



# ISLE EDUCATION TRUST

## Freedom of Information Policy and Guidance

*This policy applies to all academies in Isle Education Trust.*

## **1 Purpose**

Isle Education Trust (IET) is committed to the Freedom of Information Act 2000 which came into force on 1 January 2005 and which includes Academies by the Academies Act 2010. The Trust is committed to the principles of accountability and the general right of access to information, subject to legal exemptions. This policy outlines our framework for managing requests.

Under the Freedom of Information Act 2000, any person has a legal right to ask for access to information held by the Trust. They are entitled to be told whether the Trust holds the information, and to receive a copy, subject to certain exemptions.

The information which the Trust will routinely make available to the public is included in the Publication Scheme (Appendix 1). Requests for other information are dealt with in accordance with statutory guidance. While the Act assumes openness, it recognises that certain information is sensitive. There are exemptions to protect this information.

The Act is fully retrospective, so that any past records which the Trust holds are covered by the Act. The Trust has a Retention Schedule based on the schedule recommended by the Records Management Society of Great Britain, which guides the Trust as to how long they should keep records. It is an offence to wilfully conceal, damage or destroy information in order to avoid responding to an enquiry.

Requests under the Act can be addressed to anyone employed by the Trust to which the request applies. Staff need to be aware of the process for dealing with requests. Requests must be made in writing, (which can include email), and should include the enquirers name and correspondence address (which can be an email address), and state what information they require. They do not have to mention the Act, nor do they have to say why they want the information. There is a duty to respond to all requests, telling the enquirer whether or not the information is held, and supplying any information that is held, except where exemptions apply. There is no need to collect data in specific response to an enquiry. There is a time limit of 20 days excluding school holidays for responding to the request.

## **2 Scope**

Requests for personal data are still covered by the Data Protection Act (due to be updated to GDPR 1 May 2018). Individuals can request to see what information the Academy holds about them. This is known as a Subject Access Request, and must be dealt with accordingly.

Requests for information about anything relating to the environment – such as air, water, land, the natural world or the built environment and any factor or measure affecting these – are covered by the Environmental Information Regulations. Requests under EIR are dealt with in the same way as those under Freedom of Information Act but they can be verbal.

## **3 Procedure**

### **OBLIGATIONS AND DUTIES**

The Trust Board recognises the duty to provide advice and assistance to anyone requesting information. We will respond to straightforward verbal requests for information and will help enquirers to put more complex verbal requests into writing so that they can be handled under the Act.

The Trust Board recognises the duty to tell enquirers whether or not we hold the information they are requesting (the duty to confirm or deny), and provide access to the information we hold in accordance with the procedures laid down in Appendix 2.

### **PUBLICATION SCHEME**

The Trust has created a Publication Scheme derived from the Model Publication Scheme for Schools approved by the Information Commissioner.

The Publication Scheme and the materials it covers are available from the Trust's head office and/or from the website.

## **DEALING WITH REQUESTS**

We will respond to all requests in accordance with the procedures in Appendix 2. We will ensure that staff are aware of the procedures.

## **EXEMPTIONS**

Certain information is subject to either absolute or qualified exemptions. The exemptions are listed in Appendix 3.

When we wish to apply a qualified exemption to a request, we will invoke the public interest test procedures to determine if public interest in applying the exemption outweighs the public interest in disclosing the information.

We will maintain a register of requests where we have refused to supply information, and the reasons for the refusal. The register will be retained for 5 years from the date of the request.

## **PUBLIC INTEREST TEST**

Unless it is in the public interest to withhold information, it has to be released. We will apply the Public Interest Test before any qualified exemptions are applied.

For information on applying the Public Interest Test see Appendix 4.

## **CHARGING**

We reserve the right to refuse to supply information where the cost of doing so exceeds the statutory maximum, currently £450.

The Trust Board reserves the right to charge a fee for complying with requests for information under the Act. The fees are calculated according to Freedom of Information Act (FoIA) regulations, (see Appendix 5) and the person notified of the charge before the information is supplied.

## **RESPONSIBILITIES**

The Trust Board has delegated the day-to-day responsibility for compliance with the FoIA to the Head of Trust. A member of staff has been nominated to co-ordinate enquiries and to be a point of reference for advice and training.

## **COMPLAINTS**

Any comments or complaints will be dealt with through the Trust's normal complaints procedure.

If, on investigation, the Trust's original decision is upheld, then the Trust has a duty to inform the complainant of their right to appeal to the Information Commissioner's Office.

Appeals should be made in writing to the Information Commissioner's Office at:

FOI/EIR Complaints Resolution, Information Commissioner's Officer

Wycliffe House, Water Lane

Wilmslow, Cheshire SK9 5AF

## **4 Records**

<b>Record</b>	<b>Retention time (Min)</b>	<b>Disposal authority</b>
Register of Requests	Five Years	Business Manager
Original Written Requests	Five Years	Business Manager

Response to Requests	Five Years	Business Manager
Correspondence Related to Freedom of Information Requests	Five Years	Business Manager

## **Appendix 1 – Isle Education Trust Publication Scheme**

This is IET's Publication Scheme on information available under the Freedom of Information Act 2000. The Trust Board is responsible for maintenance of this scheme.

### **1 Introduction: what a publication scheme is and why it has been developed**

One of the aims of the Freedom of Information Act 2000 is that public authorities, including academies should be clear and proactive about the information they will make public.

To do this we must produce a publication scheme, setting out:

- *The classes of information which we publish or intend to publish;*
- *The manner in which the information will be published; and*
- *Whether the information is available free of charge or on payment.*

The scheme covers information already published and information which is to be published in the future. All information in our publication scheme is either available on our website or available in paper form. Some information which we hold may not be made public, for example personal information. This publication scheme conforms to the model scheme for schools approved by the Information Commissioner.

### **2 Aims and Objectives**

The Trust aims to enable every child to fulfil their learning potential with education that meets the needs of each child and to help every child develop the skills, knowledge and personal qualities needed for life and work

This publication scheme is a means of showing how we are pursuing these aims.

### **3 Categories of information published**

The publication scheme guides you to information which we currently publish (or have recently published) or which we will publish in the future. This is split into categories of information known as 'classes'. These are contained in section 6 of this scheme.

### **4 How to request information**

If you require a paper version of any of the documents within the scheme, please contact the school by email, telephone or letter. Contact details are set out below:

Email: [kwild@southaxholme-iet.co.uk](mailto:kwild@southaxholme-iet.co.uk)

Tel: 01427 872121

Contact Address: Isle Education Trust, South Axholme Academy , Burnham Road, Epworth, DN9 1BY

To help us process your request quickly, please clearly mark any correspondence

**"PUBLICATION SCHEME REQUEST"**

### **5 Paying for information**

Single copies of information covered by this publication are provided free unless stated otherwise in section 6. If your request means that we have to do a lot of photocopying or printing, or involves substantial charges we will let you know the cost before fulfilling your request.

### **6 Classes of Information Currently Published**

Some information might be confidential or otherwise exempt from publication by law - we cannot therefore publish such information.

<b>Who we are and what we do:</b>		
Academy Prospectus	Academy websites	No Charge
Term Dates	Academy websites	No Charge
The School Day	Academy websites	No Charge
Location and contact information	Academy websites	No Charge
Trust Board	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge
Annual Report	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge
Funding Agreement	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge

<b>What we spend and how we spend it:</b>		
Financial Statements	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge
Financial Regulations	Email requests	Schedule of charges
Pay Policy	Email requests	Schedule of charges

<b>What are our priorities and how are we doing:</b>		
Latest Ofsted Report	Academy websites	No Charge
Development Plans	Email requests	Schedule of charges
Child Protection Policy	Academy websites	No Charge
Performance Management Policy	Email requests	No Charge
Safeguarding Policy	Academy websites	No Charge

<b>How we make decisions:</b>		
Admissions policy	Academy websites	No Charge
Minutes of Board Meetings	Email requests	Schedule of charges

<b>Our other policies and procedures:</b>		
Anti-bullying	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge
Behaviour Policy	Academy websites	No Charge
Charging and Remissions Policy	Academy websites	No Charge
Child Protection Policy	Academy websites	No Charge
Complaints procedure	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge

Equal Opportunities Policy	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge
Freedom of Information	<a href="http://www.isleeducationtrust.co.uk/">http://www.isleeducationtrust.co.uk/</a>	No Charge
Home-Academy agreement	Academy websites	No Charge
Privacy notice	Academy websites	No Charge
Recruitment Information	Academy websites	No Charge
Safeguarding Policy	Academy websites	No Charge
Sex and relationship education	Academy websites	No Charge
Uniform policy	Academy websites	No Charge
Other policies are available from the Academy	Email requests	Schedule of charges

<b>Lists and registers:</b>		
Any information the Academy is currently required to hold in publicly available registers (This does not include attendance registers)	Email requests	Schedule of charges
Disclosure Logs	Email requests	Schedule of charges
Asset Register	Email requests	Schedule of charges
Curriculum circulars and statutory instruments	Email requests	Schedule of charges

<b>The services we offer:</b>		
Community use	Academy websites	No Charge
School Newsletter	Academy websites	No Charge

<b>Schedule of charges:</b>		
Disbursement cost	Paper copies: 5p per copy black and white 10 p per copy colour Postage Cost	
Statutory Fee	In accordance with relevant legislation	

## 7. Feedback and Complaints

If you want to make any comments about this publication scheme or if you require further assistance or wish to make a complaint then initially this should be addressed to:

The Business Manager, Isle Education Trust, South Axholme Academy, Burnham Road, Epworth, DN9 1BY

If you are not satisfied with the assistance that you get or if we have not been able to resolve your complaint and you feel that a formal complaint needs to be made then this should be addressed to the Information Commissioner's Office.

## **Appendix 2 – Procedure for Dealing with Requests**

To handle a request for information the Trust Board or delegated person will need to ask themselves a series of questions. These are set out below and shown on the process maps.

### **Is it a Freedom of Information (FOI) request for information?**

A request for information may be covered by one, or all, of three information rights:

- Data Protection enquiries or Subject Access requests are ones where the enquirer asks to see what personal information the school holds about the enquirer. If the enquiry is a Data Protection request, follow the Trust's Data Protection Access guidance.
- Environmental Information Regulations enquiries are ones which relate to air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these. These therefore could include enquiries about recycling, phone masts, playing fields, car parking, etc. If the enquiry is about environmental information, follow the guidance on the Information Commission's website or the DEFRA website.
- Freedom of Information enquiries are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the Freedom of Information Act. All requests for information that are not data protection or environmental information requests are covered by the Freedom of Information Act (FoIA).

### **Is this a valid FOI request for information?**

A FOI request should:

- Be in writing this includes email;
- State the enquirer's name and correspondence address (email addresses are sufficient);
- Describe the information requested – there must be enough information to be able to identify and locate the information(b); and
- Not be covered by one of the other pieces of legislation.
  - a) Verbal enquires are not covered by the FOI Act. Such enquiries can be dealt with when the enquiry is fairly straightforward. However, for more complex enquiries, and to avoid disputes over what information was requested, we ask the enquirer to put the request in writing or email, when the request will become subject to the FOI.
  - b) In cases where the enquiry is ambiguous, we will attempt to assist the enquirer to describe more clearly the information requested. Where possible, by establishing direct contact. The aim is to clarify the nature of the information requested and not to determine the aims or motivation of the enquirer. If we notify the enquirer that we need further information to enable us to answer, we do not have to deal with the request until the further information is received. The response time limit commences from the date the further information is received.

### **Does the Academy hold the information?**

"Holding" the information means information relating to the business of the Trust which:

- The Trust has created, or
- The Trust has received from another body or person, or
- Is held by another body on the Trust's behalf.

Information means both hard copy and digital information, including emails.

If the Trust does not hold the information, we do not have to create or acquire it just to answer the enquiry, although a reasonable search should be made before denying that you have got the information the Trust might be expected to hold.

### **Has the information requested already been made public?**

If the information requested is already in the public domain, for instance through the Publication Scheme, we will direct the enquirer to the information and explain how to access it.

### **Is the request vexatious or manifestly unreasonable or repeated?**

The Act states that there is no obligation to comply with vexatious requests. This is taken to mean a request which is designed to cause inconvenience, harassment, or expense, rather than to obtain information, and would require substantial diversion of resources or would otherwise undermine the work of the Trust.

We do not have to comply with repeated identical or substantially similar requests from the same applicant unless a reasonable interval has elapsed between requests.

### **Could a third party's interests be affected by disclosure?**

Consultation of third parties may be required if their interests could be affected by the release of the information, and any such consultation may influence the decision.

We do not need to consult where we are not going to disclose the information because we are applying an exemption.

Consultation will be necessary where:

- Disclosure of information may affect the legal rights of a third party, such as the right to have certain information treated in confidence or rights under Article 8 of the European Convention on Human Rights;
- The views of the third party may assist us to determine if information is exempt from disclosure, or
- The views of the third party may assist us to determine the public interest.

### **Does an exemption apply?**

The presumption of the legislation is that we will disclose information unless the Act provides a specific reason to withhold it. There are more than 20 exemptions. They are set out in Appendix 3 and are mainly intended to protect sensitive or confidential information.

Only where we have real concerns about disclosing the information should we refer to see whether an exemption might apply. Even then, where the potential exemption is a qualified exemption, we need to consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it will be released. Appendix 4 contains guidance on conducting a public interest test.

### **What if the request is for personal information about the applicant?**

Personal information requested by the subject of that information is exempt under the FOI Act as such information is covered by the Data Protection Act. Individuals must make a "subject access request" under the Data Protection Act if they wish to access information about themselves.

### **What if the details contain personal information?**

Personal information requested by third parties is also exempt under the FOI where release of that information would breach the Data Protection Act. If a request is made for a document which contains personal information whose release to a third party would breach the Data Protection Act, the document may be issued by blanking out the relevant personal information.

The procedure for redaction, or blocking out information, is to mask the passages which are not to be disclosed and then photocopy the document. Annotate in the margin against each blank passage the exemption and section of the Act under which the passage is exempt. Explain in the covering letter that the relevant exemptions are marked in the attachments and in the case of non-absolute exemptions, how the public interest test has been considered. Under no circumstances should the document be rewritten, so that the resulting document appears as though it does not contain the exempted passage.

### **How much can we charge?**

The Act allows Academies/Trusts to charge for providing information. Details can be found in Appendix 5. The first step is to determine if the threshold would be exceeded. Staff costs should be calculated at £25 per hour, regardless of which staff member would be undertaking the work. We can take account of the time it takes to determine if the information is held, the time to locate and retrieve the information or extract the information from other documents. We cannot take into account the costs involved in determining whether the information is exempt.

If a request would cost less than the appropriate limit in force at the time of the request, the Trust can only charge for the cost of informing the applicant whether the information is held, and communicating the information to the applicant. This may include photocopying, printing and postage.

If a request would cost more than the appropriate limit in force at the time of the request, the Trust can turn the request down, answer and charge a fee, or answer and waive the fee. If the Trust decides to charge a fee, it can charge on the basis of the costs outlined in Appendix 5.

We will wish to consider whether calculating the cost of the fee outweighs the cost of providing the information. For relatively straight forward requests, the Trust will consider responding free of charge. If the Trust makes the decision to charge, we will send the enquirer a fees notice and do not have to comply with the request until the fee has been paid. Appendix 5 gives more information on charging.

#### **Is there a time limit for replying to the enquirer?**

Compliance with a request must be prompt and within the prescribed limit of 20 working days, excluding Academy/Trust holidays. Failure to comply may result in a complaint to the Information Commissioner. The response time starts from the time the request is received. Where we have asked the enquirer for more information to enable us to answer, the 20 days start time begins when this further information has been received.

If a qualified exemption applies and we need more time to consider the public interest test, we will reply within the 20 days stating that an exemption applies but include an estimate of the date by which a decision on the public interest test will be made. This should be within a "reasonable" time – in practice, it is recommended by the Department that normally this should be within 10 working days.

Where we have notified the enquirer that a charge is to be made, the time period stops until payment is received.

#### **What action is required to refuse a request?**

If the information is not to be provided, the person dealing with the request must immediately contact the person Within the Trust with delegated responsibility for FOI to ensure that the case has been properly considered and the reasons for refusal are sound. If it is decided to refuse a request, we will send a refusal notice, which must contain:

1. The fact that the responsible person cannot provide the information asked for;
2. Which exemption we are claiming to apply;
3. Why the exemption applies to this enquiry if it is not self-evident;
4. The reasons for refusal if based on cost of compliance (see Appendix 5);
5. In the case of non-absolute exemptions, how we have applied the public interest test, specifying the public interest factors taken into account before reaching the decision (see Appendix 4);
6. Reasons for refusal on vexatious or repeated grounds
7. Details of the internal complaints procedure.

For monitoring purposes and in case of an appeal against a decision not to release the information or an investigation by the Information Commissioner, the responsible person must keep a record of all enquiries where all or part of the requested information is withheld and exemptions are claimed. The record must include the reasons for the decision to withhold the information. Records are to be retained for five years. There are no requirements to keep records where we have supplied the information requested.

#### **What do we do if someone asks a follow up question?**

If an applicant requests a follow up question this is treated as a new request.

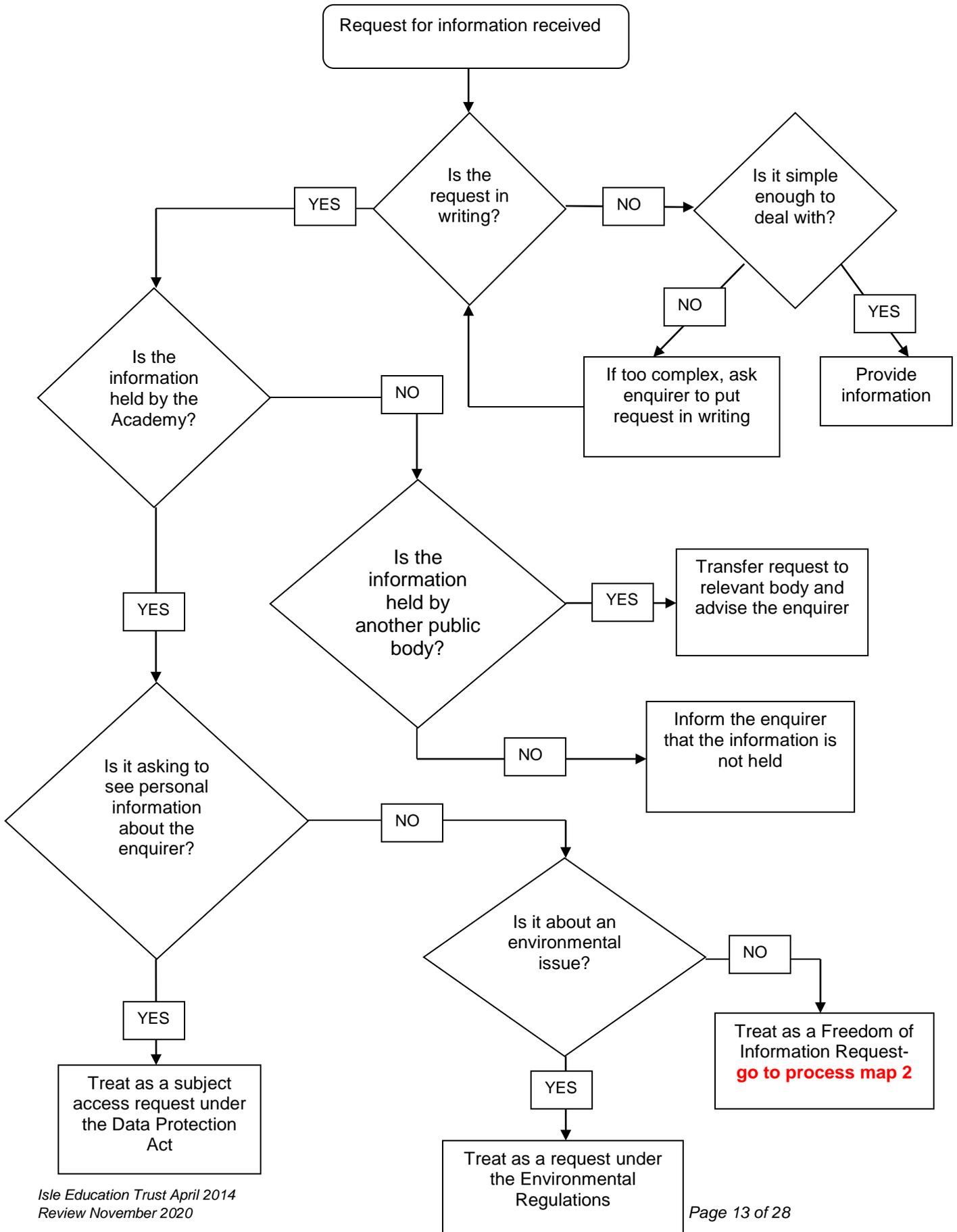
#### **What do we do if someone complains?**

Any written (including email) expression of dissatisfaction – even if it does not specifically seek a review – should be handled through the Trust's existing complaints procedure. Wherever practicable the review should be handled by someone not involved in the original decision. The Trust will maintain records of all complaints and their outcomes.

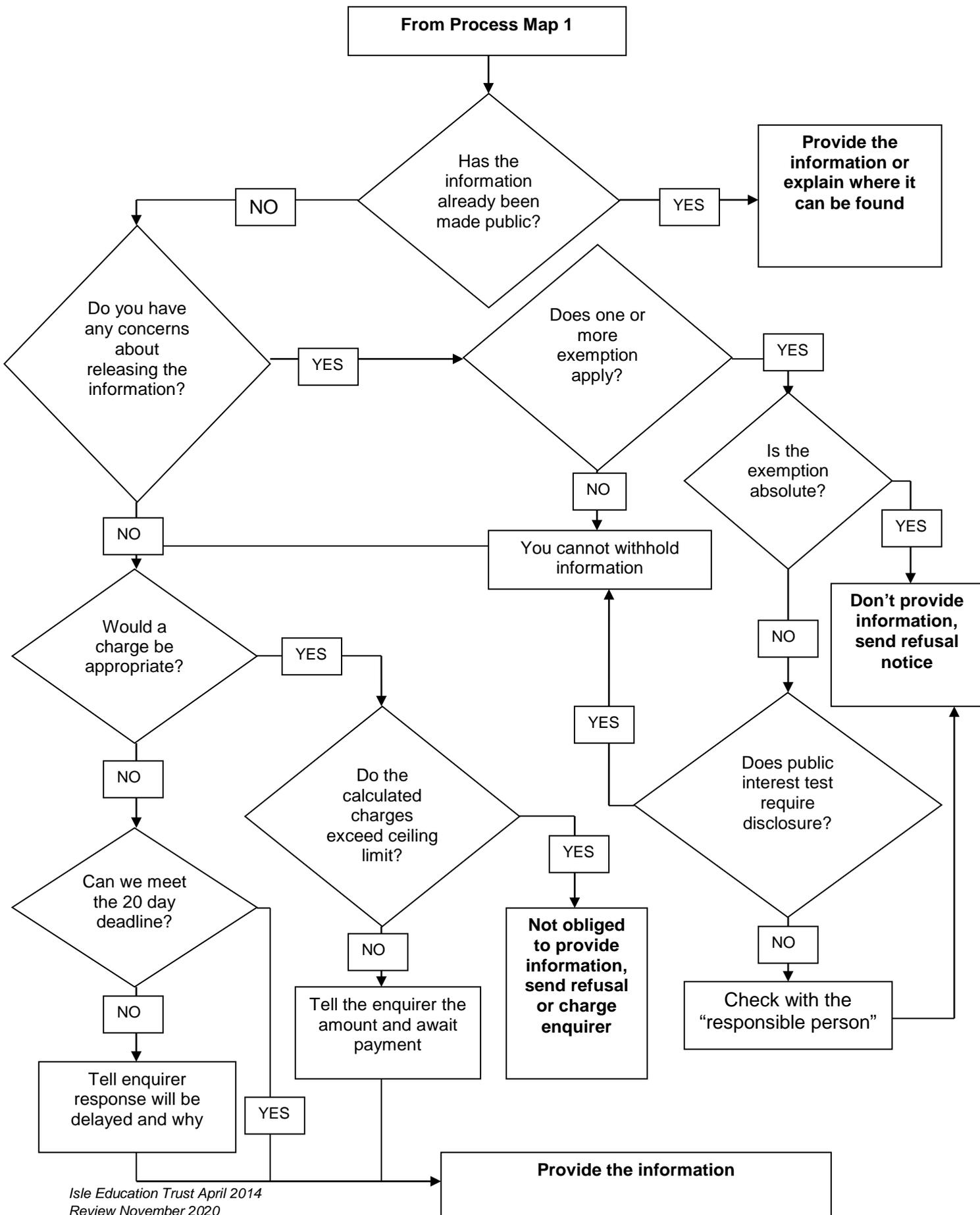
When the original request has been reviewed and the outcome is that the information should be disclosed this should be done as soon as practicable. When the outcome is that procedures within the Trust have not been properly followed, the Trust will review procedures to prevent any recurrence. When the outcome

upholds the Trust's original decision or action, the applicant will be informed of their right to appeal to the Information Commissioner. The appeal should be made in writing to: FOI Compliance Team (Complaints), Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

**Procedure for Dealing with Requests**  
**PROCESS MAP 1**



**PROCESS MAP 2**



### Appendix 3 – Exemptions

Although decisions on disclosure should be made on a presumption of openness, the FOI Act recognises the need to preserve confidentiality and protect sensitive material in some circumstances.

We will not withhold information in response to a valid request unless one of the following applies:

- An exemption to disclose, or
- The information sought is not held, or
- The request is considered vexatious or repeated, or
- The cost of compliance exceeds the threshold (see Appendix 4)

#### The duty to confirm or deny

A person applying for information has the right to be told if the information requested is held by the Trust, and if that is the case to have the information sent (subject to any of the exemptions). This obligation is known as the Trust's "duty to confirm or deny" that it holds the information. However, the Trust does not have to confirm or deny if:

- The exemption is an absolute exemption or
- In the case of qualified exemptions, confirming or denying would itself disclose exempted information.

#### Exemptions

A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry. Some are very specialised in their application, such as national security, and are not normally relevant to Academies/Trusts. There are more than 20 exemptions but the Trust is likely to use only a few of them.

There are two general categories of exemptions:

- Absolute – where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest test, and
- Qualified – where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.

#### What are the Absolute Exemptions?

There are 8 absolute exemptions listed in the Act. Even where an absolute exemption applies:

- It does not mean that we can't disclose in all cases; it means that disclosure is not required by the Act. A decision could be taken to ignore the exemption and release the information taking into account all the facts of the case.
- There is still a legal obligation to provide reasonable advice and assistance to the enquirer.

The absolute exemptions in the Act are set out below. Those which might be relevant to the Trust are marked with an \*:

- a. Information accessible to the enquirer by other means\* (section 21) – If information is reasonably accessible to the applicant by another route than the Act, it is exempt information. This is the case even if the enquirer would have to pay for the information under the alternative route. This exemption includes cases where you are required to give information under other legislation, or where the information is available under via the Publication Scheme.
- b. Information dealing with security matters (section 23) – This applies to information directly or indirectly supplied by, or relating to, bodies dealing with security matters such as MI5, MI6, Special Forces, etc.
- c. Court records (section 32) – This applies to information related to proceedings in a court or tribunal or served on a public authority for the purposes of proceedings.
- d. Parliamentary Privilege (section 34) – This exempts information if it is required for the purpose of avoiding an infringement of the Parliamentary privilege.

- e. Prejudice to the effective conduct of public affairs (section 36) – This relates to the maintenance of the collective responsibility of Ministers.
- f. Personal information\* (section 40) – Where the enquirers ask to see information about themselves, this is exempt under the Act because it is covered by the Data Protection Act.
- g. Information provided in confidence\* (section 41) – This relates to information obtained from a person if its disclosure would constitute a breach of confidence actionable by that, or another, person.
- h. Prohibitions on disclosure\* (section 44) – Information is exempt where its disclosure is prohibited under any other legislation by order of a court or where it would constitute a contempt of court or where it is incompatible with any EC obligation.

### **What are the Qualified Exemptions?**

With qualified exemptions, even if it is decided that an exemption applies, there is a duty to consider the public interest in confirming or denying that the information exists and in disclosing the information. Guidance on carrying out the public interest test is in Appendix 3.

The qualified exemptions in the Act are set out below. Those which might be relevant to the Trust are marked with an \*:

- a. Information intended for future publication\* (section 22) – If, at the time the request was made, information is held with a view to publication, then it is exempt from disclosure if it is reasonable that it should not be disclosed until the intended publication date. This could apply to statistics published at set intervals, statutory accounts, and similar information.
- b. National security (section 24) – Information is exempt for the purposes of safeguarding national security.
- c. Defence (section 26) – Information is exempt if its disclosure would prejudice the defence of the UK.
- d. International relations (section 27) – Information is exempt if its disclosure would, or would be likely to, prejudice relation between the UK and any other state.
- e. Relations within the UK (section 28) - Information is exempt if its disclosure would, or would be likely to, prejudice relations between any administration in the UK.
- f. The economy (section 29) – Information is exempt if its disclosure would, or would be likely to, prejudice the economic or financial interests of the UK.
- g. Investigations and proceedings conducted by public authorities\* (section 30) – Information is exempt if it has at any time been held by the Trust for the purposes of criminal investigations or proceedings, such as determining whether a person should be charged with an offence or whether a charged person is guilty, or investigations which may lead to a decision to institute criminal proceedings. The duty to confirm or deny does not apply to such information.
- h. Law enforcement\* (section 31) – Information which is not exempt under Section 30 may be exempt under this exemption in the event that disclosure would, or would be likely to, prejudice the following among others:
  - The prevention or detection of crime
  - The apprehension or prosecution of offenders
  - The administration of justice
  - The exercise of functions such as ascertaining if a person has broken the law, is responsible for improper conduct, whether circumstances justify regulatory action, ascertaining a person's fitness or competence in relation to their profession, ascertaining the cause of an accident or protecting or recovering charities or its properties.

- Any civil proceedings brought by or on behalf of the Trust which arise out of an investigation carried out for any of the purposes mentioned above.

The duty to confirm or deny does not arise where prejudice would result to any of these matters.

- i. Audit functions (section 33) – Information is exempt if disclosure would, or would be likely to, prejudice the exercise of an authority’s functions in relation to the audit of the accounts of other public authorities. It does not apply to internal audit reports.
- j. Formulation of government policy (section 35) – Information held is exempt information if it relates to the formulation or development of government policy, ministerial communications, advice by Law Officers and the operation of any Ministerial private office.
- k. Prejudice to the conduct of public affairs (section 36) – Information likely to prejudice the maintenance of the convention of the collective responsibility of Ministers or likely to inhibit the free and frank provision of advice or exchange of views.
- l. Communications with the Queen (section 37) – Information is exempt if it relates to communications with the Queen, the Royal Family or Royal Household or if it relates to the award of honours. The duty to confirm or deny does not arise where this exemption applies.
- m. Health and Safety\* (section 38) – Information is exempt if its disclosure would or would be likely to endanger the safety or physical or mental health of any individual. The duty to confirm or deny does not arise where prejudice would result.
- n. Environmental information\* (section 39) – Information is exempt under FOI when it is covered by the Environmental Information Regulations.
- o. Personal information\* (section 40) – Where the information concerns a third party, it is exempt if its disclosure would contravene the Data Protection Act, or the data protection principles; or if the person to whom the information relates would not have a right of access to it because it falls under one of the exemptions to the Data Protection Act. The duty to confirm or deny does not arise in relations to this information if doing so would be incompatible with any of the above.
- p. Legal professional privilege\* (section 42) – Legal professional privilege covers any advice given by legal advisers, solicitors or barristers. Generally such information will be privileged. If the Academy wishes to disclose the information, we will need to seek consent from the provider of the advice. This exemption covers all such information where a claim to legal professional privilege can be maintained in legal proceedings. The duty to confirm or deny does not arise where to do so would involve the disclosure of such information.
- q. Commercial interests\* (section 43) – Information is exempt if it constitutes a trade secret or would be likely to prejudice the commercial interests of any person or body, including the Academies. The duty to confirm or deny does not arise where prejudice would result to commercial interests but not where the information constitutes a trade secret.

### **Protective markings and Applying Exemptions**

When considering if an exemption to disclosure should apply, we will bear in mind that the presence of a protective marking (Restricted, Confidential or Secret) does not constitute an exemption and is not, in itself, sufficient grounds on which to prevent disclosure. Each case must be considered on its merits.

### **Timing**

Where information has previously been withheld, it must not be assumed that any subsequent requests for the same information will also be refused. Sensitivity of information decreases with age and the impact of any disclosure will be different depending on when the request is received. Therefore, for each request, we will consider the harm that could result at the time of the request and, while taking into account any previous exemption applications, each case should be considered separately.

## **Next steps**

In all cases, before writing to the enquirer, the person given responsibility for FOI by the governing body will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound. To help ensure this, every case of refusal is reviewed by the Head of Trust.

## Appendix 4 – Applying the Public Interest Test

Having established that a qualified exemption definitely applies to a particular case, we must then carry out a public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it has to be released. Although precedent and a case law will play a part, individual circumstances will vary and each case will need to be considered on its own merits.

### Carrying out the test

It is worth noting that what is in the public interest is not necessarily the same as that which may be of interest to the public. It may be irrelevant that a matter may be the subject of public curiosity.

In most cases it will be relatively straightforward to decide where the balance of the public interest in disclosure lies. However, there will inevitably be cases where the decision is a difficult one.

Applying such a test depends to a high degree on objective judgement and a basic knowledge of the subject matter and its wider on the Trust and possibly wider. Factors that might be taken into account when weighing the public interest include:

For Disclosure	Against Disclosure
Is disclosure likely to increase access to information held by the Trust?	Is disclosure likely to distort public reporting or be misleading because it is incomplete?
Is disclosure likely to give the reasons for a decision or allow individuals to understand decisions affecting their lives or assist them in challenging those decisions?	Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving?
Is disclosure likely to improve the accountability and transparency of the school in the use of public funds and help to show that it obtains value for money?	Is disclosure likely to cause unnecessary public alarm or confusion?
Is disclosure likely to contribute to public debate and assist the understanding of existing or proposed policy?	Is disclosure likely to seriously jeopardise the Trust's legal or contractual position?
Is disclosure likely to increase public participation in decision making?	Is disclosure likely to infringe upon other legislation e.g. Data Protection Act?
Is disclosure likely to increase public participation in the political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair our ability to obtain information in the future?
Is disclosure likely to bring to light information affecting public safety?	Is disclosure likely to adversely affect the Trust's proper functioning and discourage openness in expressing opinions?
Is disclosure likely to reduce further enquiries on the topic?	If a large amount of information on the topic has already been made available, would further disclosure shed any more light or serve any useful purpose?

Note also that:

- Potential or actual embarrassment to, or loss of confidence in, the Trust, staff, or directors is NOT a valid factor to consider.
- The fact that the information is technical, complex to understand and may be misunderstood may not of itself be a reason to withhold information.

- The potential harm of releasing information will reduce over time and should be considered at the time the request is made rather than by reference to when the relevant decision was originally taken.
- The balance of the public interest in disclosure cannot always be decided on the basis of whether the disclosure of particular information would cause harm, but on certain higher order considerations such as the need to preserve confidentiality of internal discussions.
- A decision not to release information may be perverse, i.e. would a decision to withhold information because it is not in the public interest to release it, itself result in harm to public safety, the environment or a third party.

We will record the answers to these questions and the reasons for these answers. Deciding on the public interest is not simply a matter of adding up the number of relevant factors on each side. We will decide how important each factor is in the circumstances on make an overall assessment.

#### **Decision for disclosure**

Where the balance of the public interest lies in disclosure, the enquiry will be dealt with and the information required will be made available.

#### **Decision against disclosure**

After carrying out the public interest test if it is decided that the exemption should still apply, we will reply to the request with the appropriate reply under the circumstances.

There will be occasions when it has been decided that a qualified exemption applies but consideration of the public interest test may take longer. In such a case, we will contact the enquirer within 20 working days stating that a particular exemption applies, but we will include an estimate of the date by which a decision on the public interest test will be made. This will be within a reasonable time, normally no more than 10 working days beyond the 20 days.

## Appendix 5 – Charging

### May we charge a fee?

FOI does not require charges to be made but we have discretion to charge applicants a fee in accordance with the Fees Regulations.

### What steps will we take in considering whether to charge a fee?

Step 1 – Is the information exempt for the purposes of the FOI Act? – If the information is exempt, then fees do not apply. The Trust will contact the enquirer to inform them that the information is exempt. There will be no charge.

Step 2 – Do we wish to calculate whether the cost of the request would exceed the appropriate limit. In many cases, it will be obvious that the request would cost less than the appropriate limit, so we would not make the calculation.

Step 3 – We will calculate the appropriate limit? – Staff costs are calculated at £25 per hour, regardless of which member of staff gathers the information. When calculating whether the limit is exceeded, we take into account the costs of determining whether the information is held, where it is held, retrieving the information and extracting the information from other documents. As per the guidelines, we do not take into account the costs involved with considering whether information is exempt under the Act.

Step 4 – Does the request cost less than the limit? – If a request costs less than the limit, as per the guidelines, we will only charge for the cost of informing the applicant whether the information is held and communicating the information to the applicant (e.g. photocopying, printing and postage costs).

Step 5 – Does the request exceed the limit? – If a request would cost more than the limit, we can turn the request down, answer and charge a fee, or answer and waive the fee. If we choose to comply with a request where the estimated cost exceeds the threshold we will calculate the charge as per step 3, plus the costs from step 4.

Step 6 – For all requests, we have regard to the following points:

- The duty to provide advice and assistance to applicants. If we plan to turn down a request for cost reasons we will contact the applicant in advance to discuss whether they would prefer the scope of the request to be modified so that it would cost less than the appropriate limit, or
- If we plan to suggest charging the applicant a high fee, we will contact the applicant in advance to discuss the amount of the charge and whether they would prefer the scope of the request to be modified so that it would cost less than the appropriate limit.
- Maximum amount that can be charged. The Regulations set out the maximum amount that can be charged. They do not set out a minimum charge nor prevent the Trust from charging no fee.

### How will we inform the applicant of the fee?

Where we intend to charge a fee for complying with a request for information, then we will give the person requesting the information notice in writing (the “fees notice”) stating that a fee of the amount specified in the notice is to be charged for complying. The format of the notice can be found in Appendix 5.

We require proof of delivery of a fees notice, either signed for in the post or emailed with a return receipt request. Where a fees notice has been given to the person making a request, we do not comply with the request unless the fee is paid within three months of the notice being received.

## Appendix 6 – Standard Letters

### 6.1 To inform the enquirer the Trust does not hold the requested information.

{Academy Name}  
{Academy Address}

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

We have conducted a thorough search of our records and unfortunately we are unable to locate the information you requested. This may be because the Trust has never held this information or that the information is older than the statutory requirements for retention and has been legally destroyed in accordance with our retention schedule.

If you have any comments relating to how your request has been handled by our Trust, please contact {Name and address of contact for complaints procedure at }

Yours sincerely,

{Name}  
{Title}

## 6.2 To inform the enquirer you are transferring the request to another public body.

{Academy Name}  
{Academy Address}

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_. To the best of our knowledge, the requested information is not held within the Trust. However, we believe that {Name and address of organisation} may hold the information that you require. We will therefore need to transfer the request to them.

If you have an objection to this transfer you should let us know as soon as possible by writing to {Address} or telephoning {Number} and asking for {Name of officer dealing with the request}.

If you have any comments relating to how your request has been handled by our Trust, please contact {Name and address of contact for complaints procedure}.

Yours sincerely,

{Name}  
{Title}

### 6.3 To seek clarification of a request.

{Academy Name}  
{Academy Address}

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_. From the information described, we have been unable to identify the information you require.

Could you please give us more information relating to: {Include specific information we require, trying to ensure that terms that may be unfamiliar to the requestor are explained}.

The Freedom of Information Act 2000 prescribes the time frame in which we must deal with requests. We are not required to include any time whilst waiting for clarification of a request. We will endeavour to proceed with your request as soon as you supply the information required. If we have not received a reply to this letter within three months, we will treat this request as cancelled.

If you have any comments relating to how your request has been handled by our Trust, please contact {Name and address of contact for complaints procedure }.

Yours sincerely,

{Name}  
{Title}

**6.4 To inform the enquirer that the information they want is available via our Publication Scheme.**

{Academy Name}  
{Academy Address}

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

The information which you requested is already available to the public via our publication scheme, which is available from the Trust or on our website at \_\_\_\_\_.

If you have any comments relating to how your request has been handled by our Trust, please contact {Name and address of contact for complaints procedure }.

Yours sincerely,

{Name}  
{Title}

**6.5 To inform the enquirer that the information they want is already publicly available.**

{Academy Name}  
{Academy Address}

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

The information which you requested is already publicly available. You can access the information at \_\_\_\_\_.

If you have any comments relating to how your request has been handled by our Trust, please contact {Name and address of contact for complaints procedure }.

Yours sincerely,

{Name}  
{Title}

**6.6 To inform the enquirer of any charges to be made for complying with their request where the costs are greater than the current threshold.**

{Academy Name}  
{Academy Address}

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_. It is estimated that the time to provide this information will be \_\_\_\_\_ hours. The cost of this search will exceed the statutory ceiling of £450 for free searching time allowed under the Freedom of Information Act 2000 (The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004).

To proceed with your request we will require a fee of £\_\_\_\_\_ to cover the cost of the search, photocopying and postage. Please make payment by cheque to {Name and address of Academy}. We will continue with the search on receipt of payment, however, if we have not received a reply within three months, we will consider the request cancelled.

If you have any comments relating to how your request has been handled by our Academy, please contact {Name and address of contact for complaints procedure }.

Yours sincerely,

{Name}  
{Title}

**6.7 To inform the enquirer of any charges to be made for complying with their request where the costs are less than the current threshold.**

{Academy Name}  
{Academy Address}

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_. It is estimated that the time to provide this information will be \_\_\_\_\_ hours. The cost of this search will be less than the statutory ceiling of £450 for free searching time allowed under the Freedom of Information Act 2000 (The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004).

To proceed with your request we will require a fee of £\_\_\_\_\_ to cover the cost of photocopying and postage. There will be no charge for the time to find the information. Please make payment by cheque to {Name and address of Academy}. We will continue with the search on receipt of payment, however, if we have not received a reply within three months, we will consider the request cancelled.

If you have any comments relating to how your request has been handled by our Trust, please contact {Name and address of contact for complaints procedure }.

Yours sincerely,

{Name}  
{Title}