



WADHAM SCHOOL

FREEDOM OF INFORMATION POLICY

OCTOBER 2017

Approved by Governors (date).....

Signed.....

Date of review (3 yearly) - October 2020

Introduction

Wadham School is committed to the Freedom of Information Act and to the principles of accountability and the general right of access to information. This policy outlines our response to the Act and a framework for managing requests.

Background

The school recognises that under the FoI, any person (the enquirer) has a legal right to ask for access to information held by the school. The enquirer is entitled to be told whether the school holds 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 which is published alongside this policy and can be obtained from the school. Requests for other information will be dealt with in accordance with the statutory guidance.

As requests under FoI can be addressed to anyone in the school all staff will be made aware of the process for dealing with requests.

The school will 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.

The school will respond to each request within 20 days excluding school holidays.

Scope

If any element of a request to the school includes personal or environmental information, these will be dealt with under the Data Protection Act (DPA) or Environmental Regulations (EIR). Any other information is a request under FoI, 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 EIR. They also cover issues relating to Health and Safety. Requests under EIR are dealt with in the same way as those under FoI, but unlike FoI requests, they do not need to be written and can be verbal.

Obligations and Duties

The school recognises its duty to

- provide advice and assistance to anyone requesting information. The school will respond to straightforward verbal requests for information, and will help enquirers to put more complex verbal requests into writing so that they can be handled under the Act.
- tell enquirers whether or not we hold the information they are requesting (the duty to confirm or deny), and provide access to the information the school hold in accordance with the procedures laid down in Freedom of Information Dealing with Requests (FoI Dealing with Requests) – Appendix 1.

Publication Scheme

Wadham School has adopted the Model Publication Scheme for Schools approved by the Information Commissioner.

The Publication Scheme is published on our website and the materials it covers will be readily available from the office.

Dealing with Requests

The school will respond to all requests in accordance with the procedures laid down in the Freedom of Information Dealing with Requests (Fol Dealing with Requests) – Appendix 1. The school will ensure that all staff are aware of the procedures.

Exemptions

The school will consider if information requested is subject to exemption. The exemptions are listed in the Freedom of Information Exemptions (Fol Exemptions) – Appendix 2.

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

The school 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

The school will apply the Public Interest Test before any qualified exemptions are applied. Unless it is in the public interest to withhold information, it will be released. For information on applying the Public Interest Test see the Freedom of Information Public Interest Test (Fol Public Interest Test) – Appendix 3.

Charging

The school will respond to most requests free of charge, and only charge where significant costs are incurred. The school may choose to charge a fee for complying with requests for information under FOI. The fees will be calculated according to FOI regulations, see Freedom of Information Charging (Fol Charging – Appendix 4, and the person notified of the charge before information is supplied.

The school reserve the right to refuse to supply information where the cost of doing so exceeds the statutory maximum.

Responsibilities

The Governing Body has delegated the day-to-day responsibility for compliance with the Fol to the Headteacher. The Headteacher has nominated the Business Manager as the delegated person to deal with all Fol requests.

11. Complaints

Any comments or complaints will be dealt with through the Wadham School Complaints Policy. The school will maintain records of all complaints and their outcome.

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.

FOI/EIR Complaints Resolution
Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

12. Review

This policy document and associated Publication Scheme will be reviewed every 3 years.

Appendix 1

Freedom of Information Dealing with Requests

In handling a request for information the delegated person will ask these questions.

Is it a 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 your existing school DPA 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.
- FOI enquiries are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the FOI Act. All requests for information that are not data protection or environmental information requests are covered by the FOI Act.

Is this a valid FOI request for information?

An FOI request should:

- be **in writing**, including email or FAX;
- **state the enquirer's name and correspondence address** (email addresses are allowed);
- **describe the information requested** - there must be enough information to be able to identify and locate the information; and
- not be covered by one of the other pieces of legislation.

Verbal enquiries are not covered by the FOI Act. Such enquiries can be dealt with where the enquiry is relatively straightforward and can be dealt with satisfactorily. However, for more complex enquiries, and to avoid disputes over what was asked for, the school will ask the enquirer to put the request in writing or email, when the request will become subject to FOI.

Does the school hold the information?

"Holding" information means information relating to the business of the school:

- the school has **created**, or
- the school has **received from another** body or person, or
- **held by another** body **on the school's behalf**.

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

If the school does not hold the information, the school will not create or acquire it just to answer the enquiry, although a reasonable search should be made before denying that you have got 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 in the Publication Scheme or on your website, 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 a substantial diversion of resources or would otherwise undermine the work of the school. The delegated person will check with the Headteacher in these circumstances.

Can the school transfer a request to another body?

If the information is held by another public authority, such as your local authority, first check with them they hold it, then transfer the request to them. You must notify the enquirer that you do not hold the information and to whom you have transferred the request. You should answer any parts of the enquiry in respect of information your school does hold.

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

Consultation of third parties may be required if their interests could be affected by release of the information requested, and any such consultation may influence the decision. You do not need to consult where you are not going to disclose the information because you will be 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 you to determine if information is exempt from disclosure, or
- the views of the third party may assist you to determine the public interest.

Does an exemption apply?

The presumption of the legislation is that you will disclose information unless the Act provides a specific reason to withhold it. There are more than 20 exemptions. Those that apply to schools are set out in FOI Exemptions (Appendix 2) and are mainly intended to protect sensitive or confidential information.

Where the school has real concerns about disclosing the information it will look to see if an exemption applies. If the school feels an exemption applies it will also check to see if it is within the public interest to release some or all of the data. This document FOI Public Interest Test (Appendix 3) contains guidance on conducting a public interest test.

What if the request is for personal information?

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. The school will inform the enquirer that they should make a 'subject access request' under the Data Protection Act if they wish to access such information.

What if the details contain personal information?

Personal information requested by third parties is also exempt under the FOI Act where release of that information would breach the Data Protection Act. If a request is made for a document (e.g. Governing Body minutes) 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.

How much can we charge?

The school will respond to straightforward enquiries free of charge and charge where the costs are significant according to the details given in FoI Charging (Appendix 4).

If there is a charge the enquirer will be sent a fees notice and the school will not have to comply with the request until the fee has been paid.

Is there a time limit for replying to the enquirer?

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

If a qualified exemption applies and the school needs more time to consider the public interest test, you should 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 the school has notified the enquirer that a charge is to be made, the time period stops until payment is received and then continues again once payment has been received.

What action is required to refuse a request?

If the information is not to be provided, 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, you need to send a refusals notice, which must contain

- i) the fact that the responsible person cannot provide the information asked for;
- ii) which exemption(s) you are claiming apply;
- iii) why the exemption(s) apply to this enquiry (if it is not self-evident);
- iv) reasons for refusal if based on cost of compliance (FoI Charging – Appendix 4)
- v) in the case of non-absolute exemptions, how you have applied the public interest test, specifying the public interest factors taken into account before reaching the decision (FoI Public Interest Test – Appendix 3)
- vi) reasons for refusal on vexatious or repeated grounds
- vii) 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 should be retained for 5 years. There are no requirements to keep records where you have supplied the information requested.

What do I 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.

Appendix 2

Freedom of Information Exemptions

Wadham School will not withhold information in response to a valid request UNLESS one of the following applies:-

- an exemption to disclosure, or
- the information sought is not held, or
- the request is considered vexatious or repeated or
- the cost of compliance exceeds the threshold (Fol Charging – Appendix 4)

The duty to confirm or deny

An enquirer 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 “duty to confirm or deny”. 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

Absolute: where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest; and

Information accessible to the enquirer by other means

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 that alternative route. This exemption includes cases where you are required to give information under other legislation, or where the information is available via the Publication Scheme.

Personal information

Where enquirers ask to see information about themselves, this is exempt under the Act because it is covered by the Data Protection Act. Consult our Data Protection guidance.

Information provided in confidence

This relates to information obtained from a person if its disclosure would constitute a breach of confidence actionable by that, or another, person.

Prohibitions on disclosure

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.

Qualified: where, even if an exemption applies, there is a duty to consider the public interest in disclosing information. Guidance on carrying out the public interest test – Fol Public Interest Test – Appendix 3.

Information intended for future publication

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 date of publication. This could apply for instance to statistics published at set intervals, for example annually or where information is incomplete and it would be inappropriate to publish prematurely. Remember, you still have a legal duty to provide reasonable advice and assistance.

Investigations and proceedings conducted by public authorities

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.

Law enforcement

Information which is not exempt under Investigations and Proceedings, 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.

Communications with the Queen

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.

Health and Safety

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.

Environmental information

Information is exempt under FOI where it is covered by the Environmental Information Regulations. Environmental information can cover information relating to: air, water, land, natural sites, built environment, flora and fauna, and health. It also covers all information relating to decisions or activities affecting any of these.

Personal information

Where an individual seeks information about themselves Data Protection Act powers apply.

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 relation to this information if doing so would be incompatible with any of the above.

Legal professional privilege

Legal professional privilege covers any advice given by legal advisers, solicitors and barristers. Generally such information will be privileged. A school wishing to disclose the information 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.

Commercial interests

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 school). 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, bear in mind that the presence of a protective marking (Restricted, Confidential or Secret, with or without descriptors such as Staff, Management, Commercial etc.) 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, it will be necessary to 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 school will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound.

Appendix 3

Freedom of Information Public Interest Test

Background

Having established that a qualified exemption(s) definitely applies to a particular case, the school 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 developed 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 judgment 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 other legislation e.g. Data Protection Act?
Is disclosure likely to increase public participation in political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair your 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 governors is NOT a valid factor
- 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?

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

For Disclosure

Where the balance of the public interest lies in disclosure, the enquiry should be dealt with and the information required should be made available. Where the factors are equally-balanced, the decision should usually favour disclosure.

Against Disclosure

After carrying out the public interest test if it is decided that the exemption should still apply, proceed to reply to the request.

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, you must contact the enquirer within 20 working days stating that a particular exemption applies, but including 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 this decision is made and communicated within the 20 days but where not possible it is suggested that no more than 10 working days beyond the 20 days should be allowed.

Appendix 4

Freedom of Information Charging Information

May I charge a fee?

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

What steps should we take in considering whether to charge?

Step 1.

Is the information exempt for the purposes of the FOI Act?

If information is exempt, then fees do not apply. You may not know if information is exempt until it has been located and checked. However, there are many instances, for example information in your publication scheme, when it is automatically exempt. If you wish to charge for information in your publication scheme, this should be made clear in the scheme itself. The school would need to contact the enquirer to inform them that the information is exempt, and how to obtain it.

Step 2.

Do you 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 there would be little point in making the calculation.

Step 3.

Calculate the appropriate limit

Staff costs are calculated at £25 per hour. When calculating whether the limit is exceeded, schools can take account of the costs of determining whether the information is held, locating and retrieving the information, and extracting the information from other documents. They cannot take account of the costs involved with considering whether information is exempt under the Act.

Step 4.

Requests costing less than the limit

If a request would cost less than the limit, schools can 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.

Requests exceeding the limit

If a request would cost more than the limit, the school can turn the request down, answer and charge a fee, or answer and waive the fee.

If you choose to comply with a request where the estimated cost exceeds the threshold you should calculate the charge as outlined in Step 3, plus the costs of informing the applicant whether the information is held, and communicating the information to them (e. printing and postage costs)

Step 6.

For all requests, schools should have regard to the following two points:

- The duty to provide advice and assistance to applicants. If planning to turn down a request for cost reasons, or charge a high fee, you should contact the applicant in advance to discuss whether they would prefer the scope of the request to be modified so that, for example, 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. However there is nothing to stop schools charging a lesser or no fee. Governing bodies should develop a consistent policy on charging.

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 cost of complying with any of 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 before 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 you get multiple requests for the same information, it is good practice to include the information in your publication scheme.

How do I inform the applicant of the fee?

Where you intend to charge a fee for complying with a request for information then the school must 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.

Where a fees notice has been given to the person making the request, you do not need to comply with the request unless the fee is paid within three months of the notice being received.

Appendix 5

Standard letters

The School does not hold the requested information

{School Address}

{Applicant Address}

{Date}

Dear {Name},

Thank you for your request for information received on .../.../....

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

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

Yours sincerely,

{Name}

{Title}

Transfer of request

{School Address}

{Applicant Address}

{Date}

Dear {Name},

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

If you have an objection to this transfer you should let us know as soon as possible by writing to **{Address}** or telephoning 01..... and asking for **{Name of Officer dealing with the request}**.

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

Yours sincerely,

{Name}
{Title}

Need Clarification

{School Address}

{Applicant Address}

{Date}

Dear {Name},

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

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

The Freedom of Information Act 2000 requires that we deal with requests such as this within 20 working days. We are not required to include any time whilst waiting for clarification of a request. We will endeavour to proceed with your request as soon as you supply the information required. If we have not received a reply within three months we will treat this request as cancelled.

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

Yours sincerely,

{Name}

{Title}

Information already available

{School Address}

{Applicant Address}

{Date}

Dear {Name},

Thank you for your request for information, received on .../.../...

The information which you requested is already available to the public via our school publication scheme, which is available from the school office or on our website **{website address}**.

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

Yours sincerely,

{Name}

{Title}

Intend to charge

{School Address}

{Applicant Address}

{Date}

Dear {Name},

Thank you for your request for information received on It is estimated that the time to find this information will be hours. *The cost of this search will exceed the statutory ceiling of £450.00 for free searching time allowed under the Freedom of Information Act 2000 (The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004).*

To proceed with your request we will require a fee of £ **{supply details of local address and payment details}**. We will continue with the search on receipt of payment, however if we have not received a reply within three months we will cancel the request.

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

Yours sincerely,

{Name}

{Title}