**FOI Fact sheet**

**What is a Freedom of Information request?**

The Freedom of Information Act 2000 provides public access to information. As a public authority, the Arts Council is subject to this Act.

**What information is covered by the Freedom of Information Act?**

The Act covers all recorded information held by a public authority. It is not limited to official documents and it covers, for example, drafts, emails, notes, telephone conversation recordings and CCTV recordings.

**Who is making the request?**

Anyone can request information and there are no restrictions on age, nationality or where they live. We are not allowed to reveal the names of individuals making requests.  Their information is classed as personal data and protected under the Data Protection Act 2018.  I know this can seem unfair when the Freedom of Information Act requires us to release some of your organisation’s information, but there are different rules around releasing information relating to individuals in a private capacity.

**Why are they asking for this information?**

Anyone has a right to request information from a public authority, everybody has a right to access official information.  Because the Act is ‘purpose blind’ we treat all requesters equally. A requester does not need to give us a reason for wanting the information.  On the contrary, we must justify refusing to provide information. The main principle behind freedom of information legislation is that people have a right to know about the activities of public authorities, unless there is a good reason for them not to (such as it not being in the public interest).

**Where will my information go?**

We disclose information under the Act in the same manner regardless of who has asked for it. In other words, we consider any information released under the Act as if it were being released to the world at large and cannot control where the information is passed or how it is accessed after it is released.

**I’m worried about my personal information going out?**

Section 40(2) of the Freedom of Information Act provides an exemption from disclosing information where it is personal data and where releasing that information would breach the Data Protection Act 1998 and permission has not been granted. We will routinely check for and remove any information that is deemed to be personal information. Examples include personal mobile numbers, signatures and or personal addresses.

**What stops people copying my ideas and then presenting them as their own?**

When giving access to information under the Act, we cannot place any conditions or restrictions on that access. For example, we cannot require the requester to sign any agreement before they are given access to the information. However, we do include a copyright notice with the information we disclose:

*Copyright notice
Please note that copyright in the information you have been given belongs to Arts Council England or to another party.  Copyright material must not be copied, distributed, modified, reproduced, transmitted, published (including published on the Internet or an intranet), or otherwise made available in whole or in part without the prior written consent of the copyright holder.*

You can also make a claim in the courts if the requester or someone else uses the information in breach of copyright.

The Act does not affect copyright and intellectual property rights that give owners the right to protect their original work against commercial exploitation by others. If someone wishes to re-use public sector information for commercial purposes, they should make an application under the Re-use of Public Sector Information Regulations.

**What about information that could damage or affect my commercial interests?**

In some cases, there may will be a good reason why we should not make public some or all of the information requested. Deciding whether or not a particular disclosure would be likely to cause harm or prejudice will often require the exercise of judgement. While prejudice need not be certain, there must be a significant risk rather than a remote possibility of prejudice.

For example, there may be ongoing negotiations with artists at the time of request, and to release certain information might affect those negotiations and in turn have a negative impact on plans for an upcoming exhibition or event, in this case an exemption of the FOI act may be applied to withhold certain information.

**What about information I provided you in confidence?**

Just because a document or email is labeled ‘confidential’ it does not necessarily mean that we can apply the exemption of confidentiality within the terms of the FOI Act. To withhold information there must be at least a real possibility of negative consequences due to disclosure.

**Whose decision is it as to whether information is released?**

Whilst we will take any concerns you have seriously and consult with you on the release of information under the FOI act, it is ultimately the decision of the Arts Council as to whether it is released. This is because the Arts Council as a public body is subject to the act and is legally required to release information unless it is satisfied that relevant exemptions are engaged and justifiable.

All information is thoroughly examined and appropriate exemptions applied before considering whether to disclose information requested under the FOI act.

For a comprehensive list of exemptions to the FOI Act, please see [this website.](https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/)

Further information about the Freedom of Information Act 2000 can be found on the [Information Commissioner's website](http://www.ico.org.uk/)