



Freedom of Information Policy

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1.0	Initial Draft	Joy Watkins	January 2022
2.0	Policy Review <ul style="list-style-type: none"> • General improvements for clarity and consistent format with other policies • Updated to include obligations under Environmental Information Regulations (EIR) • Updates to responsibilities and job titles • Additions to clarify redaction and support for applicants 	Chris Payne	January 2024

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1 About this policy

- 1.1 The Freedom of Information Act 2000 (FOIA) was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable.

Access to environmental information is covered by a different set of regulations, the Environmental Information Regulations (EIR) 2004

The purpose of this document is to define Ada's Freedom of Information Policy:

- The duties imposed by the Acts and how Ada intends to discharge those duties
- Responsibility for ensuring compliance
- Complaints and appeals.

- 1.2 The act imposes a duty on public authorities such as Ada, the National College for Digital Skills:

- To confirm or deny that the information requested is held.
- If the information is held, to communicate it to the applicant.

Anyone may make a request in writing for recorded information held by or on behalf of Ada, and Ada must comply promptly and in any case within 20 working days. Unless subject to one of 23 exemptions described by the Act, the information must be provided. The Information Commissioner's Office is the independent regulatory authority for the Act, and the avenue of appeal for requests that have not been resolved to the applicant's satisfaction.

- 1.3 The Acts apply to all information, regardless of the medium on which it is held, and regardless of age. Information held in non-work personal email accounts (e.g. Hotmail, Yahoo and Gmail) and file stores (e.g. Google Drive, iCloud, Dropbox) may be subject to FOIA if it relates to the official business of Ada. Official information recorded on mobile devices, including text messages on mobile phones, or in any other media, may also be considered to be held on behalf of the college and therefore be subject to FOIA. Members of staff or other relevant individuals may be asked to search private accounts as mentioned above for requested information. Where this has been deemed necessary to fulfil the College's obligations under FOIA, a record of the action will be taken.
- 1.4 Ada's Director of Finance has overall responsibility for Freedom of Information in Ada and will provide most responses. The Qualified Person for determining the application of Section 36 of FOIA (prejudice to the effective conduct of public affairs) is the Dean. This policy has been implemented following consultation with the Executive Leadership Team (ELT) members.
- 1.5 This policy does not form part of any contract of employment or other contract to provide services and we may amend it at any time (subject to agreement with ELT members).

2 Who does this policy apply to?

- 2.1 This policy applies to all employees and the information they hold, including anything created by contractors, agency workers, self-employed contractors, volunteers or interns.

3 Who is responsible for this policy?

- 3.1 The Executive Leadership Team (ELT) has overall responsibility for the effective operation of this policy. The ELT has delegated oversight of the implementation of the policy to the Director of Finance (the senior person at Ada responsible for Finance). Suggestions for changes to this policy should be directed to the policy owner.
- 3.2 Any questions you have about the day to day application of this policy should be referred to your line manager in the first instance
- 3.3 This policy is updated every two years or where there are applicable changes to statutory legislation (whichever is earlier) by the Finance department in consultation with ELT members.

4 Publication Scheme

- 4.1 Ada aims to publish information in line with the model publication scheme for colleges of Further Education set out by the ICO. The Scheme will be reviewed annually and in line with any revised guidance issued by the ICO.
- 4.2 A disclosure log will also be maintained on the website where documents provided in response to requests will be published for viewing or downloading.

5 Codes of Practice

- 5.1 Ada will comply with the Act, and handle requests in accordance with the Codes of Practice issued under Sections 45 and 46 of the FOIA and relevant sections of the EIR.
- 5.2 The Section 45 Code provides guidance for public authorities on best practice in meeting their responsibilities under Part 1 the Act. It sets the standard for all public authorities when considering how to respond to Freedom of Information requests
- 5.3 The Section 46 Code explains the good practice public authorities should follow in records management. The Director of Finance is responsible for implementing Ada's approach to records management.

6 Handling and Tracking of Requests

- 6.1 The Director of Finance is responsible for the processing and monitoring of FOIA and EIR requests.
- 6.2 The dedicated routes for information requests are:

By post to:

Ada, National College for Digital Skills
1 Sutherland Street
Pimlico
London SW1V 4LD

By email:

info@ada.ac.uk

- 6.3 All requests will be logged and tracked by the Director of Finance. This will aid identification of repeat, similar or vexatious requests. Multiple requests for information on a particular subject will lead to consideration for its addition to the Publication Scheme during the annual review.
- 6.4 Where there is reason to believe that some or all of the information requested is held by another public authority, Ada will contact the applicant and provide information about where to re-direct the request. In some cases the request may be transferred directly to the other authority.
- 6.5 Requests for information under the FOIA must be made in writing, however a request may be made verbally under EIR. In both cases, a valid request for information should contain:
- Requestor's name - A public authority is entitled to treat a request as invalid where the real name of the applicant (whether an individual or a corporate body) has not been used. However, as a matter of good practice Ada will still consider the request, for example, where identity is not relevant and it is content to disclose the information requested, even though technically the request is invalid.
 - Address - Either an email or postal address is acceptable as an address for correspondence
- 6.6 Ada will respond within 20 working days to FOI / EIR requests, as required by the legislation. The 20 working days to respond to requests will be suspended where there is a need to clarify the nature of the request in order to be able to answer the request. Once the clarification is received, the 20 working days begin.

7 Exemptions and the Public Interest Test

- 7.1 There are 23 exemptions from the right of access under the FOIA . Some are designated 'absolute', meaning that if an absolute exemption applies, the duty to provide the information does not apply. Most are known as 'qualified' exemptions and require a public interest test to be applied, to decide whether the public interest in withholding the information outweighs the public interest in disclosing it.
- 7.2 Although the EIR presume disclosure, there are circumstances where this does not apply. There are a set of exceptions within the regulations where, subject to a public interest test, the request should be refused. Ada will apply these exceptions when appropriate
- 7.3 Where an exemption is deemed to apply to some or all of the information requested, the applicant will be notified in writing. The relevant exemption will be cited and any information that is not exempt will be provided.
- 7.4 Since the Act and EIR contain a presumption in favour of disclosure, in cases where

there is equal weight between withholding information and disclosing it, the information will be disclosed.

- 7.5 In determining whether disclosure would be likely to prejudice the effective conduct of public affairs (Section 36 of the Act), and the balance of the public interest, the designated Qualified Person will decide. In Ada this is the Dean.
- 7.6 If legal opinion is thought to be necessary, it will be sought by the Dean. The Director of Finance is responsible for the processing and monitoring of FOIA and EIR requests.
- 7.7 Where part of the requested information is considered exempt from release, that information will be redacted. The applicant will be informed that redaction(s) have taken place and cite the relevant exemption, and the reasoning for doing so if not obviously clear. Where there is so much information that needs redacting that it makes a document nonsensical then the entire document can be withheld.
- 7.8 Section 16 of FOIA sets out the duty to provide advice and assistance. The purpose of this section is to ensure that the requestor can appropriately describe the information that they require and where possible, help them to obtain it, so far as it is 'reasonable to expect'.

8 Personal Information

- 8.1 Where an applicant makes a request for his or her own personal data, the data is absolutely exempt and the request will be treated as a subject access request under the Data Protection Act (as per the college's Data Protection Policy).
- 8.2 If the information requested includes personal information about a third party, the college will consider whether disclosing the information would contravene the UK GDPR data protection principles.

9 Third Party Information

- 9.1 Where requests relate to persons other than the applicant and Ada, or disclosure may affect the interests of persons other than the applicant or Ada, Ada will, where appropriate, consult the third party promptly in order to determine whether an exemption applies, and to aid the decision on disclosure. However, the decision will be made entirely by Ada.

10 Fees

- 10.1 Ada will follow the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Accordingly, all requests that cost less than £450 to process (the 'appropriate limit') will be complied with free of charge.
- 10.2 If the estimated cost of compliance exceeds £450, the duty to comply with the request does not arise. Such requests may be refused. However, mindful of the duty to provide advice and assistance, where the cost of complying with a request would exceed the appropriate limit, the applicant will be helped, if possible, to modify or re-focus the request in order to bring the cost below the limit.
- 10.3 In calculating the cost of a request, Ada may only take into account the time taken to

determine whether it holds the information, and to locate and retrieve it. It may not take into account the time taken to consider exemptions and to seek and obtain legal advice, to consider whether a request is vexatious, to obtain authorisation to provide the information or to calculate fees. Costs are calculated at an hourly rate of £25, the equivalent of two and a half working days.

- 10.4 Where communication costs (such as postage, photocopying, printing, CDs etc.) are less than £35 the information will be provided free. The applicant will be charged in full for these costs above that level. A fees notice will be issued, which must be paid within three months. During this period the 20 working day clock is stopped, and re-starts when the fee is received. If the fee is not paid, Ada is released from its obligation to provide the information.
- 10.5 Ada will not charge for information listed on its Publication Scheme except where specifically indicated on the Scheme.
- 10.6 The same fees will be applied to EIR requests however, requestors should be aware it is possible to refuse EIR requests on the grounds of costs.

11 Complaints

- 11.1 Any written reply from the applicant expressing dissatisfaction with Ada's response to a request will be treated as a complaint, whether or not the applicant has expressly stated a wish to have the decision reviewed. This includes appeals against decisions to withhold information. The Director of Finance is initially responsible for handling complaints. A response will be provided within 20 working days. The Director of Finance can be contacted via finance@ada.ac.uk
- 11.2 Complaints received more than two months after the initial decision will not be considered.
- 11.3 If dissatisfied with the outcome of the review, the applicant may seek a review by the Information Commissioner, who has powers to uphold or overturn the decision. Ada will abide by the decisions of the Information Commissioner's Office, unless it considers itself to have grounds for an appeal to the First-Tier Tribunal (Information Rights). Ada will follow the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Accordingly, all requests that cost less than £450 to process (the 'appropriate limit') will be complied with free of charge.

Appendix One Linked Policies and Procedures

Summary of policies and procedures referred to in this document:

- Financial Regulations
- Data Protection policy