



# Freedom of Information Policy

	<b>TO BE REVIEWED BY FULL GOVERNORS' COMMITTEE</b>
Reviewed in:	October 2017
Governor Name:	K Mistry
Governor Signature:	<i>K Mistry</i>
Next Review	October 2019

## **Responsibility**

It is the responsibility of the Governors to ensure procedures are in place to ensure that the College handles information requests covered by the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR) in accordance with the provisions laid out therein and that the College satisfies the standards set out in the Lord Chancellor's Code of Practice on satisfying public authorities obligations under the FoIA, produced under section 45 of that Act.

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## **Introduction**

The City of Leicester College is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 and the access provisions of the Data Protection Act 1998. The College will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right to access to recorded information held by the College and that the College should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

Separate guidance, in the form of operating procedures, has been given to staff in the staff handbook on how to handle information requests received under the FoIA regime.

## **Background**

The FoIA applies to all public authorities and came fully into force on 1<sup>st</sup> January 2005. It provides the public with a statutory right of access to recorded information held by authorities, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1<sup>st</sup> January 2005. Section 19 of the Act also obliges the College to make information pro-actively available in the form of an approved "publication scheme".

In addition, individuals currently have a statutory right of access to their own "personal data" under the DPA. Individual access rights to personal data are extended by the FoIA through amendments to the access provisions of the DPA.

The EIR provides a statutory right of access to "environmental information", as defined in these regulations. The EIR came into force on 1<sup>st</sup> January 2005 and replaces the existing 1992 Regulations. The EIR are also fully retrospective.

The Government's Information Commissioner enforces these three information regimes.

Each regime contains certain categories of exempt information, where information can be withheld. Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this policy, the “public” is defined as any individual or organisation anywhere in the world and an “information request” refers to any request for recorded information made under the FoIA, EIR or DPA.

### **Timescales**

Freedom of Information requests should be dealt with within 20 working days, excluding College holidays.

Requests for Data Protection (subject access requests) should be dealt with within 40 calendar days.

Requests for pupil education records should be dealt with within 15 College days.

### **Delegated Responsibilities**

Overall responsibility for ensuring that the College meets the statutory requirements of the FoIA, EIR and DPA lies with the Governors and the Chair of Governors has overall responsibility for information management issues. They have delegated the day-to-day responsibility of implementation to the Head teacher.

The Head teacher is assisted by the College Business Leader who currently fulfils the role of ‘Fol officer’. All College staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the Fol officer where necessary.

### **Scope**

This policy applies to all recorded information held by the College that relates to the business of the College. This includes:

- Information created and held by the College
- Information created by the College and held by another organisation on our behalf
- Information held by the College provided by third parties, where this relates to a function or business of the College (such as contractual information) and
- Information held by the College relating to Governors where the information relates to the functions or business of the College.

This policy does not cover personal written communications (such as personal e-mails sent by staff). The College’s Data Protection Policy establishes the standards regarding the use of “personal data” (as defined in the DPA).

### **Requesting Information**

#### Procedures

Practical procedures for handling information enquiries in line with the relevant legislation will be produced and copies can be obtained from the College’s Fol Officer.

The College has a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information. Although no such duty exists under the DPA, the same level of care will be provided.

#### Charges

The three information regimes contain different provisions that permit charges to be made for responding to information requests. The Governing Body may charge a fee for complying with requests, as calculated in accordance with FoIA regulations. If a charge is to be made, the College will give written notice to the applicant before supplying the information requested.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FoIA may be relevant, relating to commercial interests. This exemption is subject to a “public interest” test. Whenever the College has to consider the release of such information, it will contact the relevant organisation to obtain its opinions on the release of the information and any

exemptions they may think relevant. However, the College will make the final decision relating to the disclosure of the information.

The College can also withhold information contained in contracts where any of the other exemptions listed in the FoIA or EIR are appropriate, although information will only be withheld in line with the College's policy on the use of exemptions. All future contracts should contain a clause obliging contractors to co-operate fully and in a timely manner where assistance is requested in responding to an FoIA or EIR request.

### **Complaints Procedure**

Whenever the College withholds information under an exemption, or for any other reason, it will inform the applicant of their right to complain about the decision through the College's complaints procedure and of the right of appeal to the Information Commissioner. Any complaint received will be dealt with in accordance with the College's complaints procedure as detailed in its Complaints Policy. If the result of the complaints is that any decision to withhold information be overturned, this information will be supplied as soon as it is possible.

### **Requests made under the Data Protection Act**

The Data Protection Act 1998 entitles an individual to his or her 'personal data', as defined in that Act, where the information is held on an automated system, such as a computer and also manual files, where they amount to what the DPA describes as an "accessible record" or in a structured filing system, defined in the DPA as a "relevant filing system".

The parental right to receive information pertaining to the "educational record" of their child should continue to be administered under the Education (Pupil Information) (England) Regulations 2000. Whenever a request for personal data is received and is not covered by these regulations, the request will be administered in accordance with the relevant section of the College's FoIA operating procedures.

Whenever a request is made under the DPA for personal data, the College will provide the applicant with the relevant information contained within files relating to that individual that is accessible under both the DPA and FoIA, subject to any exemptions.

Where it is not possible to remove third party information without rendering the response useless to the individual, the provision of third party information will be considered in line with section 7 of this policy regarding the disclosure of third party information.

The DPA contains the provision for numerous types of exemption. Therefore, whenever a member of staff is considering applying an exemption, he/she will seek the opinion of the FoI officer.

### **Legal Actions**

It is a criminal offence under any of the three information regimes for members of staff to alter, deface or remove any record (including e-mails) following receipt of an information request. Both the FoIA and EIR contain specific provisions to make such action a criminal offence.

### **Review of the Policy**

This policy is scheduled for review by Full Governors' Committee. Comments from staff, parents and members of the public on this policy and its implementation are welcome and can be addressed to:

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