



**Title of Policy: Freedom of Information**

**Subtext: Including Publication Scheme**

Member of leadership team with lead responsibility for oversight and update of policy	DIL
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## Introduction

The Polesworth School 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, with effect from 1 January 2011. The school is committed to the principles of accountability and the general right of access to information, subject to legal exemptions. The 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 school. They are entitled to be told whether the school hold the information, and to receive a copy, subject to certain exemptions.

The information which the school routinely makes available to the public is included in the Publication Scheme. 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 school holds are covered by the Act. The schedule recommended by the Records Management Society of Great Britain, guides the school as to how long records should be kept.

## Publication Scheme

The school has produced a publication scheme (Appendix 1) which commits the school to make information available to the public as part of its normal business activities. The information covered is included in the classes of information mentioned below, where this information is held by the school. Additional assistance is provided to the definition of these classes in sector specific guidance manuals issued by the Information Commissioner.

The scheme commits the school:

- To proactively publish or otherwise make available as a matter of routine, information which is held by the school and falls within the classifications below;
- To specify the information which is held by the school and falls within the classifications below;
- To proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme;
- To produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public;
- To review and update on a regular basis the information the school makes available under this scheme;
- To make this publication scheme available to the public.

## Classes of Information

- **Who we are and what we do** - Organisational information, locations and contacts, constitutional and legal governance.

- **What we spend and how we spend it** - Financial information relating to projected and actual income and expenditure, tendering, procurement & contracts and financial audit.
- **What our priorities are and how we are doing** - Strategy and performance information, plans, assessments, inspections and reviews.
- **How we make decisions** - Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.
- **Our policies and procedures** - Current written protocols for delivering our functions and responsibilities.
- **Lists and Registers** - Information held in registers required by law and other lists and registers relating to the functions of the authority.
- **The Services we offer** - Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

The classes of information will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.
- Information in draft form.
- Information that is no longer readily available as it is contained in files that have been placed in archive storage, or is difficult to access for similar reasons.

### Freedom of Information Requests

If there is information that is required, and is not included within the scheme, enquirers should write to the school under the Freedom of Information Act. Requests must be made in writing (letter, email or fax) to the School Business Manager. Enquirers must provide their name and address and sufficient information to enable the school to locate the information requested. The school will respond to requests within 20 school days or 60 working days (whichever is the shorter) of receipt, either with the information or an explanation as to why it cannot be supplied.

The school is happy to provide information where possible if:

- a) We hold the information
- b) The information is not exempt
- c) The request is not considered vexatious or repeated by the same requester
- d) The cost of providing the information does not exceed £450 - charges may apply for information that requires extensive copying, printing or collation and enquirers will be notified of this charge before the information is provided.

Requests for personal data are covered by the Data Protection Act (DPA) and covered by the Schools Data Protection Policy.

## Exemptions under the Freedom of Information Act

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.

## 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.

## Complaints

Any comments or complaints will be dealt with through the school's normal complaints procedure. We will aim to determine all complaints within 10 days of receipt. If on investigation the school's original decision is upheld, then the school 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:

FOI/EIR Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

[www.ico.gov.uk](http://www.ico.gov.uk)

## Appendix 1 - Publication Scheme

### Who we are and what we do

Information to be published	How the information can be obtained
Who's who in the school	Available on the school website or in writing from the School Business Manager
Who's who on the Governing Body	
Contact details for the Governing Body	
Contact details for the Executive Headteacher and Head of School	
School Prospectus	
Staffing structure	
School session times and term dates	
Examination results and other educational performance data	

The Polesworth School is part of The Community Academies Trust. As such, it occupies a different position from a single status academy, in that all of the aspects of finances relating to funding, budget and financial performance are dealt with by the Trust. Enquiries of this nature should be addressed to the Chief Executive of the Trust.

### What we spend and how we spend it

Information to be published	How the information can be obtained
Procurement and contracts - details of procedures used for the acquisition of goods and services.	Requests in writing to the School Business Manager
Details of contracts that have gone through a formal tendering process.	
Staffing and grading structure	
Pay policy - a statement of the School's policy on procedures regarding teachers' pay	
Details of allowances and expenses that can be claimed or incurred.	

## What our priorities are and how we are doing

Information to be published	How the information can be obtained
School profile	Available on the school website or in writing from the School Business Manager
Government supplied performance data	
OFSTED report - summary and full report	
Performance management information School's future plans - any major proposals on safeguarding and promoting the welfare of children.	
Child protection - policies and procedures on safeguarding and promoting the welfare of children.	

## Our policies and procedures

Information to be published	How the information can be obtained
School policies - general	Available on the school website or in writing from the School Business Manager
Pupil and curriculum policies	
Records management and personal data policies	
Equality & diversity	
Charging regimes and policies	

## How we make decisions

Information to be published	How the information can be obtained
Admissions policy - arrangements and procedures and right of appeal - include information on application numbers and number of successful applicants by each oversubscription criteria.	Available on the school website or in writing from the School Business Manager
Governing body meeting agendas, papers and minutes - information that is properly considered to be private should be excluded.	

## Lists and Registers

Information to be published	How the information can be obtained
Curriculum circulars and statutory instruments	Available in writing from the School Business Manager
Disclosure logs	
Asset register	
Any information the School is currently legally required to hold in publicly available registers	

The services we offer

Information to be published	How the information can be obtained
Extra-curricular activities	Available on the school website
Out of school clubs	
School publications	
Services for which the School is entitled to recover a fee, together with those fees	
Newsletters, school magazine, booklets	

## Appendix 2 - Procedure for Dealing with Requests

To handle a request for information the Governing Body or delegated person will need to ask themselves a series of questions. These are set out below.

### 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 School'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?

An FOI request should:

- Be in writing, including email or fax(a);
- 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, establish 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 School hold the information?**

“Holding” the information means information relating to the business of the School which:

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

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

If the School 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 School 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 School.

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 governing bodies to charge for providing information. Details can be found in Appendix 5.

The first step is to determine if the threshold (currently £450) 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 School 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 School can turn the request down, answer and charge a fee, or answer and waive the fee. If the School decides to charge a fee, it can charge on the basis of the costs outlined in Appendix 5.

Academies will wish to consider whether calculating the cost of the fee outweighs the cost of providing the information. For relatively straight forward requests, the School will consider responding free of charge.

If the School 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 4 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 School 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 and then resumes once payment has been 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 in the School 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 School's existing complaints procedure. Wherever practicable the review should be handled by someone not involved in the original decision. The Board of Directors will set a target time for determining complaints and publish information on the success rate in meeting the target time. The School 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 School have not been properly followed, the School will review procedures to prevent any recurrence. When the outcome upholds the School'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

## 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 5)

### 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 School, and if that is the case to have the information sent (subject to any of the exemptions). This obligation is known as the School's "duty to confirm or deny" that it holds the information. However, the School 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 the Academies. There are more than 20 exemptions but the Academies are 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 at the time of writing. 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 Academies 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 4.

The qualified exemptions in the Act are set out below. Those which might be relevant to the Academies 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 School 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 School 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 (e.g. Attorney General) 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 School 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 School.



## 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 impact in the School 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 School?	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 School'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 School'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 School, staff, or Board of 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. This assessment will be reviewed by the Principal the Director of Business Resources. If the reviewer disagrees with the assessment, it will be referred to another reviewer.

### **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 - Charges

\*\*Different charges apply for requests under the Data Protection Act.

### 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, available on the DCA website [www.dca.gov.uk/foi/secleg.htm](http://www.dca.gov.uk/foi/secleg.htm)

### 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 School would 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 (currently £450)? - 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 School from charging no fee. We may, for simple and straightforward requests, waive a fee.

### **May I aggregate the costs where there are multiple requests?**

Where two or more requests are made to the School by different people who appear to be acting together or as part of a campaign, the estimated costs of complying with any the requests is to be taken to be the estimated total cost of complying with them all, provided that:

- a. The two or more requests referred to in that section are for information which is on the same subject matter or is otherwise related;
- b. The last of the requests is received by the School by the twentieth working day following the date of receipt of the first of the requests, and
- c. It appears to the School that the requests have been made in an attempt to ensure that the prescribed costs of complying separately with each request would not exceed the appropriate limit.

If we get multiple requests for the same information, we will often decide to include it in our publication scheme.

### **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.

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.