



## Environmental Information Regulations Policy 2023 - 2024

**Equality Impact Assessment:** Askham Bryan College recognises the importance of the Equality Act 2010 and its duties under the Act. This document has been assessed to ensure that it does not adversely affect staff, students or stakeholders on the grounds of any protected characteristics.

### 1. INTRODUCTION

- 1.1 The Freedom of Information Act 2000 ("FoIA 2000") and the Environmental Information Regulations 2004 ("EIR 2004"/ "the Regulations") provide rights of public access to information held by 'public authorities' as defined by the FoIA 2000.
- 1.2 The public authorities listed at Schedule 1 of the FoIA 2000 are subject to the EIR 2004. By virtue of paragraph 53(1) of Schedule 1 FoIA 2000, the definition of 'public authority' includes

*The governing body of—*

*(a) an institution within the further education sector,  
...*

Therefore, the EIR 2004 applies to the College.

- 1.3 The FoIA 2000 creates one set of rights and applies to information about an organisation and its governance and makes provision for the disclosure of information held by public authorities or by persons providing services for them.
- 1.4 The EIR 2004 creates a similar set of rights and obligations where that information is *environmental* information. The EIR 2004 does this in 2 ways:
  - (a) public authorities must make environmental information available proactively, such as in a publication scheme; and
  - (b) members of the public are entitled to request environmental information from public authorities.
- 1.5 As with the FoIA 2000, the right is to *information*, not necessarily to copies of documents containing that information.

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### Environmental Information

1.6 The Regulations apply only to the *environmental information* held by public authorities. The FoIA 2000 gives people access to most other types of information held by public authorities.

1.7 Regulation 2(1) defines 'environmental information' as:

***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, programmes, 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)...***

1.8 Environmental Information is not limited to official documents or information the College creates – it can cover, for example, drafts, emails, notes, recordings of telephone conversations and CCTV recordings.

1.9 The Regulations will cover **any recorded information** a public authority holds that falls within the definition of 'environmental information'.

1.10 Environmental information that another person or organisation holds on the College's behalf will also come within the scope of the Regulations.

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- 1.11 For instance, if the College subcontracts to an external company, that company may then hold environmental information on the College's behalf, depending on the type of information and the contract with them. If the College receives a request for information under the EIR 2004, some of the information the external company holds may therefore be covered by the Regulations and could fall to be disclosed in response to that request.
- 1.12 When work related emails are sent using *private* email accounts and this results in official information being stored on *private* non-work email accounts, this information will be held for the purposes of the Regulations.
- 1.13 The Regulations do not, however, cover information that is in someone's head.
- 1.14 If a member of the public asks for information, an organisation only has to provide information it already has in *recorded* form. An organisation does not have to create new information or find out the answer to a question.
- 1.15 The College's Environmental Information Regulations Procedure sets out the procedure that must be followed when responding to a request for environmental information. It is a similar, yet separate, procedure to the procedure to be followed when responding to a request for information under the FoIA 2000, which is dealt with by the College's Freedom of Information Procedure.
- 1.16 The EIR 2004 and the FoIA 2000 do not give people access to their own Personal Data (information about themselves) or someone else's Personal Data. Individuals, however, have a right of access to information held about them under the UK General Data Protection Regulations ("the UK GDPR") and the Data Protection Act 2018 ("the DPA 2018"). The College's Subject Access Policy and Subject Access Procedure apply where individuals request information about themselves.

## 2. SCOPE

- 2.1 This Policy applies to all members of staff including temporary or casual or agency staff, and contractors and suppliers working for, or on behalf of, the College.

## 3. RESPONSIBILITY

- 3.1 The Legal and Compliance Adviser will have day-to-day responsibility for logging and responding to any requests for information under the EIR 2004 received by the College.
- 3.2 The Legal and Compliance Adviser will also have responsibility for ensuring that this policy and associated procedure remain up to date.
- 3.3 Overall responsibility for ensuring compliance with this policy and the associated procedure rests with the Director of Governance.

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## 4. SUBMITTING A REQUEST

- 4.1 Requests for environmental information can be made by emailing [enquiries@askham-bryan.ac.uk](mailto:enquiries@askham-bryan.ac.uk) or by emailing [freedomofinformation@askham-bryan.ac.uk](mailto:freedomofinformation@askham-bryan.ac.uk)

## 5. RESPONDING TO REQUESTS

- 5.1 The College will respond to routine requests under the EIR 2004 within the statutory time limit of 20 working days. Where the request is particularly complex and or involves a lot of information, then the statutory time limit may be extended to 40 working days (see Regulation 7).
- 5.2 It may be that the information requested has already been disclosed as part of the College's publication scheme in which case the College's response will be to direct the individual who requested the environmental information ("the Requester") to the appropriate part of the College's publication scheme (<https://www.askham-bryan.ac.uk/publication-scheme/>).

## 6. PUBLICATION SCHEME

- 6.1 Unlike the FoIA 2000, the EIR 2004 does not require public authorities to make environmental information available under a publication scheme.
- 6.2 However, the Regulations do require public authorities to publish environmental information **proactively** and public authorities can do this in the following two ways:
- they should publish information **by easily accessible electronic means**; and
  - they should organise their records in such a way that they can **publish certain information routinely**.
- 6.3 These obligations are separate from the public authority's duty to make information available in response to individual requests.
- 6.4 The simplest way to comply with both obligations, however, is with a publication scheme and the College has therefore taken a decision to publish certain environmental information routinely on the College website.

## 7. CHARGES

- 7.1 The College has taken a policy decision not to charge for routine requests for environmental information; but reserves the right to charge for responding to more complex requests, where significant time and effort (i.e. exceeding 18 hours) will be spent in responding to the request. Presently those charges are: staff time will be charged at £25 per person per hour, regardless of who does the work, to a maximum of £450 to respond to the request.

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- 7.2 Where the College makes a charge for responding to the request, then the College requires payment of that sum on account before it will respond to the request (Regulation 8(4)). The period from the day of this notification to the day the College receives the payment does not count towards the time limit for responding to the request. Where the Requester fails to make payment after 60 days from the date details of the charges were provided, then the College is no longer obliged to respond to the request.

## 8. RIGHT TO INTERNAL REVIEW

- 8.1 A Requester who is not satisfied with the College's response to their request has a right to request an internal review of the response within 40 working days of the response. To request an internal review, the Requester must contact the College **in writing** and explain why they believe the College did not comply with the EIR 2004.
- 8.2 The internal review will be conducted by the Director of Governance, as the College's Data Protection Officer, and as a senior member of staff. The Director of Governance will make a fresh decision based on all the available evidence that was relevant at the date of the request for information. The internal review will not just be a review of the first decision. The Director of Governance will communicate the outcome of the review to the Requester within 40 working days of receiving their complaint.

## 9. RIGHT TO COMPLAIN TO THE ICO

- 9.1 A Requester who is dissatisfied with the outcome of the internal review has the right to complain to the Information Commissioner's Office ("ICO").

## 10. RELATED DOCUMENTS

- Freedom of Information Act Policy
- Freedom of Information Act Procedure
- Freedom of Information Act Guidance – Responding to Requests
- Environmental Information Regulations Procedure
- Subject Access Request Policy
- Subject Access Request Procedure

## 11. RELEVANT LEGISLATION

- Environmental Information Regulations 2004
- Code of Practice on the Discharge of the Obligations of Public Authorities under EIR 2004
- Data Protection Act 2018
- UK General Data Protection Regulation ('UK GDPR')
- Infrastructure for Spatial Information in the European Community Regulations 2009 (INSPIRE)

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