# Freedom of Information Policy

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## 1. Purpose

The Freedom of Information Act (FOIA) provides a statutory right, with effect from 1 January 2005, for members of the public to have access to information held by public authorities including the College, subject to certain exemptions related to confidential matters.

The aim of this policy is to set standards for processing data and responding to requests for information from the public in relation to Freedom of Information (FOI) requests. These standards comply with the requirements of the FOIA and the Environmental Information Regulations.

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 maintaining its publication scheme; and
- Deal with complaints and appeals where required.

## 2. Scope

This policy applies to all recorded information held by or on behalf of the College, including information held by the Corporation Board, its committees and the Office of the Clerk. It applies to all staff, governors, contractors and others who create, handle or manage College information.

Requests for an individual's own personal data are outside the scope of this policy and will be handled under data protection legislation.

The policy covers requests made in writing, by phone and by email for access to data recorded in any medium by any persons including learners, customers and employees.

## 3. Definitions

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, Abingdon and Witney College has adopted the publication scheme for further education colleges (see Appendix 1). 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 as approved by the UK Information Commissioner and is accessible on the College website.

## 4. Legislative and Regulatory Framework

This policy is based on the requirements of the Freedom of Information Act 2000, the Data Protection Act 2018, the UK General Data Protection Regulations (GDPR), the Environmental Information Regulations 2004, and relevant guidance and codes of practice issued by the Information Commissioner's Office (ICO).

## 5. Policy Statement

Abingdon and Witney College takes its responsibilities with regards to the management of the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 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) where requests have not been resolved to the applicant's satisfaction.

The College FOI Publication Scheme is available on the College website (see also Appendix 1), which signposts the public to information about the College which is available in the public domain.

The College will make information in the publication scheme 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.

At times the College may not be able to supply all the information requested. Information will only withheld in accordance with the exemptions laid down in the Act as follows:

i) Information accessible to the applicant by other means, e.g. via the College Publication Scheme or via the Data Protection Act
ii) Information intended for future publication
iii) Investigations and proceedings conducted by the College
iv) Law enforcement
v) Health and safety
vi) Personal information
vii) Information provided in confidence
viii) Commercial interest
ix) Prohibitions on disclosure

Where an exemption applies (see Appendix 2), the College may decide that either:

i) The public interest in releasing the information outweighs the public interest in withholding it; or
ii) The information can be released despite the exemption.

Where an exemption applies, but it is nevertheless in the public interest to disclose information, the College will do so “in a reasonable time”. Where a decision is made not to release information the College will always state the reason why information has been withheld. An explanation of how a member of the public can complain about that decision, both to the College and to the Information Commissioner, will 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
- when the information falls under one of the exemptions.

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 withholding the information outweighs the public interest in disclosure.

## 6. Implementation of the Policy

All employees must abide by the rules and policies made by the college. Any unauthorised, inappropriate or reckless use of data or any other failure to follow the

College Freedom of Information Policy could result in disciplinary proceedings, which in some cases could lead to dismissal.

A request for information under FOIA can be made by contacting the College's Clerk and Governance Advisor.

Email – freedomofinformation@abingdon-witney.ac.uk.

Post: Clerk and Governance Advisor, Abingdon and Witney College, Wootton Road, Abingdon. Oxfordshire. OX14 1GG.

The College has a duty to respond to requests under the Freedom of Information Act within 20 working days of receiving them. In some instances, fees for the cost of providing the information (e.g. for photocopying) may be chargeable. If this is the case, the College will issue a fees notice to the applicant.

All FOIA requests from the public about College matters received by other staff should be referred to the Clerk and Governance Advisor.

Requests under the Environmental Information Regulations will be handled as requests under FOIA. The Clerk and Governance Advisor will liaise with the Estates and Capital Projects Director and the Sustainability Officer where applicable.

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.

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 are subject to the Data Protection Act.

## 7. 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 Principal and CEO.

The Clerk and Governance Advisor is 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.

The College Data Protection Officer is the Vice Principal Funding, Planning and Systems Improvement.

Members of staff should receive introductory training and guidance on FOIA procedures.

Within the College, advice on the Act can be obtained from the Clerk and Governance Advisor.

## 8. Monitoring, Review and Assurance

This policy will be reviewed every three years or when there are significant changes to legislation. The College's legal compliance is monitored by the Clerk and Governance Advisor.

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

FOIA requests are reported to every meeting of the Finance and General Purposes Committee.

## 9. 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 Helpline 0303 123 1113

## 10. Equal Opportunities Statement

The College recognises that members of the public may need assistance, for instance with the translation of information into other languages, and the use of alternative formats to present information.

## 11. Location and Access to the Policy

The Policy is publicly available on the College website

## 12. Related Policies and documents

College Data Protection Policy

Freedom of Information Publication Scheme

ICO’s Freedom of Information Model Publication Scheme

AWC FOI Internal Process

## Appendix 1 Freedom of Information Publication Scheme

This publication scheme has been prepared based on the model publication scheme approved by the Information Commissioner. It has been adopted without modification by Abingdon and Witney 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 Abingdon and Witney 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.

**Lists and registers.**

Information held in registers required by law and other lists and registers relating to the functions of the authority. This does not mean class or attendance registers.

**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.

**Appendix 2 The Exemptions**

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

The Act contains the following exemptions:

- Section 21: Information accessible by other means
- Section 22: Information intended for future publication
- Section 22A: Research information
- Section 23: Security bodies
- Section 24: National security
- Section 26: Defence
- Section 27: International relations
- Section 28: Relations within the UK
- Section 29: The economy
- Section 30: Investigations and proceedings
- Section 31: Law enforcement
- Section 32: Court records
- Section 33: Audit functions
- Section 34: Parliamentary privilege
- Section 35: Formulation of government policy
- Section 36: Prejudice to effective conduct of public affairs
- Section 37: Royal communications and honours
- Section 38: Health and safety
- Section 39: Environmental information
- Section 40: Personal information
- Section 41: Information provided in confidence
- Section 42: Legal professional privilege
- Section 43: Commercial interests

- Section 44: Prohibitions on disclosure

**Absolute vs Qualified Exemptions**

FOIA exemptions are divided into two categories: [ico.org.uk], [ico.org.uk]

**Absolute exemptions**

- No public interest test is required.
- Examples include sections **21**, **23**, **32**, **40(1)**, **41** and **44**.

**Qualified exemptions**

- A public interest test must be carried out.
- The information can only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosure.
- Examples include sections **22**, **36**, **38**, **42** and **43**.