

HANDLING COURT ORDERS FOR UNIVERSITY HELD DOCUMENTATION

This Guidance Note is intended to provide guidance to Edinburgh Napier University staff on the subject of Court Orders. It does not constitute legal advice and is not to be relied on as such. Edinburgh Napier University is not liable for any errors or omissions.

The University receives a number of court orders in the course of a year, many of which are for the production of documents the University may hold. The purpose of this guidance is to highlight the key points which all University staff must be aware of in ensuring a Court Order is dealt with timeously and correctly.

What is a Court Order?

A Court Order is a judgement made by a Court or Tribunal which requires either that something is done or is not to be done.

What types of Court Orders does the University receive?

There are several types of Orders which the University may be served with, but this guidance relates only to those which have been granted for the production of documents and other records which the University may hold. The majority of these will arise from a civil claim that an individual is pursuing against another individual or organisation but a Court Order may also be granted for the purposes of a criminal investigation.

Who can apply for a Court Order?

The University receives Orders which have been granted to solicitors acting for the claimant or the defendant in a civil claim; occasionally a party to a claim may be representing themselves. The Procurator Fiscal may also apply for an Order in the course of criminal proceedings.

Parties to a civil claim may be looking for evidence in support of or defence of their claim but a Court will not allow a 'fishing exercise' and the documentation sought must be relevant to that claim. The purpose of the Order is to put the Court in possession of documents about the issues of fact which have to be determined in the action.

What form does the Court Order take?

Court Orders must state:

- the Court which has granted it
- the date on which it was granted and by whom
- the parties to the Order
- who has applied for the Order
- the specification of documents i.e. the list of documents
- the instructions for complying with the Order

What should I do if I receive a Court Order?

You must deal with it **immediately** as the Order will state that the University is required to produce to the requesting party, the documents in the specification '**within seven days of the service on you of this order**'. You should then notify your Dean of School/Director of Professional Service/School Support Service Manager that you are in receipt of the Order and **either** advise them that you are dealing with it so they can notify/raise awareness to any other (relevant) members of staff **or** seek advice on to whom it should be sent. You must then contact that person direct by phone or email and inform them of the Order and either hand deliver it in a sealed envelope or put it in the internal mail in an envelope within an envelope (i.e. double wrapped), addressed to the named individual and marked 'Strictly Private & Confidential'.

Note: Court Orders are not to be sent to Governance Services. Governance Services may assist in providing advice but will not be responsible for responding to the Order.

How should I respond to a Court Order which has been directed to me?

You should do the following:

- a) check that the Order is properly addressed to the University. If not, notify the party who sent the Order and send it back.
- b) check whether your area holds centrally the documents which are the subject of the Order, either electronically or in hard copy and arrange for these to be downloaded or copied
- c) identify who may hold any other records and ask for these to be provided to you within a defined timescale, which will enable you to respond within the 7 day deadline
- d) review the records you receive and identify any issues with the documents e.g. is some of the information about other parties, is it highly confidential or sensitive data and/or does it constitute a mixture of relevant and irrelevant information?
- e) If you consider that any of the documents are confidential or sensitive, you must still produce these but follow the guidance in the 'Notes' to the Order which permit these records to be placed in a separate sealed packet marked 'confidential' and sent to a named Court official
- f) check carefully that you are only providing documentation which falls within the scope of the Order and do not include anything that does not
- g) prepare an inventory of the documents held
- h) complete, sign and date the accompanying certificate

Do I need to redact/take out anything from documents which fall within the Order?

As documents are being provided in response to an Order, the University is not required to redact any of the content. However, note the guidance in sections e) and f) above about dealing with confidential/sensitive, mixed or irrelevant data.

How should I send the documentation?

Subject to f) above about sending confidential data to a named Court official and any specific instructions in the Order, you should ensure that the packet of documentation is sent in a double envelope, by registered post to the party named in the Order at their designated address.