



Freedom of Information Policy

V1.1

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Introduction

Faringdon Learning Trust (The Trust) is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act (FoIA) 2000 and the access provisions of the Data Protection Act (DPA) 1998. The Trust will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right to access to recorded information held by the schools and that the schools should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

Background

The Freedom of Information Act 2000 (FoI) came fully into force on January 1 2005. Under the Act, any person has a legal right to ask for access to information held by the Trust and its Academies. 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 routinely makes available to the public is included in the FOI Publication Scheme. Requests for other information should be dealt with in accordance with the 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 DfE has issued a Retention Schedule produced by the Records Management Society of Great Britain, to guide Academies on how long they should keep Academy records. It is an offence to wilfully conceal damage or destroy information in order to avoid responding to an enquiry, so it is important that no records that are the subject of an enquiry are amended or destroyed.

Requests under FoI can be addressed to anyone in the Trust; all staff need to be aware of the process for dealing with requests. All requests need to be logged using the [GDPR Sentry system](#) by school, or forwarded to Academyqueries@faringdonlearningtrust.org or to FOI, c/o the Data Protection Officer, Faringdon Learning Trust, Fernham Road, Faringdon, Oxfordshire SN7 7LB and not dealt with at a local level.

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Requests must be made in writing, (including email), and should include the enquirer's name and correspondence 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 a Fol enquiry. There is a time limit of twenty (20) days, excluding school holidays, for responding to the request.

Timescales

Freedom of Information requests should be dealt with within 20 working days excluding school holidays, (or 60 working days – whichever is shorter). Requests for Data Protection (subject access requests) should be dealt with within One calendar month. Requests for pupil education records should be dealt with within 15 school days, in accordance with Subject Access request timescales.

Delegated responsibilities

Overall responsibility for ensuring that the School meets the statutory requirements of the FoIA, EIR and DPA lies with the Governors and the Chair of Governors has overall responsibility for information management issues. They have delegated the day-to-day responsibility of implementation to the Head teacher.

The Head teacher is assisted by the Academy Business and Finance Director who fulfils the role of 'Fol officer'. All School staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the Fol officer where necessary.

Scope

The Fol Act joins the General Data Protection Regulation (GDPR) 2018 and the Environmental Information Regulations as legislation under which anyone is entitled to request information from the Trust.

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Requests for personal data are still covered by the GDPR. Individuals can request to see what information the Trust 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 (EIR).

They also cover issues relating to Health and Safety. For example, queries about chemicals used in the Trust, its Academies or on Academy land, phone masts, car parks etc. would all be covered by the EIR. Requests under EIR are dealt with in the same way as those under FoIA, but unlike FoIA requests, they do not need to be written and can be verbal

All requests should be directed to the Data Protection Lead on AcademyEnquiries@faringdonlearningtrust.org

If any element of a request to the Trust includes personal or environmental information, these elements must be dealt with under GDPR or EIR. Any other information is a request under FoIA, and must be dealt with accordingly.

Requesting Information

Procedures

Practical procedures for handling information enquiries in line with the relevant legislation will be produced and copies can be obtained from the individual school's FoI Officer.

The Academy has a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information. Although no such duty exists under the DPA, the same level of care will be provided.

Charges

The individual Governing Body may charge a fee for complying with requests, as calculated in accordance with FoIA regulations. If a charge is to be made, the School will give written notice to the applicant before supplying the information requested.

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The School will only charge for the cost of copying and transmitting information, not for time taken in reaching decisions regarding whether information is covered by an exemption.

When calculating the cost, we take into account the cost of certain activities:

- determining whether we hold the information;
- finding the requested information, or records containing the information;
- retrieving the information or records; and
- extracting the requested information from records.

Staff hours are billed at £25 per hour. This works out at 18 to 24 staff hours.

Where the School estimates that the cost of locating the information will exceed the statutory threshold of £450, (18 staff hours) it will consider whether or not to comply with the request. The School is not obliged to comply with such a request but may choose to do so.

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Publication

Section 19 of the FoIA obliges the School to make information pro-actively available in the form of a “publication scheme”. This scheme will list categories, or “classes” of information that will routinely be made available without the need for a specific information request. The School will indicate in the scheme where it wishes to charge for providing particular categories of information. The scheme is published on the School’s website.

The School plans to review this scheme regularly. As all FOI disclosures are disclosures “to the world” - making information available as part of a FOI request, means it should then be available to the public. With this in mind, in general, there will be a presumption in favour of publishing such information on the School’s website.

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Withholding Information

The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories; absolute and qualified. The School will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, the School can automatically withhold the information. However, where the exemption is qualified the information can only be withheld where the School decides that the public interest is best served by withholding the information. Certain exemptions also contain a “prejudice test”, which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

The School will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption. However, these documents will be redacted appropriately.

The School will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a “public interest” exemption is being considered, the School will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption the School will take into account whether the release of the information would:

- Promote further understanding of current issues of public debate;
- Promote the accountability of decisions taken by the School and the spending and allocation of public money;
- Bring to light matters of public safety;
- Allows the public to understand and challenge decisions made by the School;
- Be otherwise in the public interest.

Where information is withheld under an exemption in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision through the School’s Governing Body and the right of appeal to the Information Commissioner’s Office.

Where a staff member plans to apply an exemption, they will consider whether other schools hold similar information. If this is considered likely, they may contact the relevant school(s) to ensure that a consistent response is provided to the applicant.

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The School will also refuse to supply information under the FoIA, where the request is considered “vexatious” or “repeated” and under the EIR, where the request is considered ‘manifestly unreasonable’.

We will maintain a register of requests where we have refused to supply information, and the reason for the refusal. The register will be retained for five (5) years.

The full list of exemptions are listed in Appendix 2.

Releasing a third party’s information

Where, in response to a request, information belonging to a third party (either an individual or other organisation) has to be considered for release, the staff member that received the request will seek input from the FoI officer prior to the release of the information.

The release of third party information will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the DPA. Both the EIR and FoIA permit information to be withheld when its release would breach the provisions of the DPA.

When the requested information relates to a living individual and amounts to “personal data” as defined in the DPA, its disclosure could breach the DPA. Therefore, the release of third party personal information relating to living individuals will be considered in accordance with the data protection principles and, in particular, the “third party” provisions of the DPA. Personal data is exempt through Section 40(1) and 40(2) of the FOI Act Where appropriate, the School will contact the individual to ask for permission to disclose the information. If consent is not obtained, either because it was not considered appropriate to approach the third party or the third party could not be contacted or consent is refused. The School will then consider if it is reasonable to disclose the information.

If the information requested related to public interest this may need to be released regardless of consent. In this situation, the decision will be run by our data protection leads and Data Protection Officer first.

The Trust will take into account:

- Any duty of confidentiality owed to the third party
- The steps taken to seek consent

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- Whether the third party is able to give consent and
- Any express refusal of consent

The decision to disclose third party information will also take into account the impact of disclosure on the third party, relative to the impact on the public of withholding the information. Where the third party has been acting in an official, rather than private capacity, the School will be minded to disclose the information, although decisions will be made on a case by case basis.

Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence the School's decision whether to release the information. Where the information relates to a matter clearly private to the individual, e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. an expenses claim, the information will normally be released. The exemption relating to the release of a third party's personal data will not be used to withhold information about administrative decisions taken by the School.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the FoI officer who will take advice from the Governing Body where necessary.

Where the third party is an organisation, rather than an individual. The School will consider consulting the third party concerning the release of their information where:

- The views of the third party may assist the School to decide whether an exemption under the Act applies to the information and
- In the event of the public interest test being applied, where the views of the third party may assist the School to make a decision relating to where the public interest lies

Consultation will not be undertaken where:

- The School will not be disclosing the information due to some valid reason under the Act
- The School is satisfied that no exemption applies to the information and therefore cannot be withheld and

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- The views of the third party will have no effect on the decision e.g. where there is other legislation preventing disclosure

Where input from a third party is required, the response time for the request remains the same. Therefore it will be made clear to the third party at the outset that they have a limited time for their views to be provided and that where responses are not immediate, the decision to disclose may have to be made without their input in order for the School to comply with the statutory time limits dictated by the legislation.

The School will endeavour to inform individuals and organisations submitting information that the information might be released following an information request and, where appropriate, will provide the supplier of the information opportunity to request confidentiality or supply reasons as to why the information should be treated confidentially.

Information held within contracts with the school

Any contractual information, or information obtained from organisations during the tendering process, held by the School are subject to the provisions of the FoIA and EIR. Whenever the School enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation. A standard form of wording will be included in contracts to cover the impact of FoIA and EIR in relation to the provision of information held in contracts.

The School can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where the School intends to include non-disclosure provisions in a contract, it will agree with the contractor a schedule of the contract that clearly states which information should not be disclosed.

The School will only agree to enter into confidentiality clauses where the information is confidential in nature and that it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FoIA may be relevant, relating to commercial interests. This exemption is subject to a “public interest” test.

Whenever the School has to consider the release of such information, it will contact the relevant organisation to obtain its opinions on the release of the information and any exemptions they may think relevant. However, the School will make the final decision relating to the disclosure of the information.

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The School can also withhold information contained in contracts where any of the other exemptions listed in the FoIA or EIR are appropriate, although information will only be withheld in line with the School's policy on the use of exemptions. All future contracts should contain a clause obliging contractors to co-operate fully and in a timely manner where assistance is requested in responding to a FoIA or EIR request.

Complaints Procedure

Whenever the School withholds information under an exemption, or for any other reason, it will inform the applicant of their right to ask for an internal review following the request they make through the School's complaints procedure and of the right of appeal to the Information Commissioner. Any internal review request received will be dealt with in accordance with the School's complaints procedure as detailed in its Complaints Policy. If the result of the complaints is that any decision to withhold information be overturned, this information will be supplied as soon as it is possible. The Trust will provide a response regarding the outcome of that review.

The Trust will maintain records of all complaints and their outcome.

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. They can be contacted at:

<http://ico.org.uk/complaints>

Helpline: 0303 123 1113

General Data Protection Regulation – Right of Access

Article 15 in the GDPR Right of access states that Individuals have a right to make a '**subject access request**' to gain access to personal information that the school holds about them.

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Parents/carers can make a request with respect to their child's data where the child is not considered mature enough to understand their rights over their own data (usually under the age of 12), or where the child has provided consent. In the UK only children aged 12 or over are able to give consent.

Parents also have the right to make a subject access request with respect to any personal data the school holds about them.

If you make a subject access request, and if we do hold information about you or your child, we will:

- Give you a description of it
- Tell you why we are holding and processing it, and how long we will keep it for
- Explain where we got it from, if not from you or your child
- Tell you who it has been, or will be, shared with
- Let you know whether any automated decision-making is being applied to the data, and any consequences of this
- Give you a copy of the information in an intelligible form

Individuals also have the right for their personal information to be transmitted electronically to another organisation in certain circumstances.

Under data protection law, individuals have certain rights regarding how their personal data is used and kept safe, including the right to:

- Object to the use of personal data if it would cause, or is causing, damage or distress
- Prevent it being used to send direct marketing
- Object to decisions being taken by automated means (by a computer or machine, rather than by a person)
- In certain circumstances, have inaccurate personal data corrected, deleted or destroyed, or restrict processing
- Claim compensation for damages caused by a breach of the data protection regulations

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Illegal actions

It is a criminal offence for members of staff to alter, deface or remove any record (including e-mails) following receipt of an information request. Both the FOIA and EIR contain specific provisions to make such action a criminal offence.

Review of the Policy

This policy is scheduled for review by the Academy PR and Community Committee on an annual basis.

Linked Policies

- Data Protection

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