

## FREEDOM OF INFORMATION POLICY

### 1 INTRODUCTION

- 1.1 Under the Freedom of Information Act 2000, members of the public have a general right of access to all recorded information held by public organisations, including colleges of further education.
- 1.2 Any person has the right to ask if a particular piece of information is held by the College and to request a copy of that information.
- 1.3 Wigan & Leigh College seeks to ensure that it operates in an open and transparent manner, dealing satisfactorily with requests and readily providing information to the public.

### 2 GENERAL

- 2.1 Public organisations are obliged to have a Public Information Disclosure Scheme and this has to be formally registered with the Information Commissioner's Office.
- 2.2 The Publication Scheme outlines the kinds of information held by the College and how each of these may be accessed. The Scheme is available to the public through the College's website ( <http://www.wigan-leigh.ac.uk> ) . Electronic and paper copies of documentation are available on request.

### 3 EXEMPTIONS

- 3.1 Whilst the College will endeavour to be as open as possible in terms of the information it makes available, there are certain categories of information that are exempt from the provisions of the Freedom of Information Act (2000), which allow for information to be withheld or qualified.
- 3.2 The exemptions include personal information deemed to be sensitive under the Data Protection Act 1998 and information where a public interest test applies. A full list and explanation of the exemptions can be found at Appendix 1.

- 3.3 The management of personal and sensitive information will be dealt with in accordance with the provisions of the Data Protection Act, which shall supersede the requirements of the Freedom of Information Act. The College has a separate policy on Data Protection, which is available on request.
- 3.4 Breaches of confidentiality of personal and sensitive information by any employee may lead to disciplinary action under the College's staff disciplinary procedure (available from the Human Resources Department).
- 3.5 The College will make information available unless:
- a) It does not hold the information in question;
  - b) The information is exempt under one of the FOIA exemptions (see Appendix 2);
  - c) Information is readily and publicly available from an external website and will provide a direct link to that information;
  - d) The information is archived, out of date or otherwise inaccessible; or
  - e) It would be impractical or resource-intensive to prepare the material for routine release.

## **4 CONFIDENTIALITY**

- 4.1 The College's Board of Governors has established a number of categories for determining the confidentiality of its own proceedings. Records of such discussions are recorded separately and will not be made publicly available. The following matters will be assessed as confidential and treated in this manner:
- 4.1.1 Personal information relating to an individual;
  - 4.1.2 Information provided in confidence by a third party who has not authorised its disclosure;
  - 4.1.3 Financial or other information relating to procurement decisions during the course of those negotiations;
  - 4.1.4 Information relating to personnel matters during the course of negotiations;
  - 4.1.5 Information relating to the financial position of the College where the Board of Governors is satisfied in good faith that disclosure may harm the College;
  - 4.1.6 Legal advice received from or instructions given to the College's legal advisers;
  - 4.1.7 Information planned for publication in advance of that publication;
  - 4.1.8 Commercially sensitive material or information
- 4.2 After the end of each academic year, the Clerk to the Governors will review all items that have been classified as confidential under the Board's procedures and will make recommendations to the Board (through the Search Committee) as to whether these can now be released to the non-confidential record of the Board's business.

- 4.3 The Board has determined that attendance at its meetings by the general public or the media is not permitted. However, the records of the Board's non-confidential business are available for public inspection at the Principalship Office. Minutes of the non-confidential part of the Board's proceedings are also posted on the College's website, in accordance with the requirements of the Instrument & Articles of Government.
- 4.4 In a similar manner, certain aspects of discussions of the Senior Management Team, College Management Team and other internal committees may be assessed as confidential. Discussions relating to individual learners or members of staff will not be released to third parties, in line with the provisions of the Data Protection Act.

## **5 REGISTER OF INTERESTS**

All governors and managers with significant budgetary responsibility are required to complete an annual declaration of interest form. These are kept on file by the Clerk to the Governors and can be inspected during office hours Monday to Thursday at the Principalship Office,

## **6 PROCEDURES**

- 6.1 All requests for information that is not readily available through the College's website should be made in writing to:

Dave Harrison  
Executive Director of College IT Systems  
Wigan & Leigh College  
Parsons Walk Centre  
Wigan  
WN1 1RR

[foirequest@wigan-leigh.ac.uk](mailto:foirequest@wigan-leigh.ac.uk)

- 6.2 We will respond to your request within 20 working days. If there is likely to be a delay, we will tell you. This time limit might occasionally be extended if we have to consider complex legal issues, but we will always let you know. We will also explain why the delay is necessary. We will always try to provide information as soon as possible.
- 6.3 We can refuse to give you the information you request if:
- the cost of providing the information exceeds £450 (based on 18 hours at a cost of £25 per hour)

- we do not hold the information you are looking for
  - the information is exempt from disclosure under the Act
  - your request is considered vexatious or repeated.
- More information can be found on the [ICO website \(external link\)](#)

6.4 The College will provide, free of charge, printed information on courses and services offered, together with recruitment packs for advertised job vacancies. Publications and documents will be produced in other formats where it is reasonably practical to do so. For items not routinely available or for items in other requested formats which incur additional costs, the College reserves the right to make a charge.

6.5 Charges will be calculated based on the time spent researching and collecting the information requested and will be made at £25 per hour. In certain circumstances, the College may waive the fee at its absolute discretion. If we can provide the information within 18 hours of staff time there will be no charge, however charges may be made for costs incurred such as photocopying, printing, postage and packaging, but only if these charges amount to more than £20.00. If a charge is to be made, confirmation of the payment due will be given before the information is provided and payment may be requested prior to the provision of the information.

6.6 If the College is unable to resolve a complaint regarding the provision of information under the Freedom of Information Act, enquirers have the right to complain to the Office of the Information Commissioner, whose address is:

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF

## 7 REVIEW / MONITORING

- 7.1 Both the policy and the Publication Scheme will be reviewed on a regular basis by the Clerk to the Governors. Any amendments will be submitted to the Senior Management Team for approval.
- 7.2 An annual report on the number of Freedom of Information requests will be made to the Senior Management Team in the Autumn Term of each academic year, including details as to whether the requests were satisfied and any disputes or issues.

Completed By	Date	Review Date	Approval By
Dave Harrison	18/01/2016		

**EXEMPTIONS UNDER THE FREEDOM OF INFORMATION ACT 2000**

Note that this list contains only those exemptions relating to colleges of further education.

For more detailed information, you should use the link below:

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance/foi-exemptions-summaries#future>

- 21 Information accessible by other means** – If the information is reasonably accessible **to the applicant**, public authorities need to be alert to any attributes of an individual applicant which may mean that information is more or less accessible to him or her than it is to the public at large. Where information is exempt under section 21, the Act does **not** allow a public authority to 'neither confirm nor deny' that fact. Information under this section is **not** subject to any public interest test.
- 22 Information intended for future publication** – this may apply even if the specific date for publication has not yet been determined, but the proposed publication timetable must be **reasonable** in all the circumstances. The exemption will only apply if a public authority has decided to publish the information concerned before the request is received. This section is subject to the public interest test.
- 23, 26 Information supplied by, or related to, bodies dealing with security matters (23), & 27 defence (26) and international relations (27).**
- 28 Relations within the UK** – this applies to information whose disclosure would be likely to prejudice relations between two or more administrations in the United Kingdom.
- 29 The Economy** - information where disclosure would be likely to prejudice the economic or financial interests of the United Kingdom or of any administration in the United Kingdom.
- 30 Investigations and proceedings conducted by public authorities** – this is concerned primarily with preserving the integrity of certain proceedings and investigations conducted by public authorities. The application of section 30 may be triggered where a) information has, at any time, been held for the purpose of specified criminal and other investigations or proceedings; or b) information relates to the obtaining of information from confidential sources and was obtained or recorded for specified investigations or proceedings.
- 31 Law Enforcement** – this section concerns protecting a wide range of law enforcement interests and its application turns on whether disclosure would be likely to prejudice those interests.

- 32 Court Records** – this exempts information contained in particular types of litigation documents and court, tribunal and inquiry records, and will apply regardless of the content of the information. There are separate and specific regimes for gaining access to court and tribunal records and section 32 ensures that the Freedom of Information Act does not supersede those regimes.
- 33 Audit Functions** – this exemption can only be used by public authorities which have audit functions in relation other public authorities or whose functions include examining the efficiency, effectiveness and economy with which other public authorities use their resources (for example the National Audit Office). Section 33 applies to information whose disclosure would be likely to prejudice the exercise of these audit functions.
- 38 Health & Safety** - applies to information whose disclosure would be likely to endanger the physical or mental health or the safety of any individual.
- 39 Environmental Information** - exempts environmental information whose disclosure must be considered under the Environmental Information Regulations 2004: a specific regime to enable individuals to access environmental information, which includes its own exceptions from that right of access.
- 40 Personal Information** - concerns personal data within the meaning of the Data Protection Act 1998. This section applies to a) requests for the personal data of the applicant him or herself; and b) requests for the personal data of someone else (a third party).
- 41 Information Provided in Confidence** - provides an exemption to the right of access if the requested information was provided to the public authority in confidence. It only applies where a person would be able to bring a successful legal action for breach of confidence if the information was disclosed.
- Section 41 is **not** subject to the public interest test, but the courts have recognised that a person will not be successful in an action for breach of confidence if the public interest in disclosure outweighs the public interest in keeping the confidence. The application of section 41 may require detailed consideration of the law of breach of confidence: legal advice will often be necessary.
- 42 Legal Professional Privilege** - information that would be subject to legal professional privilege if litigation were in progress. Legal professional privilege covers confidential communications between lawyers and clients and certain other information that is created for the purposes of litigation. Section 42 ensures that the confidential relationship between lawyer and client is protected.
- 43 Commercial Interests** - exempts information where disclosure would be likely to prejudice the commercial interests of any person. It also includes a specific exemption for trade secrets. Section 43 protects not only the commercial interests of third parties but also the commercial interests of the public authority that holds the information. Public authorities will need to bear in mind that the commercial sensitivity (particularly the market sensitivity) of information will usually decrease with time.

Section 43 is subject to the public interest test.

- 44 Prohibitions on Disclosure** - Applies to three distinct categories of information: a) if there is an existing statutory bar to the disclosure of information by a public authority then that information will be exempt; b) if disclosure would be incompatible with a European Community obligation then the information will be exempt; c) if disclosure would constitute or be punishable as a contempt of court at common law (for example because it would breach a court order) then it will be exempt.

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