

FREEDOM OF INFORMATION ACT 2000 POLICY

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1 INTRODUCTION

- 1.1 The main provisions of the Freedom of Information Act 2000 came into force on the 1st January 2005. From that date, any person can make a request under the Act to Orbital South Colleges (comprising East Surrey College, incorporating Reigate School of Art and John Ruskin College) for information.
- 1.2 As a general rule, upon receiving a valid request under the Freedom of Information Act 2000, the College Group will have 20 working days in which to retrieve and prepare the information for disclosure to the applicant unless the information requested falls within one of the exemptions under the Act.
- 1.3 The purpose of this policy is to help the College Group comply with its obligations under the Freedom of Information Act 2000 (the "Act") and to ensure that decisions made under the Act have regard to the overall principle of the legislation, namely the need for openness and accountability.
- 1.4 This policy has been prepared having regard to the relevant Code of Practice and the guidance published by the Information Commissioner.
- 1.5 This Policy is designed to make sure that all requests for information are treated fairly and consistently whilst recognising that decisions on exemptions are a matter for professional judgment and discretion may have to be exercised.
- 1.6 This policy deals with 5 main issues:
 - Charging regime
 - Exemptions and applying the Public Interest Test
 - Decision making
 - Consultation with third parties
 - Complaints procedure

2 CHARGING REGIME

- 2.1** The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 govern the fees that the College Group can charge for responding to requests under the Act and are available at www.foi.gov.uk.

The College Group will not charge for information requested under the Act unless the disbursements incurred exceed £5. Photocopying will be charged at 3p per A4 sheet but no charge will be made for the first 175 sheets provided.

- 2.2** If an individual requests information that is held by the College Group in a form that is inaccessible to them because of a disability, the College Group will provide the information in a different format free of charge.

- 2.3** The College Group will not comply with a request for information under the Act where the cost of finding out whether it holds the information; locating it; retrieving it and extracting the information exceeds £450 for one individual request. Where more than one request on the same or related subject is received from one individual or from a number of people who appear to be attempting to ensure that the costs will not exceed the £450 limit per request then the College Group will not comply with it. The limit of £450 represents 18 hours of officer time.

Please refer to the:

FREEDOM OF INFORMATION ACT 2000: PUBLICATION SCHEME attached for further information.

3 EXEMPTIONS AND APPLYING THE PUBLIC INTEREST TEST

- 3.1** Upon receiving a valid request for information under the Act, the College Group will need to decide whether the information is subject to an exemption and, if so, whether the exemption is absolute or qualified.

3.2 Absolute Exemptions

- 3.3** If the information is subject to one of the absolute exemptions under the Act, the College Group is not obliged to disclose it or, in certain circumstances, tell the person requesting it whether or not the information is even held by the College Group.

- 3.4** The following absolute exemptions will apply to requests received by the College Group:

- Information otherwise accessible
- Court records
- Personal information
- Information provided in confidence
- Information whose disclosure would be prohibited by law or where it would be incompatible with any existing legislation

- 3.5** If the information requested forms part of a court record; is provided in confidence or its disclosure is prohibited by law (or incompatible with any existing legislation), the College Group will rely on the appropriate absolute exemption and a refusal notice will be issued.

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If the request is for personal information about the applicant, the request will be processed as a request made under the Data Protection Act 2018.

3.6 Information otherwise accessible

3.7 This will include information available via the College Group's Publication Scheme and information that the public have access to under local government legislation.

3.8 If the information is reasonably accessible to the applicant, the request will be refused and the applicant will be told how to access it.

3.9 If the individual's circumstances such as their location or ability to travel; financial means to access the information (including where the information requested forms part of a much larger document for which a fee is payable); difficulty in understanding English or any disability means that the information is not reasonably accessible to them, the request will be processed in accordance with the College Group's charging policy and, therefore, no charge will be made.

3.10 **Personal information about a third party**

3.11 Where a request relates to personal data about someone else (third party data), the College Group will rely on the absolute exemption under the Act if disclosure would breach any of the Data Protection principles.

3.12 Information relating to Governors acting in an official capacity or officers acting in a work capacity will be disclosed unless there is a risk to the individual concerned. Therefore, information consisting of the names of officers; their work telephone number; email address; grade and pay; job description; details of any gifts received; expenses incurred and decisions made in their official capacity will be disclosed unless to do so could put the officer at risk.

3.13 Information relating to Governors and Officers personal lives will not be disclosed. For officers, this will include home addresses, internal disciplinary matters and those classed as being of a private contractual nature between employee and employer such as actual salary.

3.14 **Qualified Exemptions**

3.15 If the information requested is subject to one of the qualified exemptions, the College Group will then be required to apply the public interest test; in other words, decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing it or confirming whether or not the College Group holds the information.

3.16 The following qualified exemptions will apply to information held by the College Group:

- Information intended for future publication (includes draft reports and minutes)
- Interests of the local economy
- Investigations and proceedings
- Law enforcement (includes preventing and detecting crime; administration of justice; assessment/collection of tax or exercise by the College Group of any other function of a public nature depending on its purpose)
- Health and Safety (where disclosure of the information requested would be likely to endanger the safety or physical or mental health of any individual)

- Legal professional privilege
- Commercial interests (includes information that is classed as a trade secret and where disclosure of the requested information would be likely to prejudice the commercial interests of any person)

3.17 Public Interest Test

3.18 The authority will have to decide whether, in any particular case, it serves the interests of the public better to withhold or disclose the information i.e. distinguishing between things that are in the public interest from things that merely interest the public.

3.19 The competing interests that will be considered are the public interest favouring disclosure against the public (rather than private) interest favouring the withholding of information.

3.20 The identity and motive of the applicant seeking the information may be relevant when applying the test.

3.21 The following paragraph lists some of the factors that will be considered by the College Group, both for and against disclosure, but are not exhaustive. The factors that apply will depend on the nature of the information requested under the Act.

3.22 Public interest factors that favour disclosure:

- Openness in the College Group
- More informed debate of the issues under consideration by the College Group
- Promotion of accountability and transparency by the College Group for decisions taken by them where obligations on officers and members to provide reasoned explanations for their decisions leads to improved decision making and administration of the College Group
- Promotion of accountability and transparency in the spending of public money if disclosure ensures greater competition and better value for money for the public.
- Reassuring the public about the personal probity of members and officers
- Allowing individuals and companies to understand decisions made by the College Group
- Bringing to light information affecting public health and public safety particularly if it will contribute to the prevention of accidents or increase public confidence in the College Group
- Where the information is subject to legal professional privilege, disclosure may be in the public interest if it has served its purpose
- If disclosure would increase the number of companies willing to enter into commercial contracts with the College Group

Public interest factors against disclosure

- If disclosure would undermine or prejudice the investigation, prosecution or prevention of crime
- Where disclosure would undermine the bringing of civil or criminal proceedings by the College Group

- Protection of witnesses
- Maintaining the independence of the investigation process
- Where disclosure could prejudice the rights of the College Group or any third party to obtain access to justice
- If disclosure might lead to a reduction in the number of companies willing to negotiate with the College Group particularly in relation to high value contracts
- If disclosure might impact on the health and safety of staff
- If disclosure might encourage collusive tendering by companies

3.23 Dealing with Exemptions

3.24 A document containing information requested under the Act may well be caught by more than one exemption. For example, an internal inquiry carried out as a result of an accident or complaint may conclude that an individual officer should be the subject of internal disciplinary proceedings. To disclose information relating to internal disciplinary proceedings faced by an officer would breach one of the Data Protection principles and would therefore be subject to an absolute exemption. The remaining information contained in the report is likely to be caught by the "Law Enforcement" exemption and the public interest test would need to be applied before the edited report could be disclosed.

3.25 Legal advice should be taken where there is any doubt about whether or not an exemption should be applied to the information requested.

4 DECIDING HOW TO RESPOND TO A REQUEST

4.1 When a request for information under the Act is received, it will be referred to the relevant Freedom of Information Liaison Officer for that service. If that officer considers that one of the following exemptions may apply, they will refer the matter to the Chief Operating Officer:

- Court records
- Personal information about a third party
- Information provided in confidence
- Disclosure prohibited by or under any enactment or be incompatible with European Community obligations
- Information intended for future publication
- Interests of the local economy
- Investigations and proceedings
- Law enforcement
- Health and safety
- Legal professional privilege
- Trade secret or prejudice to commercial interests

4.2 The Chief Operating Officer will decide, in consultation with Legal Advisors, whether the exemption applies and, if a qualified exemption applies, will consider the public interest test before deciding whether the information should be disclosed to the applicant.

4.3 If the request is for third party data, the Data Protection Officer will be consulted for a view as to whether he/she considers that disclosure would breach one of the data protection principles.

5 CONSULTATION WITH THIRD PARTIES

- 5.1** The Act applies to information "held" by the College Group so covers information owned or created by the College Group and also to information supplied to the College Group by contractors or other third parties. In addition, the rights under the Act are retrospective.
- 5.2** Although there is no statutory requirement to consult with third parties prior to disclosure being made, it will be appropriate in certain circumstances.
- 5.3** It will often be difficult for the College Group to make a definitive assessment as to how the release of particular information would prejudice a contractor's commercial interests or may release a trade secret. Information that the College Group considers may be prejudicial to commercial interests may not be considered to be so by a contractor (they may know that the information is already widely known by their competitors). Likewise, the contractor may often see the harm in the release of information that College Group officers do not appreciate.
- 5.4** There will be no need to consult on low value contracts where the information is very unlikely to be confidential or commercially sensitive.
- 5.5** The College Group will consult in the following circumstances:
- If there is any doubt as to whether a breach of confidence is likely to be actionable, the contractor should be asked for their view on disclosure. If consent is withheld and the College Group advised that an action for breach of confidence would be started, this is indicative (but cannot be conclusive) that the exemption may apply.
 - Where the contract has a confidentiality clause and where the College Group considers that release of the information could potentially breach that clause.
 - Where the College Group considers that the information may be commercially sensitive or a possible trade secret.
- 5.6** The College Group will not seek the views of third parties when applying the public interest test, other than when seeking legal advice as detailed above, as they are likely to have a private interest in maintaining the exemption.

6 COMPLAINTS PROCEDURE

- 6.1** If someone considers that their request for information has not been properly handled or is dissatisfied with the decision made by the College Group about their request, their complaint will be dealt with by a more senior officer depending on the level of officer making the initial decision. Complaints will be dealt with within 21 days.

7 DATA PROTECTION OFFICER

Kevin Squire
East Surrey College
Gatton Point
London Road
Redhill

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Surrey
RH1 2JX
Main Switchboard: 01737 772611

8. References

Freedom of Information Act 2000

9. Further information

None

10. Produced/ Reviewed by: Chief Operating Officer

Date: June 2020

11. Approved by: Directorate

Date: June 2020

12. Approved by: Audit Committee

Date: 11 June 2020

13. Approved by: Corporation Board

Date: 9 July 2020

14. Review by: December 2022

15. Policy Code: OSC34



FREEDOM OF INFORMATION ACT 2000: PUBLICATION SCHEME

Introduction

1. Legal Requirement

Adopting a publication scheme is a requirement of the Freedom of Information Act 2000. This Act promotes greater openness and accountability across the public sector by requiring all 'public authorities' to make information available proactively through a publication scheme.

'Public authorities' are defined in the Act and include universities, further education colleges and sixth form colleges.

2. What is a publication scheme?

A publication scheme is a document which describes the information a public authority publishes, or intends to publish. In this context, 'publish' means to make information available, routinely. These descriptions are called 'classes of information'. The scheme is not a list of the actual publications, because this will change as new material is published or existing material revised. It is, however, the public authority's commitment to make available the information described.

A publication scheme must set out the classes, or categories, of information published. It must also make clear how the information described can be accessed and whether or not charges will be made.

3. The 'model' publication scheme for Further Education

Orbital South Colleges (comprising East Surrey College, incorporating Reigate School of Art and John Ruskin College) has adopted the model publication scheme developed for the Higher/Further Education sector and is therefore committed to publishing the information it describes.

This model is designed for further education colleges across England, Wales and Northern Ireland. The purpose of the model is to save institutions duplicating effort in producing individual schemes and to assist the public in accessing information from across the sector. However, to reflect the diversity in size and function of institutions, a number of optional classes are included. As a result, models within the sector will vary slightly. Any optional classes relevant to the College Group have been included in our scheme.

4. Who we are

Orbital South Colleges is a medium sized group general further education college, formed by the merger of East Surrey College and John Ruskin College in February 2019. The College Group offers a wide range of academic and vocational courses. The College Group serves the local communities of Redhill, Reigate, Horley and Croydon, as well as the wider areas of East and Mid Surrey, South London and North Sussex. East Surrey College provides a free regular minibus service into Redhill, and both Colleges have excellent local, regional and national transport links. East Surrey College lies to the north of Redhill in a mainly residential area and comprises two adjacent campuses, South and North. Reigate School of Art is incorporated within the College and is based on its North campus. John Ruskin is a single-campus College, located in South Croydon in a mainly residential area. The College Group is a member of the Gatwick Diamond Initiative, established to identify and deliver training and support to small and medium sized enterprises in the Gatwick Diamond area.

5. Accessing information covered by the publication scheme

The classes of information we publish are described in the second part of the scheme.

Next to each class we have indicated the manner in which the information described will be available. We have also indicated whether charges apply to material in each class.

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To request information available through our publication scheme, please contact:

Directorate Office
East Surrey College
Gatton Point
London Road
Redhill
Surrey RH1 2JX

Please note that a publication scheme relates to 'published' information. Therefore material covered has already been prepared in a format ready for distribution.

6. What about information not covered by the publication scheme?

From 1st January 2005 you will have the right, under the Freedom of Information Act 2000, to request any information held by a public authority which is has not already made available through its publication scheme. Requests will have to be made in writing and, in general, public authorities will have 20 working days to respond. They may charge a fee, which will have to be calculated according to Fees Regulations. They will not be required to release information to which an exemption in the Act legitimately applies. However, public authorities may be required to explain to the applicant why they are not releasing information and they may also have to justify this to the Information Commissioner.

7. Copyright

Reproducing material supplied under this Publication Scheme without the express permission of the College Group may be an infringement of Copyright. Request for permission to reproduce material should be made to Directorate Office (address given below).

8. Feedback

It is important that this publication scheme meets your needs. If you find the scheme difficult to understand, please let us know. We also welcome suggestions as to how our scheme might be improved. Any questions, comments or complaints about this scheme should be sent in writing to the Publication Scheme Co-ordinator below:

Directorate Office
East Surrey College
Gatton Point
London Road
Redhill
Surrey RH1 2JX

If we are unable to resolve any complaint, you can complain to the Information Commissioner, the independent body who oversees the Freedom of Information Act:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

9. Further Information

More information about the Freedom of Information Act is available on the Information Commissioner's website at www.ico.org.uk or <https://www.gov.uk/make-a-freedom-of-information-request/thefreedomofinformation-act>

Section One – Governance

This section covers information relating to the way the College Group is governed and how decisions are made. It includes information on the legal status of the institution, which individual member of staff or group within the organisation is responsible for specific functions and where they fit in the overall structure of the organisation. In some instances, information from committee minutes will be exempt from disclosure where it contains personal information; information that may damage the commercial interests of the institution or that may threaten the health and safety of specific individuals

Class/Description	Manner	Fee
Legal Framework		
Instrument and Articles of Government	Paper	£5
Decision Making Structures		
Strategic Plan Statement	Electronically	Nil
Schedule of Meetings	Electronically	Nil
College Mission and Values	Website	Nil
College Organisation Chart	Electronically	Nil
Board of Governors		
List of Corporation Members	Website	Nil
Register of Interests	Electronically	Nil
Code of Conduct	Electronically	Nil
Committee Structure		
Corporation Meeting Organisation Chart	Electronically	Nil
Terms of Reference and Standing Orders	Electronically	Nil
Minutes of Corporation Meetings	Website	Nil
Minutes of Committees of the Corporation	Website	Nil
Role of the Chair of Corporation	Electronically	Nil
Role of the Governors	Electronically	Nil
Role of the Clerk	Electronically	Nil
Organisational Structure		
College Organisational Chart	Electronically	Nil

Teaching, Learning and Assessment Policy	Electronically	Nil
Quality Improvement Policy	Website	Nil
College Calendar	Website	Nil

Section Two – Financial Resources

This section covers information on the College’s strategy and management of financial resources. The Finance Department provides accounting, procurement and contracting services, helping to make best use of resources and fulfilling statutory responsibilities. Information that may damage the College’s commercial interests will be excluded from publication.

Class/Description	Manner	Fee
Finance		
Published Accounts (Previous Year)	Paper	£5
Resource Planning		
Financial Regulations	Electronically	Nil
Fraud Policy and Response Plan	Electronically	Nil
Risk Management Policy	Electronically	Nil
Sub-Contractors Fee Policy	Website	Nil

Section Three – Human Resources

This section covers information on the College’s strategy and management of human resources, rather than information relating to individual members of staff which is exempt from disclosure as personal information. The information available covers personnel policies and procedures (including terms and conditions of service).

Class/Description	Manner	Fee
Employment and employee relations		
Terms and conditions of employment	Electronically	Nil
Salary Scale	Electronically	Nil
Grievance Policy	Electronically	Nil

Disciplinary Policy	Electronically	Nil
Bullying and Harassment Policy	Electronically	Nil
Health and Safety Policy	Electronically	Nil
Public Interest Disclosure Policy	Electronically	Nil
Sickness Absence Policy	Electronically	Nil
Maternity and Paternity Leave Policy	Electronically	Nil
Parental Leave Policy	Electronically	Nil
Stress Policy	Electronically	Nil
Equal Opportunities/Diversity		
Equality Scheme and Objectives 2020-2023	Website	Nil
Equality Policy	Website	Nil
Staff Development		
Induction Process	Electronically	Nil
Probationary Policy	Electronically	Nil
Appraisal Scheme (PPDR)	Electronically	Nil
Continuous Professional Development Policy	Electronically	Nil

Section Four – Physical Resources

Classes at this section cover information at a strategic level relating to the College Group’s management of its physical resources. Information that provides specific details of the College Group’s future plans to alter the estate may be exempt from disclosure where such disclosure would damage the College Group’s commercial interests.

Class/Description	Manner	Fee
Estates		
Environment Policy	Electronically	Nil

Section Five – Student Administration and Support

This section contains information on how the College manages the administration and progression of the students from admission to course completion, including student support services. Information available within this section does not include specific student personal details, by virtue of being personal information.

Class/Description	Manner	Fee
Information on student admission, progression and completion		
Marketing Leaflets	Paper/website	Nil
Student Administration		
Data Protection Policy	Electronically	Nil
Privacy and Cookies Statement	Website	Nil
Student Admission and enrolment		
Admissions Policy	Electronically	Nil
Tuition Fees Policy	Electronically	Nil
Student Discipline		
Student Disciplinary Policy	Electronically	Nil
Appeals on Internal & External Assessment Procedure	Electronically	Nil
Drugs and Alcohol Policy	Electronically	Nil
Customer Feedback Policy	Website	Nil
Student Learning Support Services		
ILT Strategy Summary	Electronically	Nil
Teaching, Learning & Assessment Policy	Electronically	Nil
Student Welfare		
Bursary Schemes	Electronically/website	Nil
Attendance and Punctuality Procedure	Electronically	Nil
Safeguarding children and Vulnerable Adults Policy	Electronically	Nil
Student Handbook	Electronically	Nil
Student Associations and Activities		
Constitution of Student Union	Electronically	Nil
Educational Visits and Off Site Activities Procedures	Electronically	Nil

Section Six – Information Services

This section covers functions within the College Group that provide access to information to the student body, and both academic and administrative staff. These include libraries, computing services and information support services.

Such functions may be managed separately from one another, or in various combinations. These services routinely explain their facilities (and the conditions of their use) to students, staff and the general public, and it is information of this nature that is included within this section.

Information services generally hold large quantities of personal data that are exempt from general disclosure.

Class/Description	Manner	Fee
Availability and conditions of use of facilities		
ILT Strategy Summary	Electronically	Nil
Student Handbook	Electronically	Nil
Computing Code of Conduct	Electronically	Nil
Mission Statements and related documents		
Mission Statement	Website	Nil
College Charter	Website	Nil
Communications Policy	Electronically	Nil
Policies with regard to data and information		
Data Protection Policy	Electronically	Nil
Privacy and Cookies Statement	Website	Nil
Procurement and Disposal Policies		
Financial Regulations	Electronically	Nil

Section Seven – Teaching and Learning

This section contains information regarding the management of teaching and learning within the College Group, including mechanisms for reviewing and ensuring the quality of teaching provided.

Class/Description	Manner	Fee
Academic Year Dates		
College Group Calendar	Website	Nil

Further Course Information		
Course Leaflets	Website	Nil
Information on internal procedures for assuring academic quality and standards		
Quality Improvement Policy	Website	Nil
Appeals on Internal & External Assessment Procedure	Electronically	Nil
Teaching, Learning & Assessment Policy	Electronically	Nil
Staffing structure of schools/departments		
Organisational Chart	Electronically	Nil
Contacts	Electronically	Nil

Class/Description	Manner	Fee
Tuition fees		
Tuition Fees Policy	Electronically	Nil
Bursary Schemes	Website	Nil

Section Eight – External Relations

This section covers information relating to the College Group's relationship with its external environment. These include the formal reports that the College Group is required to provide to its funding bodies, arrangements with other institutions, how it manages its relationship with the local community and how it retains contact with its former staff and students.

Class/Description	Manner	Fee
Government and Regulator relations		
Ofsted Report	Electronically	Nil
Marketing and Recruitment		
Course Guides	Paper/website	Nil
Open Days	Electronically/website	Nil
Course leaflets	Paper/website	Nil
Public Relations		

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Newsletters for students, staff and employers	Electronically/website	Nil
Website	www.esc.ac.uk	Nil
Facebook - www.facebook.com/EastSurreyCollege	Electronically	Nil

Access to Publication Scheme

This Scheme is available from the College Group websites.

Mechanisms for Feedback

Constructive comment on the continued improvement of this Scheme is welcomed and should be forwarded to Directorate Office.

Training and Guidance

Questions about this policy and/or procedure, and requests for training, guidance or information on this policy and/or procedure, should be directed to the HR Team.

References

Freedom of Information Act 2000

Further information

None

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