



# FREEDOM OF INFORMATION ACT POLICY

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Policy Area:	Data Protection
Policy Owner:	Stephen Belling
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## **1. Policy statement**

Birmingham Metropolitan 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 can't answer the request because of uncertainty over what is being requested, the Data Protection Officer (DPO) 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 'clock' will restart the day after receipt of the required clarification.

The Information Commissioner's Office (ICO) is the independent regulatory authority for FOIA and the avenue of appeal for requests that have not been resolved to the applicant's satisfaction.

## **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.

Staff guidance on the College's procedures and what to do when an FOI request is received is available on the College's website:

<https://www.bmet.ac.uk/about-bmet/governance/freedom-of-information/>

## **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 Company Secretary to the Corporation.

The DPO 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.

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

#### **4. Publication Schemes**

The current Model Publication Scheme (set out in Appendix A) and Definition Document for Colleges of Further Education (set out in Appendix B) provided by the ICO have been adopted by the College and are reviewed annually.

The Model Publication Scheme and Definition Document provide guidance on information routinely published by colleges which the ICO expects to be made available unless:

- the information is not held;
- the information is exempt under one of the FOI exemptions or Environmental Information Regulations (EIRs) exceptions or its release is prohibited under another statute;
- the information is archived, out of date or otherwise inaccessible; or it would be impractical or resource-intensive to prepare the material for routine release.

#### **5. Handling and Tracking of Requests**

A request for information regarding the College can be made by contacting the College's DPO. The dedicated routes for information requests are:

Email:

[dpo@bmet.ac.uk](mailto:dpo@bmet.ac.uk)

Post:

Data Protection Officer  
Birmingham Metropolitan College  
Jennens Road  
Birmingham  
B4 7PS

All requests must be made:

- Directly to the College, the ICO are unable to make requests on your behalf;
- In writing, for example in a letter or an email;
- In your real name, stating an address to which we can reply. This can be a postal or email address.

All freedom of information requests will be logged and tracked by the College's DPO. This will aid the identification of repeat, similar or vexatious requests. Multiple requests for information on a particular subject will lead to consideration for its addition to the Publication Scheme during the annual review.

Where there is a reason to believe that some or all of the information requested is held by another public authority or publicly funded organisation, the college will contact the applicant and provide information about where to re-direct the request. In some cases, the request may be transferred directly to the other organisation.

A response must be made within 20 working days although further reasonable details can be requested in order to identify and locate the information. Working days exclude weekends and bank holidays but include days when the College is closed but which are neither weekends or bank holidays.

## **6. Freedom of Information Exceptions**

There are several exemptions under FOIA, some exemptions where the public interest test applies and others which are absolute exemptions.

The College may decide that some information it holds could be regarded as exempt information under FOIA. Where a request for information includes exemptions, the College will consider the prejudice test and the public interest test and may, in some circumstances, withhold the requested information.

Where an exemption is deemed to apply to some or all of the information requested, the applicant will be notified in writing. The relevant exemption will be cited and any information that is not exempt will be provided.

Since FOIA contains a presumption in favour of disclosure, in cases where there is equal weight between withholding information and disclosing it, the information will be disclosed.

## **7. Personal Information**

Where an applicant makes a request for his, her, or their own personal data, the data is exempt from the FOIA in accordance the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA) as per FOIA section 40(1). This

exemption will be applied to any part of the request that is for the applicants own personal data.

In these cases the College will neither confirm or deny whether the data is held, and the request will be treated as a subject access request under the rights of individuals defined in UK GDPR.

The exemption is absolute and therefore a public interest test is not required in these instances.

## **8. Third Party Information**

As per FOIA section 40(2), if the information requested includes personal information of other living individuals before the College can provide the information or confirm that the data is held it must be established that disclosure will not;

- contravene any of the principles of GDPR. The principle which is likely to be relevant is principle (a). This requires the processing of personal data to be lawful, fair and transparent;
- contravene an objection to processing; or
- be exempt from the right of subject access.

## **9. Charges**

The College will follow the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Accordingly, all requests that cost less than £450 to process (the 'appropriate limit') will be compiled free of charge.

If the estimated cost of compliance exceeds £450, the duty to comply with the request does not arise. Such requests may be refused. However, mindful of the duty to provide advice and assistance, where the cost of complying with a request would exceed the appropriate limit, the applicant will be helped, if possible, to modify or re-focus the request in order to bring the cost below the limit.

In calculating the cost of a request, the College may only take into account the time taken to determine whether it holds the information and to locate and retrieve it. It may not take into account the time taken to consider exemptions and to seek and obtain legal advice, to consider whether a request is vexatious, to obtain authorisation to provide the information, to calculate fees or to perform any redactions. Costs are calculated at an hourly rate of £25, the equivalent of two and a half working days for one person.

The College will not charge for information listed on the Publication Scheme or Definition Document except where specifically indicated.

## **10. Complaints**

The DPO will co-ordinate any complaints received in respect of this policy.

The complaint should be addressed to the DPO in the first instance, the complaint will be acknowledged and every reasonable effort will be made to offer a more comprehensive response within 21 days.

If the applicant is not satisfied with the College response, they should inform the DPO within 21 days. The complaint will then be dealt with in accordance with the College's general Complaints or Grievance Procedure as appropriate.

If the applicant is dissatisfied with the outcome of the complaints procedure, they may seek an independent review from the Information Commissioner.

Requests for review from the Information Commissioner should be made in writing to:

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

Helpline: 0303 123 1113

Website: [www.ico.org.uk](http://www.ico.org.uk)

## **Appendix A**

### Model Publication Scheme



Model publication scheme

## Model publication scheme

### Freedom of Information Act

This model publication scheme has been prepared and approved by the Information Commissioner. It may be adopted without modification by any public authority without further approval and will be valid until further notice.

This publication scheme commits an authority to make information available to the public as part of its normal business activities. The information covered is included in the classes of information mentioned below, where this information is held by the authority. Additional assistance is provided to the definition of these classes in sector specific guidance manuals issued by the Information Commissioner.

The scheme commits an authority:

- To proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the authority and falls within the classifications below.
- To specify the information which is held by the authority 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 authority 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.
- To publish any dataset held by the authority that has been requested, and any updated versions it holds, unless the authority is satisfied that it is not appropriate to do so; to publish the dataset, where reasonably practicable, in an electronic form that is capable of re-use; and, if any information in the dataset is a relevant copyright work and the public

Model publication scheme  
Version 1.2  
20151023

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<https://www.bmet.ac.uk/wp-content/uploads/2020/02/model-publication-scheme.pdf>

## Appendix B

### Definition Document for Colleges of Further Education



#### Freedom of Information Act 2000

#### Definition document for colleges of further education

This document is written for the use of further education colleges in England, Wales and Northern Ireland that are subject to the Freedom of Information Act 2000 (FOIA). Sixth form colleges may opt to use either this definition document or the one for [schools](#), as appropriate to their constitution and country location (ie England, Wales or Northern Ireland). You must make clear which document you are using.

The guidance gives examples of the kinds of information that the ICO expects you to provide in order to meet your commitments under the model publication scheme.

The ICO expects you to make the information in this definition document available unless:

- **you do not hold the information;**
- the information is exempt under one of the Freedom of Information Act (FOIA) exemptions or Environmental Information Regulations 2004 (EIR) exceptions, or its release is prohibited under another statute (eg UK GDPR);
- the information is readily and publicly available from an external website; such information may have been provided either by you or on your behalf. You must provide a direct link to that information;
- the information is archived, out of date or otherwise inaccessible; or
- it would be impractical or resource-intensive to prepare the material for routine release.

If the information is only held by another public authority, you should provide details of where to obtain it.

The guidance is not meant to give an exhaustive or definitive list of everything that should be covered by a publication scheme. The legal commitment is to the model publication scheme, and you should look to provide as much information as possible on a routine basis.