

# Freedom of Information Publication Scheme

## Guidance

## Information

The Freedom of Information (FOI) Act 2000 gives a right to access information. Any person who makes a request to you (public body) for information is entitled to:

- To be informed in writing by the Trust/school whether you hold information meeting the description set out in the request and
- To have information that the Trust/school hold relating to the request communicated to them.

## Statutory Deadlines

The statutory deadlines detail that you must respond to all requests made under the Act promptly within **20 days**.

The date on which a request is the day on which it arrives, or, if this is not a working day, the first working day following arrival. Non-working days include weekends and public holidays anywhere in the UK.

**Definition of a working day** (taken from paragraph 72-75 of the Time Limits for compliance under the Freedom of Information Act)

The regulations state that the time for compliance will be whichever the shorter period is;

- 20 working days following the date of receipt, excluding any day which is not a school day (this effectively equates to a period of 20 school days); **or**
- 60 working days following the date of receipt.
- A 'school' day will be any day on which there is a session and the pupils are in attendance.
- 'Working days' exclude school holidays and 'inset' or training days where the pupils are not present.

### Example

A school receives a request on 20<sup>th</sup> July. The school is scheduled to close for the summer holidays on 24<sup>th</sup> July and will reopen on 10<sup>th</sup> September.

When calculating the time for compliance, the school recognises that it will not have to count any of the days between 24<sup>th</sup> July and 10<sup>th</sup> September, as these are non-school days for the purpose of the regulations.

After taking this into account it determines that a period of 20 school days will elapse in early October.

It then calculates the date on which 60 working days would elapse and discovers that this will fall in early November.

This means that, provided the school cannot respond more promptly, the time for compliance in this case will be 20 school days because this period will lapse before an interval of 60 working days has passed.

Any initial response to a request for information under the Act should contain:

- A statement that the request has been dealt with under the Act;

- Confirmation that the requested information is held or not held by the public authority or a statement neither confirming or denying whether the information is held;
- The process, contact details and timescales for the public authority's internal review appeals process;
- Information about the applicant's further right of appeal to the Information Commissioner and contact details for the Information Commissioner's Office.
- If some or all of the information cannot be disclosed, details setting out why this is the case, including the sections (with subsections) the public authority is relying on if relevant. When explaining the application of named exemptions, however, public authorities are not expected to provide any information which is itself exempt.

The Trust/school are not required to create new information in order to comply with a request for information under the Act. The Trust/school only need to consider information already in existence at the time a request is received. **It is a criminal offence to alter, deface, block, erase, destroy or conceal any information held with the intention of preventing disclosure following a request under the Act for the information.**

A request for a person's own personal data should be dealt with under the subject access provisions of the Data Protection Act 2018. Sometimes it may be necessary to consider a request under more than one access regime.

### **Valid requests**

A request for information under the Act must be made in writing. This can either be in hard copy or electronically. A request submitted through social media will be valid where it meets the requirements by providing the applicants name and address for correspondence and a clear request for information. Addresses for correspondence can take the form of an email address, or a unique name or identifier on a social media platform, as well as a postal address.

### **Clarifying the request**

There may be instances when the Trust/school need to contact an applicant to seek clarification either regarding their name or the information they are seeking in order for the request they have made to meet the requirements set out in the act.

If the Trust/school need to seek clarification to enable them to meet the requirements, the 20 days response period will not start until a satisfactory reply constituting a valid request is received. Written communication should make it clear that if no response is received the request will be considered closed by the Trust/school. (two months is an appropriate length of time to wait to receive clarification before closing the request.

### **Transferring requests for information**

There will be occasions when the Trust/school cannot comply with a request (or comply in fully) because you do not hold the information requested.

In most cases if the Trust/school do not hold the information but know who may hold the information, the Trust/school should respond to the applicant to inform them that the requested information is not held by them. In best practice where you can, provide the contact details for the body you believe holds the requested information.

## Compliance Statistics

As the Trust has over 100 Full Time Equivalent (FTE) employees, as a matter of best practice, **each school & the Trust** should publish details of their performance on handling requests for information under the Act (see annexe 1 which needs to be used to log FOI and submitted to the Trust on an annual basis, end of school year). The information should include:

- The number of requests received during the period;
- The number of the received requests that have not yet been processed (you may also wish to show how many of these outstanding requests have extended deadlines or a stopped clock, e.g. because a fee notice has been issued);
- The number of the received requests that were processed in full (including numbers for those that were met within the statutory deadline, those where the deadline was extended and those where the processing took longer than the statutory deadline);
- The number of requests where the information was granted in full;
- The number of requests where the information was refused in full (you may wish to separately identify those where this was because the information was not held);
- The number of requests where the information was granted in part and refused in part.
- The number of requests received that have been referred for internal review (this needs only reporting annually).

## Cost limits (Section 6 of the Freedom of Information Code of Practice)

- If the Trust/school calculates that responding to a request will take it over the cost limit, it is not obliged to provide a substantive response. (the cost limit is calculated at a flat rate of £25 per hour). For central government departments the cost limit is £600 (24 hours) and for other public authorities is £450 (18 hours).
- Where a request is refused under section 12, the Trust/school should consider what advice and assistance can be provided to help the applicant reframe or refocus their request, with a view to bringing it within the cost limit.

## Fees (1.18 Freedom of Information Code of Practice)

- It is open to the Trust/school, as a result under regulations made under section 9 and 13 of the Act, to charge for the cost of providing information requested under the Act. However, the majority of Trust/schools do not currently do so. It is only possible to charge where information will be released. It is not possible for a Trust/school to charge for requests where, for example, information is being withheld under exceptions.
- Where the Trust/school intends to charge for the cost of providing information, they should send a fees notice stating the amount to be paid, including how this has been calculated, as soon as possible within the 20 working days response period.
- The notice should include:
  - That the 20 working day period for responding to the request will be paused until the payment is received (it is reasonable to set a deadline of 3 months in which the fee should be paid).
  - How to pay the fee.

- The rights of complaint via internal review and to the Information Commissioner about the fee levied.
- The Trust/school may charge for:
- Actual production expenses (redacting information, printing and photocopying), postage, complying with the preferences about format in which to receive information (scanning).
- **It is not possible to charge for any staff time where the cost of compliance falls below the cost limit.**

#### **Internal Reviews** (Section 5 of the Freedom of Information Code of Conduct)

It is usual practice to accept a request for an internal review made within 40 working days from the date the Trust/school has issued an initial response to a request and this should be made clear in that response to the applicant. Trust/schools are not obliged to accept internal reviews after this date. Internal reviews should be made in writing to the Trust/school.

Requests for internal reviews should be acknowledged and the applicant informed of the target date for responding. This should normally be within 20 working days of receipt.

Please use the table provided in Annexe 1 detailed on page 4 to record your own school's data.

