

Guidance Notes on Freedom of Information within the Church

The Church of Scotland is not a “public authority” to which the provisions of the Freedom of Information (Scotland) Act 2002 apply and members of the public are not legally entitled to require the Church to provide them with information on any particular topic. Where Councils or other church bodies are providing services on behalf of public authorities, certain information may be sought by that public authority from the church body concerned if the authority itself is subject to a request under the Act. In such circumstances, the Law Department should be consulted for further advice. Whatever the statutory position may be, it should, however, be noted, that the General Assembly has directed that, subject to appropriate exceptions, Church bodies should be encouraged to embrace principles ensuring the free flow of information.

The following guidelines are offered with a view to ensuring that, so far as is legally possible and practical, Church practice and procedures function at all levels to reflect a culture of openness and not one of secrecy. It is intended that the guidelines should apply, subject to any necessary adaptations, to all bodies within the Church whether at congregational, presbytery or centrally. The guidelines are based on the principle that members and adherents of the Church and indeed the public generally should have access to all information about the Church’s activities, except in certain defined areas.

1. Church bodies should adopt the presumption that all information should be made available or disclosed on request unless special considerations dictate otherwise. “Special considerations” include personal data subject to the provisions of the Data Protection Act 1998 (including information supplied in confidence such as personnel references) and information covered by legal privilege and where questions of commercial considerations apply.
2. No Church Court or Committee should automatically meet in private. It is, however, accepted that there is a legitimate need for privacy in regard to discussions with respect to the formulation and development of policy and in connection with sensitive matters such as those concerning personnel. On occasions therefore meetings or parts of meetings may require to be held in private and possibly even a “Record Apart” from the Minutes may require to be prepared to record such proceedings.
3. Endeavours should be made to publicise the business to be discussed as widely as possible in advance of a meeting, for example, by printing the agenda in the Church magazine/Order of Service or displaying it on a Church Notice Board. Those chairing the meeting should ascertain in advance what items members may wish to raise under “Any other competent business”. Such business should, however, be strictly limited to those items which could not have been properly put on the agenda when it was being prepared. If major items of business are raised in such a way, unless of an urgent nature, they should be held over until the next meeting.
4. Unless special considerations apply, once Minutes of meetings have been approved, they should be available publicly and should not be marked in such a way as to suggest otherwise, for example, “Private and Confidential”. The same principle relates to archived files and other records.
5. Where the decision of a Church Court or Committee affects a particular individual or group of individuals, he, she or they should be entitled not only to be advised as to the decision reached but also the reasons for it.
6. All Church bodies should arrange to take time to consider, with specific reference to their own methods of working, how they can implement most effectively the principles of freedom of information with specific reference to the means by which information can be disseminated about their work. While cost and other considerations will inevitably restrict the ability of Church bodies being pro-active in publishing information, the advent of electronic means of communication does present the opportunity for much more information to be made available at low cost.

