



Freedom of Information - Guidance and Policy

February 2015

1. Introduction

The Freedom of Information Act 2000 created significant new rights of access to recorded information held by public authorities in England and Wales.

Under the Act there are two general rights in relation to information.

1. The right to be told whether or not the information requested is held,
2. The right to be given that information within 20 working days.

Where exemptions apply (except where the exemption is absolute), the duty to inform the applicant whether the information is held and to communicate that information remains, unless the public interest in maintaining that exemption outweighs the public interest in disclosure.

There is also a duty on all public authorities to adopt and maintain a publication scheme that details the classes of information it will regularly publish. The publication scheme must be approved by the Information Commissioner, whose office was created by the Act and who has wide powers to enforce the rights contained in the Act.

Certain sections of the Act, primarily relating to the introduction of publication schemes, were in force straight away and the general right of access came into force in January 2005.

This document explains how The School will meet the legal requirements of the Freedom of Information Act 2000

2. Statement of Intent

The School intends to fulfil all its obligations under the Freedom of Information Act 2000.

The School will ensure that the public will have a general right of access to information it holds, subject to certain conditions and exemptions. It will consult with LA officers for advice.

The School will ensure that effective arrangements are in place to facilitate information requests.

This policy document applies only to information covered by the Freedom of Information Act 2000, and will be updated / amended as necessary according to the laws of England and Wales.

3. Making Requests for Information

The public will have a right of access to any recorded information, however it is held.

There is no formal application procedure, although requests for information have to be in writing and give the name of the applicant and an address to which the information can be sent. Requests will be dealt with in 20 working days, although longer is allowed in some cases.

The School will provide advice and assistance to those who propose to make requests for information, or to any individuals who have made requests for information within the Act.

A request for information under the terms of the Act must be made in writing (which includes a request transmitted by electronic means which is received in legible form and is capable of being used for subsequent reference). Where an applicant is unable to frame their request in writing, the School will ensure that appropriate assistance is given by referring them to a relevant sub-agency or offering to take a note of the application over the phone (which can be sent to the applicant for confirmation, which when verified by the applicant would constitute a written request).

The School will provide assistance to an applicant to enable him/her to describe more clearly information requested if his/her description is insufficient for the School to identify and locate such information.

If, following the provision of such assistance, the applicant has failed to describe the information requested in a way that would enable identification and locate it, and then the School is not expected to seek further clarification. The School should also explain to the applicant why it could not take the request any further.

The School will not seek information from an applicant that he or she cannot reasonably be expected to possess, such as a file reference number, or a description of a particular record, unless this information is made available by the School for the use of applicants.

The School will not provide assistance to applicants whose requests are vexatious (jokes or requests that waste the School's time).

4. Requests for Information where the Public Interest must be considered

Where the School needs to consider the public interest test in respect of an application for exempt information, it will give an

Estimate of the date by which it expects to reach such a decision. This estimate will be reasonable in the circumstances of the particular case, taking account, where necessary, of the need to consult third parties. The School's Business Manager will deal with public interest test requests.

5. Fees

The School will charge fees for processing requests in accordance with the Fee Regulations and its charging policy.

The Fees Regulations do not cover material made available under a publication scheme, or other information that is exempt information under the Act.

6. Transferring requests for information

When the School receives a request for information which it does not hold but which it believes is held by another Authority, then it will consider whether it can consult that Authority with a view to finding out whether it does actually hold the information and if so, whether it should transfer the request to it. The School will be under a duty to take into account before transferring the request whether the applicant would object or whether a transfer is possible. All transfers of requests must take place “promptly”. The time for complying with transferred requests is measured from the day that the receiving authority receives the request.

When a request for information has been transferred to another Authority with the agreement of the receiving Authority, then the School has no further responsibility for handling the request.

The School should also consider the most helpful way of assisting the applicant with his or her request. In most cases this may be to inform the applicant that another Authority holds the information and to provide him or her with contact details for that Authority.

7. Consultation with Third Parties

7.1 In some cases the disclosure of information pursuant to a request 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 right to respect for private and family life), or the Data Protection Act 1998. Where the consent of the third party would enable a disclosure to be made the School will consult that party prior to reaching a decision. Where the interests of the third party who may be affected by a disclosure do not give rise to legal rights, consultations may still be appropriate.

8. Public Sector Contracts

8.1 When entering into contracts the School will refuse to include contractual terms that purport to restrict the disclosure of information held by the School and relating to the contract beyond the restrictions permitted by the Act. The School will not agree to hold information in confidence, which is not in fact confidential in nature. Any such decisions should be taken on a case-by-case basis.

8.2 When entering into contracts with non-public authority contractors, the School may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner.

9. Information in confidence from Third Parties

9.1 The School will only accept information from a third party in confidence if it is necessary to obtain that information in connection with the exercise of any of its functions. The School will not agree to hold information received from third parties “in confidence” if it

is not confidential in nature. Again, an acceptance of any confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner.

10. Consultation with Devolved Administrations

10.1 The School will consult with any relevant devolved administration before disclosing information provided by or directly concerning that administration.

11. Exemptions

11.1 The School will be exempt from its duty to confirm or deny whether it holds the information in the first place, if confirming would have the effect of disclosing some of the relevant information or would cause harm. The School will also be exempt from the duty to provide certain requested information. This is known as absolute exempt information.

11.2 Even if the School is exempt from the duty to confirm or deny whether it holds information or to communicate requested information, it may still be required to disclose in the public interest where the exemption is a qualified exemption.

11.3 The Secretary of State has the power to create new exemptions.

12. Categories of Exempt Information

12.1 There are two general categories of exemptions, those that are absolute, and those that are qualified. Where exemptions are qualified there is a duty to consider the public interest in disclosing information. In the case of absolute exemptions, there is no obligation on the School to disclose the information or consider the public interest in possible disclosure.

13. Absolute Exemptions

13.1 There are 24 exemptions listed in the Act, but only 8 are absolute exemptions. Even in the case of absolute exemptions the School is still under the obligation to provide reasonable advice and assistance to persons making requests.

13.2 Absolute exemptions are as follows:

- Information accessible to applicants by other means **such as the school website or Flintshire County Council Archive Department**
- If information is reasonably accessible to the applicant by a route other than the Act it is exempt information. This is the case even if the applicant would have to pay for the information under that alternative route. This exemption includes cases where an authority is required to communicate information under other legislation, for example in birth, marriage and death certificates, and where the information is available via publication schemes.
- Information dealing with security matters supplied by, or relating to, bodies dealing with security matters.
- Court records.
- Parliamentary privilege (as certified by the Speaker of the House or Clerk of the Parliaments).

- Personal information (both where the applicant is the data subject of the information and where information relates to a third party). Information will be exempt where it relates to the applicant. The applicant will however be able to obtain access under the Data Protection Act 1998 to both personal data under the terms of that Act and to manual information.
- Where information relates to a third party, it is exempt if the person to whom it relates would not have a right of access to it under the Data Protection Act because it falls under a subject access exemption under that Act.
- Information provided in confidence.
- Prohibitions on disclosure by any enactment, incompatibility with any community obligation or contempt of court.
- Prejudice to the effective conduct of public affairs (absolute for information held by House of Parliament. For all other Information covered by this section the public interest test applies).

13.3 The existence of an absolute exemption does not mean that disclosure is not required in all cases; it means that disclosure is not required by this Act. For example, disclosure of personal information to a data subject may be required under the provisions of the Data Protection Act 1998.

13.4 In the event of a complaint that information is not provided in response to a request under the Freedom of Information Act, the Information Commissioner will decide whether the information in question is subject to the exemption that has been applied.

14. Qualified Exemptions

14.1 The second general category of exemption covers those that are qualified, where there is a duty to consider the public interest in confirming or denying that the information exists and in disclosing information. The remaining and majority of exemptions are subject to this public interest test and these are as follows:

- Information intended for future publication
- National security (excluding matters covered by the absolute exemption)
- Defence
- International Relations
- Relations within the UK
- The economy
- Investigations and proceedings conducted by public authorities
- Law enforcement
- Audit functions
- Formulation of government policy
- Prejudice to the effective conduct of public affairs (excluding matters covered under the absolute exemption)
- Communications with the Queen
- Health and safety (Information is exempt if its disclosure would or would be likely to endanger the physical or mental health of any individual or endanger the safety of any individual)
- Environmental information

- Legal Professional Privilege
- Commercial Interests -Information is exempt if it constitutes a trade secret or would, or would be likely to, prejudice the commercial interests of any person (including The School) holding it.

15. Refusals

15.1 The School will notify the applicant within 20 working days when relying on a claim that the duty to confirm or deny does not arise because of an exemption, or on a claim that the information is exempt. When notifying the applicant the exemption in question will be explained.

15.2 Where the School has not yet reached a decision as to whether to disclose in the public interest, despite exemption, it will notify the applicant within the 20-day limit that no decision has yet been reached. The notice will contain an estimate of the date by which the School expects that such a decision will have been reached.

16. Complaints procedure

16.1 The School has in place a procedure for dealing with complaints from people who consider that their request has not been properly handled, or who are otherwise dissatisfied with the outcome of their request and the issue cannot be resolved in discussion with the official dealing with the request.

16.2 When communicating any decision made in relation to a request under the Act, the School will provide details of its complaints procedure, including how to make a complaint. Where practicable, a person who was not party to the original decision should handle complaints procedures. In all cases, the complainant should be informed of the outcome of his or her complaint.

17. Disputes between Applicants and the School

17.1 A complaint to the Information Commissioner is the only route through which disputes between an applicant and The School will be resolved, subject to the limited route of judicial review. No private actions are permitted under the Act