

# Freedom of Information Policy

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## **1. INTRODUCTION**

- 1.1 The Freedom of Information Act 2000 ('the Act') imposes a duty on public authorities such as Hereford College of Arts ('the College'):
- a) To confirm or deny that the information requested is held.
  - b) And if the information is held, to communicate it to the applicant.
- 1.2 Anyone may make a request in writing for any recorded information held by or on behalf of the College, and the College must comply promptly and within 20 working days. Unless subject to one of 24 exemptions described by the Act, the information must be provided.
- 1.3 In some circumstances an additional 20 working days may be permitted to consider the application of qualified exemptions that require a public interest test.
- 1.4 The Information Commissioner's Office (ICO) is the independent regulatory authority for the Act, and the avenue of appeal for requests that have not been resolved to the applicant's satisfaction.

## **2. SCOPE**

- 2.1 The purpose of this Policy is to define:
- a) The duties imposed by the Act and how the College intends to discharge those duties.
  - b) The College's responsibility for ensuring compliance.
  - c) The complaints and appeals process.

## **3. ROLES AND RESPONSIBILITIES**

- 3.1 The College's Principal and Board have overall responsibility for Freedom of Information at the College.
- 3.2 Operational responsibility is delegated to the Data Protection Officer (DPO) who will work with other departments to respond to requests and ensure compliance with the Act.

3.3 The Qualified Person for determining the application of the [Section 36](#) exemption as described in the Act is the Principal. In the event of the Principal not be available to make the decision for more than 15 working days, this authority is delegated to a Vice Principal of the college.

#### **4. CODES OF PRACTICE**

4.1 The College will comply with the Act, and handle requests in accordance with the Codes of Practice issued by the Secretary of State for Constitutional Affairs under Sections 45 and 46 of the Act.

4.2 The purpose of the Section 45 Code is to facilitate disclosure by setting out good administrative practice, and standards for the provision of advice to applicants. It also covers consultation with third parties to whom the information relates or those likely to be affected by a disclosure of information; the implications of confidentiality provisions in contracts; the transfer of requests to other public authorities; and the provision of a complaints procedure.

4.3 The Section 46 Code promotes good records management, based on the premise that 'Freedom of information legislation is only as good as the quality of the records and other information to which it provides access'. The DPO is responsible for implementing the College's approach to records management.

#### **5. HANDLING AND TRACKING OF REQUESTS**

5.1 The DPO is responsible for the processing and monitoring of Freedom of Information requests. The dedicated routes for information requests are:

- a) By email: [DPO@hca.ac.uk](mailto:DPO@hca.ac.uk)
- b) By post to: Data Protection Officer, Hereford College of Arts, Folly Lane, Hereford, HR1 1LT.

5.2 All Freedom of Information requests will be logged and tracked by the DPO. This will aid identification of repeat, similar or vexatious requests.

5.3 Where there is reason to believe that some or all of the information requested is held by another public authority, 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 authority.

## **6. EXEMPTIONS AND THE PUBLIC INTEREST TEST**

- 6.1 There are 24 exemptions from the right of access. Some are designated 'absolute', meaning that if an absolute exemption applies, then the duty to provide the information does not apply. Most are known as 'qualified' exemptions and require a public interest test to be applied, to decide whether the public interest in withholding the information outweighs the public interest in disclosing it.
- 6.2 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.
- 6.3 Since the Act 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.
- 6.4 In determining whether disclosure would be likely to prejudice the effective conduct of public affairs (Section 36 of the Act), the designated Qualified Person will decide on the exemption's engagement.
- 6.5 If legal opinion is thought to be necessary, it will be sought by the DPO.

## **7. PERSONAL INFORMATION**

- 7.1 Where an applicant makes a request for their own personal data, the data is absolutely exempt and the request will be treated as a Subject Access Request (SAR) under the Data Protection Legislation. If the information requested includes personal information about a third party, the information will be provided, unless:
- a) Disclosure would contravene any of the data protection principles. The key issues in this regard are fairness and lawfulness, and these will be considered fully before disclosure is made.
  - b) Disclosure of the information is likely to cause damage or distress.
  - c) The data subject would not be entitled to receive the data.
  - d) Disclosure would contravene the College's notification to the Information Commissioner under Section 17 of the Data Protection Act.

7.2 In accordance with the Code of Practice, where the requests relate to persons other than the applicant and the College, or the disclosure may affect the interests of persons other than the applicant or the College, the College will, where appropriate, consult the third party promptly in order to determine whether an exemption applies, and to aid the decision on disclosure. However, the decision will be made entirely by the College.

## **8. FEES**

8.1 The College will follow the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

8.2 Accordingly, all requests that cost less than £450 to process (the 'appropriate limit') will be complied with free of charge.

8.3 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.

8.4 In calculating the cost of a request:

- a) The College may only take into account the time taken to determine whether it holds the information, and to locate and retrieve it.
- b) 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.

8.5 Costs are calculated at an hourly rate of £25.

8.6 Where communication costs (such as postage, photocopying, printing, CDs etc.) are less than £35 the information will be provided free of charge. The applicant may be charged in full for these costs above that level. In these circumstances a fees notice will be issued, which must be paid within three months. During this period the 20-working-day clock is stopped, and re-starts when the fee is received. If the fee is not paid, the College is released from its obligation to provide the information.

## **9. COMPLAINTS**

- 9.1 Any written reply from the applicant expressing dissatisfaction with the College's response to a request will be treated as a complaint, whether or not the applicant has expressly stated a wish to have the decision reviewed. This includes appeals against decisions to withhold information.
- 9.2 The Principal is responsible for handling complaints about any aspect of the college's response with the exception of a complaint around the application of the [Section 36](#) exemption. The applicant would be referred to the Information Commissioner.
- 9.3 The College will endeavour to provide a response to complaints within 20-working-days.
- 9.4 Complaints received more than two months after the initial decision will not be considered.
- 9.5 If dissatisfied with the outcome of the review (or in the case of a complaint about the application of the Section 36 exemption) the applicant may seek a review by the Information Commissioner, who has powers to uphold or overturn the decision. The College will abide by the decisions of the Information Commissioner's Office, unless it considers itself to have grounds for an appeal to the First-Tier Tribunal (Information Rights).

## **10. SUMMARY**

- 10.1 Hereford College of Arts is committed to providing a safe and managed environment for students, staff and visitors to any part of the campus. It is committed to ensuring that the handling of all data processed by or through the College complies with all aspects of relevant Regulation and Law.
- 10.2 Should any person require clarification, guidance or advice on anything covered within this Policy then they should in the first instance contact the Data Protection Officer.