

## **PROCAT Freedom of Information Act Policy**

### **EXECUTIVE SUMMARY**

Prospects College of Advanced Technology (PROCAT) supports and is committed to the principles of openness, transparency and accountability embodied in the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. This policy establishes a framework which underlines this commitment. It provides policy statements to underpin the College's detailed guidance and procedures in the areas of Freedom of Information and Environmental Information, providing a benchmark against which implementation can be audited.

### **Freedom of Information Act Policy**

This policy has been established to ensure that PROCAT meets its legal obligations under the Freedom of Information Act and the Environmental Information Regulations, and related statutory codes of practice (see the Appendix). The legislation, and therefore this policy, applies to all recorded information held by PROCAT and its staff, departments, subsidiaries and agents, regardless of format, storage medium or age. It also applies to any companies which are or may be wholly owned by PROCAT, and to information held by other organisations or individuals on behalf of the College. Information "held" by PROCAT includes not only information created by the College and its agents, but also information in the College's possession which originated from outside organisations or individuals, such as other regulatory bodies or private companies.

This policy and the procedures which implement it will ensure that PROCAT conforms to the Act, Regulations and associated codes of practice, the key requirements of which are that:

- Information which is routinely published by the College is made available in accordance with the College's Freedom of Information Publication Scheme (see The Publication Scheme).
- Information which is not covered by the Publication Scheme is made available to enquirers on request, within 20 working days, unless a valid exemption or limit applies (see Requests for information).
- Exemptions under the Act and Regulations are applied appropriately, and in accordance with the legislation (see Exemptions).
- A fair and efficient internal appeal system is administered (see Appeal procedures).

### **3. Status**

The overarching policy was approved by the Corporation Board on 10 February 2016

### **4. Responsibilities**

PROCAT has a corporate responsibility to ensure that it conforms to and implements the Freedom of Information Act and the Environmental Information Regulations. PROCAT is accountable to the Information Commissioner for its compliance with the Act and Regulations. The senior officer with overall responsibility for this policy is the Chief Operation Officer and the Principal, who has strategic responsibility within the College for Freedom of Information and Environmental Information, and related areas including Data Protection, records management and institutional archives.

The Head of Quality (HoQ), reporting to the principal is responsible for the effective day-to-day management of compliance with the Freedom of Information Act and the Environmental Information Regulations. This includes the development of procedures, guidance and standards of good practice (see Guidance available); their promulgation to staff through training and outreach; the maintenance and periodic review of the Freedom of Information Publication Scheme (see The Publication Scheme); the co-ordination of responses to more difficult or complex information requests; and the provision of advice and assistance on Freedom of Information and Environmental Information issues. The HoQ is also the College's Data Protection Officer, and has responsibility for ensuring that the College's records and institutional archives are managed in a way which supports business efficiency, and compliance with information rights legislation and the Records Management Code.

Heads of academic and administrative departments are responsible for ensuring that procedures and systems within their departments conform to this policy and to the College's procedures, guidance and standards of good practice in the areas of Freedom of Information, Environmental Information and records management. They should also ensure that staff are provided with adequate opportunities for training in these areas.

Department heads may be asked to nominate a member of staff to act as a point of contact with the HoQS on records management and information rights issues.

All staff must handle information and requests for information in a way which complies with this policy and the College's related procedures, guidance and standards of good practice (see Guidance available). Staff must also ensure that they provide the HoQ with all necessary advice and assistance when requested to do so for the purpose of responding to Freedom of Information or Environmental Information requests. Staff should note that the deliberate concealment, amendment or destruction of information which has been the subject of a Freedom of Information or Environmental Information request, in order to prevent its disclosure, is a criminal offence under the Act and Regulations for which individual staff as well as PROCAT can be held liable.

## **5. Relationship with existing policies and legislation**

This policy has been developed and will be implemented within the context of other PROCAT policies and guidelines, national legislation and codes of practice, and sectorial/professional standards. For details of relevant internal and external documents, see the Appendix.

## **6. Guidance available**

Guidance on the procedures necessary to comply with this policy will be developed by the Head of Quality and approved by the COO. The guidelines produced will cover the following areas, and other areas which may need to be added from time to time as the regulatory environment evolves:

- Overview of the Freedom of Information Act and the Environmental Information Regulations.
- Procedures for submitting a Freedom of Information or Environmental Information request.
- Procedures for handling requests for information.
- Managing requests during staff absence.
- Appeal and complaints procedures.
- Publication of information and the Publication Scheme.
- Implications of the Act and Regulations for contracts.
- Implications of the Act and Regulations for the Students' Union.

- Managing records in accordance with Freedom of Information and Environmental Information.
- Freedom of Information and Data Protection guidance for committee servicing.
- Freedom of Information training resources
- Freedom of Information and Environmental Information FAQs.

## **7. The Publication Scheme**

PROCAT is required by the Freedom of Information Act to produce, maintain and make available a Publication Scheme covering the information which the College routinely publishes or intends to publish. The Publication Scheme is available on the College's website and in hard copy from the HoQ. It describes the classes of information which the College publishes, providing appropriate examples of individual documents, and details the formats in which publications are available and whether any charges apply.

PROCAT has adopted the model publication scheme approved for the FE sector by the Information Commissioner, but reserves the right to move to a bespoke Scheme (subject to the approval of the Information Commissioner) should that prove better suited to the College's needs. PROCAT is required by law to keep the Scheme up to date, which will be secured by the periodic review and updating of the Scheme by the Head of Quality or nominated deputy.

Publication of information via the Scheme incurs a number of benefits, such as a reduction in the amount of information which can be subject to Freedom of Information requests. To secure these benefits, and in the interests of openness, accountability and business efficiency, PROCAT affirms its commitment to the routine publication of as much non-sensitive information about the College's policies, procedures and activities as possible, following a "web first" publication policy.

## **8. Requests for information**

Information which is not covered by the College's Publication Scheme can be requested by individuals within or outside the College under the Freedom of Information Act and the Environmental Information Regulations. The Act and Regulations provide the public with the right to be informed whether the information is held by PROCAT, and if so, to have the information communicated to them unless an exemption or limit applies. Requests must be answered within 20 working days, although this period can be extended in certain circumstances.

PROCAT is committed to processing requests for information in accordance with the requirements of the Act and Regulations. To this end, the College will ensure that requests under the Freedom of Information Act are processed in accordance with the code of practice (known as the Access Code) issued by the Secretary of State for Constitutional Affairs under section 45 of the Freedom of Information Act. Similarly, requests under the Environmental Information Regulations will be handled according to the code of practice issued by the Department for Environment, Food and Rural Affairs (see the Appendix). Procedures and systems for dealing with information requests will be developed to promote conformity to these codes and the legislation, and will be coupled with appropriate training for staff handling requests.

## **9. Charges**

The Freedom of Information Act and its secondary legislation impose a statutory limit (known as the "appropriate limit") on the amount that can be spent on locating and extracting the information

required to answer a Freedom of Information request. This limit is currently set at £450, which the legislation deems to be equivalent to 18 hours of staff time. Where a public authority receives a request which is estimated to be over the "appropriate limit", it can refuse to comply with the request, comply without imposing a charge, or comply on condition that the applicant pays the full cost of processing the request. PROCAT's policy, in all cases, is to refuse to comply with requests that are likely to exceed the appropriate limit. Before doing so, the College must provide the applicant, where possible, with reasonable advice and assistance to help narrow down the scope of the request to one that would be within the limit. Applicants whose requests are refused on the grounds of the "appropriate limit" will be provided with an explanation as to why the College believes that the limit would be exceeded.

No "appropriate limit" is set by the Environmental Information Regulations. However, PROCAT reserves the right to refuse to comply with EIR requests which are "manifestly unreasonable" or "too general", in accordance with the Regulations. As with Freedom of Information requests, the College has a duty to advise the applicant on how to re-focus the request to one that would be acceptable.

Where the cost of processing a Freedom of Information request is below the "appropriate limit", the College may only charge for postage and photocopying, printing and other forms of reprographics. Any charges imposed by PROCAT for these services will take into account the guidance on charges for Freedom of Information requests issued by the Ministry of Justice. Postage and reprographics charges for Environmental Information requests will match those for Freedom of Information requests.

The College has greater latitude to charge for information covered by the Publication Scheme. Details of charges are included in the Scheme. The College will ensure that where charges are imposed for information covered by the Publication Scheme, all charges are consistent with the Scheme.

## **10. Appeal procedures**

Public authorities are required by the Environmental Information Regulations to have internal appeal procedures, and are strongly recommended to have internal appeal procedures for Freedom of Information requests. PROCAT has established and will maintain a unified system of internal review which will be accessible to all applicants who are dissatisfied with the handling of their information request. Responsibility for approving appeal procedures rests with Information and Internal Communications Committee. PROCAT's appeal procedures for Freedom of Information and Environmental Information requests are published on the College's website, and will be drawn to the attention of applicants for information. The same procedures will be used for complaints relating to the College's Freedom of Information Publication Scheme.

## **11. Exemptions**

Although PROCAT upholds the principle that information should be accessible wherever possible, there are times when we have to withhold information to protect our legitimate interests and those of other organisations and individuals. PROCAT will only refuse to disclose information in response to a request if a valid exemption applies under the Freedom of Information Act or the Environmental Information Regulations, or if the "appropriate limit" would be exceeded (see Charges).

The College will apply exemptions in a way which takes into account the guidance on exemptions issued by the Information Commissioner and the Ministry of Justice. Where information is withheld

under an exemption, applicants will be informed of the relevant exemption and why PROCAT believes it applies, and will be provided with details of the College's appeal procedures.

## **12. Contractors, suppliers etc**

The Freedom of Information Act and the Environmental Information Regulations cover all information held by PROCAT, including information provided to the College by outside organisations such as contractors, tenderers, suppliers, other FE and HE institutions and regulatory bodies. PROCAT will consult with outside organisations whenever information which they have supplied to PROCAT is the subject of a request. However, the ultimate legal responsibility for deciding whether or not information should be released under the Act or Regulations rests with the College.

## **13. Records management**

Effective management of the College's records is essential for business efficiency and to ensure compliance with information rights legislation. The College will develop its record keeping policies, procedures and systems with the goal of conforming to the code of practice (known as the Records Management Code) issued by the Lord Chancellor under section 46 of the Freedom of Information Act. In so doing, the College will take account of standards and good practice issued by bodies such as the JISC and the National Archives. Staff will be provided with appropriate training in records management responsibilities and procedures.

## **14. Further information**

Questions relating to this policy and PROCAT's compliance with the Freedom of Information Act and the Environmental Information Regulations should be directed to the Head of Quality at the following address:

Head of Quality

PROCAT

Crompton Close

Basildon

Essex

SS14 3AY

United Kingdom

Telephone: 0800 389 3589

Email: [foi@procat.ac.uk](mailto:foi@procat.ac.uk)