



Freedom of Information Policy

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1 Purpose

1.1 This policy details the College's response to the Freedom of Information (Scotland) Act 2002 (FOI). The policy should be read in conjunction with the College's Data Protection Policy.

2 Policy

West Lothian College is committed to the effective management of the responsibilities arising out of the FOI (Scotland) Act 2002.

3 Scope

3.1 The purpose of the College's Policy is to ensure the provisions contained within the FOI Act are adhered to. In achieving this the College will:

- Be as open with the general public, media and stakeholders about its activities as is practicable.
- Ensure that the information to be published, as outlined in the College's Publication Scheme, is appropriate, up to date and relevant.
- Ensure that other information not included in the Publication Scheme and not listed as exempt in the FOI Act is made available.
- Consider whether applications for information covered by "exemption" (Appendix A) is appropriate for release.

3.2 There will be occasions when the College will not be able to supply all information requested. However, information will only be withheld in accordance with the exemptions laid down in the FOI Act.

3.3 Where information is withheld the College will always provide an applicant with reasons why.

4 Responsibilities

4.1 West Lothian College recognises its responsibility under the FOI Act to provide access to information as appropriate. The Assistant Principal, Curriculum Support & Finance is charged with delivery of this Policy.

4.2 The Assistant Principal, Curriculum Support & Finance is responsible for the management of the Policy and promoting compliance with the FOI Act.

4.3 The Managers are responsible for promoting the Policy within their areas of responsibility.

4.4 All College staff are responsible for operating within the Policy.

5 The College's Publication Scheme

5.1 The College's Publication Scheme is available on the website at www.west-lothian.ac.uk or in printed copy when requested in writing from the Assistant Principal, Curriculum Support & Finance, West Lothian College, Almondvale Crescent, Livingston EH54 7EP.

5.2 The Publication Scheme specifies what information the College will routinely make available, how it will do so, and whether or not this information will be made available free of charge or on payment of a fee.

6 Specific Requests for Information

6.1 Information not made available through the College's Publication Scheme may be accessible through a specific request for information. In this regard the FOI Act establishes two related rights:

- the right to be told whether information exists; and
- the right – subject to exemptions – to receive information.

Such requests will be handled by the Assistant Principal, Curriculum Support & Finance.

6.2 The FOI Act provides that requests under 6.1 must be in permanent form e.g. written, email or other electronic means and a charge may be made for dealing with any request.

6.3 The College is required to respond to permanent requests within 20 days although this can be reasonably extended if the College requires further information to enable it to respond.

6.4 The requestor may specify the format in which the information should be provided and the College must comply where this is "reasonably practicable".

6.5 The College has a duty to provide advice and assistance to applicants and those wanting to make requests. The Assistant Principal, Curriculum Support & Finance will be responsible for this function and will provide particular consideration to those with a disability or with communication difficulties.

7 Charges

- 7.1 Information made available through the publication scheme is free of charge.
- 7.2 Fees for other information outwith the publication scheme will be made in accordance with the guidance issued by the Scottish Information Commissioner.

8 Complaints and Appeals

- 8.1 The Assistant Principal, Curriculum Support & Finance will co-ordinate any complaints received in respect of the College's operation of the FOI Act.
- 8.2 Complaints should be addressed to the Assistant Principal, Curriculum Support & Finance in the first instance. The complaint will be responded to within 20 days.
- 8.3 If applicants are not satisfied with the reply he/she should write to the College Principal.
- 8.4 If applicants are dissatisfied with the outcome of the Principal's decision they should write to:- The Scottish Information Commissioner, Kinburn, Doubledykes Road, St Andrews, Fife, KY16 9DS
- 8.5 Any appeal against a decision not to disclose information should be made to the Assistant Principal, Curriculum Support & Finance. The Assistant Principal, Curriculum Support & Finance will respond within 20 days.
- 8.6 If applicants are not satisfied with the reply he/she should write to the College Principal.
- 8.7 If applicants are dissatisfied with the outcome of the Principal's decision they should write to:- The Scottish Information Commissioner, Kinburn, Doubledykes Road, St Andrews, Fife, KY16 9DS.

9 Exemptions under the FOI Act

- 9.1 There are exemptions under the FOI Act (Appendix 1). Certain exemptions will be subject to the public interest test, others which are absolute exemptions.
- 9.2 The College may decide certain information it holds may be regarded as exempt information under the FOI Act. Where a request is made

for information, which includes exemptions, the College will apply the public interest test and may, in some circumstances, withhold the requested information.

10 Interface Data Protection Act 1998

- 10.1 In addition to rights available under the FOI Act, individuals also have a right to access information about themselves under the Data Protection Act 1998.
- 10.2 The UK Information Commissioner is responsible for enforcing the Data Protection Act, given that data protection is a reserved matter.
- 10.3 The Scottish Information Commissioner has no responsibility for enforcing data protection legislation in Scotland.
- 10.4 Any request by an individual for personal information will continue to be dealt with under the College's Data Protection Policy and Procedures. As such, any such request will be exempt under the FOI Act.
- 10.5 In circumstances where disclosure of information by the College in response to a FOI request would involve the disclosure of personal information about a third party, the College must apply the Data Protection Principles when considering whether or not to disclose information relating to living individuals.
- 10.6 No third party information may be released if doing so would breach one of the 8 Data Protection Principles.

11 Interface with the Human Rights Act 1998

11.1 Article 8 provides:

- Everyone has the right to respect for his private and family life, his home and correspondence.
- There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

11.2 The Human Rights Act demands that public authorities act in a manner compatible with the European Convention on Human Rights. As a consequence of this the College is required to ensure that the

FOI Act and DP Act are interpreted and applied in a manner compatible with the convention.

11.3 When dealing with an applicants request which may lead the College to “interfere with an individual’s rights” the College will require to undertake a compatibility test against the Human Rights Act to determine:

- Is the decision legal
- In pursuance of a legitimate aim
- Is the decision proportionate

12 Contacts

Assistant Principal, Curriculum Support & Finance
West Lothian College
Almondvale Crescent
Livingston
EH54 7EP

13 Review

This policy will be subject to three yearly review or earlier if changes affect it in any way by the Assistant Principal, Curriculum Support & Finance.

Appendix 1

Exemptions under Freedom of Information (Scotland) Act 2002

The Freedom of Information Act provides that a public authority may refuse to disclose information which is subject to a request if it considers such information to be exempt. In terms of the Act exempt information where the “Public Interest Test” i.e. “***the authority should only withhold information if there is greater public interest in withholding than there would be if it was released***” includes

- national security and defence
- policy investigations
- formulation of government policy
- commercial interest
- personal information (where the information concerns a third party)
- legal professional privilege
- commercial interest
- audit functions.

Where exemptions do not require the “Public Interest Test” being applied, these are known as absolute exemptions and include:

- information which is otherwise accessible to applicants
- information which is subject to statutory prohibitions on disclosure
- breaches of confidence
- court records
- information for which other access rights are provided e.g. personal information covered by the Data Protection Act 1998
- where disclosure would contribute to contempt of court.