



# Freedom of Information Policy

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Author:	Policy & Projects Mgr	Owner:	Executive Director of Governance
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## 1: Policy Statement

- 1.1 The Freedom of Information Act 2000 ('the Act') provides public access to information held by public authorities. It does this in two ways;
- 1.1.1 public authorities are obliged to publish certain information about their activities; and
- 1.1.2 members of the public are entitled to request information from public authorities.
- 1.2 The Trust is subject to the Act and accepts its responsibilities as a public authority to promote a culture of openness and accountability and will therefore comply with any request for information in accordance with the principles laid out in the Act.
- 1.3 The Trust will take all steps within its power to meet its responsibilities and will ensure that requests for information are processed fairly. The Trust will pay particular attention to meeting the requirements of the Act and has adopted the Model Publication Scheme defined by the Information Commissioners Office (see 'Freedom of Information Publication Scheme').

## 2: Purpose of the Policy

- 2.1 The purpose of this Policy is to ensure that the Trust;
- complies with its duties under the Act and handles requests appropriately
  - has suitable systems and processes in place which will result in the publication of information it has available.
- 2.2 All employees have an individual responsibility to ensure, through their respective roles, that information requests are processed in accordance with this Policy. Each individual should ensure that they are familiar with the steps outlined in this Policy and the requirements of the Trust's Publication Scheme.

## 3: What is a request under the Freedom of Information Act?

- 3.1 Information which is held by the Trust in a recorded (paper or electronic) format can be requested under the Act and, subject to any relevant exemptions, will need to be disclosed. This includes recorded information, printed documents, computer files, letters, emails, photographs and sound or video recordings.

- 3.2 Any request for information from the Trust is technically a request under the Act, regardless of whether the individual making the request specifically mentions the Act. As defined in Section 8 of the Act, to meet all the requirements of a valid FOI request, the request must;
- Be in writing;
  - State the name of the requestor and a valid address for correspondence (email address is valid);
  - Describe the information requested;
  - Be received in a legible form; and
  - Be capable of being used for subsequent reference.

The Trust has a duty to clarify the request and to ensure that the request is not ambiguous as this may lead to a breach of section 1 of the Act if the Trust fails to provide information due to the mis-interpretation of a request.

- 3.3 When considering a request under the Act, employees must bear in mind that a release under the Act must be treated as a release of information to the general public. Therefore, once the information has been released it can be accessed by anyone, and future release cannot be restructured by marking the information with 'confidential' or 'internal'.
- 3.4 The Act does not give people access to their own personal data. Access to personal data is covered under the UK General Data Protection Regulations (GDPR) and the Trust's Data Protection Policy covers how the Trust deals with its obligations under the GDPR.

#### **4: Time limits**

- 4.1 The Trust must respond as soon as possible to a request for information, and in any event, within twenty (20) school days of receipt of a request for information.
- 4.2 The statutory time limit starts as soon as a request for information is received by the Trust or a School (regardless of who within the School or Trust received the request). It is of paramount importance that the Data Protection Officer is notified within three (3) school days of receipt.
- 4.3 A 'school day' is counted as a day in which pupils are in attendance, subject to a maximum of sixty (60) normal working days (non-school days) to respond.
- 4.4 The Data Protection Officer is responsible for ensuring that the Trust complies with the time limits provided.

#### **5: Procedure for dealing with a request for information**

- 5.1 Access to information held by the Trust under the Act will be overseen by the Data Protection Officer. All requests for information must therefore be sent to the Data Protection Officer ([dpo@kcsp.org.uk](mailto:dpo@kcsp.org.uk)) in the first instance.
- 5.2 The Data Protection Officer, or their representative, will acknowledge requests for information within five (5) school days of receipt.
- 5.3 Where further details of the information requested are needed before the request for information can be dealt with, the Data Protection Officer, or their representative, will send a letter or email to the requestor asking for additional information within five (5) school days of receipt of the request for information.

- 5.4 Where there may be a fee to be paid, the Data Protection Officer, or their representative, will send a letter or email setting out the details of the fee to be paid within five (5) school days of receipt of the request for information, or where applicable, further details of the information request are received.
- 5.5 Where an extension to the time limit is required due either to the length of time required to consider the public interest test under the Act in respect of the possible disclosure of information or the length of time it takes to compile the information, the Data Protection Officer, or their representative, will notify the requestor of the extension which should be completed as promptly as possible and in any event within an additional twenty (20) school days.
- 5.6 Where the information is exempt or the information request is vexatious or repeated the Data Protection Officer will send a refusal notice to the requestor setting out the reason for refusal with, where necessary, the category of exemption, any public interest test considerations and will draw attention to the appeals procedure.
- 5.7 Where the information is exempt, the Data Protection Officer, will decide whether to confirm or deny in the refusal notice and will guide the requestor on where to access the information;
- 5.8 Where the refusal is on the grounds that the information is elsewhere, the Data Protection Officer, in the refusal notice will guide the requestor where to access the information.
- 5.9 Exemptions which may apply are located in Appendix A.

## **6: Round Robin Requests**

- 6.1 Round Robin requests are those which are generic in nature and which are designed to be 'catch all' requests submitted to a number of similar Trusts / schools.
- 6.2 All written requests for information received by the Trust or any of its schools, may be requests for information under the Act. Upon receipt of a circular, questionnaire or any other 'round robin' request for information, the Trust will;
- Work with the schools to whom the request has been submitted to ensure that a consistent and cohesive approach is applied;
  - Identify which questions are requests for information;
  - Provide, if necessary, advice and assistance that is reasonable in the circumstances; and
  - Provide a response in line with the requirements of the Act.
- 6.3 Where questions invite comment or opinion not held on record, the Trust will, dependent on the question, advise the requestor that the information is not held or if appropriate to do so, provide the comment or opinion as part of its routine 'business as usual' functions.

## **7: Responding to a request for information**

- 7.1 When responding to a request where the Trust has withheld some or all of the information, the Trust must explain why the information has been withheld, quoting the appropriate section number and explaining how the information requested fits with the exemption. If the public interest test has been applied, this also needs to be explained. The Data Protection Officer will decide whether the Trust is required to respond to a request or whether there are exemptions.

- 7.2 The letter responding to the request for information should end by explaining how the requestor can complain, either by reference to an internal review by the DPO or in writing to the ICO as detailed below;

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

## **8: Charges which may be made for information**

- 8.1 The purpose of the Freedom of Information Publication Scheme is to ensure that the maximum amount of information is readily available at minimum inconvenience and cost to members of the public.
- 8.2 Information which is published and accessed on a website will be free of charge. Information requested outside of the Scheme may be subject to a charge.
- 8.3 Charges may be made for actual disbursements incurred, such as;
- Photocopying;
  - postage and packing; or
  - the costs directly incurred as a result of viewing information.
- 8.4 Charges may also be made for information provided under this Policy where they are legally authorised, they are in all the circumstances, including the general principles of the right of access to information held by public authorities, justified and are in accordance with a published schedule or schedules of fees which is readily available to the public.
- 8.5 If a charge is to be made, confirmation of the payment due will be given to the requestor before the information is provided. Payment will be requested prior to the provision of the information.

## **9: Appeals Process**

- 9.1 If the Trust refuses to supply the information requested, or the requestor is dissatisfied with the Trust response or feels that a fee has been applied unfairly, then they may ask for an internal review of the decision in writing from the Data Protection Officer.
- 9.2 The Data Protection Officer will direct appeals to the Chief Executive Officer within two (2) days of receipt; and the Chief Executive Officer, or their representative, will complete the appeals process.
- 9.3 The following principles will apply when considering an appeal request;
- 9.3.1 the review will be undertaken by an individual who was not involved in the original request for information.
- 9.3.2 if the requestor has not received a response to a request for information within 20 school days or 60 working days, whichever is shorter, it may be regarded that the Trust has refused the request, the individual therefore has a right of appeal.
- 9.3.3 All reviews will make an assessment of the information released against the information requested and make a full review of the information associated with the original request.

- 9.3.4 The reviewer will discuss the decision made with staff members involved in the original request in order to gain a full picture of how the decisions were made.
- 9.3.5 The reviewer may contact the requestor at their own discretion.
- 9.3.6 The reviewer may obtain advice from external sources including legal advice.
- 9.3.7 Conclusion of the review will be summarised and provided to the Data Protection Officer who will add to the log for future reference.
- 9.3.8 An internal review must be completed before an appeal can be made to the Information Commissioners' Office.

9.4 The Trust will aim to deal with complex appeals within 20 school days of receipt of the appeal.

9.5 If it becomes clear at any stage of the appeal that the above timescales cannot be met, the Trust will inform the requestor in writing and provide a revised deadline for completion of the internal review.

9.6 An internal review may have three (3) outcomes;

9.6.1 the original decision is reversed;

9.6.2 the original decision is amended;

9.6.3 the original decision is upheld.

9.7 Requests for an internal review (appeal) must be submitted in writing to the Data Protection Officer.

9.8 If the requestor is not happy with the outcome of the internal review, they have the right to request a review externally to the Trust. Requests for such an external review should be made in writing to;

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## APPENDIX A – Exempt Information under Part 2 of the Act

### The Exemptions

There are two types of class exemption identified within the Freedom of Information Act 2000:

- (a) Absolute – which do not require a test of prejudice or the balance of public interest to be in favour of non-disclosure.
- (b) Qualified – by the public interest test, which require the public body to decide whether it is in the balance or public interest to not disclose information.

With the exception of section 21 (information available by other means) exemptions apply not only to the communication of information, but also to the duty to confirm or deny, if that itself would disclose information that is reasonable to withhold.

#### Absolute Exemptions:

- Section 21 - Information accessible to the applicant by other means.  
Information which is already in the public domain, such as that which is published in the Publication Scheme
- Section 23 - Information supplied by, or relating to, bodies dealing with security matters  
This applies only to information supplied by or relating to security bodies
- Section 32 - Court Records  
Information that is only held as part of the documentation for a court, tribunal case or a statutory inquiry
- Section 34 - Parliamentary Privilege  
Where disclosure would infringe the privileges of either House of Parliament
- Section 40 - Personal Information  
Information which is personal to the person making the request
- Section 41 - Information provided in confidence  
An 'actionable' breach of confidence where disclosure would constitute a breach of confidence which would lead to legal action being taken
- Section 44 - Legal Prohibitions on Disclosure  
Where disclosure of information is prohibited by any other law or regulation, or if it would be a contempt of court

#### Qualified Exemptions:

- Section 22 - Information intended for future publication  
Where publication was planned at the time the request was made, for example, an annual report, or the results of an investigation. Applicants will be advised when the information will be published and how it can be obtained.
- Section 24 - National Security  
Information that is not covered by Section 23 under the Absolute Exemption category above, but exemption is needed to safeguard national security. This requires a certificate signed by a Minister of the Crown.
- Section 26 - Defence  
Information likely to prejudice national defence or the activities or our armed forces, or those of allies
- Section 27 - International Relations  
Information likely to prejudice the United Kingdom's international relations or interests, for example, information obtained in confidence from another State or international court.
- Section 28 - Relations within the United Kingdom  
Information likely to prejudice relations between the United Kingdom Government, Wales, Scotland or Northern Ireland

- Section 29 - The economy  
Information likely to prejudice the economic interests of the United Kingdom or part of the United Kingdom, or the financial interests of the government
- Section 30 - Investigations and proceedings conducted by public authorities  
Information held for the purpose of criminal investigations and proceedings, and information obtained from confidential sources relating to these or civil proceedings arising out of them.
- Section 31 - Law enforcement  
Information not covered by Section 30 above, and which is likely to prejudice a wider range of investigative activities.
- Section 33 - Audit  
Applies to information held by public authorities which have functions relating to audit (for example, the National Audit Office), or which examine the economy, efficiency and effectiveness of the use of resources of other public authorities. Information is exempt if its disclosure is likely to prejudice those functions.
- Section 35 - Formulation of Government Policy  
Information held by a government department or the National Assembly for Wales, relating to the creation of government policy.
- Section 36 - Prejudice to the effective conduct of public affairs  
Information that may inhibit the ability of the authority to conduct its business effectively should that information be made freely available in the public domain - Use of this exemption requires sign off from the Chief Executive in receipt of a recommendation to do so by a National Director.
- Section 37 - Communication with Her Majesty etc. and honours  
This applies to information that relates to communications with Her Majesty, members of the Royal family or Royal household, or the conferring of honours, for example, recommendations for individuals to receive an honour in the New Year's Honours List.
- Section 38 - Health and Safety  
Information that would, or would be likely to, endanger the physical health, mental health or safety of an individual.
- Section 39 - Environmental Information  
Exempted under Freedom of Information but the request will be dealt with in accordance with the Environmental Information Regulations.
- Section 40 - Personal information about a third party  
Information which is personal to the applicant or someone other than the person making the request
- Section 42 - Legal Professional Privilege  
This exemption applies where a claim to legal professional privilege could be maintained in legal proceedings, for example advice provided by a lawyer to his client, or information relating to ongoing legal proceedings.
- Section 43 - Commercial Interests  
Such as trade secrets, and to information which if disclosed could harm/prejudice the commercial interests of any person, including the authority holding it.