

Freedom of Information Policy

(incorporating the Environmental Information Regulations)

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¹ The Review Period and the Target Review Date refer to our internal policy review process. The published policy is current and is the most recent approved version

Version Control Document

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1. Policy Statement

Certain institutions of the TEN Group are subject, either wholly or in part, to the provisions of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. These Acts provide the public with a right of access to information held by the applicable institutions. The TEN Group is committed to ensuring the applicable institutions comply fully with the requirements of the legislation.

2. Policy Aims & Objectives

This policy aims to identify those institutions within the TEN Group that are subject to the Freedom of Information Act (FOI Act) and/or the Environmental Information Regulations (EIRs), and to provide a summary of the duties and obligations under those Acts.

The EIRs are largely similar to the FOI Act in their duties and obligations and have limited application within the TEN Group. Unless otherwise stated, the information in this policy will apply to information covered by the EIRs. Any significant difference or additional requirements specific to the EIRs are at Appendix 1.

3. Definitions

Public Authority

Both the FOI Act and EIRs apply only to organisations defined as public authorities at section 3 of the FOI Act, as follows:

- 3(1)(a) – listed at Schedule 1 (as amended) of the FOI Act, or
- 3(1)(b) – a publically-owned company [meaning any company wholly owned by a public authority listed at Schedule 1.

Public Authority with ‘limited application’

A public authority listed in Schedule 1 only in relation to information of a specified description, meaning that the FOI Act/EIRs do not apply to any other information held by the authority.

See section 4. Scope for a list of those TEN Group institutions subject to the FOI Act and/or the EIRs.

Information ‘held’ by the public authority

For the purposes of the FOI Act, information is held by a public authority if—

- (a) it is held by the authority, except for information held on behalf of another person, or
- (b) it is held by another person on behalf of the authority.
- (c) above means that information held by NES that relates to an institution subject to the FOI Act/EIRs may be covered by the legislation, depending on the type and purpose of the information.

The FOI Act/EIRs are fully retrospective and any past record which the institution holds is included.

Information Commissioner’s Office

The government appointed regulator for the legislation.

GDPR

The GDPR is retained in domestic law now the Brexit transition period has ended, but the UK has the independence to keep the framework under review. The 'UK GDPR' sits alongside an amended version of the DPA 2018.

For the purpose of this document, references to GDPR relate to the 'UK GDPR'.

4. Scope

The following institutions of the TEN Group are subject to the provisions of the Freedom of Information Act 2000:

Institution Name	Restrictions
*City College Norwich (incl FE, HE, 6 th Form, NTTC, Paston College and Easton College)	None

This policy applies to all staff employed in the above institutions, and to NES staff to the extent that they carry out services and hold information on behalf of the above institutions.

5. Legal requirements

Any person has a legal right to ask for information held by a relevant TEN Group institution and are entitled to be told whether the institution holds this information and to receive a copy, subject to certain exemptions.

It is an offence under both the FOI Act and the EIRs to willfully conceal, damage or destroy information in order to avoid responding to an enquiry.

Obligations and Duties

The relevant institutions recognise the statutory duty to:

- provide advice and assistance to anyone requesting information;
- tell the enquirer whether or not the institution holds the information requested (known as the duty to confirm or deny);
- provide access to the information held via its Publication Scheme or in accordance with the Freedom of Information/EIRs Procedure;
- respond fully to the request within 20 working days

Characteristics of a valid request under the FOI Act

- Requests for information can be made to any member of staff.
- Requests must be in writing (this includes email, fax and requests made via an institution's social media sites, e.g. Facebook or Twitter).
- The request should include the enquirer's name and an address (an email address is sufficient) and state the information they require.
- A request does not have to specifically mention the FOI Act or why the information is required.

Staff within each institution will receive awareness training to recognise a request, provide general advice and assistance to persons seeking access to information, and the procedure

for notifying internal nominated staff and the Information Compliance Team when a request has been received.

Dealing with Requests

All requests will be handled by the Information Compliance Team and staff receiving a request must notify the Information Compliance Team as soon as practicable to ensure there is no delay in actioning the request.

A request will be refused if it is reasonably estimated that the time it will take to locate and extract the information will exceed 18 hours.

The requestor can express a preference for how and in what format the information is to be provided, but the institution will comply only where the preference is reasonable, and if the information is held in that format already or it can be readily converted.

A request will be refused if it vexatious or repeated, or under the EIRs is manifestly unreasonable. The Information Commissioner's Office guidance and related case law will be referred to when deciding whether a request should be considered as vexatious, repeated or manifestly unreasonable.

Publication Scheme (see Appendix 1 for EIR requirement)

It is a statutory requirement to have in place a publication scheme which is accessible to the public. Each applicable institution will publish on its public-facing website, the publication scheme and related information.

The publication scheme lists the information the relevant institutions either publishes proactively, e.g. on the public website, or will make available without a person having to make a formal request, e.g. in response to a verbal request, or automatically provided on a regular basis. The publication scheme sets out the following:

- the classes of information under which the institution publishes or intends to publish information;
- the manner in which the information will be published;
- whether the information is available free of charge or on payment.

The classes of information are predetermined by the Information Commissioner's Office, which is the government regulator for the FOI Act. This is known as the 'model publication scheme' and is produced per sector. The institution then lists the specific documents it produces under each class, or states that no information in that class is produced or held. The scheme covers information already published and information which is to be published in the future.

Exemptions

Certain information is subject to either absolute or qualified exemptions. When the institution wishes to apply a qualified exemption to a request, the institution will invoke the public interest test procedures to determine if public interest in applying the exemption outweighs the public interest in disclosing the information. Unless it is in the public interest to withhold information, it has to be released.

A request for personal information (either the requestor's own personal information or that of a third party) can be made under the FOI Act/EIRs. Requests for the requestor's own personal information are immediately exempt, but the requestor must be advised of their rights under the General Data Protection Regulation (GDPR) to access their personal information. Third party personal information is often exempt but there are circumstances in which such information can be provided.

If complying with the duty to confirm or deny whether the information is held would result in the disclosure of exempt information, that duty can also be exempted.

Charging

The circumstances in which a fee can be charged for the provision of information are dealt with in the TEN Group Policy for Charging of Fees for the Provision of Information (Statutory Requests)

Internal Review and Appeals

In the event that a complaint about the response is received from a requestor, the institution is required to conduct an internal review of its handling of and response to the request. The Principal and the Head of Professional Services will conduct the review and write to the requestor with their decision.

The requestor has a right of appeal to the Information Commissioner's Office, and subsequently to the Information Tribunal.

Enforcement

The institution could be subject to a range of enforcement options issued by the Information Commissioner's Office, including:

- a decision notice upholding an appeal against the refusal of information;
- an information notice obliging the institution to provide information to the Commissioner when considering an appeal;
- an enforcement notice ordering the institution to comply – these usually relate to procedural matters and not decisions on the release/refusal of information.

Failure to comply with a notice can lead to contempt of court proceedings against the institution.

6. Procedure

Advice and assistance will be provided in response to general enquiries about accessing information (verbal or written), including how to make a formal request.

A written request for information which clearly states that the request is made under the FOI Act or EIRs will be forwarded to the Information Compliance Team immediately.

The Information Compliance Team will manage the handling of the request, including producing all correspondence with the requestor, to ensure that all legal obligations are correctly and appropriately applied.

The organisation holding the information requested will ensure that ALL information relevant to the request is provided to the Information Compliance Team as soon as possible. Institutions will not withhold information from the Information Compliance Team on the basis that it should not be released. Such decisions will be made via full cooperation between the Information Compliance Team and the relevant staff and senior leadership team of the organisation to ensure that all legal obligations are correctly and appropriately applied.

7. Organisational Responsibilities

The Information Compliance Team will:

- provide awareness training for all staff to enable them to identify a request for information and respond to general enquiries about accessing information;
- provide advice and assistance to staff and to the public on access to information;

- log, track and report on all formal requests;
- ensure all legal requirements for the handling, administration of and response to requests are adhered to;
- provide advice and guidance on the legal requirements for administration, assessment of information, correct application of exemptions including conducting the public interest test, and the internal review/appeals process;

The Principal and/or the Chair of the Board of Governors will:

- oversee and approve the handling and response to FOI Act/EIRs requests relevant to their institution;
- ensure that all information relevant to the request is provided to the Information Compliance Team for assessment;
- provide opinion on the release or withholding of information, including engagement with the public interest consideration process;
- ensure that staff understand the implications for the organisation, the TEN Group and employees of failing to properly consider all relevant information in response to a request, and specifically the offence at section 77 of the FOI Act, as follows:
 - ‘any person...is guilty of an offence if they alters, defaces, blocks, erases, destroys or conceals any record held by the public authority, with the intention of preventing the disclosure by that authority of all, or any part, of the information to the communication of which the applicant would have been entitled.’
- nominate a member of staff to act as a liaison with the Information Compliance Team for specific requests, and to provide support to organisation staff and members of the public regarding access to information;
- conduct internal reviews with the Head of Professional Services.

8. References to related TEN Group policies

Data Protection Policy – for the handling of requests for personal information.

Charging of Fees for the Provision of Information (Statutory Requests) Policy – for the circumstances in which a fee can be charged when responding to a request for information.

9. Contact

Information Compliance Team

Email: FOI_CCN@ccn.ac.uk or FOI_NES@ccn.ac.uk

Tel: 01603 773585 / 3176

10. Equal Opportunities Statement

This policy and procedure has been assessed against the nine protected characteristics outlined in the Equality Act 2010 and no issues have been identified.

If you have any comments or suggestions in relation to equal opportunities of this policy or procedure please contact the policy holder.

Appendix 1 **ENVIRONMENTAL INFORMATION REGULATIONS (EIRs)**

NB. The provisions in the body of this policy document apply in the case of requests for environmental information except as listed below.

1. SCOPE

The EIRs apply ONLY to City College Norwich and to no other TEN Group institution, with the exception of NES but only to the extent that NES holds information on behalf of City College Norwich.

For those TEN Group institutions subject to the FOI Act, environmental information can be accessed via a request made under the FOI Act.

2. DEFINITIONS

Environmental Information

Unlike the FOI Act, which applies to all information of any description, Environmental Information has a specific definition under the EIRs:

namely, any information in written, visual, aural, electronic or any other material form on—

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programs, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

Environmental Information ‘held’ by the public authority

For the purposes of these Regulations, environmental information is held by a public authority if the information—

(a) is in the authority’s possession and has been produced or received by the authority; or

(b) is held by another person on behalf of the authority.

Obligations and Duties

The relevant institutions recognise the statutory duty to:

- provide advice and assistance to anyone requesting information;
- provide access to the information held by publishing it on the institution’s website or in accordance with the Freedom of Information Procedure;
- respond fully to the request within 20 working days. This can be extended to 40 working days for complex and voluminous requests;
- inform the requestor, where possible, of where to locate relevant measurement procedures, including methods of analysis, sampling and pre-treatment samples, or refer the requestor to any standardised procedure used.

Characteristics of a valid request

There are no stipulations of a valid request under EIRs. Requests can be verbal or written; they do not have to mention the EIRs, and they can be made via social media.

Exceptions

These have the same effect as exemptions under the FOI Act but in some cases the type and wording of the Exceptions differ. Full details are in the Freedom of Information/EIRs Procedure.

A request can also be refused if:

- the request is manifestly unreasonable;
- the information is in the course of completion, is held in unfinished documents or the data is incomplete;
- the request involves the disclosure of internal communications.

Representations, reconsiderations, enforcement and appeal.

These have the same meaning and application as the internal review, appeal and enforcement requirements in the FOI Act.