

FFURFLEN MANYLION POLISI
POLICY IDENTIFICATION FORM /FRONTSHEET

TEITL Y POLISI: <i>POLICY TITLE:</i>	<i>FOIA Policy</i>
CYFEIRNOD Y POLISI: <i>POLICY REFERENCE NUMBER:</i>	
RHIF ADOLYGIAD: <i>ISSUE NUMBER:</i>	<i>1</i>
UWCH-GYFARWYDDWR A CHYFRIFOLDEB: <i>RESPONSIBLE EXECUTIVE DIRECTOR:</i>	<i>Kath Coughlin</i>
PWRPAS: <i>PURPOSE:</i>	<i>To comply with the requirements of the FOI Act 2000, and adoption of a model publication scheme for the sector</i>
OBLYGIADAU RISG: <i>RISK IMPLICATIONS:</i>	<i>The Grŵp is obliged to periodically review its FOI Policy and compliance to the model publication scheme for the sector</i>
EFFAITH AR DDWYIEITHRWYDD <i>IMPACT ON BILINGUALISM</i>	<i>The policy will be issued bilingually once approved.</i>
EFFAITH AR GYNALIADWYEDD <i>IMPACT ON SUSTAINABILITY</i>	<i>None.</i>
ARGYMHELLIAD: <i>RECOMMENDATION:</i>	<i>To accept and approve Policy</i>
CYFATHREBU <i>COMMUNICATION</i>	<i>Through Board, Tîm Polisi, Tîm Strategol and Tim Rheoli. Policy to be made available on the College intranet and website.</i>
PWLLGOR / GRŴP MONITRO: <i>COMMITTEE / GROUP RESPONSIBLE FOR MONITORING:</i>	<i>FRC / Board</i>
CYMERADWYWYD GAN: <i>APPROVED BY:</i>	<i>FRC / Corporation Board</i>
DYDDIAD CYMERADWYO <i>APPROVAL DATE:</i>	<i>14.10.13 / 24.10.13 - Updated 30.01.14</i>
DYDDIAD ADOLYGU <i>REVIEW DATE CYCLE:</i>	<i>Biennial – September 2015</i>



FREEDOM OF INFORMATION ACT 2000 POLICY

Policy Number:	Policy Name: Freedom of Information Act 2000
Date of last review: Coleg Llandrillo - October 2011	Post responsible for review: FOI Officer
Date of approval: 10.10.13	Version: 1
Date of next review:10.10.15	

Contents:

1	Introduction
2	Roles and Responsibilities
3	Publication Scheme
4	General Rights of Access
5	Dealing with a Request
6	Initial Management of Requests
7	Vexatious and Repeat Requests
8	Cost Caps
9	Whether the Grŵp “holds” the Information
10	Fees
11	Exemptions
12	Responding to a Request
13	Complaints Procedure
14	Criminal Offence
15	Records Management

Annex 1 – list of exemptions and likely impact on the Grŵp.

Throughout this policy, reference is made to the ICO’s FOI procedures and guidance. You can find out more at:

<https://www.gov.uk/make-a-freedom-of-information-request/the-freedom-of-information-act>

1 Introduction

1.1 The Freedom of Information Act, referred to hereafter as the FOIA, provides an extensive right to all types of “recorded” information held by public authorities from 1st January, 2005, subject to certain conditions and exemptions. Public authorities such as Further Education Corporations are under two main obligations: first, to adhere to a model publication scheme; secondly, to respond to requests from individuals and entities for specific written information the Grŵp holds. Grŵp Llandrillo Menai (hereafter referred to as the Grŵp) and this policy supports the principle that openness should be the norm in public life. The Grŵp has a commitment to help and inform the public and improve access to information. The Grŵp also believes that individuals have a right to privacy and confidentiality and this policy does not overturn the common law duty of confidentiality or statutory provisions that prevent the disclosure of personal information. The release of such information will be dealt with under the provisions of the Data Protection Act 1998. This policy relates to all records held by the Grŵp and applies to all employees of the Grŵp.

2 Roles and Responsibilities

2.1 The Executive Director, Corporate Services, is ultimately accountable for FOI and all things related. The Governance Officer is the initial point of contact for queries and access to information. Members of the Tîm Polisi and Tîm Strategol are responsible for ensuring that this policy is communicated and implemented within their area of responsibility. All employees are responsible for ensuring that they are familiar with this policy. All staff will be expected to:

- Be aware of the Grŵp Model Publication Scheme and how to access it – it is appended to this policy.
- Adhere to this Policy and all related systems and process to implement the Act, and
- Attend any training as appropriate

Any advice or assistance regarding this policy or the Act can be obtained from the Grŵp Governance Officer: Toby G. Prosser: email t.prosser@gllm.ac.uk, Tel: (01492) 542313.

3 Publication Scheme

3.1 The Grŵp adopts a model Publication Scheme. This has been approved by Information Commissioner. The Publication Scheme is a proactive tool for the dissemination of information relating to the business of the Grŵp, which includes information the Grŵp routinely publishes or intends to publish in the future. It describes the format in which the information is available and whether or not a charge will be made for that information. Requests that specifically cite that the

information the applicant requires has been identified in the Grŵp's Publication Scheme may be received verbally or in writing. A copy of the current Model Publication Scheme is available as an appendix to this document. The Information Commissioner is due to formally review the publication scheme in 2014 for adoption by the Board.

4 General Rights of Access

- 4.1 The general rights of access by individuals came into force on 1 January, 2005. A valid FOI request is any request in writing for **specific** information. A name and address must be provided to which the Grŵp can respond. It should be noted that emails and faxes and texts are a valid method to request information under the FOIA.
- 4.2 There is no need for the applicant to cite the FOIA. Therefore, in almost all circumstances a written request for specific information will be a freedom of information request and be governed by the FOIA. Essentially, the Act covers all requests for information and is fully retrospective.
- 4.3 As a general rule requests should be treated at face value. The Act does not allow the applicant to be asked the reason or purpose for their request. However, it does allow contact with the applicant to obtain more detail about the information requested to pin-point what might otherwise be a vague or broad request.
- 4.4 It should be remembered that the FOIA provides a right to request information. This is not a right to request actual documents.

5 Dealing with a Request

- 5.1 The Grŵp's duties are, through the Governance Officer:
 - 5.1.1 to confirm or deny whether the Grŵp holds the information;
 - 5.1.2 to provide the information;
 - 5.1.3 to advise and assist applicants.

This is principally because people may make very broad requests or be unsure as to what they are looking for. Thus, the FOIA places an obligation on public authorities to advise and assist applicants in forming their requests once a request has been made.

- 5.2 The Grŵp has 20 working days to respond to a request from date of receipt. "Working days" excludes weekends and bank holidays. Week days when the Grŵp is closed other than bank holidays are still "working days".

6 Initial Management of Requests

- 6.1 Many requests will be easy to deal with and will be normal requests for information which the Grŵp is used to dealing with as part of the every day life – e.g. request for course information is unlikely to engage the FOIA because the Grŵp will simply deal with the request. Where requests are more awkward it is likely that these will engage the FOIA. The guidance set out here will assist in dealing with such requests.

7 Vexatious and Repeat Requests

- 7.1 The Grŵp may be able to refuse some requests because they are vexatious or repeat requests. Further information is available from the ICO Office.

8 Cost Cap

- 8.1 For all other requests the Grŵp will first assess whether the cost of retrieving the information will exceed the amount prescribed by the Secretary of State. At present this is £450 (set by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Regulations”)). The effect of the Regulations is that if location and retrieval of the requested information will take more than 18 hours, the Grŵp is under no obligation to provide the information, although it will need to confirm or deny whether it holds the information. The ICO’s FOIA Procedures sets out how the £450 figure is calculated and how the costs cap operates in practice.

9 Whether the Grŵp “holds” the Information

- 9.1 The FOIA only applies to information the Grŵp “holds”. Information belonging to others that the Grŵp holds is caught by the FOIA, as is information belonging to the Grŵp but held by others.
- 9.2 It should also be noted that the Grŵp does not have to “create” information in order to satisfy a request. The Grŵp only needs to provide the information it holds.

10 Fees

- 10.1 Where the Grŵp must deal with a request it is possible to charge administrative costs. In order to do so the Grŵp must serve a fees notice. Once a fees notice has been served this stops the 20 working day clock. The clock will not continue until the applicant has paid the fee. If the Grŵp does not receive the fee within three months of the fees notice the request lapses. Again, further details are provided in the ICO’s FOIA Procedures.

11 **Exemptions**

- 11.1 There may be situations where it would be inappropriate to disclose information that is requested. In order to refuse a request the Grŵp must be able to rely on one of the 24 exemptions set out in the FOIA (set out in **Annex 1**). The exemptions are restrictively interpreted and as a result many are not likely to be of application to further education Grŵps. Therefore, the exemptions have been categorised according to whether they are “highly likely”, “possibly” or “unlikely” to be considered by the Grŵp. It is likely that the Grŵp would seek specific advice in connection with the application of the exemptions in any specific circumstances.
- 11.2 Further information on the exemptions is also provided on the ICO website.
- 11.3 The exemptions are split into two categories – absolute exemptions and qualified exemptions. The difference between the two categories is that qualified exemptions are subject to the public interest test. This means that having established that a qualified exemption applies the Grŵp must then consider whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

12 **Responding to a Request**

- 12.1 When the Grŵp deals with a request it must, through the Governance Officer:
- 12.1.1 confirm or deny whether it holds the information.
- 12.1.2 provide the information.
- 12.2 In the event that the Grŵp relies on an absolute or qualified exemption to avoid either confirming or denying that it holds the information or to avoid disclosing the information, the Grŵp must serve on the applicant a notice refusing the request.
- 12.3 Similar notices have to be served where the Grŵp refuses a request which it believes to be vexatious or repeated or where the cost of complying with the request would exceed the appropriate limit.

13 **Complaints Procedure**

- 13.1 Complaints concerning the discharge of duties of the Grŵp under this policy will be handled by reference to the FOIA Complaints Policy. Initial contact should be made to:-

The CEO
Grwp Llandrillo Menai
Llandudno Road
Rhos-on-Sea
LL28 4HZ
Tel: 01492 546666 x 301

- 13.2 Individuals also have the right under the Act to make a complaint to the Information Commissioner directly, if they remain dissatisfied with the conduct of the Grŵp, following attempts at local resolution of their complaint.

Information Commissioner's Office – Wales
2nd Floor, Churchill House
Churchill Way
Cardiff
CF10 2HH

Telephone: 029 2067 8400

Fax: 029 2067 8399

Email: wales@ico.org.uk

- 13.3 Whenever the Grŵp refuses a request and it serves a notice, this should include a complaints statement. Further information on this is provided in the ICO's FOIA Procedures.

14 Criminal Offence

- 14.1 It is a criminal offence to alter, deface, block, erase, destroy or conceal any record held by the Grŵp with the intention to prevent disclosure of information after a freedom of information request (or subject access request under the Data Protection Act 1998) has been made.
- 14.2 The offence applies to the Grŵp and any person employed by the Grŵp, an officer of the Grŵp or any person subject to the direction of the Grŵp. It is possible for the Grŵp (in the form of the Corporation) and an individual to be convicted.

15 Records Management

- 15.1 The Grŵp has a separate policy with supporting systems and procedures that will ensure compliance with the Lord Chancellor's Code of Practice on the Management of Records under s.46 FOIA. The policy and associated procedures will address the issues of active records management – creation, keeping, maintenance and disposal – according to the requirements that the law places upon the Grŵp.

Annex 1

As the application of the exemptions is restricted by the FOIA, they have been colour coded to indicate the likelihood of whether they will need to be considered by a further education provider.

This is for guidance only.

"Green" = highly likely

"Amber" = possibly

"Red" = unlikely

Please refer to Appendix 1 of these Procedures for more detailed information on exemptions. If the Grw̄p is in doubt as to whether an exemption should be used, legal advice should be sought.

Exemptions

FOIA	Exemption	Applicability of exemptions for FE Grw̄ps
Section 21	Information accessible to applicant by other means. (Absolute).	Green
Section 22	Information intended for future publication. (Qualified)	Green
Section 23	Information supplied by, or relating to, bodies dealing with security matters. (Absolute).	Red
Section 24	National security. (Qualified)	Red
Section 25	Supplementary provisions regarding certificate issued by Minister under ss.23 and 24. (Qualified)	Red
Section 26	Defence. (Qualified)	Red
Section 27	International Relations. (Qualified)	Red
Section 28	Relations within the United Kingdom. (Qualified)	Red
Section 29	The economy. (Qualified)	Red
Section 30	Investigations and proceedings conducted by public authorities. (Qualified)	Amber
Section 31	Law enforcement. (Qualified)	Amber

Section 32	Court records. (Absolute)	Green
Section 33	Audit functions. (Qualified)	Red
Section 34	Parliamentary privilege. (Absolute)	Red
Section 35	Formulation of government policy, etc (Qualified)	Red
Section 36	Prejudice to effective conduct of public affairs. (Qualified)	Green
Section 37	Communication with Her Majesty, etc. and honours. (Qualified)	Red
Section 38	Health and safety. (Qualified)	Red
Section 39	Environmental information. (Qualified)	Red
Section 40	Personal information. (Absolute)	Green
Section 41	Information provided in confidence. (Absolute)	Green
Section 42	Legal professional privilege. (Qualified)	Green
Section 43	Commercial interests. (Qualified)	Green
Section 44	Prohibitions on disclosure (Absolute)	Amber

Absolute Exemptions most likely to impact on the FE sector:

FOIA	Exemption	Likelihood	Impact	Total
Section 21	Information accessible to applicant by other means. (Absolute). <i>The Grŵp does not need to provide information under the FOIA if that information is reasonably accessible to the applicant by other means but the Grŵp does need to confirm or deny whether it holds the information and provide assistance in directing the applicant to where it can be obtained.</i>	Green 3	1	3
Section 32	Court records. (Absolute) <i>Court records are exempt from disclosure under FOIA. The Grŵp does not have a duty to confirm or deny whether it holds this information or a duty to disclose it.</i>	Green 3	1	3

Section 40	Personal information. (Absolute) <i>Information about a living individual is exempt from disclosure under FOIA. Where the applicant is seeking information about themselves, the request should be dealt with under the Data Protection Act.</i>	Green 3	2	6
Section 41	Information provided in confidence. (Absolute) <i>The Grŵp is not required to disclose information that has been provided to it in confidence but the information must have been obtained from a third party and the disclosure of that information must be an actionable breach of confidence. The Grŵp may not consider its own information to be "confidential".</i>	Green 3	2	6
Section 44	Prohibitions on disclosure (Absolute) <i>This covers information prohibited from disclosure under other legislation e.g. an enactment, European obligation of if in contempt of court.</i>	Amber 2	1	2

Qualified Exemptions likely to impact on FE Sector

FOIA	Exemption	Likelihood	Impact	Total
Section 22	Information intended for future publication. (Qualified) <i>A request can be refused where the information is intended for future publication. The decision to publish must have been taken before the request is received. The exemption is subject to the public interest test, so the Grŵp must decide whether it is in the public interest to disclose the information early.</i>	Green 3	3	9
Section 36	Prejudice to effective conduct of public affairs. (Qualified) <i>A designated person (the Principal?) can determine in his reasonable opinion whether disclosure of the information would be likely to inhibit the free and frank provision of advice, would likely to inhibit a free and frank exchange of views or would prejudice the effective conduct of public affairs. The public interest test also applies.</i>	Green 3	2	6
Section 42	Legal professional privilege. (Qualified) <i>Disclosure is exempt for information that is subject to legal professional privilege which is governed by common law. In general this is the Grŵp's communications with its lawyers but this is a complicated area of law and legal advice should be sought. The public interest test also applies.</i>	Green 3	2	6

Section 43	<p>Commercial interests. (Qualified)</p> <p><i>This applies to trade secrets and information that would or is likely to prejudice the commercial interests of any party. Trade secrets could include information the Grŵp holds relating to other bodies with which the Grŵp contracts to obtain goods and services. Commercial information could apply to the Grŵp or to third parties (such as information supplied during tendering processes or in contracts). The Grŵp has to consider whether the release of the information would prejudice commercial interests and it must also apply the public interest test. In the context of contracts with the private sector, the risk of the Grŵp being sued for disclosing commercially sensitive information is a factor against disclosure.</i></p>	Green 4	4	16
------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------	---	----

Key to likelihood of impacting on Grŵp Llandrillo Menai: 4 – 7 medium risk, 8 – 14 high risk, 15 -25 very high risk

FFURFLEN MANYLION POLISI
POLICY IDENTIFICATION FORM /FRONTSHEET

TEITL Y POLISI: <i>POLICY TITLE:</i>	<i>FOIA Complaints Procedure</i>
CYFEIRNOD Y POLISI: <i>POLICY REFERENCE NUMBER:</i>	
RHIF ADOLYGIAD: <i>ISSUE NUMBER:</i>	<i>1</i>
UWCH-GYFARWYDDWR A CHYFRIFOLDEB: <i>RESPONSIBLE EXECUTIVE DIRECTOR:</i>	<i>Kath Coughlin</i>
PWRPAS: <i>PURPOSE:</i>	<i>To comply with the requirements of the FOI Act 2000</i>
OBLYGIADAU RISG: <i>RISK IMPLICATIONS:</i>	<i>The Grŵp is obliged to periodically review its FOI Policy and compliance to the model publication scheme for the sector</i>
EFFAITH AR DDWYIEITHRWYDD <i>IMPACT ON BILINGUALISM</i>	<i>The policy will be issued bilingually once approved.</i>
EFFAITH AR GYNALIADWYEDD <i>IMPACT ON SUSTAINABILITY</i>	<i>None.</i>
ARGYMHELLIAD: <i>RECOMMENDATION:</i>	<i>To adopt the procedure as required</i>
CYFATHREBU <i>COMMUNICATION</i>	<i>Through FOI Officer as required.</i>
PWLLGOR / GRŴP MONITRO: <i>COMMITTEE / GROUP RESPONSIBLE FOR MONITORING:</i>	<i>FOI Officer</i>
CYMERADWYWYD GAN: <i>APPROVED BY:</i>	
DYDDIAD CYMERADWYO <i>APPROVAL DATE:</i>	<i>24.10.13 – updated 01.14</i>
DYDDIAD ADOLYGU <i>REVIEW DATE CYCLE:</i>	<i>Biennial – September 2015</i>



FREEDOM OF INFORMATION ACT 2000 COMPLAINTS PROCEDURE

Policy Name: Freedom of Information Act 2000 – Complaints
Post responsible for review: FOI Officer, Executive Director, Corporate Services
Version: 1

Complaints Procedure

Procedure with reference to the Grŵp FOI Policy section 13 which reads:

13.1 All complaints concerning the discharge of duties by the Grŵp under its published FOI Policy will be handled by reference to this FOIA Complaints Policy. Initial contact should be made to:-

The CEO
Grwp Llandrillo Menai
Llandudno Road
Rhos-on-Sea
LL28 4HZ
Tel: 01492 546666 x 301

In the event of a complaint being raised against the FOI Officer, the CEO will appoint the Executive Director, Corporate Services to investigate matters and to report back within two weeks, and will formulate an appropriate response to the complainant. The FOI Officer may otherwise investigate and respond to any complaints under the FOI Act, as directed via the Executive Director, Corporate Services or CEO as appropriate.

13.2 Individuals also have the right under the Act to make a complaint to the Information Commissioner directly, if they remain dissatisfied with the conduct of the Grŵp, following attempts at local resolution of their complaint.

Information Commissioner's Office – Wales
2nd Floor, Churchill House
Churchill Way
Cardiff
CF10 2HH

Telephone: 029 2067 8400

Fax: 029 2067 8399

Email: wales@ico.org.uk

13.3 Whenever the Grŵp refuses a request and it serves a notice, this should include a complaints statement. Further information on this is provided in the ICO's FOIA Procedures.

The ICO has a general duty to investigate complaints from members of the public who believe that an authority has failed to respond correctly to a request for information. If

someone makes a complaint against the Grôp, The complaints handling process provides the opportunity for the Grôp to reconsider its actions and put right any mistakes without requiring the ICO to take any formal action.

If the complaint is not resolved informally, the ICO office will issue a decision notice. If that finds that The Grôp has breached the Act, the decision notice will say what the Grôp needs to do to put things right.

The ICO holds powers to enforce compliance if the Grôp has failed to adopt the publication scheme or have not published information as you should whether or not we have received a complaint about this.

The Grôp may be breaching the Freedom of Information Act if it does any of the following:

- fail to respond adequately to a request for information;
- fail to adopt the model publication scheme, or do not publish the correct information; or
- deliberately destroy, hide or alter requested information to prevent it being released.

This last point is the only criminal offence in the Act that individuals and public authorities can be charged with.

Other breaches of the Act are unlawful but not criminal. The Information Commissioner's Office (ICO) cannot fine the Grôp if it fails to comply with the Act, nor can it require the Grôp to pay compensation to anyone for breaches of the Act. However, the Grôp should correct any mistakes as soon as you are aware of them