

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

NEWBATTLE ABBEY COLLEGE

PROCEDURE FOR DEALING WITH REQUESTS FOR INFORMATION

1. The Act

The Freedom of Information (Scotland) Act is intended to allow anyone to obtain information they require from public bodies, such as the college. This places three basic requirements on us:

- that we routinely put in the public domain as much information about ourselves as is reasonably possible
- that we ensure that, where an individual requires information that we hold but have not already published, we provide the enquirer with the relevant information
- that we have in place a properly structured approach to managing records to ensure that essential records of our activities are maintained in appropriate detail (and hence relevant information is readily available to the public)

The guide is designed to help you deal with requests for information that come under the terms of the Act

2. The College's Publication Scheme

As required by the Freedom of Information (Scotland) Act, all of the information that the college commits to make available to the public is listed in our Publication Scheme, which describes both the types of information available and where it can be located. The college's Publication Scheme is available on the college's web site. You may print hard copies of the scheme for reference, or if requested by an enquirer, but should always refer to the scheme online for the most up-to-date version.

3. The right to request information

The right to request information under the Act extends to anyone who wishes to make an enquiry - whether they be an employee or student of the college, an employee of some other organisation or any other

member of the public. There is no limitation on who may make an enquiry - the law gives the right to minors and adults alike, and foreign nationals (even those based abroad) are equally entitled to request information.

We are not allowed to ask enquirers why they require the information they seek. Enquirers need not quote (or even be aware of) the Act, or their rights under it, when making a request for information. The only requirement the law places on an enquirer is that they must make their enquiry ***in writing or other permanent form*** for it to have the authority of a request made under the terms of the Freedom of Information (Scotland) Act.

Oral enquiries (e.g. those made over the telephone) do not have the force of law. However, if you receive such an enquiry you should advise the enquirer how to make the request official and direct them to the college Information Leaflet on the FOI section of the website, to assist them in making the request.

When an individual makes a written request for information (this includes faxes and emails, as well as letters), we ***must*** provide them with that information, except in a handful of cases where exemptions apply (this issue is covered in Section 7). In most cases this will mean supplying them with instructions about how to find information, using the details provided in the College Publication Scheme. In some cases, however, an enquirer may ask for information that the college does not usually make available to the public. In these cases, we will have to provide that information directly to them unless they are exempt. ***The most important thing to remember is that any letter/email/fax you receive that asks for information may match the definition of a Freedom of Information request and will thus carry the force of the law, and must be responded to in accordance with the law.***

In all cases, the information (or ways of finding that information) must be provided within ***twenty working days*** of receiving a written enquiry. This is a very short response time so, if you are in any doubt as to whether an enquiry may be a Freedom of Information enquiry, or you cannot respond from the records available to you, please contact the Administration Supervisor immediately.

4. Data Protection vs Freedom of Information

It is important to distinguish requests made by individuals under the terms of the Data Protection Act from those made under the terms of the Freedom of Information (Scotland) Act. Basically, if an individual wishes to see information we hold that ***specifically describes and relates to themselves***, then this is a Subject Access Request made

under the terms of the Data Protection Act. Such enquiries should be handled under the college's policy and procedures for Data Protection.

If an individual is asking for general information about the college, its activities, or any other material held in our records, then this is a Freedom of Information request. If it is not possible to tell exactly what sort of request is being made, or a request appears to cover elements of both laws, such enquiries should be referred to the Administration Supervisor, in the first instance.

5. Handling requests for information

The college has designed a standard Information Guide, consisting of guidance on requesting information from the college and a request for information form. This can be accessed and printed from the FOI section of the website. However, enquirers do not **have** to use the form in this pack to make a Freedom of Information request, as long as their enquiry is in writing, we must respond accordingly.

If you are contacted directly by an individual requiring information - either face-to-face, or on the telephone - provide them with a copy of the Information Guide, or direct them to its location on the website, and ask them to complete the form.

If you are contacted **in writing or other permanent form** by an individual requiring information, then you should immediately treat this as a Freedom of Information request and act as set out in Section 6. **NB**. If your role involves distributing information on request in any case (e.g. if you are involved in sending out college prospectuses) then you should continue to deal with these requests as normal (but please note that the law now **requires** that you respond within 20 working days).

6. Responding to requests for information

If you receive a letter, fax, email or college information request form asking for information that is readily available then you **must** provide a copy of this direct to the enquirer **within twenty working days**. A copy of the College's FOISA Copyright Declaration (appended) should be sent out with all information provided.

Alternatively, if the College already publishes the information requested, you **must** provide the enquirer with instructions on how to find the information. Usually, it should be enough to direct them to our Publication Scheme, either at our website or in printed form (which you should provide if requested).

If you receive such a request, please check whether you can comply, from the records you hold. If:

- you cannot respond and/or you do not know where/if the information can be found
- it is not clear what information is being requested
- the request appears to cover potentially problematic or exempt information (for example, information that might contain the personal details of an employee or student)
- the applicant has a disability and has requested the information in an alternative format (e.g Braille)
- the applicant requests the information in a minority language

then you should forward the request to Administration Supervisor, immediately.

The process for dealing with enquiries is also described in the attached flow chart “Handling Information Requests”. Generally, teams should only respond directly to any enquiries that can be dealt with simply and completely within your team. The Administration Supervisor will comply with more complex enquiries.

7. Other Relevant Issues

- (i) **Exemptions** - The law does permit the college certain exemptions from the usual requirement to respond to information requests. These include information that may be commercially sensitive or confidential, and personal information that relates to individuals other than the enquirer. If you receive an information request that covers information that is not in our Publication Scheme and that includes information about individuals (staff, students etc) or commercially sensitive or confidential information, then please pass the request to the Administration Supervisor immediately. **NB. The Administration Manager will always take responsibility for refusing any request - refusal should not be undertaken by anyone else.**
- (ii) **Complaints and appeals** - In any case where the college declines to respond (or fails to respond *fully*) to an information request, the enquirer does have the right to appeal to the college and, once our own review process has been exhausted, to appeal to the Scottish Information Commissioner. Should anyone complain in writing to you about the nature and/or content of any response ***you must*** forward this complaint to the Administration Supervisor immediately.
- (iii) **Clarification** - The college has the right to ask an enquirer for more details to clarify their request in cases where it may not be immediately clear what information they require. If you decide to deal with an

enquiry you must be sure that you are clear what information you have been asked to provide: if not, then ask the Administration Supervisor to approach the enquirer for clarification. Please note that the clock stops on the 20 working days from the point of requesting clarification and restarts once the clarification is received.

- (iv) **Costs and fees** - The college is permitted to charge fees for any search. The intention of the fee is to cover the costs of the search (i.e. staff time and any copying costs). We do not expect to charge for enquiries that can be answered in a short time by the provision of a small amount of documentation or by giving the enquirer directions to material in the public domain. Any fee charged must be agreed by the Administration Manager.
- (v) **Organised campaigns** - The law allows us to refuse multiple information requests made as part of a campaign. If you receive multiple enquiries of a similar nature you should not refuse to co-operate but you must always inform the Administration Manager who will be able to take a view on whether a campaign is being instigated.

8. In Summary

Please be aware of the implications of the Freedom of Information (Scotland) Act, and please make sure that, if you receive a written request for information you cannot easily answer, you immediately pass the details to the Administration Supervisor. Crucially, always remember that:

- individuals may now ask for us to provide them with much of the information held by the college, whether held at team or central level
- any request in writing is legitimate, whether or not it uses the standard college request form and whoever it is addressed to

If in doubt refer any potential/apparent information request to Administration Supervisor as we have only twenty working days to respond.

Newbattle Abbey College	POLICY/PROCEDURE
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Newbattle Abbey College is committed to the active pursuit of challenging discrimination, advancing equality and celebrating diversity

Freedom of Information (Scotland) Act

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APPENDIX - PUBLICATION SCHEME

WEB FORM REQUEST

Name:

Address:

Tel No:

E-mail:

Information requested:

Class:

Document:

