
Freedom of Information Policy

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Introduction

The Freedom of Information Act 2000 (FoIA) resulted from a manifesto commitment of the Labour Party in 1997 and its full provisions came into force in 2005. In simple terms the Act allows rights of public access to information held by public authorities which includes Colleges. Consequently Queen Alexandra College (QAC) requires a policy to demonstrate compliance with the requirements and ensure all staff are aware of their responsibilities.

In developing the policy two matters are of prime importance:

- The Freedom of Information Act should not be confused with the Data Protection Act (from May 2018 General Data Protection Regulations – GDPR) which is the subject of a separate QAC policy. Although both Acts give the public rights to access information an organisation holds, the DPA/ GDPR relates to personal information which is held by an organisation which that individual has in certain instances the rights to access; the FoIA allows access to public information, but at a non personal level.
- The Association of Colleges (AOC) published in November 2013 a guide to the FoIA and the College has adopted this guide as its overall policy. Consequently, in dealing with any detailed FoIA enquiry the AOC guide must be referred to and followed. Specifically, the guide incorporates a flow diagram demonstrating how to deal with a FoIA request and this is reproduced as an appendix to this policy. The section numbers referred to in this policy are from the AoC guide which is held by the FOIA Officer.

Overview and Key Messages

Requests for information under the FoIA do not need to mention the Act but must be in writing (which can include email), give the applicants name and address and describe the information being sought, but no reason for requiring the information needs to be given. Requests may come through the website 'whatdotheyknow.com'. A proforma Access to Information Form is attached as an appendix to this policy.

Colleges have 20 working days to respond to a request, where working days only exclude Bank Holidays and weekends. If further information is sought from the applicant the clock stops ticking from the point the extra information is requested until it is received; this also applies if a fee is sought.

Under the FoIA there is a duty to advise and assist people making requests. Consequently the College's procedure needs to be on the website, and assistance is provided to the applicant if they have difficulty making the application in writing. In addition, assistance must be provided in order to define the required information more clearly, and consider if the information can be provided free of charge. If the costs are excessive consideration of the information which could be given at sensible cost must be made.

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Colleges can refuse vexatious or repeated requests, but must provide reasons to the applicant. (See section 3)

Colleges only need to deal with requests about information held by them, but not everything the College holds is subject to FoIA. (See section 4).

Colleges do not need to deal with FoIA requests which would cost more than £450 to process, where a labour charge of £25 per hour is assumed. However if the cost is less than £450, the labour cost cannot be charged to the applicant, rather the costs must only be postage, copying, and if appropriate translation. If the cost is to exceed £450 and the information is not to be provided the applicant must be informed, a complaint form provided together with confirmation of whether the College holds the information or not (unless it would cost >£450 to ascertain even this information). If the cost is to exceed £450, but the College is prepared to provide the information, then labour costs can be recharged. Specific VAT rules also apply (Sections 4/5).

The College has two duties under FoIA: to confirm or deny it holds the information and if available produce it. However two exemptions exist which can be absolute or qualified, and these are used separately in respect of each duty.

Absolute exemptions (Section 6) can be summarised as:

- Information available to the applicant through other means
- Court records
- Personal Information (DPA / GDPR)
- Information provided in confidence
- Prohibitions on Disclosure

Qualified exemptions include a public interest test, but for Colleges the primary exemptions which are likely to apply are:

- Information intended for later publication
- Prejudice to effective conduct of public affairs
- Legal professional privilege
- Commercial interests

If the College relies on an exemption it must confirm to the applicant that:

- The information is covered by an exemption, and stating the exemption relied upon
- State the reason(s) why the exemption applies.

This must be done for each duty.

If a refusal notice is sent to an applicant, the College must send the applicant a note of the College Complaints Procedure in addition to informing them that they can complain to the Information Commissioner.

Summary

The Freedom of Information Act allows the public access to information held by a public authority, but the authority has certain exemptions available to it in order to prevent disclosure in certain circumstances. The College FOIA procedures for all such requests is that they should be forwarded to the relevant officer, currently the Director of Finance & Resources who will follow the guidance set out in this policy and the AOC Guide. Consultation with a Vice Principal and/or Principal will occur in all cases of any doubt to the correct course of action.

Freedom of Information Act (2000) Request

Individual details:

Name _____ Address: _____

_____ Date of request _____

Information being sought:

Signed by person making request _____

For QAC Office use:

Request received by _____ Date _____

Initial response sent _____ (Date)

Final response (if required) _____ (Date)

Appendix

(1) Receiving a Request

Valid request:

- In writing
- Name and address;
- Adequately describes information?

No

Write back advising how to make valid request

No

Request further information to identify and locate requested information

(2) Initial Management of Request

Is request 'vexatious'?

Yes

Issue refusal notice stating request refused as 'vexatious'

No

Is request 'identical or substantially similar' to a recent request made by the same individual/organisation?

Yes

Issue refusal notice setting out basis of refusal (unless already done so for previous request and unreasonable to do so again)

No

Does the request relate to information 'held' by you?

No

Held by you on behalf another public authority. Redirect applicant's request to originating authority

Yes

Held 'on behalf of' another 3rd party? Consider whether within scope of the Act; or s41 or s43 exemptions (see exemptions flow chart)

Does the estimated cost of searching and communicating information exceed the "appropriate limit" (currently £450 for FE Colleges)

No

Deal with request (unless fees notice sent when clock stops until fees paid). Fees paid within three months?

Yes

Will requests costing above appropriate limit be dealt with? See Part 4

No

Discuss with applicant making request more manageable or resubmitting part only so below appropriate limit

Yes

Calculate fee in accordance with Fee Regulations. Recommended that fees notice served

Clock stops running until fees paid

Fees paid?

No

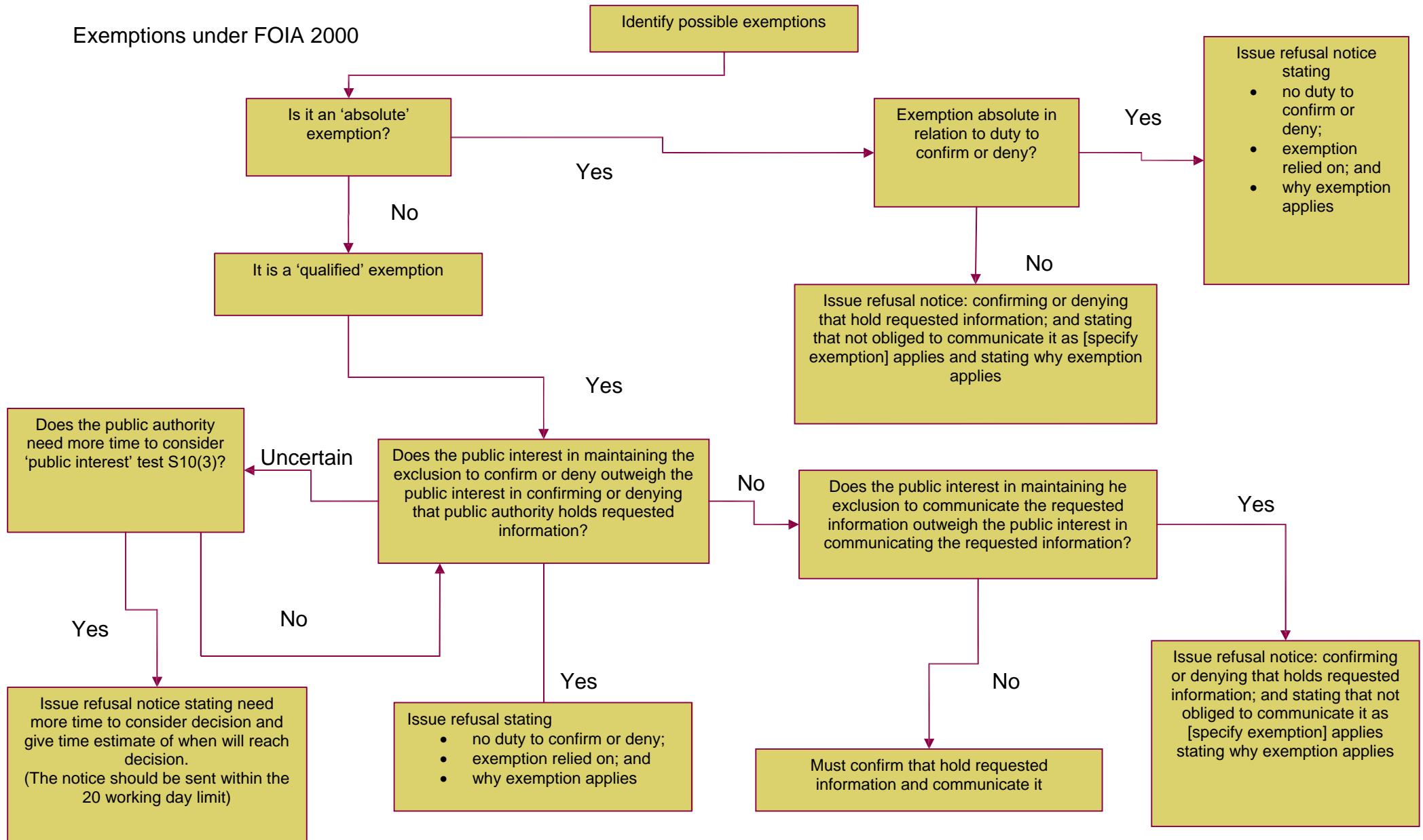
If not paid within 3 months of giving notice no need to respond to applicant's request

Yes

Deal with request. Go to exemption flow chart

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Exemptions under FOIA 2000



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