

FE Sector Freedom of Information Procedures

Author/Responsibility	Document Version	Date of Review	Next Review Due
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Approved at SWG		14 September 2026	

RECORD OF CHANGES

Modifications made since the last review are as follows:

Review Date	Page No.	Change Comment	Date of Change	Initials
31.07.26	2	Minor editing, further explanation of FOIA with appropriate useful links for the reader		LMcK
	3-4	Minor editing and further explanation of FOIA		LMcK
	5	Further explanation of FOIA principles		LMcK
	6-10	Minor editing		LMcK

1. Background

The Freedom of Information Act (2000) (FOIA) provides public access to information held by Public Authorities, including Further and Higher Education institutions, and the College is committed to complying with its legislative requirements. Members of the public have a statutory right to:

- a) Obtain information about College's activities made available by the College's Publication Scheme¹.
- b) Request recorded information held by the College (subject to certain conditions and exemptions).

The FOIA covers all recorded information, including printed documents, datasets, computer files, letters, emails, photographs and sound or video recordings. The Act does not give individuals access to their own personal data or information. This can be obtained by a Data Protection Subject Access Request².

FOIA can also cover information which may be held by a third-party organisation on behalf of the College, e.g. off-site storage, third party contractors.

This Procedure complies with the College's Access to Information Policy³ and outlines the process the College will follow when dealing with requests for information under the FOIA.

This process will assist staff in ensuring that all requests for information are processed in line with the legislation and establish best practice.

For clarity, further information is available in the [Section 45 Code of Practice](#) which provides official guidance to assist Public Authorities to manage information requests and meet their obligations.

2. Scope

The FOIA gives individuals and organisations the right to request information pertaining to the functions and responsibilities of the College. Some requests may be subject to exemptions and, if an exemption should exist, the requester will be notified of the reasons why their request cannot be met.

1. In respect of an initial enquiry or receipt of an Information Request, all NWRC employees will follow this procedure even if the requester does not explicitly mention the Act in their request.
2. All requests for information under the Freedom of Information Act should be forwarded without delay to the Data Protection & Information Compliance Officer (DPO@nwrc.ac.uk).

¹ [NWRC Publication Scheme](#)

² [UK GDPR Article 15 \(Right of Access by the Data Subject\)](#)

³ [Access-to-Information-Policy](#)

3. Once the information request has been forwarded, the procedures scope is limited to the Data Protection & Information Compliance Officer or delegates.
4. The Freedom of Information Act contains exemptions to the right of access in order to protect legitimate interests and sensitivities. Some exemptions are absolute while others are subject to a public interest test and are known as 'qualified' exemptions as outlined in Appendix 1.

3. How to Make a FOI Request

Any individual or organisation can submit a request for information relating to College business activities. [Section 8](#) of FOIA states the following criteria will constitute a valid request:

1. written format: e.g. letter, email, online form, social media
2. applicant identity: stating the name of the individual
3. contact details: providing a valid postal or email address for communication
4. content description: description of the information requested.

Those submitting an information request do not have to give a reason for requesting the information. The College will contact the requester to clarify any aspect of the request if it is unclear. The College can offer reasonable advice and assistance to applicants requesting information and treat all applicants equally. The College will also consider if any exemptions apply to the request for information and advise the applicant.

Requests can be sent directly to the Data Protection & Information Compliance Officer at:

Data Protection & Information Compliance Officer
North West Regional College
78-80 Strand Road
Derry~Londonderry
BT48 7AL
DPO@nwrc.ac.uk

4. Recognising FOI Requests

A request may form either the main content of a communication or be integrated throughout a less obvious piece of correspondence. Requests may also be transmitted by email or via social media. Any form of written communication will be considered as an FOI request.

For the purpose of responding to a request, the requirements of written validity are:

1. it is submitted in a text format
2. it is received in legible form, and
3. it is capable of being used for subsequent reference.

As stated previously, all valid requests must also be accompanied by applicant identity, contact details and a description of the information requested.

All requests will be processed on individual and equal merit, irrespective of the applicant or purpose of request. The College must not allow any opinion or prior history of an applicant to influence consideration of the request.

[Section 1\(1\)\(a\)](#) of FOIA requires a public authority to inform an individual in writing whether it holds the information specified in the request. This is also referred to as the duty to 'confirm or deny'. The College will have 20 working days to respond to an FOIA request.

5. Description of the Information and Clarification

A valid request must describe the information being requested. The College accepts that individuals may not know exact names of documents or how information is collated. However, if they have provided a description which enables identification of the information, the request will be considered as valid.

If the scope of the request is unclear, the College can ask for clarification to enable a better understanding of what is being requested and to enable the information to be located. Clarity from the individual will be sought where a reasonable judgement requires more detail. Until such detail is received, the College is not obliged to comply under FOIA, [Section 1\(3\)](#). [Section 16](#) of FOIA requires the College to provide advice and assistance where clarity is necessary to enable a response. The College may provide advice as to how the request could be reformulated to identify the information in question.

The time allowed for clarification to be sought shall not be included as part of the 20 working days response timeframe. A clarified request represents a new request for information and the 20 working day limit is paused until clarification is received and starts the day after receipt of the additional detail.

6. Charges

[Section 12](#) of FOIA provides an exemption for the College to refuse a request if the College considers the cost of compliance would exceed the appropriate limit of £450.

The College estimate must be reasonable at all times in considering the cost of complying with the request. The limit of £450 is calculated at £25 per hour, regardless of the grade of staff member(s) involved in managing the information response.

In estimating the cost of compliance, the College will take into account the cost of the following activities to consider if they exceed £450, and therefore [Section 12](#) exemption may be engaged:

- determining whether the information is held;
- locating the requested information, or records/documents containing it;
- retrieving the information, or records containing it;
- extracting the requested information from documents/records.

Where the cost exemption has been exceeded, the College may exercise its [duty to provide advice and assistance \(Section 16\)](#) to help the individual reformulate their request so that the maximum charges limit is not reached.

7. Vexatious and Repeated Requests

[Section 14](#) of FOIA places no obligation on the College to respond to a request which is deemed to be vexatious.

A request which is clearly vexatious may be of an abusive, threatening or offensive nature, causing harassment or distress to staff. Other requests can be considered as deliberate repeated submissions designed to disrupt normal operations or grossly oppressive requests, placing a massive strain on public resources, staff time and finances. The College will be justified to refuse to respond to any request in these circumstances.

The College can consider the criteria for vexatiousness if it is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Factors to assist with this assessment are:

- Burden placed on the College/staff (e.g. identical or substantially similar requests for information by the same/similar applicant received within a short period of time)
- Likely motives (e.g. disruptive, argumentative, diverting public resources)
- Lack of value or purpose of the request (e.g. irrational, unjustified and disproportionate persistent requests)
- Harassment/distress to staff (e.g. causing unjustifiable level of distress, aimed harassment or irritation)

The College will not be required to confirm or deny holding this information or provide further explanation. A Refusal Notice should be provided to notify that Section 14 is being engaged. If a Refusal Notice has already been issued for reasons of vexatiousness / repeated requests, it will not be considered reasonable to re-issue a further one.

8. Calculate Time

The College is required to comply promptly with regards to information requests under FOIA, and no later than 20 working days from receipt. Time allocated for complying with a request starts when the College receives it, not when it reaches the Data Protection & Information Compliance Officer or other relevant member of staff. It is, therefore, critical that all requests are forwarded to the Data Protection & Information Compliance Officer as soon as they are received so that the timescale for response is acknowledged.

A working day is Monday to Friday, excluding weekends and public/bank holidays ([List of Bank Holidays](#)). A 'working day' is considered to end at 23:59.

The College will pause the 20 working day timeframe when awaiting clarification requested from the applicant or payment of a fees notice. FE Colleges can also apply modified time limits up to 60 working days due to College holidays and academic breaks for students and educational staff. It may also extend the 20 day timeframe by an extra 20 working days where a Public Interest Test is required. The applicant will be informed of these extensions if applicable.

9. Record FOI Request

The date a request is received must be recorded to evidence the timescale for response. The clock begins from the date of receipt by the College, not by the Data Protection & Information Compliance Officer. Therefore, confirmed or suspected FOI requests will be forwarded to DPO@nwrc.ac.uk as soon as possible so that:

1. Details of the request will be input onto the designated recording system.
2. The deadline for providing the information can be noted against the record.
3. An acknowledgement for receipt of the request will be issued no later than 5 working days.
4. All elements of each request can be recorded to support actions taken, decisions made, communications and guidance referred to.

10. Locating the Information/ Identifying the Responsible Owner

FOIA only applies to information which the College already holds in recorded format at the time of the request. Public authorities are not obliged to create information in response to a request. They may be required to manipulate databases to extract information, but not to manipulate data to create new information.

If the information requested is already available via the College's Publication Scheme, this will be issued as a matter of routine business. The 20 days' timescale for response will still apply.

On receipt of a request, the Data Protection & Information Compliance Officer will identify where the requested information may be held and refer to the appropriate Responsible Owner to collate. Please note, requests may have more than one Responsible Owner.

It may be appropriate to convene a meeting with the Responsible Owner to discuss the request. This allows the Data Protection & Information Compliance Officer opportunity to assess if any clarification is required from the applicant or if any exemptions may apply.

To allow a proper assessment of the information, any identified Responsible Owners must conduct thorough searches of all records within their remit to determine what information is held.

If the information is not held by the College but by another 'Public Authority', the Data Protection & Information Compliance Officer will provide assistance to help the requester and should do one of the following options:

1. Formally notify the individual in writing and explain that some/all of the information is held by another Authority.

2. Inform the applicant which Authority may hold the information, provide contact details and suggest the applicant re-applies to that Authority.
3. Advise the individual of any other authority where the information may be held.

Where the information is held by a third party contractor 'on behalf' of the College, the Data Protection & Information Compliance Officer and/or the information owner will engage at the earliest opportunity to retrieve all relevant information.

11. Responding to a Request

Once the requested information has been collated and it has been agreed for release, the College should consider if it can be published as a dataset. If this is practicable, the College must undertake to re-publish this data periodically.

Where the information requested is publicly available or accessible elsewhere, the College will direct the requester to the location of the information requested.

There may be occasions when by complying with the duty to confirm or deny, the College may, by default, disclose sensitive or potentially damaging information that fall under an exemption. In these circumstances, the FOIA allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

An individual may indicate their preferred means of obtaining the requested information, namely:

1. Paper copy – printed documents
2. In-person inspection – viewing physical or digital records
3. Summary of information – a condensed version of large or complex records
4. Electronic and re-usable format – issued by email

The College should comply where it is 'practically reasonable' to do so. Encryption of the information is not necessary as disclosure under FOIA is to the public arena. However, any personal data will be permanently redacted from information released.

12. Exemptions

The main principle behind FOIA legislation is to enable individuals' rights to know about the activities of public authorities. However, there may be occasions where the College has a legitimate reason, and is permitted to, withhold information.

Information released under FOIA is considered as released to the general public. Therefore, there may be concerns about the disclosure of some information into the public arena. For example, particular types of information could cause harm (or likely to cause harm) by disclosure or where disclosure may prejudice an investigation or commercial interest or be harmful to another person. The College can only withhold information where the Public Interest in maintaining the exemption outweighs the Public Interest in disclosure. To be clear, 'Public Interest' does not relate to information which may 'interest' the public, but information that is 'in their interest'.

The FOIA has a list of exemptions which exist and allow the College to withhold some information. These exemptions fall into one of 2 categories:

1. **Absolute:** in some instances, an exemption is 'absolute' and therefore engaged and no further assessment is necessary. For example, information about security services. This exemption does not require a Public Interest Test (PIT).
2. **Qualified:** an exemption is 'qualified' by balancing the factors between the public interest in maintaining the exemption and/or the public interest in disclosure. The College must conduct a public interest test (PIT). This exemption will be engaged/applied if the public interest in disclosure is not upheld by the PIT.

(Please refer to Appendix 1 for a full list of exemptions and their categories)

Where [Section 36](#) is engaged, the application of this exemption is only valid based on the reasonable opinion of the 'Qualified Person'. To confirm, the authorised 'Qualified Person' for the College is the Principal and Chief Executive or nominee.

The PIT may contemplate the following when considering a Qualified exemption:

1. PIT (Disclosure)

- Accountability and transparency of decision making and expenditure
- Upholding standards of integrity
- Ensuring justice and fair treatment for all
- Securing best use of public resources
- Ensuring fair commercial competition
- Informing the public of danger to health and safety

2. PIT (Withhold)

- Exemption applied/engaged
- Exemption under legal professional privilege
- Prejudicial or detrimental impact of disclosure
- Prejudice of crime prevention or detection
- Human rights e.g. Right to Privacy
- Effect of disclosure on wider population e.g. personal data.

The College may extend the timeframe for response by 20 days in order to conduct the PIT.

13. Refusing a Request

The College does have the right to refuse a request for information, but the reasons for withholding the information must be explained to the individual.

The College can refuse a request for information if:

1. The request is vexatious or repeated ('identical or substantially similar' to a request from the same person, which was previously complied with, unless a reasonable amount of time has passed).

2. The cost of locating and retrieving the information exceeds the appropriate limit.
3. The information is exempt from the duty to confirm or deny.
4. The information is exempt from disclosure.
5. It would not be in the public interest to confirm or deny that the College holds the information and this is confirmed by a PIT.
6. It would not be in the public interest to disclose the information and this is confirmed by a PIT.

If the College does not hold the information requested and the individual is informed of this in writing would not be considered as refusing a request but providing a negative response.

When drafting a Refusal Notice, the following must be included:

1. The fact the information is exempt under FOIA
2. Specification of which exemption is engaged
3. Why the exemption is engaged
4. Public Interest Test considerations
5. Details of how to request an internal review of the College decision
6. Details of how to contact the ICO to submit an appeal

If the individual believes that the information requested is held by the College, this may progress as an appeal and internal review by the College and, if the applicant still remains dissatisfied, a complaint to the Information Commissioner's Office can be submitted.

14. Appeal Process

If an individual is not happy with how the College has handled their request or exemptions applied to the response, they have a right to ask for an internal review. These appeals should be submitted within 40 working days of receipt of the College response, detailing reasons for dissatisfaction and should be addressed to:

Data Protection and Information Compliance Officer
NWRC
78-80 Strand Road
Derry~Londonderry
BT48 7AL
DPO@nwrc.ac.uk

The Data Protection and Information Compliance Officer will convene a panel of independent personnel who will then examine the initial request and response. The panel will make a fresh decision based on all the available information relevant to the request and

the applicant's reason for appeal. The panel will consider whether or not the College can reconsider releasing the originally requested information which had been withheld.

The College will issue a response to all appeals within 20 working days from date of receipt of the appeal.

If the individual remains dissatisfied with the Appeal Panel's decision, they may contact the Information Commissioner's Office at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire, SK9 5AF
Tel: 0303 123 1113 / [ICO Contact Us](#)

Information Commissioner's Office – NI
3rd Floor
14 Cromac Place
Belfast
BT7 2JB
Tel: 028 9027 8757 / ni@ico.org.uk

Appendix 1

Section	Description	Absolute or Qualified	Public Interest Test	Class or Prejudice
21	Information already accessible (through another act or included in Publication Scheme)	Absolute		Class
22	Information intended for future publication (whether the date is determined or not)	Qualified	✓	Class
22a	Research Data	Qualified		Prejudice
23	Information supplied by, or relating to, bodies dealing with security matters (named)	Absolute		Class
24	National Security	Qualified	✓	Prejudice
25	Certificates under S23 and 24	Qualified	✓	Prejudice
26	Defence	Qualified	✓	Prejudice
27	International Relations	Qualified	✓	Prejudice
28	Relations within the UK (between the UK government, the Scottish Administration, the National Assembly for Wales and the Executive Committee of the Northern Ireland Assembly)	Qualified	✓	Prejudice
29	The Economy	Qualified	✓	Prejudice
30	Investigations and Proceedings	Qualified	✓	Class
31	Law Enforcement	Qualified	✓	Prejudice
32	Court Records etc.	Absolute		Class
33	Audit Functions	Qualified	✓	Prejudice
34	Parliamentary Privilege	Absolute		Prejudice
35	Formulation of Government Policy	Qualified	✓	Class
36	Effective Conduct of Public Affairs	Qualified	✓	Prejudice
37	Royal Household Communications and Honours	Qualified	✓	Class
38	Health and Safety	Qualified	✓	Prejudice
39	Environmental Information	Qualified	✓	Class
40(1)	Personal Information (of applicant)	Absolute		Class
40(2)	Personal Information (third party)	Absolute		Prejudice
41	Provided in Confidence	Absolute		Prejudice
42	Legal Professional Privilege	Qualified	✓	Class
43	Commercial Interests	Qualified	✓	Prejudice
44	Prohibition on Disclosure	Absolute		Class