
POLICY/PROCEDURE: FREEDOM OF INFORMATION POLICY AND PROCEDURE

Approval required by:	SMT	Y	Governing Body	N
SMT Lead:	Director of MIS			
Responsible Manager:	Director of MIS			
Date approved:	April 2023			
Date to be reviewed:	April 2025			

Relevant to:	Students	Y	Staff	Y
	Visitors	Y	ITS	Y
Relevant to:	All students	Y		
	16-18 Vocational	Y	Sixth Form	Y
	Higher Education	Y	Adults	Y
	Apprenticeships	Y	14-16	Y
	Other	Y	
Relevant to:	All staff	Y		
	Board	Y	SPH	Y
	Managers	Y		
	Teaching staff	Y	Support staff	Y

Accessible to	Students	Y	Staff	Y
Friendly version	Students	Y	Staff	Y

EQIA required	N
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Significant changes to policy

No significant changes.

Impact of changes

No changes.

SCOPE AND PURPOSE

This policy sets out the arrangements that Barnsley College or ITS ('the College') has made to ensure compliance with the Freedom of Information Act (2000).

BACKGROUND

The Freedom of Information Act gives a general right of access to all types of 'recorded' information and (subject to certain exemptions) places a number of obligations on public authorities. The exemptions are designed to protect confidential or other information where disclosures may prejudice the interests of the state or third parties.

This policy statement sets out the arrangements that Barnsley College has made to ensure compliance with the Act.

Policy

Barnsley College is committed to full compliance with the Freedom of Information Act. The main features impacting on the College procedures are as follows:

- To facilitate a general right of access to information held by the College in the course of carrying out public functions, subject to certain conditions and exemptions.
- In relation to most exempt information, the information must nonetheless be disclosed unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure.
- To adopt a scheme for the publication of information. The scheme, which must be approved by the information commissioner, will specify the classes of information the College intends to publish, the manner of publication and whether the information is available to the public free of charge or on payment of a fee.

Freedom of Information Procedures

Definitions

Throughout the document the following terms are used:

The Act - means the Freedom of Information Act 2000

Office of the Information Commissioner – refers to the regulatory body of the Act

Data Protection – means the Data Protection Act 2018 and the General Data Protection Regulation (GDPR), relating to the processing of personal data

Formal request – means a written request for the information under the provision of the Act

Procedure

The Act requires that institutions implement and maintain an effective system for responding to requests for information. The College's policy on freedom of Information is such that it will comply fully with the Act and it will place in the public domain as much information about its activities as is practicable and, subject to the exemptions permitted under the Act, will make all other information available on request. In particular, it will conform to the Lord Chancellor's Code of Practice on the Discharge of Public Authorities' functions.

The Chancellor's Code of Practice requires the College to:

1. Provide advice and assistance to persons making requests for information.
2. Deal with all requests within 20 working days of receipt of request, charge any fees in accordance with the Lord Chancellor's Fee Regulations and justify any refusal of a request.
3. Deal with requests for routinely available information within five working days if it is not possible for the requester to access the information on the College's website.
4. Assist a person making a request when the information they are seeking is held by another public authority.
5. Consult with third parties before releasing any data that may affect them.

6. Also consult with third parties where it might enable the College in determining if, and how, the information should be released.
7. Have a Compliant Procedure to deal with any complaints made about its Publication Scheme, or the handling or result of an individual application.
8. The College has a publication Scheme which is available on the College's website or from the College's Information Governance Officer.

Roles and Responsibilities

The **UK Information Commissioner** is responsible for ensuring that the Act is enforced.

The **Board of Governors** is responsible for ensuring the College's compliance with the Act. Under section 36 of the Act, the governing body of an institution within the further education sector, is nominated as the 'qualified persons' responsible for applying the public interest test should the need arise.

The **Director MIS (Data Protection Officer)** is responsible for the overall management of the system and procedure including:

- Ensuring that departments are aware of their responsibilities under the Act.
- Ensuring that all requests under the Act are handled in accordance with the College's Freedom of Information Policy and Procedures and the release of information is within the timescales specified.
- Ensuring that, in considering requests for information and accepting or refusing them, the public interest test is properly assessed. For some exemptions this may include seeking approval from the Board of Governors.
- Ensuring the Publication Scheme is maintained and updated as required.
- Ensuring that the College's Freedom of Information Policy and Procedures are reviewed as required.

The **Information Governance Officer** is responsible for:

- Working with departments to understand their responsibilities under the Act.
- Respond to all requests under the Act in accordance with the College's Freedom of Information Policy and Procedures and the release of information is within the timescales specified.
- Assisting and advising individuals and organisations making requests under the Act.
- When responding to requests for information and accepting or refusing them, the public interest test is properly assessed. For some exemptions this may include seeking approval from the Board of Governors.
- Maintaining the Publication Scheme.
- Assist in the reviewing of the College's Freedom of Information Policy and Procedures are as required.
- Retrieval of information in long term storage.
- Liaising with departments to retrieve information held by them locally.
- Maintaining the Freedom of Information database.

Senior Managers are responsible for:

- Ensuring that information held within their areas of responsibility fully complies with the policies and procedures set by the Information Commissioner, including information processed by contractors, partners or other bodies working under service level agreement.

Heads of Department are responsible for:

- Ensuring staff under their direction and control are aware of the policies, procedures and guidance laid down by the Director of MIS and for checking that those staff understand and appropriately apply policies, procedures and guidance in carrying out their day to day work.
- Assisting the Information Governance Officer in locating and retrieving information and advising when there are any reasons why the information should be withheld.

All Staff are responsible for:

- Knowing their responsibilities under the Act and for processing information in accordance with the Act and the policies, procedures and guidance that are laid down by the College.
- Ensuring that when they are absent from College for any reason, arrangements are in place for their post and electronic mail to be checked or redirected to someone who can deal with it promptly.
- Seeking advice when they are uncertain on how to respond to request.

Training

All communications in writing (including by electronic means) to public authorities fall within the scope of the Freedom of Information Act if they seek information and must be dealt with in accordance with the provisions of the Act. It is essential that everyone working in the College is familiar with the provisions of the Freedom for Information Act, the procedures issued under its provisions and any relevant guidance of good practice issued by Information Commissioner. The College will ensure that responsibilities of contractors, bodies working under service level agreement and partnership agreements are aware of their responsibilities to the College and that they have in place sufficient and effective means to that they can competently carry out their responsibilities.

The College will also ensure that appropriate training is provided for all staff thereby raising awareness of the issues surrounding Data Protection and Freedom for Information. All new starters will receive information as part of the College's induction process.

Monitoring, Review and Evaluation

Barnsley College will maintain a register of all requests made for information under the Freedom of Information Act and the action taken on each application. The register will identify whether the same or similar information has previously been requested and provided, or refused, and reasons for the refusal. This will ensure consistency in dealing with similar requests and identify repeated, duplicate or vexatious requests for information. It will also identify recurring requests for the same or similar information not already published and allow the College to consider whether such information should be routinely published on the College's website. Performance in dealing with requests will be monitored by the Director of MIS and reported to the Board of Governors and Senior Management team annually.

Barnsley College will put in place procedures by systematically reviewing its arrangements for administering and managing requests for information. These procedures will include systems for auditing compliance with the Act by Barnsley College and those who hold data on the College's behalf.

Barnsley College will maintain a register of all complaints received about its Freedom of Information arrangements and will ensure that any learning points that arise from such complaints are used to improve related policies, procedures and guidance.

This policy will be reviewed at the relevant review date and any proposed changes will be presented to SMT for approval. Where new legal directions come into force, the policy will be reviewed in line with the commencement date of that legislation.

Complaints Procedure (in relation to the Act)

The College's complaints procedure may be used by any person who considers that the College is not complying with its Publication Scheme, or who wishes to complain about the handling or outcome of their request. All complaints will be dealt with by the Director Assurance and Improvement, unless the complaints can be dealt with informally by the Information Governance Officer in the first instance.

The College will undertake to notify the applicant of their rights of complaint when communicating any decisions made in relation to a request for information under the Act's general right of access.

Obtaining Information listed in the Scheme

The information published in the scheme must be requested in writing or by email. A request form (Appendix 1) can be obtained from the College Information Governance Officer and can be submitted electronically to foi@barnsley.ac.uk or posted to:

**Information Governance Officer
Barnsley College
PO Box 266
Barnsley
S70 2YW**

Some documents listed in the scheme may be available electronically. Along with additional information about Barnsley College that is not included in the scheme this information can be accessed via the Freedom of Information link on the College's web page. This will provide a searchable interface both for people seeking information and the College's Information Governance Officer who will manage accessibility of the documents that the College makes publicly available.

Obtaining information which the College does not hold

There may be circumstances in which the College does not hold some or all of the information requested by the applicant. In addition to providing the information which the College does hold as part of the request, it must:

- Where it believes another Public Authority holds some or all of the information, redirect the applicant to enable him or her to pursue his or hers request.
- Where it does not know who owns some, or all, of the information, provide what advice and assistance it can to the applicant to enable him or her to pursue his or her request.

Timescale for Responding to Requests

The Act requires that replies to requests for information be made within 20 working days. Those dealing with requests must do so promptly and not delay responding until the end of the 20 working day period if the information can be reasonably provided earlier.

The Information Governance Officer aims to make all decisions within 20 working days, including those where it needs to consider where the public interest lies in respect of an application for exempt information.

In those circumstances, when it is not possible for the Information Governance Officer to deal with an application within 20 working days, the College will:

- Give an estimate of the date by which they expect to reach such decision.
- Ensure that their estimates are realistic and reasonable taking account, for example, of the need to consult third parties where this is necessary.
- Comply with their estimates unless there are good reasons not to do so. If they exceed their estimates they will apologise to the applicant and explain the reason(s) for the delay. If they find, while considering the public interest, that the estimate given is proving unrealistic, they will keep the applicant informed. They will keep a record of instances where estimates are exceeded, and where this happens more than occasionally, take steps to identify the problem and rectify it.

Assisting Applicants and Dealing with Requests

When a person is unable to submit written request, the Information Governance Officer will provide further assistance. Depending on the circumstances, appropriate assistance will include:

- Advising the applicant who else might be able to assist them, for example the Citizen's Advice Bureau.
- In exceptional circumstances, offering to take a note of the application over the telephone and then sending the note to the applicant for confirmation.

When the request is vague or ambiguous, the College will as far as practicable, assist the applicant in clarifying the request. The purpose of this is to clarify the nature of the information sought, not to determine the aims or motivation of the applicant. This may include providing:

- An outline of the different kinds of information which meet the terms of the request
- A general response to the request setting out the options for further information which could be provided on request.
- Access to detailed catalogues and indexes, where available, to help the applicant ascertain nature and extent of the information held by the College.

If following the provision of such assistance, the applicant is still unable to describe the information requested in a way that would enable the Information Governance Officer to identify and locate it; the College will not seek further clarification. It will, however, disclose any information that has been successfully identified and explain to the applicant why it cannot take the request any further. The Information Governance Officer will also provide the applicant with details of the College's Complaints Procedure.

Where the applicant is not prepared to pay the appropriate fees, the Information Governance Officer will nevertheless consider whether there is any information that may be of interest to the applicant that is free of charge.

Where the Information Governance Officer is not obliged to supply the information requested because the cost of doing so would exceed the 'appropriate limit' and where the applicant is not prepared to meet the additional costs, the Information Governance Officer will, nevertheless, provide an indication of what information can be provided within the cost ceiling.

The Information Governance Officer will not provide assistance to applicants whose requests are deemed vexatious within the meaning of the Act.

Charging

When the College receives a request for information, it can, within the period for complying with the request, give the applicant a 'fees notice' in writing, stating the fee the College intends to charge for complying with the request.

Unless, and until the fee is paid, the College is not obliged to comply with the request.

For any information declared in the Colleges Publication Scheme (available through the website, by email or in hard copy format) there will be no fee charged. It is the College's intention to include as much non-specific information as possible in the scheme, e.g.:

- Policies and Procedures
- Minutes of Internal Committee meetings

For information not declared in the scheme, the College will endeavour to provide single copies of the majority of requests free of charge. However, the College will follow the Secretary of State's guidance on the application of the Freedom of Information and Data Protection (Appropriate Limits and Fees) Regulations 2004 and charges will only be incurred if the College is likely to incur costs which exceed the £450 limit set by statute. In these circumstances the following criteria will be considered:

- Determining whether the College actually holds the information.

- Locating the information or documents containing the information.
- Retrieving such information or documents.
- Extracting the information from the document containing it (including editing or redirecting information)
- Providing the information in an alternative format (Braille etc.)
- The costs attributable to the time that persons expected to spend on these activities on behalf of the College (for consistency which is set at £25 per person per hour)

Aggregation of Costs

Where two or more requests for information are made to the College and:

- The two or more requests referred to in that section are for information which is on the same subject matter or is otherwise related.
- The last of the requests is received by the College before the twentieth working day following the date of receipt of the first of the requests and
- It appears to the College that the requests have been made in an attempt to ensure that the prescribed costs of complying separately with each request would not exceed the appropriate limit.

Then the estimated cost of complying with any of the requests is to be taken to be the estimated total costs complying with all of them.

Refusal of Request

Some of the information held by the College may be regarded as exempt and therefore will not require a response to an individual request. There are 23 such exemptions and they relate to information held for a variety of functions. These include national security, law enforcement, commercial interests and personal data. The Information Governance Officer will be responsible for deciding if an exemption is applicable.

Before relying on an exemption, the Information Governance Officer will usually be obliged to consider two further points. First, some of the exemptions can only be claimed if the release of the information would prejudice the purpose to which the exemption relates. Thus, information held in connection with the law enforcement can only be withheld if its release would, for example, prejudice the prevention of the direction of a crime. Secondly, some of the exemptions also require the 'public interest' test to be applied by the Board of Governors before making a final decision as to whether or not to release the information. The public interest test requires the College to consider whether the public interest in withholding the exempt information outweighs the public interest in releasing it.

Most of the exemptions require that both the test of prejudice and the public interest test be considered. However, care must be taken to determine if a specific exemption can be relied upon. It should be noted that only the information to which an exemption applies would be withheld. Thus, if a particular document had been requested which contained some exempt information, only those specific items of exempt information could be withheld. The rest of the document would still have to be released.

Contracts

When entering into contracts the College will refuse to include contractual terms which purport to restrict the disclosure of information held by the College and relating to the contract beyond the restrictions permitted by the Act. The College cannot 'contract out' its obligations under the Act. Unless an exemption provided for under the Act is applicable in relation to any particular information, the College will be obliged to disclose that information in response to a request, regardless of the terms of any contract.

When entering into contracts with non-public authority contractors, the College may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. The College will reject such clauses wherever possible. Where,

exceptionally, it is necessary to include non-disclosure provisions in a contract, an option could be to agree with the contractor a schedule of the contract that clearly identifies information which should not be disclosed. However, the College will need to take care when drawing up any such schedule and be aware that any restrictions on disclosure provided for could be potentially be overridden by its obligations under the Act, as described in the paragraph above.

If in any event, the College will not agree to hold information 'in confidence' which is not in fact confidential in nature. It should be aware that this exemption provided for the Act only applies if information has been obtained by the College from another person, and then disclosure of the information to the public, other than under the Act, would constitute a breach of confidence actionable by that, or any other, person.

Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the commissioner.

It is for the College to disclose information pursuant to the Act, and not the non-public authority contractor. However, the College may wish to protect from disclosure by the contractor, by appropriate contractual terms, information which it has provided to the contractor, which would clearly be exempt from disclosure under the Act. In order to avoid unnecessary secrecy, any such constraints should be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, the College should not impose terms of secrecy on contractors.

The Act empowers the designation as public authorities for the purposes of the Act, persons (or bodies) that provide under a contract made with a public authority, any service whose provision is a function of that authority. Thus, some non-public authority contractors will be regarded as public authorities within the meaning of the Act, although only in respect of the services provided under the specified contract. As such, and to that extent, the contractor will be required to comply with the Act like any other public authority.

Obtaining Information not listed in the Scheme

Any information which is routinely published by the College, and which falls under the scope of the Freedom of Information Act, that is not considered exempt and is not listed in the scheme, can be requested by email or in writing by sending your name, address and details of the information you require to:

Information Governance Officer

Barnsley College

PO Box 266

Barnsley

S70 2YW

The Data Protection Act

The Data Protection Act 2018 and the General Data Protection Regulation (GDPR) regulates the use of information about living individuals and gives certain rights to individuals in respect of personal data held about them by others (data controllers). Individuals have the right to access personal information held about them (subject access requests), subject to exemptions under the Data Protection Act. A subject access request should be made in writing. On receipt of all necessary information required, data controllers will comply with the request with 40 days.

EQUALITY AND DIVERSITY

An EqIA is not required for this policy.

LINKED POLICIES AND PROCEDURES

- Data Protection Procedure
- FOI Publication Scheme

LOCATION AND ACCESS TO THIS POLICY

This policy is available on the College's intranet and website.

Appendix 1
Freedom of Information Request Form



This form should be used to request access to information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

Your full name:*	
Address:*	
Daytime telephone number:	
E-mail address:	

Description of the information you require*

Please describe as fully as you can the information you are seeking, such as a specific time period or the type of information you are interested in e.g., information contained in reports, minutes, or email correspondence relating to the issue. If your description is not clear or is ambiguous, we have the right to ask for clarification where it does not prove possible to identify the information needed from your description.

* Please note that we cannot provide you with any information unless you provide your name, address and a description of the information you require.

Format of information

Where your request covers information that is already in the public domain, we will provide you with directions on how to locate the appropriate information in its usual published format.

If your request is for unpublished information please indicate your preferred form of access:

Paper copy by post	<input type="checkbox"/>
Attend in person to view the information	<input type="checkbox"/>
By e-mail	<input type="checkbox"/>
Some other form. Please specify	<input type="checkbox"/>

(please tick relevant box or indicate referred format)

Please return the completed form to the:
 Information Governance Officer
 Barnsley College
 Church Street
 Barnsley
 S70 2YW
 Email: foi@barnsley.ac.uk

FOR COLLEGE USE ONLY			
Request Approved	Yes/No	Reason for refusal	
Request approved by			
Signed:		Date:	