



Freedom of Information Policy

September 2023

Author: Vice Principal, People, Performance & Improvement

Impact Assessment Date: April 2024

Date: April 2024

Contents

History of Changes	1
1 Purpose.....	2
2 Policy.....	2
3 Scope	2
4 Responsibilities.....	2
5 The College’s Publication Scheme	3
6 Specific Requests for Information.....	3
7 Charges.....	3
8 Complaints and Appeals	4
9 Exemptions under the FOISA.....	4
10 Interface General Data Protection Regulations (GDPR) 2018	4
11 Interface with the Human Rights Act 1998.....	5
12 Contacts.....	6
13 Review.....	6
14 Equality Impact Assessment.....	7
Appendix A	11

History of Changes

Version	Description of Change	Authorised by	Date
1.1	Minor changes to original policy.	C Miller	April 2019
1.2	Minor changes to original policy.	J McLaren	September 2023

West Lothian College is an inclusive organisation and all policies, procedures, strategies, plans, provisions, criteria, functions, practices and activities, including decisions and the delivery of services are assessed to consider the impact on staff and students covered by the Equalities Act 2010 by the completion of an Equalities Impact Assessment (EIA). Protected characteristics are defined as age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex, sexual orientation. All college policies and procedures can be provided in an accessible format.

1 Purpose

1.1 This policy details the college's response to the Freedom of Information (Scotland) Act 2002 (FOISA). 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 Freedom of Information (Scotland) Act 2002 (FOISA).

3 Scope

3.1 The purpose of the college's Policy is to ensure the provisions contained within the FOISA 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 FOISA 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 FOISA.

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 FOISA to provide access to information as appropriate. The Vice Principal, People, Performance & Improvement is charged with delivery of this Policy.

4.2 The Vice Principal, People, Performance & Improvement is responsible for the management of the Policy and promoting compliance with the FOISA.

4.3 The Directors and Heads 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 Vice Principal, People, Performance & Improvement, 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 FOISA 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 Vice Principal, People, Performance & Improvement.

6.2 The FOISA provides that requests under 6.1 must be in permanent form e.g. written, email or other electronic means.

6.3 The college is required to respond to permanent requests within 20 working 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 Vice Principal, People, Performance & Improvement 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 Vice Principal, People, Performance & Improvement will co-ordinate any complaints received in respect of the college's operation of the FOISA.

8.2 Complaints should be addressed to the Vice Principal, People, Performance & Improvement in the first instance. The complaint will be responded to within 30 days.

8.3 If applicants are not satisfied with the reply they should write to the college Principal.

If applicants are dissatisfied with the outcome of the Principal's decision they should write to: The Scottish Information Commissioner,
Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

8.4 Any appeal against a decision not to disclose information should be made to the Vice Principal, People, Performance & Improvement. The Vice Principal, People, Performance & Improvement will respond within 30 days.

8.5 If applicants are not satisfied with the reply they should write to the college Principal.

8.6 If applicants are dissatisfied with the outcome of the Principal's decision they should write to: The Scottish Information Commissioner,
Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

9 Exemptions under the FOISA

9.1 There are exemptions under the FOISA (Appendix A). 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 FOISA. 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 General Data Protection Regulations (GDPR) 2018

10.1 In addition to rights available under the FOISA, individuals also have a right to access information about themselves under the General Data Protection Regulation (GDPR) 2018.

- 10.2 The UK Information Commissioner is responsible for enforcing the GDPR, given that data protection is a reserved matter.
- 10.3 Any request by an individual for personal information will continue to be dealt with under the college's GDPR Policy. As such, any such request will be exempt under the FOISA.
- 10.4 In circumstances where disclosure of information by the college in response to a FOISA 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.
- 10.5 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 one's "private and family life, his home and his correspondence" subject to certain restrictions that are "in accordance with the law" and "necessary in a democratic society"
- 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 FOISA and GDPR 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

Vice Principal, People, Performance & Improvement
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 Vice Principal People, Performance & Improvement.

Equality Impact Assessment

Before carrying out an EIA, you should familiarise yourself with the College's EIA Policy Statement and Guidance, along with further information and resources which are available on Sharepoint.

EIA covers **strategies, policies, procedures, plans, provisions, criteria, functions, practices and activities, including decisions and the delivery of services**, but will be referred to hereinafter as 'policy/practice'.

Policy/Practice (name or brief description):	Freedom of Information Policy
Strategy/Policy includes Equalities Statement of Inclusiveness? Yes/No	Text to be included in strategy/policy: Statement of Inclusiveness West Lothian College is an inclusive organisation and all policies, procedures, strategies, plans, provisions, criteria, functions, practices and activities, including decisions and the delivery of services are assessed to consider the impact on staff and students covered by the Equalities Act 2010 by the completion of an Equalities Impact Assessment (EIA). Protected characteristics are defined as age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex, sexual orientation.
Reason for Equality Impact Assessment (choose from the following options):	
<ul style="list-style-type: none"> • Proposed new policy/practice • Proposed change to an existing policy/practice • Undertaking a review of an existing policy/practice • Other (please give detail): 	Undertaking a review of existing policy
Person responsible for the policy area or practice:	
Name:	Simon Earp
Job title:	Vice Principal, People, Performance & Improvement

An Equality Impact Assessment must be carried out if the policy/practice:

- affects **operational** or **strategic functions** of the College
- is relevant to the promotion of equality (in terms of the Public Sector Equality Duty 'needs' as set out in the Policy and Guidance)

Why the EIA is being carried out

The policy will affect operational functions of the college.

Equality Groups

Relevant to the Policy/Practice, identify which of the undernoted equality groups are impacted upon:

- Age
- Disability
- race (including ethnicity and nationality)
- religion or belief
- sex
- sexual orientation
- gender reassignment
- pregnancy and maternity
- marriage or civil partnership

All

Record your assessment against the following statements:

Statement	Equality assessment
Detail the evidence of the needs of the identified equality groups and any gaps in information	The policy is in place to protect individuals' rights. This applies to all groups of people.
Will application of this policy/practice lead to discrimination (direct or indirect), harassment, victimisation, less favourable treatment for particular equality groups?	No
If yes, how will the policy/practice be changed to contribute to advancing equality of opportunity	
State how this policy/practice will foster good relations:	Good relations with staff and learners will be formed since the policy aligns with current legislation, and is fair to all.
Will the policy/practice create any barriers for any other groups?	No
If yes, how will the policy/practice be changed to contribute to	

advancing equality of opportunity	
Which equality groups or communities have been consulted in the development and review of this policy/practice?	Consultation with Executive Leadership Team since it aligns with statutory requirements.

<p>Equality Impact Assessment Outcome Select one of the four options below to indicate how the development/review of the policy/practice will be progressed and state the rationale for the decision. (Delete the options that do not apply):</p>	
<p>Option 1: No change required – the assessment is that the policy/practice is/will be robust.</p> <p>Option 2: Adjust the policy or practice – this involves taking steps to remove any barriers, to better advance equality and/or to foster good relations.</p> <p>Option 3: Continue the policy or practice despite the potential for adverse impact, and which can be mitigated</p> <p>Option 4: Stop the policy or practice as there are adverse effects cannot be prevented/mitigated against.</p>	<p>Option 1</p>
<p>Monitoring</p>	
When will the policy/practice next be reviewed?	
<p>Publication of EIA</p>	
<p>Can this EIA be published in full, now? Please state Yes or No</p> <p>If No – please specify when it may be published or indicate restrictions that apply:</p>	<p>Yes</p>

Sign-off	
EIA undertaken by	
Name:	Simon Earp
Date:	April 2024
Accepted by person responsible for the policy/practice named above:	
Name:	
Date:	
Approved by Equalities Committee	
Date:	

Retain a copy of this form for your own records and send a copy to lbyrne@west-lothian.ac.uk

Appendix A

Exemptions under Freedom of Information (Scotland) Act 2002 (FOISA)

The Freedom of Information (Scotland) Act 2002 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 FOISA 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 GDPR
- where disclosure would contribute to contempt of court.