



**Royal College of Art**

## **Freedom of Information & Environmental Information Regulation Policy**

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Approved by	SMT
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## Purpose and Scope

This policy outlines the commitment and methods by which the Royal College of Art complies with its obligation under:

- Freedom of Information Act 2000 “FOIA”,
- Environmental Information Regulations 2004 “EIR”.

Each legislation provides the public with access to College records. Any record created by staff members, whether by email, report, presentation, meeting minutes, draft documents or otherwise in digital or physical form, can be considered for public disclosure under these legislations.

This policy outlines the College’s commitments to these legislation and provides staff with guidance on how they are applied.

## RCA Commitment

The College is committed to:

- being transparent in the conduct of its operations and comply fully with the FOIA and EIR.
- publishing information, particularly under its Publication Scheme and through its website.
- using the s.45 Code of Practice drafted by the Secretary of State as guidance to the application of FOIA.

## Application of the legislation

### Publication Scheme

The College follows the Information Commissioner’s model publication scheme in the proactive publication of its records, including the classes of information that are published. The College publication scheme is found on its [website](#).

## Code of Practice

The College follows the Secretary of State's s.45 Code of Practice in the discharge of its FOIA functions. The Code of practice is used as guidance for the following areas:

- Right of Access
- Advice and assistance
- Consultation with Third Parties
- Time limits for responding to requests
- Internal Reviews
- Cost limit
- Vexatious requests
- Publication Schemes
- Transparency and confidentiality obligations in contracts and outsourced services
- Communicating with a requester
- Datasets
- Transferring requests to another public authority

## Requests for information under FOIA and EIR

### FOIA

- All of the College's recorded information is subject to the FOIA, except where FOIA exemptions are applicable. Exemptions are listed within the Appendix.
- Requests under FOIA must be made in writing, describe the information requested and be submitted by a named individual. Any individual can make a FOIA request.
- Requests can be submitted to anyone in the College and all staff have a responsibility to handle requests under FOIA by sending them to [foi@rca.ac.uk](mailto:foi@rca.ac.uk).
- Requests must be responded within 20 working days (not including bank holidays) of date of receipt of the request. Extensions can be granted where complex public interest tests require an additional 20 working days to complete.
- The College may seek clarification from a requester about the information they want. When clarification is requested, the 20 working days begin when the request is clarified.
- Qualified exemptions require the College to perform a public interest test. Absolute exemptions do not.

- The College is not required to respond to requests that exceed the cost limit of £450 to retrieve, or to vexatious requests.

## EIR

- EIR covers all 'environmental information' recorded 'in material form' by the College unless an EIR exception is applicable. Exceptions are listed within the Appendix.
  - Environmental information is defined in reg.2 of the EIR and includes information on: air, energy, noise, atmosphere, land, waste and water.
  - In material form includes recorded information: emails, drawings, audio recordings and CCTV.
- Requests must be responded within 20 working days (not including bank holidays) of date of receipt of the request. Extensions can be granted where complex public interest tests require an additional 20 working days to complete.
- Requests can be submitted to anyone in the College and all staff have a responsibility to handle requests under FOIA by sending them to [foi@rca.ac.uk](mailto:foi@rca.ac.uk).
- The College recognises that there is an expectation of greater public interest in environmental information as it relates to the health of the planet and people.

## Internal Reviews

Individuals that request information under FOIA and EIR have the right to an internal review. EIR internal review requests must be sent within 40 days of the College's original decision.

Internal reviews will be conducted by the College, as advised by the Data, Records and Information Officer. The decision will be made by a senior staff member that was not involved in the original decision.

If an individual requesting information finds the College's internal review unsatisfactory they will have the right to make a complaint to the Information Commissioner's Office who will issue a decision notice.

## Qualified Persons

The Vice-Chancellor of the College is deemed to be the Qualified Person under s.45 Code of Practice. A record of the Qualified Persons view is required for the application of s.36 under FOIA.

## Related legislation policies and procedures

### Policies and procedures

FOI and EIR Procedure

Data Protection Policy

### Legislation

Freedom of Information Act 2000

Environmental Information Regulations 2004

Data Protection Act 2018

## Appendix

### Freedom of Information Exemptions

Section	Exemption	Absolute or public interest test?	Class or prejudice test?
21	Information already accessible	Absolute	Class
22	Information intended for future publication (whether the date is determined or not)	Public interest	reasonableness' test
23	Information supplied by, or relating to, bodies dealing with security matters (named)	Absolute	Class
24	National security	Public interest	Prejudice test (using different wording: 'for the purpose of safeguarding national security' implies a test)
26	Defence	Public interest	Prejudice test

27(1)	International relations – prejudice	Public interest	Prejudice test
27(2)	International relations – information provided in confidence by other states or international organisations or courts	Public interest	Class
28	Relations within the UK (between the UK government, the Scottish Administration, the National Assembly for Wales and the Executive Committee of the Northern Ireland Assembly)	Public interest	Prejudice test
29	The economy	Public interest	Prejudice test
30(1)	Criminal investigations and proceedings conducted by the authority	Public interest	Class
30(2)	Relating to civil or criminal investigations and proceedings which use confidential sources	Public interest	Class
31	Law enforcement	Public interest	Prejudice test

32	Court records etc.	Absolute	Class
33	Audit functions	Public interest	Prejudice test
34	Parliamentary privilege	Absolute	Prejudice test
35(1)(a)	Formulation of government policy	Public interest	Class
35(1)(b)	Ministerial communications	Public interest	Class
35(1)(c)	Law Officers' advice	Public interest	Class
36	Prejudice to effective conduct of public affairs	Public interest except for information held by either House of Parliament	Prejudice test
37(1)(a), (aa), (ab)	Communications with Royal Family and Household (Sovereign and person who is, or becomes, heir and second heir)	Absolute	Class
37(1)(ac)	Communications with other members of the Royal Family not on	Public interest	Class

	behalf of those covered by (a)-(ab)		
37(1)(b)	Honours	Public interest	Class
38	Health and safety	Public interest	Prejudice test
40(1)	Personal information where the applicant is data subject	Absolute	Class
40(2)	Personal information where the applicant is a third party	Absolute in relation to categories (a)-(d) data, qualified in relation to category (e) data	Prejudice test (using different and complex wording): disclosure should not cause breach of the principles set out in— Article 5(1) of the GDPR, and section 34(1) of the Data Protection Act 2018)

41	Information provided in confidence	Absolute	Variation of prejudice test (breach of confidence must be 'actionable')
42	Legal professional privilege	Public interest	Variation of prejudice test (claim could be maintained in legal proceedings)
43(1)	Trade secret	Public interest	Class
43(2)	Commercial interests	Public interest	Prejudice test
44	Prohibitions on disclosure:  (a) acts  (b) community obligations  (c) contempt of court	Absolute	Class

### Environmental Information Regulation Exceptions

Regulation	Exception	Absolute or public interest test?	Note

12(3) and 13	Personal information	As FOIA s40	
12(5)(a)	International relations, defence, national security or public safety	Public interest test	
12(5)(b)	Course of justice, ability of a person to receive a fair trial or ability of a public authority to conduct a criminal or disciplinary inquiry	Public interest test	
12(5)(c)	Intellectual property rights	Public interest test	
12(5)(d)	Confidentiality of proceedings of that or any other authority where such confidentiality is provided by law	Public interest test	Cannot be used if information relates to emissions
12(5)(e)	Confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest	Public interest test	Cannot be used if information relates to emissions

12(5)(f)	<p>Interests of person who provided information where that person:</p> <p>(i) was not under, and could not have been put under, a legal obligation to supply it to that or any other authority</p> <p>(ii) circumstances of supply are not such that any authority is entitled, apart from EIR, to disclose it, and</p> <p>(ii) has not consented to its disclosure</p>	Public interest test	Cannot be used if information relates to emissions
12(5)(g)	The protection of the environment to which the information relates	Public interest test	Cannot be used if information relates to emissions