be noted that if we hold the information even though our policy states that it should have been destroyed (i.e. we haven't got round to destroying it yet) then we have to provide it if requested. The rule of thumb is that if you hold it then you are required to provide it.

### 5.8 Re-Use of Information

Provision of information under access legislation such as FOI or EIR does not mean that the recipient has an automatic right to re-use that information, for example to publish it or adapt it in some way. Some information, for example, may be subject to copyright protection and permission to re-use it will be required. If the recipient wishes to re-use all or part of the information provided they must write seeking permission to:

The General Manager  
The Galleon Centre  
99 Titchfield Street  
Kilmarnock  
Ayrshire  
KA1 1QY

### 5.9 Recording and tracking FOI/EIR Requests

An Excel spreadsheet will be set up to record and track FOI/EIR requests from 1 April 2014. It will be the responsibility of the FOI Officer to update the spreadsheet and record and report performance indicators to the SMT, Board and the Scottish Information Commissioner.

- Date received
- Nature of the request
- What format was the request received in (e.g. letter, e-mail, text, facebook posting recorded phone message)
- Who is retrieving the information
- Deadline for response
- Date response sent

### 5.10 Contact details for FOI requests

Applicants are to make FOI or EIR requests to:

[mpilkington@galleoncentre.com](mailto:mpilkington@galleoncentre.com)

or

## **Flow Chart**

The Galleon Centre  
99 Titchfield Street  
Kilmarnock  
Ayrshire  
KA1 1QY

### **6 Policy Review**

6.1 This procedure will be reviewed every two years.

# Flow Chart

