

## Freedom of Information

WHC reserves the right to amend this policy at its discretion. The most up-to-date version can be downloaded from our website.



## Freedom of Information Policy

ELT manager	Director of Finance & Resources
Responsible officer	Director of Finance & Resources
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Further information (where relevant)	

Reviewer	Date	Review Action/Impact	BoM
Matt Simpkinson	Nov 16	3.4 / 9.1	13 Dec 16
Paula Lister	Nov 19	Amended for change in titles only	

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# Freedom of Information Policy

## 1.0 Policy

**1.1** The Freedom of Information (Scotland) Act 2002 (Fol) 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.

The purpose of this policy and related procedures is to ensure the College is compliant with the Act and sets out the procedures for dealing with requests for information in an efficient manner. Relevant internal and external references are listed at Appendix 1.

## 2.0 Policy Statement

Under Fol, it is the duty of every public body to adopt and maintain a publication scheme to facilitate the proactive release of information. A publication scheme is a document describing the information that the College publishes or otherwise makes available as a matter of routine. In accordance with the legislation, the College shall maintain and publish via the College website a publication scheme which is in line with Section 20 of the Act, based on the Model Publication Scheme which is approved by the Scottish Information Commissioner.

The publication scheme shall be reviewed and updated by the Freedom of Information Officer in line with review of this policy.

The College will be in breach of the FOI Act if it does not adopt an approved scheme and/or does not publish information in accordance with the scheme it has adopted. The College will compile and publicise a guide to the specific information made available under the scheme.

## 3.0 Key Principles

**3.1** All staff are aware of their responsibilities under the Act for recognising requests and advising those making requests of the appropriate way to access information.

**3.2** All requests for information are treated potentially as requests under the terms of the act.

**3.3** All non-routine requests for information should be referred to the Fol officer (currently the Director of Finance & Resources).

**3.4** Routine operational requests for information are dealt with by the most

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appropriate staff with reference to the FoI Officer.

- 3.5** The Publication Scheme contains as much information as possible. Requests are monitored to inform future reviews of the contents and operation of the Publication Scheme.

### **4.0 Scope**

References to “staff” throughout this policy and procedure apply equally to members of the Board of Management, unless the context makes it clear that this is not the case.

### **5.0 Responsibilities**

- 5.1** The FoI officer is responsible for:

- the review of this policy and procedure
- ensuring that the arrangements for dealing with requests for information and (formal) reviews are implemented in accordance with this policy and procedure
- arranging training, including during staff induction, relating to this policy and procedure
- obtaining legal advice as necessary in dealing with requests for information.

- 5.2** All members of the Board of Management and College staff are responsible for dealing with initial requests for information according to the procedures described in this policy and procedure, and for providing relevant information for responding to requests as required by the FoI Officer.

- 5.3** A formal review panel will be established by the FoI Officer if the applicant is not satisfied with the response, and the panel, chaired by another member of the senior management team, is responsible for deciding whether legal advice is sought. The Chair of the panel is responsible for obtaining the legal advice through the FoI Office.

### **6.0 Exemptions**

- 6.1** Some information is exempt from disclosure and so does not have to be provided:

- when the request is vexatious or repeated;
- when the cost of compliance exceeds the appropriate limit;
- when the information falls under one of the exemptions (See Appendix 2).

- 6.2** Where the FoI Officer considers that a request for information should be refused, all relevant papers will be considered by another member of the Executive Leadership Team (ELT) before the response is sent.

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The member of the ELT will have taken no part in the preparation of the papers and, so far as is practicable, will be independent of the area(s) of the College to which the request refers.

- 6.3** The decision to refuse to provide information will be communicated to the applicant, with reasons for the refusal. The applicant has the right to request a review of the decision.

## **7.0 Scottish Information Commissioner**

- 7.1** The FoI Officer will be the point of contact between the College and the Office of the Scottish Information Commissioner. All communication between the College and the Office of the Scottish Information Commissioner's Office will be recorded by the FoI Officer.

- 7.2** The FoI Officer will advise the Principal of any formal communications from the Office of the Scottish Information Commissioner. Potentially these are:
- invitation to comment on complaints;
  - information notice, to obtain information when considering complaints;
  - warrant to enter the College and seize documents;
  - enforcement notice, to inform the College of non-compliance with the Act and measures to address the deficiency;
  - decision that information should be released.

## **8.0 Compliance**

- 8.1** Staff are expected to comply with their responsibilities under the Act as described in this policy and procedure and related policies. A note containing guidance for staff is distributed and discussed at training events and will be part of staff induction.

- 8.2** It is not permitted either to decide not to hold information appropriate for the College, or to destroy such information, in order to avoid the implications of the Act.

- 8.3** The Act also specifies that it is a criminal offence to destroy or erase information once it has been requested (unless the information would be exempt from disclosure or is scheduled to be destroyed per the Records Management Policy).

- 8.4** Failure to comply with the requirements of the Act in holding, releasing or destroying information will render staff liable to disciplinary action. Deliberate actions or omissions may be deemed to be gross misconduct.

## **9.0 Review**

- 9.1** This policy will be reviewed every three years or earlier if required.

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### Appendix 1 – References

#### Internal

Records Management Policy  
Data Protection Policy  
Freedom of Information Procedures  
Records Management Procedures

#### External

Freedom of Information (Scotland) Act 2002  
Data Protection Act 1998

### Appendix 2 – Exemptions

The exemptions include:

#### Qualified

- Information intended for future publication (s.27)
- Investigations and proceedings (s.34)
- Law enforcement (s.35)
- Audit functions (s.40)
- Health and safety (s.37)
- Some personal information (s.38).
- Commercial interests (s.33)

#### Absolute

- Information accessible by other means (s.25)
- Court records (s.37)
- Personal information (s.38)
- Information provided in confidence (s.46)
- Information whose disclosure is prohibited by law (s.26)