



TITLE	REF	VERSION
Freedom of Information Procedure	GOVPRO010	1.1

  

DEPARTMENT	Governance		
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# FREEDOM OF INFORMATION PROCEDURE

## Procedure Statement

Activate Learning collects and records information as a result of our daily activities and running of the business. As part of our commitment to openness and accountability, Activate Learning recognises our obligations under the Freedom of Information Act and the need to comply with the demands of the legislation. This document outlines the procedure for proactively publishing information under the Act and responding to Freedom of Information requests.

## Definitions

**Staff:** all employees, workers, volunteers, and governors.

**Recorded Information:** all factual, raw data that is gathered as part of providing services and delivering functions as part of a public authority, and that is held in electronic form.

**Data Protection Officer (DPO):** the person responsible for providing advice and guidance relating to data protection. The DPO for Activate Learning is the Director of Governance.

**Freedom of Information Act (FOIA):** The Freedom of Information Act (UK, 2000).

**ICO:** Information Commissioner's Office, the regulatory authority responsible for enforcing the relevant Data Protection Legislation.

**Personal Data:** any information which, either on its own or if combined with other information which might reasonably be held by Activate Learning, could uniquely identify a data subject. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion or intention.

## Scope & Responsibilities

The Data Protection Officer is responsible for ensuring that the Group fulfils its obligations under the Freedom of Information Act, including the publication of information and responses to individual Freedom of Information requests.

However, this procedure applies to all staff of Activate Learning, and therefore staff should ensure that they are familiar with it and are therefore aware of the Group's commitment to the act and how it affects them. This may include notifying stakeholders or members of the public of their right to make a Freedom of Information request and how they should go about doing so. Staff should never respond to a Freedom of Information request directly but should take proactive steps to ensure that recorded information is readily available and accessible should a Freedom of Information request be made concerning that information.

## Communicating Freedom of Information

Activate Learning has two distinct obligations under the Freedom of Information Act. We must both publish certain information proactively, through use of the ICO's publication schedule, and we must respond to requests for information from the public. In order to perform these tasks, we must first communicate with the public to ensure that the information that we are able to provide is made known to anyone wishing to access it. In order to do this, we will publicise our commitment to proactive publication and the details of what is available, inform members of the public that they are able to make a Freedom of Information request and provide information about how to do so. It may also be necessary to communicate to staff at an early stage that each request will be considered individually and that we are unable to guarantee confidentiality of information released.

## **Publishing Information**

The Freedom of Information Act requires that every public authority has a publication scheme approved by the ICO, which allows organisations to publish information proactively, as well as responding to requests. To this end, the ICO has produced a model publication scheme which Activate Learning will follow in order to publish information on the public website. The model publication scheme classes information into seven broad categories, however a definition document is available for further education colleges to give more detailed examples of the documents that should be published. There is no obligation on Activate Learning to publish drafts, notes or obsolete versions of final documents.

The information provided on the Freedom of Information section of the public website will be reviewed on a regular basis by the DPO, so that both relevant newly created information is added to it and any superseded documents are replaced. It is the responsibility of the Directors of relevant areas of the business to provide these documents when requested and to inform the DPO when any of the documents change and require updating. Furthermore, the DPO will ensure that the responses provided to Freedom of Information requests are published on the public website also. Any disclosure under the Act is considered public disclosure, and therefore all personal information contained within the response must be removed or redacted prior to disclosure.

## **Responding to Requests**

All formal requests under the Freedom of Information Act must be provided in writing, include a real name and contact address and clearly attempt to describe the information being requested. This can be provided to any staff member and does not need to specifically mention the Act itself.

Any request made under the Act should be immediately referred to the DPO upon receipt. However, not every request for information will be a request under the Act; staff members receiving requests for information should carefully consider whether the request is:

- a request by a known third party who is entitled to receive the information, which can easily be provided directly, which should be handled by the relevant department;
- a request for personal information under the Data Protection Act (2018), which should be referred to the DPO as a Rights Request (see the Data Protection Policy and Rights Request Procedure for more information);
- a request made explicitly under the Freedom of Information or which cannot be immediately fulfilled, which should be referred to the DPO as a Freedom of Information request; or
- a request for information which is already published under the Group's publication scheme, in which case the requester should be directed to the relevant section of the website.

Once a request has been received by the DPO, an acknowledgement letter will be sent without undue delay informing the requester that we are dealing with their request under the terms of the Freedom of Information Act. The only exceptions to this are: where the information can be provided immediately, either because the DPO has it to hand or because it exists in the publication scheme, in which case a response can be issued without need for an acknowledgement; or where further clarity is required, in which case it will be sought from the requester. If a formal Freedom of Information request is opened, we are obliged to respond to the request within 20 working days, which begins the first day after the request is received (or clarified, if applicable) by the Group. Information about the request will be entered into the Freedom of Information register by the DPO, who will then co-ordinate the communication of the request to relevant teams who are able to provide information to satisfy the request.

All information held by Activate Learning which falls under scope of the Act must be released, unless there is a good reason not to. Information will be provided as it was at the time of the request, regardless of whether or not the information is accurate or soon to be out of date.

Activate Learning can refuse a Freedom of Information request in the following circumstances:

- where the cost of retrieving the information would be too great;
- where retrieval of the information would take too much time;
- where the requested information is not held by Activate Learning; and
- where an exemption listed under the Freedom of Information Act applies (in particular, where the request includes personal or commercially sensitive information).

The DPO will seek advice and conduct a public interest test to establish whether Activate Learning has the right to refuse to provide requested information. This may involve a reasonable extension of time or no more

than an extra 20 working days to consider. If a request is refused, the DPO will send a formal refusal letter to inform the request of this, informing them specifically under which section of the Act they are refusing to release the information.

Where Activate Learning are obliged to provide the requested information under the Act, the DPO will gather the relevant information and release it to the requester, either within or accompanied by a confirmation letter. The outcome of the request will then be detailed in the Freedom of Information register and the information provided will be uploaded to the public website. Future requests for the same information should subsequently be directed here.

### **Further Information**

Any staff requiring clarification or further information about this Procedure or the Group's obligations under the Freedom of Information Act should contact the DPO directly.

### **References**

This Policy complies with the following legislation:

- [Data Protection Act 2018](#)
- [General Data Protection Regulation 2018](#)

This Policy should be read in conjunction with the following Activate Learning Policies and Procedures:

- [Information Security and Data Protection Policy](#)