



NEW RIVER COLLEGE
Freedom of Information Act Policy

March 2026

The procedure was adopted by the governing body of New River College on

Responsibility: It is the responsibility of the Governors to ensure procedures are in place to ensure that the school handles information requests covered by the Freedom of Information Act 2000 (FolA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR) in accordance with the provisions laid out therein and that NRC satisfies the standards set out in the Lord Chancellor's Code of Practice on satisfying public authorities obligations under the FolA, produced under section 45 of that Act.

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1 Introduction

New River College is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 and the access provisions of the Data Protection Act 2018. New River College will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right to access to recorded information held by New River College and that NRC should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

2 Background

The FoIA applies to all public authorities and came fully into force on 1st January 2005. It provides the public with a statutory right of access to recorded information held by authorities, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1st January 2005. Section 19 of the Act also obliges NRC to make information pro-actively available in the form of an approved 'publication scheme'.

In addition, individuals currently have a statutory right of access to their own 'personal data' under the DPA. Individual access rights to personal data are extended by the FoIA through amendments to the access provisions of the DPA.

The EIR provides a statutory right of access to 'environmental information', as defined in these regulations. The EIR came into force on 1st January 2005 and replaces the existing 1992 Regulations. The EIR are also fully retrospective.

The Government's Information Commissioner enforces these three information regimes.

Each regime contains certain categories of exempt information, where information can be withheld. Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this policy, the 'public' is defined as any individual or organisation anywhere in the world and an 'information request' refers to any request for recorded information made under the FoIA, EIR or DPA.

3 Timescales

Freedom of Information requests should be dealt with within 20 working days, excluding school holidays.

Requests for Data Protection (subject access requests) should be dealt with within one month.

Requests for pupil education records should be dealt with within 15 school days.

4 Delegated responsibilities

Overall responsibility for ensuring that NRC meets the statutory requirements of the FoIA, EIR and DPA lies with the Governors, and the Chair of Governors has overall responsibility for information management issues. They have delegated the day-to-day responsibility of implementation to the Executive Headteacher.

The Executive Headteacher is assisted by the Business Manager who currently fulfils the role of 'Fol officer'. All School staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the Fol officer where necessary.

5 Scope

This policy applies to all recorded information held by NRC that relates to the business of the School. This includes:

- Information created and held by the School
- Information created by the School and held by another organisation on our behalf
- Information held by the School provided by third parties, where this relates to a function or business of the School (such as contractual information) and
- Information held by the School relating to Governors where the information relates to the functions or business of the School

This policy does not cover personal written communications (such as personal e-mails sent by staff). The School's Data Protection Policy establishes the standards regarding the use of "personal data" (as defined in the DPA).

6 Requesting information

6.1 Procedures

Practical procedures for handling information enquiries in line with the relevant legislation will be produced and copies can be obtained from NRC Fol Officer.

NRC has a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information (see Appendix A). Although no such duty exists under the DPA, the same level of care will be provided.

6.2 Charges

The three information regimes contain different provisions that permit charges to be made for responding to information requests. The Governing Body may charge a fee for complying with requests, as calculated in accordance with FoIA regulations. If a charge is to be made, NRC will give written notice to the applicant before supplying the information requested.

The School will only charge for the cost of copying and transmitting information, not for time taken in reaching decisions regarding whether information is covered by an exemption.

Where NRC estimates that the cost of locating the information will exceed the statutory threshold of £450, it will consider whether or not to comply with the request. NRC is not obliged to comply with such a request but may choose to do so.

There is a sliding scale of up to £50 for copies of educational records.

6.3 Publication

Section 19 of the FoIA obliges NRC to make information pro-actively available in the form of NRC Freedom of Information Act Publication Scheme (see Appendix B). This scheme will list categories, or 'classes' of information that will routinely be made available without the need for a specific information request. The school will indicate in the scheme where it wishes to charge for providing particular categories of information. The scheme is published on the School's website.

The School plans to review this scheme regularly. Whenever any information is provided in response to a recorded FoIA enquiry, NRC will assess whether the information is suitable for wider publication. In general, there will be a presumption in favour of publishing such information on NRC website.

7 Withholding Information

The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories; absolute and non-absolute. NRC will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, NRC can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where NRC decides that the public interest is best served by withholding the information. Certain exemptions also contain a 'prejudice test', which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

NRC will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption.

NRC will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a 'public interest' exemption is being considered, NRC will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption NRC will take into account whether the release of the information would:

- promote further understanding of current issues of public debate;
- promote the accountability of decisions taken by NRC and the spending and allocation of public money;
- bring to light matters of public safety;
- allows the public to understand and challenge decisions made by NRC;
- be otherwise in the public interest.

Where information is withheld under an exemption in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision through the Chair of Governors and the right of appeal to the Information Commissioner's Office.

Where a staff member plans to apply an exemption, he/she will consider whether other schools hold similar information. If this is considered likely, he/she may contact the relevant school(s) to ensure that a consistent response is provided to the applicant.

NRC will also refuse to supply information under the FoIA, where the request is considered “vexatious” or “repeated” and under the EIR, where the request is considered ‘manifestly unreasonable’.

8 Releasing a third party’s information

Where, in response to a request, information belonging to a third party (either an individual or other organisation) must be considered for release, the staff member that received the request will seek input from the Fol officer prior to the release of the information.

The release of third-party information will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the DPA. Both the EIR and FoIA permit information to be withheld when its release would breach the provisions of the DPA.

When the requested information relates to a living individual and amounts to “personal data” as defined in the DPA, its disclosure could breach the DPA. Therefore, the release of third-party personal information relating to living individuals will be considered in accordance with the data protection principles and the “third party” provisions of the DPA.

Where appropriate, NRC will contact the individual to ask for permission to disclose the information. If consent is not obtained, either because it was not considered appropriate to approach the third party or the third party could not be contacted or consent is refused. NRC will then consider if it is reasonable to disclose the information, taking into account:

- any duty of confidentiality owed to the third party
- the steps taken to seek consent
- whether the third party is able to give consent and
- any express refusal of consent

The decision to disclose third party information will also take into account the impact of disclosure on the third party, relative to the impact on the applicant of withholding the information. Where the third party has been acting in an official, rather than private capacity, NRC will be minded to disclose the information, although decisions will be made on a case-by-case basis.

Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence NRC decision whether to release the information. Where the information relates to a matter clearly private to the individual, e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. an expenses claim, the information will normally be released. The exemption relating to the release of a third party’s personal data will not be used to withhold information about administrative decisions taken by NRC.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the Fol officer who will take advice from the Governing Body where necessary.

Where the third party is an organisation, rather than an individual, the provisions of DPA 1998 will not apply. NRC will consider consulting the third party concerning the release of their information where:

- the views of the third party may assist NRC to decide whether an exemption under the Act applies to the information and
- in the event of the public interest test being applied, where the views of the third party may assist NRC to make a decision relating to where the public interest lies

Consultation will not be undertaken where:

- NRC will not be disclosing the information due to some valid reason under the Act
- NRC is satisfied that no exemption applies to the information and therefore cannot be withheld and
- the views of the third party will have no effect on the decision e.g. where there is other legislation preventing disclosure

Where input from a third party is required, the response time for the request remains the same. Therefore, it will be made clear to the third party at the outset that they have a limited time for their views to be provided and that where responses are not immediate, the decision to disclose may have to be made without their input in order for NRC to comply with the statutory time limits dictated by the legislation.

NRC will endeavour to inform individuals and organisations submitting information that the information might be released following an information request and, where appropriate, will provide the supplier of the information opportunity to request confidentiality or supply reasons as to why the information should be treated confidentially.

9 Information held within contracts with NRC

Any contractual information, or information obtained from organisations during the tendering process, held by NRC are subject to the provisions of the FoIA and EIR. Whenever NRC enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation. A standard form of wording will be included in contracts to cover the impact of FoIA and EIR in relation to the provision of information held in contracts.

NRC can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where NRC intends to include non-disclosure provisions in a contract, it will agree with the contractor a schedule of the contract that clearly states which information should not be disclosed.

NRC will only agree to enter into confidentiality clauses where the information is confidential in nature and that it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FoIA may be relevant, relating to commercial interests. This exemption is subject to a “public interest” test. Whenever NRC has to consider the release of such information, it will contact the relevant organisation to obtain its opinions on the release of the information and any exemptions they may think relevant. However, NRC will make the final decision relating to the disclosure of the information.

NRC can also withhold information contained in contracts where any of the other exemptions listed in the FoIA or EIR are appropriate, although information will only be withheld in line with the NRC policy on the use of exemptions. All future contracts should contain a clause obliging contractors to co-operate fully and in a timely manner where assistance is requested in responding to an FoIA or EIR request.

10 Complaints procedure

Whenever NRC withholds information under an exemption, or for any other reason, it will inform the applicant of their right to complain about the decision through NRC complaints procedure and of the right of appeal to the Information Commissioner. Any complaint received will be dealt with in accordance with NRC complaints procedure as detailed in its Complaints Policy. If the result of the complaints is that any decision to withhold information be overturned, this information will be supplied as soon as it is possible.

11 Requests made under the Data Protection Act

The Data Protection Act 2018 entitles an individual to his or her 'personal data', as defined in that Act, where the information is held on an automated system, such as a computer and also manual files, where they amount to what the DPA describes as an 'accessible record' or in a structured filing system, defined in the DPA as a 'relevant filing system'.

The parental right to receive information pertaining to the 'educational record' of their child should continue to be administered under the Education (Pupil Information) (England) Regulations 2000. Whenever a request for personal data is received and is not covered by these regulations, the request will be administered in accordance with the relevant section of the NRC FoIA operating procedures.

Whenever a request is made under the DPA for personal data, NRC will provide the applicant with the relevant information contained within files relating to that individual that is accessible under both the DPA and FoIA, subject to any exemptions.

Where it is not possible to remove third party information without rendering the response useless to the individual, the provision of third-party information will be considered in line with section 7 of this policy regarding the disclosure of third-party information.

The DPA contains the provision for numerous types of exemption. Therefore, whenever a member of staff is considering applying an exemption, he/she will seek the opinion of the FoI officer.

12 Illegal actions

It is a criminal offence under any of the three information regimes for members of staff to alter, deface or remove any record (including e-mails) following receipt of an information request. Both the FoIA and EIR contain specific provisions to make such action a criminal offence.

Appendix A What makes a valid Freedom of Information request?

To be valid under the Act, the request must:

- be in writing. This could be a letter or email. Requests can also be made via the web, or even on social networking sites such as Facebook or Twitter if your public authority uses these;
- include the requester's real name. The Act treats all requesters alike, so you should not normally seek to verify the requester's identity. However, you may decide to check their identity if it is clear they are using a pseudonym or if there are legitimate grounds for refusing their request and you suspect they are trying to avoid this happening, for example because their request is vexatious or repeated. Remember that a request can be made in the name of an organisation, or by one person on behalf of another, such as a solicitor on behalf of a client;
- include an address for correspondence. This need not be the person's residential or work address – it can be any address at which you can write to them, including a postal address or email address;
- describe the information requested. Any genuine attempt to describe the information will be enough to trigger the Act, even if the description is unclear, or you think it is too broad or unreasonable in some way. The Act covers information not documents, so a requester does not have to ask for a specific document (although they may do so). They can, for example, ask about a specific topic and expect you to gather the relevant information to answer their enquiry. Or they might describe other features of the information (e.g. author, date, or type of document).

This is not a hard test to satisfy. Almost anything in writing which asks for information will count as a request under the Act. The Act contains other provisions to deal with requests which are too broad, unclear or unreasonable.

Even if a request is not valid under the Freedom of Information Act, this does not necessarily mean you can ignore it. Requests for 'environmental information', for example, can be made verbally. You also have an obligation to provide advice and assistance to requesters. Where somebody seems to be requesting information but has failed to make a valid freedom of information request, you should draw their attention to their rights under the Act and tell them how to make a valid request.

Appendix B Freedom of Information Act Publication Scheme



NEW RIVER COLLEGE

Freedom of Information Act Publication Scheme

In reviewing these principles, the Governing Board has had regard to the Equality Act 2010 and carried out an equality impact assessment. It is satisfied that no group with a protected characteristic will be unfairly disadvantaged by this policy.

The Model Publication Scheme below comes from the Information Commissioner's Office and has been adopted in its entirety by NRC as instructed by the guidance issued by the Information Commissioner. Where the scheme refers to "the authority" this will be taken to mean NRC. Following this document there is a guide to information available, where to get it, and how much it may cost. Again, this guide follows the recommendations of the Information Commissioner.

Model Publication Scheme

This model publication scheme has been prepared and approved by the Information Commissioner. It may be adopted without modification by any public authority without further approval and will be valid until further notice.

This publication scheme commits an authority to make information available to the public as part of its normal business activities. The information covered is included in the classes of information mentioned below, where this information is held by the authority.

Additional assistance is provided to the definition of these classes in sector specific guidance manuals issued by the Information Commissioner.

The scheme commits an authority:

- To proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the authority and falls within the classifications below.
- To specify the information which is held by the authority and falls within the classifications below.
- To proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme.
- To produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public.
- To review and update on a regular basis the information the authority makes available under this scheme.
- To produce a schedule of any fees charged for access to information which is made proactively available.
- To make this publication scheme available to the public.

Classes of Information

Who we are and what we do.

Organisational information, locations and contacts, constitutional and legal governance.

What we spend and how we spend it.

Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.

What our priorities are and how we are doing.

Strategy and performance information, plans, assessments, inspections, and reviews.

How we make decisions.

Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.

Our policies and procedures.

Current written protocols for delivering our functions and responsibilities.

Lists and Registers.

Information held in registers required by law and other lists and registers relating to the functions of the authority.

The Services we Offer.

Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

The classes of information will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.
- Information in draft form.
- Information that is no longer readily available as it is contained in files that have been placed in archive storage or is difficult to access for similar reasons.

The method by which information published under this scheme will be made available

The authority will indicate clearly to the public what information is covered by this scheme and how it can be obtained.

Where it is within the capability of a public authority, information will be provided on a website. Where it is impracticable to make information available on a website or when an individual does not wish to access the information by the website, a public authority will indicate how information can be obtained by other means and provide it by those means.

In exceptional circumstances some information may be available only by viewing in person. Where this manner is specified, contact details will be provided. An appointment to view the information will be arranged within a reasonable timescale. Information will be provided in the language in which it is held or in such other language that is legally required. Where an authority is legally required to translate any information, it will do so.

Obligations under disability and discrimination legislation and any other legislation to provide information in other forms and formats will be adhered to when providing information in accordance with this scheme.

Charges which may be made for Information published under this scheme The purpose of this scheme is to make the maximum amount of information readily available at

minimum inconvenience and cost to the public. Charges made by the authority for routinely published material will be justified and transparent and kept to a minimum.

Material which is published and accessed on a website will be provided free of charge. Charges may be made for information subject to a charging regime specified by Parliament. Charges may be made for actual disbursements incurred such as:

- photocopying
- postage and packaging
- the costs directly incurred as a result of viewing information

Charges may also be made for information provided under this scheme where they are legally authorised, they are in all the circumstances, including the general principles of the right of access to information held by public authorities, justified and are in accordance with a published schedule or schedules of fees which is readily available to the public.

If a charge is to be made, confirmation of the payment due will be given before the information is provided. Payment may be requested prior to provision of the information.

Written Requests

Information held by a public authority that is not published under this scheme can be requested in writing, when its provision will be considered in accordance with the provisions of the Freedom of Information Act.