

## Freedom of Information Policy

### Policy Statement

Halesowen College takes its responsibilities with regards to the management of the requirements of the Freedom of Information Act 2000 (FOIA) seriously. FOIA gives the public a general right of access to information held by public authorities and publicly funded organisations. The College is obliged to respond in writing within 20 working days to specific requests from any individual. In its response, it will state whether it holds information of the type requested, and, if so, subject to certain exemptions (including issues of Data Protection), communicate it. If the College is unable to answer the request because of uncertainty over what is being requested, the College will contact the requester as soon as possible for clarification. Until this clarification has been received the time limit for response will be paused. The statutory timescales will restart the day after receipt of the required clarification. The Information Commissioner's Office (ICO) is the independent regulatory authority for FOIA and should be contacted ([www.ico.org.uk](http://www.ico.org.uk)) where requests have not been resolved to the applicant's satisfaction.

### 1. Introduction

The Freedom of Information (FOI) Act 2000 gives the public a general right to access recorded information held by public authorities including Further Education Colleges. The Act promotes greater openness and accountability across the public sector, therefore facilitating a better understanding of how public bodies carry out their business, why they make the decisions they do and how they spend public money. All institutions are required to issue a publication scheme. Also, the Environmental Information Regulations 2004 allow wider public access to environmental information held by the College.

The College's basic duties under Freedom of Information are; to confirm or deny whether requested information is held and to provide the requester with that information.

### 2. Scope

The purpose of the Freedom of Information Policy is to:

- Define the duties imposed by the FOIA and how the college intends to discharge those duties;
- Set out the roles and responsibilities in relation to ensuring compliance with FOIA; and
- deal with complaints and appeals where required.

### 3. Roles and Responsibilities

The College recognises its corporate responsibility under FOIA to provide a general right of access to information held. The Senior Officer with overall responsibility for this policy is the Vice Principal/Chief Finance Officer.

The Operations Manager acts as Data Protection Officer (DPO) and is also responsible for the processing and monitoring of freedom of information requests, drawing up guidance on freedom of information and promoting compliance with this policy in such a way as to ensure the easy,

appropriate and timely retrieval of information. Members of staff should receive introductory training and guidance on FOIA procedures.

FOIA requests are reported to the Audit Committee.

## The Publication Scheme

Under the FOIA it is the duty of every public body to adopt and maintain a publication scheme to facilitate the proactive release of information. In accordance with the legislation, Halesowen College has adopted the publication scheme for further education colleges (see Appendix B). This is the Definition Document for Colleges of Further Education published by the Information Commissioner's Office. The guidance gives examples of the kind of information that the College is required to provide to discharge commitments under the FOIA. This model scheme is in line with Section 20 of the Act. This scheme is that approved by the UK Information Commissioner and is accessible on the College website.

The publication scheme shall be reviewed at least annually in accordance with College policies to ensure that:

- when new information is added by the College, details are added to the scheme
- when information becomes obsolete or superseded then the information is removed
- contact details of key staff or teams are accurate and data is accessible

Any changes to the standard scheme must be approved by the UK Information Commissioner.

The College will make information in the definition document available unless

- it is not held
- information is exempt under the FOIA or Environmental Information Regulation (EIR)
- prohibited under statute
- directly available on an external website (link to be provided)
- impractical or too resource intensive to provide

The College will be in breach of the FOIA if it does not adopt an approved scheme and/or does not publish information in accordance with the scheme it has adopted. Staff shall be aware of the commitment the College has made to provide information and how it is obtained.

## Handling Freedom of Information Requests

A request for information under FOIA can be made by contacting the College's Operations Manager.

Email – [mgarrett@halesowen.ac.uk](mailto:mgarrett@halesowen.ac.uk)

Post:

Operations Manager  
Halesowen College  
Whittingham Road  
Halesowen B63 3NA

In accordance with the publication scheme, where it is within the capability of the College, information will be provided an individual does not wish to access the information via the website this may be obtained in hard copy format.

Much information is provided on the FOI page on the website [www.halesowen.ac.uk](http://www.halesowen.ac.uk) outside of this or where For a request to be valid, every application for information has to be in written form which includes email and social networking sites. This request must include the requester's real name and include an address for correspondence (this can be postal or email).

Requesters do not have to indicate why they want the information. An applicant is entitled to be informed in writing as to whether the information is held and to have the information communicated to them or provided with an explanation why this is not being done.

Any request made to the College stating the name of the applicant, including an address for correspondence and describing the information required, qualifies as a request for information. Should a request not be valid under FOIA the College still has an obligation to provide advice and assistance to requesters ie inform them of their rights under FOIA and explain how to make a valid request.

Any requests for information received by a member of staff via email or as a paper copy must firstly be forwarded to the Operations Manager who will liaise with colleagues to provide the information. The Operations Manager maintains a log of all requests and this is monitored by CLT. It is also reported to the Audit Committee. Requests which are potentially vexatious or any complex/potentially having reputational impact shall be forwarded directly to the Vice Principal/Chief Finance Officer.

If a person is asking for their own data this is not an FOIA request but it should be dealt with under the approved Data Protection Policy. Any request for environmental information must be compliance with the Environmental Information Regulations 2004.

The correspondence to the applicant must state:

- whether the College holds the information of the type requested;
- if so whether it cannot be supplied due to the constraints of the Data Protection Act which takes precedence over any FOI rights;
- whether the information is exempt from disclosure (see Exemptions below).

If the information is held and able to be provided i.e. within terms and conditions of the Data Protection Act and is not subject to an exemption, it must be given to the individual in so far as possible in the format requested i.e. hard copy or electronic. The College may draw information from multiple sources in order to respond.

## **Timescale for Compliance**

On receipt of a request the College is obliged to inform the applicant in writing whether the information requested is held and if so, communicate that information to the applicant, promptly, but not later than 20 working days after receipt of the request.

The 20 working day clock starts:

- the day after the College receives the request. The time limit for compliance is the twentieth working day following the date of receipt.
- or
- the day the College receives further information it reasonably requires in order to identify and locate the information requested.

However, there is provision to claim a reasonable extension (up to 20 days) where it requires more time to consider the public interest test.

A request is received when it is delivered to the College, or when it is delivered to the inbox of a member of staff. The date of receipt is **not** the date the request is passed to the appropriate person for processing. The impact of charges on this timescales is detailed below.

In respect of emails, however, where an automated 'out of office' message provides instructions on how to re-direct a message, the request would not be 'received' until it was resent to the alternative contact.

For each request the FOIA log must be completed stating:

- Date of request (as College date stamp)
- Nature of request
- Name and address of individual
- Person within College responsible for information
- Length of time taken to locate information
- Any exemptions applied
- Costs incurred/charged
- Whether applicant was satisfied

The completion of such a log is necessary to ensure that if referred to the Information Commissioner the College could demonstrate that the process was completed fairly and within the legislation.

If the College refuses to confirm or deny that the information is held or refuse to provide information then a refusal notice will be issued within the statutory timescales. This will inform the requester of their right to complain to the Information Commissioner.

## Exemptions

Some information is exempt from disclosure and so does not have to be provided.

In certain circumstances the College may refuse a FOIA request:

- when the request is vexatious;
- when the request repeats a previous request from the same person;
- when it would cost too much or take too long to deal with the request<sup>1</sup>
- when the information falls under one of the exemption.

The Freedom of Information Act provides two distinct but related rights of access to information which impose corresponding duties on the College. These are:

- the duty to inform the applicant whether or not information is held by the authority, and, if so,
- the duty to communicate that information to the applicant.

The Act refers to the first duty as 'the duty to confirm or deny'.<sup>1</sup>

If information has been requested but is not held, it will normally be reasonable to inform the applicant of this fact. However, there may be some exceptional cases where it would not even be right to confirm or deny that information requested was held.

There are two broad categories of exemptions:

- **Absolute exemptions.** These are cases where the right to know is wholly disappplied. In some cases there is no legal right of access at all, for instance information supplied by or relating to bodies dealing with security matters or information covered by parliamentary privilege. In other cases, for instance information available to the applicant by other means or personal information relating to the applicant, it may be possible to obtain the information by alternative means although not under FOI.

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<sup>1</sup> Refer to Freedom of Information (Appropriate Limit & Fees) Regulations 2004.

- Qualified exemptions. These are cases where the College, having identified a possible exemption, must consider whether the public interest in maintaining the exemption is greater than that in confirming or denying the existence of the information requested and providing the information to the applicant.

The full list of exemptions can be found in Appendix A.

Exemptions are subject to the public interest test unless FOIA states that they are absolute exemptions.

In providing information the College will not disclose anything officially marked confidential or that breaches GDPR within the parameters of eligible exemptions.

When applying the test, the College is simply deciding whether in any particular case it serves the interests of the public better to withhold or to disclose information.

## **Vexatious and Repeat Requests**

A request can be treated as vexatious where it would impose a significant burden on the College in terms of expense or distraction and meets at least one of the following criteria:

- It clearly does not have any serious purpose or value;
- It is designed to cause disruption or annoyance;
- It has the effect of harassing the College;
- It can otherwise fairly be characterised as obsessive or manifestly unreasonable.

Each specific request should be looked at and assessed individually.

Issues of vexatiousness may arise where the College receives requests from individuals who have previously registered a grievance, pursued a complaint or otherwise been involved in a dispute. It is not unusual for those who believe they have been unfairly treated by the College to pursue or attempt to re-open their grievance by using the FOI.

In circumstances where requests are used solely for the purpose of going over the same ground raised in a previously closed complaint which has exhausted available procedures, the College will view the request as vexatious.

Any request considered to be vexatious will be passed to the Vice Principal/Chief Finance Officer and the advice of the Data Commissioner sought as required. Should this be linked to a complaint/dispute this may be escalated to the Principal as necessary.

Where the College has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

All refusals for information will be communicated to the applicant in accordance with the paragraph above on exemption.

## **Fees**

The College will aim to publish most information in the guide on the website which can be accessed free of charge. Any charges shall be straightforward, transparent and fair.

Sections 9 and 13 of the Freedom of Information Act allow the College to charge for answering requests in certain cases. The Act states that the College may either charge for or decline requests for information that would cost more than £450 to deal with the request.

This is referred to as the appropriate limit. The College must estimate whether a request is likely to breach the 'appropriate limit by' taking into account staff costs incurred in:

- determining whether it holds the information requested
- locating the information or documents containing the information
- retrieving such information or documents
- extracting the information from the document containing it (including collating or copying information)

On a case by case basis, where a fee is seemed payable the Operations Manager will refer to ICO guidance on fees.

If the applicant does not agree with the College's decision that the cost of complying with the request would exceed the appropriate limit, they can ask the Information Commissioner to investigate.

Any requests for personal information would be subject to the Data Protection Act and the fees are clearly defined in the College's Data Protection Policy.

## **Environmental Information Regulations**

Environmental Information Regulations includes data on air quality, water, waste management, noise and sustainability. Requests may be verbal and the College has to respond within twenty working days except when a request is complex or voluminous. Reasonable fees can be charged as above except when the information is examined on College premises. Exemptions from disclosure are available only if the public interest in with adding the information outweighs the public interest in disclosure.

Requests under the Environmental Information Regulations will be handled as requests under FOIA. The Operations Manager will liaise with the Estates and Facilities Director.

## **Complaints**

Complaints under Freedom of Information should be referred to the Data Commissioner at the following address/website:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Website: [ico.gov.uk](http://ico.gov.uk)

Helpline 0303 123 1113

## Review

Reviewed	By	Date
Updated by	Jacque Carman	04.08.2023
Approved by	CLT	14.02.2022
Approved by	Audit Committee	08.03.2022
Website	Yes / No	Yes
Date of Next Review		Pending review

### The Exemptions

Refer to Part II Exempt Information paragraphs 21 to 44 of Freedom of Information Act 2000.

#### Qualified

- Information intended for future publication (s.22)
- Defence (s.26)
- International relations (s.27)
- Relations within the UK (s.28)
- The economy (s.29)
- Investigations and proceedings (s.30)
- Law enforcement (s.31)
- Audit functions (s.33)
- Formulation of government policy (s.35)
- Prejudice to effective conduct of public affairs (s.36)
- Communications with the Royal Family (s.37)
- Endangering health and safety (s.38)
- Environmental (s. 39) (dealt with by other legislation)
- Some personal information (s.40).
- Legal professional privilege (s.42)
- Trade secrets and commercial interests (s.43)

These qualified exemptions are subject to the public interest test. The principle of the legislation is to release information unless there is a valid exemption.

#### Absolute

- Information accessible by other means (s.21)
- Information supplied by or relating to, bodies dealing with security matters or national security (s.23 and s.24)
- Court records (s.32)
- Parliamentary privilege (s.34)
- Personal information (s.40)
- Information provided in confidence (s.41)
- Information whose disclosure is prohibited by law (s.44)



### Model Publication Scheme

This publication scheme has been prepared based on the model approved by the Information Commissioner. It has been adopted without modification by Halesowen College without further approval and will be valid until further notice.

This publication scheme commits the College to make information available to the public as part of its normal business activities. The information covered is included in the classes of information stated below, where this information is held by the College, and it is in the public interest to disclose. In making information available, the College will always adhere to the requirements of data protection legislation.

The scheme commits the College:

- to proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the College and falls within the classifications below.
- to specify the information which is held by the College and falls within the classifications below.
- to proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme.
- to produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public.
- to review and update on a regular basis the information the College makes available under this scheme.
- to produce a schedule of any fees charged for access to information which is made proactively available.
- to make this publication scheme available to the public.

### Classes of Information

#### Who we are and what we do?

organisational information, locations and contacts, constitutional and legal governance.

#### How Halesowen College is organised

Details of the Corporation and the senior management team alongside organisation charts for the College and wholly owned subsidiary company.

#### The services we offer

A description of the services offered and links to the digital prospectus and courses for adults, HE apprenticeships on the website.

#### Student Activities

Information about the College ambassadors' scheme and Students Union. There is a link to the learner's section of the website.

#### What we spend and how we spend it

Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts. There is a link to the published Annual Report and Financial Statements alongside key financial policies.

#### What our priorities are and how we are doing

Strategy and performance information, plans, assessments, inspections and reviews.

## **How we make decisions**

Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations. There are links to the strategy and annual plans alongside the latest Ofsted report and key strategy documents.

## **Our policies and procedures**

Current written protocols for delivering our functions and responsibilities which are not covered in other sections.

## **Human Resources**

Details of key processes and associated policies.

## **Health and Safety**

Overarching objective/policy statement and a link to the approved policy.

## **Complaints**

Details of the College ethos and a link to the policy which explains how to make a complaint.

## **Non-Disclosure**

The classes of information will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.
- Information in draft form.
- Information that is no longer readily available as it is contained in files that have been placed in archive storage or is difficult to access for similar reasons.
- Information for which disclosure would breach other legislation.

## **The method by which information published under this scheme will be made available**

The College will indicate clearly to the public what information is covered by this scheme and provide links on the Freedom of Information Scheme on the website to documents.

Should an individual not wish to access the information by the website, they may email a request or write to the registered office.

In exceptional circumstances some information may be available only by viewing in person. An appointment to view the information will be arranged within a reasonable timescale.

Information will be provided in the language in which it is held or in such other language that is legally required. Where the College is legally required to translate any information, it will do so.

Obligations under other legislation to provide information in other forms and formats will be adhered to when providing information in accordance with this scheme.

## **Charges which may be made for information published under this scheme**

The purpose of this scheme is to make the maximum amount of information readily available at minimum inconvenience and cost to the public. Charges made by the College for routinely published material will be justified and transparent and kept to a minimum.

Material which is published and accessed on a website will be provided free of charge.

Charges may be made for information subject to a charging regime specified by Parliament.

Charges may be made for actual disbursements incurred such as:

- photocopying
- postage and packaging
- the costs directly incurred as a result of viewing information.

Charges may also be made for information provided under this scheme where they are legally authorised, they are in all the circumstances, including the general principles of the right of access to information held by public authorities, justified and are in accordance with a published schedule or schedules of fees which is readily available to the public.

If a charge is to be made, confirmation of the payment due will be given before the information is provided. Payment may be requested prior to provision of the information.

### **Written requests**

Information held by the College that is not published under this scheme can be requested in writing, when its provision will be considered in accordance with the provisions of the Freedom of Information Act.