



Freedom of Information Policy

(Revised 17 Apr 23)

Adopted by The Hawksmoor Learning Trust	Signature	
	Print Name	
	Date	
	On behalf of the Hawksmoor Learning Trust	

Contents

Introduction.....	3
Policy Scope.....	3
The Freedom of Information Act.....	3
Obligations and Duties	4
Publication Scheme	4
Making a Freedom of Information Request	4
The duty to confirm or deny.....	5
Exemptions	6
Protective Markings and Applying Exemptions.....	6
Public Interest Test	6
Charging.....	7
Responsibilities.....	7
Timescales for Responding to Requests	7
Internal Reviews and Complaints	8
Reporting and Consequences of Non-Compliance.....	8
Policy Status	8
Related Policies	8
Annex A. Dealing with a Freedom of Information Request.....	9
Annex B. Exemptions.....	15
Annex C. Applying the Public Interest Test.....	20
Annex D. Charging	23

Introduction

1. The Freedom of Information Act 2000 (FOI Act 2000 (The Act));
 - 1.1. came into effect on 30 Nov 00 and
 - 1.2. gives, subject to certain exemptions, a general right of access to recorded information held by a public authority including Trusts / schools.
2. The Hawksmoor Learning Trust (THLT) is committed to;
 - 2.1. compliance with the FOI Act 2000,
 - 2.2. the principles of accountability and
 - 2.3. the general right of access to information.
3. This policy outlines the Trust's response to the Act and a framework for managing requests

Policy Scope

4. The purpose of this policy is to ensure;
 - 4.1. the Trust;
 - 4.1.1. complies with its duties under the FOI Act 2000
 - 4.1.2. handles requests in the appropriate manner and
 - 4.1.3. has a system in place, which will result in proactive publication of the information it has available.
 - 4.2. Trust staff will be able to recognise and respond appropriately to a valid request for information.
 - 4.3. Any person knows they can make a request and who to contact.

The Freedom of Information Act

5. The main features of the FOI ACT 2000:
 - 5.1. A general right of access to information held by public authorities.
 - 5.2. Sets out exemptions from the duty to provide information.
 - 5.3. Place a requirement on public authorities to exercise discretion; they may have to determine not only whether an exemption applies but also the extent to which it may apply (some exemptions are conditional and depend on where the balance of 'public interests lie').
 - 5.4. Make arrangements in respect of costs and fees.
 - 5.5. Places a duty on public authorities to adopt publication schemes.
 - 5.6. Public authorities must make arrangements for enforcement and appeal.
 - 5.7. Places a duty to provide advice and assistance to people who wish to make, or have made, requests for information.
6. The FOI Act 2000 legislation;
 - 6.1. is wholly retrospective and

- 6.2. applies to all information held by public authorities regardless of its date but
- 6.3. does not oblige public authorities to retain information which is no longer useful to the authority.
- 6.4. The FOI Act 2000 is overseen by the Information Commissioner who has the ability to;
 - 6.4.1. monitor organisational compliance,
 - 6.4.2. issue undertakings,
 - 6.4.3. serve information and enforcement notices and, if needed,
 - 6.4.4. initiate court proceedings to ensure compliance.

Obligations and Duties

- 7. The Trust recognises its duty to provide advice and assistance to anyone requesting information.
- 8. The Trust will;
 - 8.1. respond to straightforward verbal requests for day-to-day, business as usual information,
 - 8.2. help enquirers to put more complex verbal requests into writing so that they can be handled under the Act,
 - 8.3. tell enquirers whether or not it holds the information requested (the duty to confirm or deny) and
 - 8.4. provide access to the information held in accordance with the process laid down in **Annex A.**

Publication Scheme

- 9. The has adopted the Model Publication Scheme for Schools approved by the Information Commissioner.
- 10. The Publication Scheme, and the materials it covers, are readily available on THLT website.

Making a Freedom of Information Request

11. General

- 11.1. Any request for information from the Trust is technically a request under the FOI Act 2000, whether or not the individual making the request mentions the Act.
- 11.2. The Information Commissioner's Officer (ICO) has stated that day-to-day routine requests for information, which is classified as public, can be dealt with outside of the provisions of the Act.
- 11.3. Under Freedom of Information legislation, requests can be received in writing via email or a letter.
- 11.4. Freedom of Information;
 - 11.4.1. requests must contain;
 - a contact name,

- email address or
 - postal address but
- 11.4.2. enquirers do not have to provide;
- a reason why they want the information or
 - specifically state they are requesting information under the Act.
12. The Finance Director (FD) will;
- 12.1. liaise with the Data Protection Officer (DPO) and
- 12.2. manage all Freedom of Information (Fol) requests for information requested under statutory regulations whilst complying with other legal requirements eg the Data Protection Act 2018.
13. All Fol requests;
- 13.1. should be made in writing and sent to the FD (FD@THLT.Academy) and
- 13.2. received directly by schools should promptly be redirected to the FD.
14. Although decisions on disclosure should be made on a presumption of openness, the FOI Act 2000 recognises the need to;
- 14.1. preserve confidentiality and
- 14.2. protect sensitive material in some circumstances.
15. THLT may only withhold information in response to a valid request when one of the following applies:
- 15.1. an exemption to disclosure, or
- 15.2. the information sought is not held, or
- 15.3. the request is considered vexatious or repeated or
- 15.4. the cost of compliance exceeds the threshold.
16. If an individual wishes to obtain personal information that the Trust holds, this is done through a Subject Access Request. More information can be found by;
- 16.1. referring to the Trust's Data Protection Policy or
- 16.2. using the Information Commissioner's website (<http://ico.org.uk>).
17. When considering an Fol request, the FD will;
- 17.1. consult with the DPO Officer and
- 17.2. bear in mind that a release under FOI Act 2000 is treated as release to the general public; once data has been released to an individual, anyone can then access it, and future release cannot be restricted by marking the information 'confidential' or 'internal'

The duty to confirm or deny

18. A person applying for information has the right to;

- 18.1. be told if the information requested is held by the Trust and, if that is the case,
- 18.2. have the information sent (subject to any of the exemptions).
- 19. This obligation is known as the Trust's 'duty to confirm or deny' that it holds the information.
- 20. The Trust does not have to confirm or deny if:
 - 20.1. the exemption is an absolute exemption; or
 - 20.2. in the case of qualified exemptions confirming or denying would itself disclose exempted information

Exemptions

- 21. A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry.
- 22. Some exemptions;
 - 22.1. are very specialised in their application eg national security and
 - 22.2. would not usually be relevant to schools.
- 23. There are more than twenty exemptions but the Trust / Schools are likely to use only a few of them.
- 24. There are two general categories of exemptions:
 - 24.1. **Absolute:** where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest; and
 - 24.2. **Qualified:** where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.
- 25. There are eight absolute exemptions listed in the Act. Even where an absolute exemption applies:
 - 25.1. it does not mean that the Trust cannot disclose in all cases; it means that disclosure is not required by the Act and

Note. A decision could be taken to ignore the exemption and release the information taking into account all the facts of the case.
 - 25.2. there is still a legal obligation to provide reasonable advice and assistance to the enquirer.
- 26. A list of exemptions is set out in **Appendix 2.**

Protective Markings and Applying Exemptions

- 27. When considering if an exemption to disclosure should apply, 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.

Public Interest Test

- 28. Unless it is in the public interest to withhold information, it has to be released.

- 29. The Trust will apply the Public Interest Test before any qualified exemptions are applied.
- 30. Information on applying the Public Interest Test can be found at;
 - 30.1. Appendix C or
 - 30.2. the Information Commissioner’s guide

https://ico.org.uk/media/for-organisations/documents/1183/the_public_interest_test.pdf).

Charging

- 31. Most information will be freely available through the Trust / school website.
- 32. Initially, enquirers will be directed to the website if the information they request is available on it.
- 33. The Trust reserves the right to charge a fee for complying with requests for information under FOI Act 2000.
- 34. For information, other than that available through its website, the enquirer will be asked for payment of the charge before the information is supplied.
- 35. Fees.
 - 35.1. The fees, shown at Annex D, are according to FOI Act regulations.
 - 35.2. In cases where a charge will be made, a fees notice advising the requestor of the amount will be issued.
 - 35.3. Under Section 12 of the FOI Act, the Trust does not have to comply with a request for information if the estimated cost of compliance exceeds £450.

Responsibilities

- 36. The FD is responsible for ensuring compliance with the Freedom of Information Act.

Timescales for Responding to Requests

- 37. In line with good practice all FOI requests will be acknowledged by the FD within 3 working days.
- 38. After the initial acknowledgement, the FD will
 - 38.1. liaise with the DPO and
 - 38.2. if necessary, take further professional advice.
- 39. The Trust has a statutory requirement to respond to all requests;
 - 39.1. promptly and
 - 39.2. within 20 working days.
- 40. The 20 days are considered to start from the day after the request is received by the Trust / School and not when the request is forwarded on to the FD.
- 41. When calculating the 20 working days’ deadline a ‘working day’ is a school day (one in which students are in attendance), subject to an absolute maximum of 60 normal working days (not school days) to respond.

42. If the FD requires clarification of a request or if the Trust requests a fee for the information, the 20-day rule is suspended until the Data Protection Officer receives the clarification or receives the fee.
43. Further information on timescales can be found at the Information Commissioners website:
<https://ico.org.uk/media/fororganisations/documents/1165/time-for-compliance-foia-guidance.pdf>

Internal Reviews and Complaints

44. If the enquirer is unhappy with either the way the request has been handled or the response, they may appeal to the Trust for an internal review to be conducted into the response or the handling of the request.
45. Any requests for an internal review will be managed in accordance with the Trust's Complaints Policy sets out the complaints procedure to be followed and the timelines for dealing with and replying to complaints.
46. The Trust will maintain records of all complaints and their outcome.
47. 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 ICO: <http://ico.org.uk/complaints>, Helpline: 0303 123 1113.

Reporting and Consequences of Non-Compliance

48. All staff have a responsibility to ensure they comply with;
- 48.1. the Trust's statutory obligation under the Act and
 - 48.2. any policies and procedures laid down to ensure compliance.
49. Failure to comply with the Act may result in disciplinary action.

Policy Status

50. This policy does not form part of any employee's contract of employment.

Related Policies

51. This policy is related to the following other Trust policies:
- 51.1. Data Protection Policy and
 - 51.2. Complaints Policy

Date: 17 Apr 23

Jonathan Davis
 Trust Finance Director

Annex A. Dealing with a Freedom of Information Request

1. To handle a request for information the FD will liaise with the DPO and consider and apply the following:

Is it a Freedom of Information request for information?

2. A request for information may be covered by one, or all, of three information rights:
3. **Subject Access Requests.**
 - 3.1. Where the enquirer asks to see what personal information the Trust holds about the enquirer.
 - 3.2. If the enquiry is a subject access request, the Data Protection Policy will be followed.
4. **Environmental Information Regulations.**
 - 4.1. Where an enquiry relates to air, water, land, natural sites, built environment, flora and fauna, and health and any decisions and activities affecting any of these.
 - 4.2. These could therefore include enquiries about recycling, phone masts, school playing fields, car parking etc.
 - 4.3. If the enquiry is about environmental information, the guidance on the ICO website (<https://ico.org.uk/for-organisations/guide-to-the-environmental-informationregulations/>) or the gov.uk website (<http://www.legislation.gov.uk/ukxi/2004/3391/contents/made>) will be followed.
5. **Freedom of Information.**
 - 5.1. Fol enquiries are concerned with;
 - 5.1.1. all other information and
 - 5.1.2. the reasoning behind decisions and policies.
 - 5.2. 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 Freedom of Information Act.

Is this a valid Freedom of Information request for information?

6. An Fol request should;
 - 6.1. be in writing, including email or FAX,
 - 6.2. state the enquirer's name and correspondence address (email addresses are allowed),
 - 6.3. describe the information requested; there must be enough information to be able to identify and locate the information and
 - 6.4. not be covered by one of the other pieces of legislation.
7. Verbal enquiries are not covered by the FOI Act and, for more complex enquiries, and to avoid disputes over what was asked for, the enquirer should be asked to put the request in writing or email, when the request will become subject to the FOI Act.

Does the Trust hold the information?

- 8. 'Holding' information means information relating to the business of the Trust and its schools;
 - 8.1. the Trust / school has;
 - 8.1.1. created or
 - 8.1.2. received from another body or person or
 - 8.2. held by another body on the Trust's / School's behalf.
- 9. Information means both hard copy and digital information, including email.
- 10. If the Trust / School does not hold the information, the information does not have to be created or acquired just to answer the enquiry, although a reasonable search should be made before denying that the Trust has information the Trust / School might reasonably be expected to hold.

Has the information requested already been made public?

- 11. If the information requested is already in the public domain eg through the Trust's website, the FD will;
 - 11.1. direct the enquirer to the information and
 - 11.2. explain how to access it.

Is the request vexatious or manifestly unreasonable or repeated?

- 12. The Act states that there is no obligation to comply with vexatious requests.
- 13. A vexatious request;
 - 13.1. Is taken to mean a request which rather than to obtain information is designed to;
 - 13.1.1. cause;
 - inconvenience,
 - harassment or
 - expense and
 - 13.1.2. require a substantial diversion of resources or would otherwise undermine the work of the Trust / School¹ .
 - 13.2. does not provide an excuse to avoid replying due to bad records management.

Can the Trust transfer a request to another body?

- 14. If the information is held by another public authority, such as the Local Authority, the FD will first check with them they hold it, then transfer the request to them.
- 15. The enquirer will be notified;
 - 15.1. that the Trust does not hold the information and
 - 15.2. to whom the request has been transferred.

¹ It is not intended to include otherwise valid requests in which the applicant may make complaints or vent frustrations. In addition, you do not have to comply with repeated identical or substantially similar requests from the same applicant unless a "reasonable" interval has elapsed between requests.

16. The Trust will answer any parts of the enquiry in respect of information the Trust / School does hold.

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

17. Consultation with 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.
18. The Trust does not need to consult where it is not going to disclose the information because an exemption will be applied.
19. Consultation will be necessary where:
- 19.1. disclosure of information may affect the legal rights of a third party, such as;
 - 19.1.1. the right to have certain information treated in confidence or
 - 19.1.2. rights under Article 8 of the European Convention on Human Rights;
 - 19.2. the views of the third party may assist the Trust to determine;
 - 19.2.1. if information is exempt from disclosure, or
 - 19.2.2. if public interests apply.

Does an exemption apply?

20. The presumption of the legislation is that the Trust will disclose information unless the Act provides a specific reason to withhold it.
21. Exemptions are;
- 21.1. set out in Annex B and
 - 21.2. mainly intended to protect sensitive or confidential information.
22. Only where the FD & the DPO have real concerns about disclosing the information should the Trust look to see whether an exemption might apply.
23. Even then, where the potential exemption is a qualified exemption, the FD & the DPO need to consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.
24. Unless it is in the public interest to withhold the information, it has to be released.

Requests for Personal Information

25. Personal information requested by the subject of that information is exempt under the Act as such information is covered by the UK GDPR as a Subject Access Request.
26. Individuals must continue to make a 'subject access request' under the UK GDPR if they wish to access such information.

If the response contains personal information

27. Personal information requested by third parties is also exempt under the Act where release of that information would breach the UK GDPR.

28. If a request is made for a document eg meeting minutes which contain personal information whose release to a third party would breach the UK GDPR, the document may be issued by blanking out the relevant personal information as set out in the redaction procedure.
29. The procedure for redaction is;
 - 29.1. mask the passages which are not to be disclosed and photocopy,
 - 29.2. annotate in the margin against each blank passage, the exemption and section of the Act under which this passage is exempt,
 - 29.3. explain in the covering letter;
 - 29.3.1. that the relevant exemptions are marked in the attachments and in the case of non-absolute exemptions,
 - 29.3.2. how the public interest test has been considered.
30. On no account must you use the computer to rewrite the document or email and simply delete the exempted passages so that the resulting document appears as though they did not exist.
31. The one circumstance where this would be permissible would be where the only redacted parts are personal information such as people's names and the covering letter explains this.

Charges

32. The Act allows the Trust to charge for providing information. For further information, see **Annex D**.
33. The first step is to determine if the threshold (currently £450) would be exceeded.
34. The Trust;
 - 34.1. can take account of the costs of;
 - 34.1.1. determining if the information is held,
 - 34.1.2. locating and retrieving the information,
 - 34.1.3. extracting the information from other documents but
 - 34.2. cannot take into account the costs involved in determining whether information is exempt.
35. If a request would cost less than the appropriate limit (currently £450) the Trust can only charge for the cost of;
 - 35.1. informing the applicant whether the information is held and
 - 35.2. communicating the information to the applicant eg photocopying, printing and postage costs.
36. If a request would cost more than the appropriate limit (£450) the Trust can;
 - 36.1. turn the request down or
 - 36.2. answer and charge a fee or
 - 36.3. answer and waive the fee.

37. The Trust will respond to straightforward enquiries free of charge and charge where the costs are significant.
38. If a decision is made to charge, the FD must send the enquirer a fees notice and does not have to comply with the request until the fee has been paid

Time limit for replying to the enquirer

39. Compliance with a request must be prompt and certainly within the legally prescribed limit of twenty (20) working days, excluding school holidays; failure to comply could result in a complaint to the Information Commissioner.
40. The response time starts from the time the request is received.
41. Where the FD has asked the enquirer for more information to enable the enquiry to be answered, the twenty days start time begins when this further information has been received.
42. All requests are required to be signed off by the CEO before issue to an enquirer.
43. If a qualified exemption applies and more time is needed to consider the public interest test, the FD should reply within the twenty 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.
44. This should be within a 'reasonable' time – in practice, it is recommended that normally this should be within ten (10) working days.
45. Where the FD 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.

Action required to refuse a request

46. If the information is not to be provided, the FD must ensure that the;
 - 46.1. case has been properly considered and
 - 46.2. reasons for refusal are sound.
47. If it is decided to refuse a request, a refusals notice will be sent, which must contain:
 - 47.1. the fact that the responsible person cannot provide the information asked for,
 - 47.2. which exemption(s) the Trust is claiming apply,
 - 47.3. why the exemption(s) apply to this enquiry (if it is not self-evident),
 - 47.4. reasons for refusal if based on cost of compliance,
 - 47.5. reasons for refusal on vexatious or repeated grounds and
 - 47.6. the complaints procedure.
48. In the case of non-absolute exemptions, the refusal notice must explain how the Trust has applied the public interest test, specifying the public interest factors taken into account before reaching the decision.
49. 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 FD must keep a record of

all enquiries where all or part of the requested information is withheld and exemptions are claimed.

50. The record must include the reasons for the decision to withhold the information.
51. Records should be retained for five (5) years.

Complaints

52. Any written expression of dissatisfaction (including email), even if it does not specifically seek a review, should be handled through the Trust's Complaints Procedure.
53. 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.
54. When the outcome is that procedures within the Trust have not been properly followed, the Trust should review procedures to prevent any recurrence.
55. When the outcome upholds the Trust's original decision or action, the applicant should be informed of their right to appeal to the Information Commissioner. ICO Helpline: 0303 123 111

Annex B. Exemptions

Absolute Exemptions

1. The **absolute exemptions** in the Act are set out below. Those which might be relevant to the Trust/Academies are marked with an *:
2. **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 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.
3. **Information dealing with security matters (Section 23)** (see also qualified exemption under Section 24 on national security). This applies to information directly or indirectly supplied by, or relating to, bodies dealing with security matters such as GCHQ, MI5, MI6, Special Forces and the National Criminal Intelligence Service.
4. **Court records (Section 32)** (see also the qualified exemption under Section 30 concerning investigations and proceedings conducted by public authorities). This applies to information related to proceedings in a court or tribunal or served on a public authority for the purposes of proceedings.
5. **Parliamentary Privilege (Section 34).** This exempts information if it is required for the purpose of avoiding an infringement of the Parliamentary privilege. Parliamentary privilege is an immunity whereby MPs cannot be prosecuted for sedition or sued for libel or slander over anything said during proceedings in the House.
6. **Prejudice to the effective conduct of public affairs (Section 36).** See also the qualified exemption part of Section 36. This relates to the maintenance of the collective responsibility of Ministers.
7. **Personal information* (Section 40).** See also the qualified exemption part of Section 40. Where enquirers ask to see information about themselves, this is exempt under the Act because it is covered by the UK GDPR. See Data Protection Policy (subject access requests)
8. **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.
9. **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.

Qualified Exemptions

10. 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 information.
11. The **qualified exemptions** in the Act are set out below. Those which might be relevant to the Trust / Schools are marked with an *:
- 11.1. **Information intended for future publication*** (Section 22).
- 11.1.1. 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 publication².
- 11.1.2. This could apply;
- to statistics published at set intervals eg monthly or annually or
 - where:
 - information is incomplete and
 - it would be inappropriate to publish prematurely.
- Note. There is still a legal duty to provide reasonable advice and assistance.**
- 11.2. **National security** (Section 24) (see also absolute exemption 23) Information is exempt for the purposes of safeguarding national security.
- 11.3. **Defence** (Section 26). Information is exempt if its disclosure would prejudice the defence of the UK.
- 11.4. **International relations** (Section 27). Information is exempt if its disclosure would, or would be likely to, prejudice relations between the UK and any other state or international organisation.
- 11.5. **Relations within UK** (Section 28). Information is exempt if its disclosure would, or would be likely to, prejudice relations between any administrations in the UK, ie the Government, Scottish Administration, Northern Ireland Assembly or the National Assembly of Wales.
- 11.6. **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.
- 11.7. **Investigations and proceedings conducted by public authorities*** (Section 30).
- 11.7.1. Information is exempt if it has at any time been held by the Trust / Schools for the purposes of criminal investigations or proceedings, such as determining

² Note the following: the intended publication does not have to be by the Trust/Academy, it can be by another person or body on behalf of the Trust/Academy, the date of publication does not have to be known, it could be at some future date (although it is recommended that some idea of a likely date is given), the duty to confirm or deny does not apply if to do so would involve the disclosure of any of the relevant information

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.

11.7.2. The duty to confirm or deny does not apply to such information.

11.8. **Law enforcement*** (Section 31). Information which is not exempt under Section 30 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:

11.8.1. the prevention or detection of crime,

11.8.2. the apprehension or prosecution of offenders,

11.8.3. the administration of justice,

11.8.4. the exercise of functions such as;

- ascertaining if a person;
 - has broken the law,
 - is responsible for improper conduct,
- ascertaining
 - whether circumstances justify regulatory action,
 - a person's fitness or competence in relation to their profession,
 - the cause of an accident or
- protecting or recovering charities or its properties

11.8.5. any civil proceedings brought by or on behalf of the Trust which arise out of an investigation carried out for any of the purposes mentioned above.

11.9. **Audit Functions** (Section 33).

11.9.1. Information is exempt if its 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.

11.9.2. It does not apply to internal audit reports.

11.10. **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 (eg the Attorney General) and the operation of any Ministerial private office.

11.11. **Prejudice to the conduct of public affairs** (Section 36) (excluding matters covered by the absolute exemption part of 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.

- 11.12. **Communications with the King (Queen)*** (Section 37).
- 11.12.1. Information is exempt if it relates to communications with the King (Queen), the Royal Family or Royal Household or if it relates to the award of honours.
- 11.12.2. The duty to confirm or deny does not arise where this exemption applies.
- 11.13. **Health and Safety*** (Section 38).
- 11.13.1. Information is exempt if its disclosure would, or would be likely to, endanger the safety or physical or mental health of any individual.
- 11.13.2. The duty to confirm or deny does not arise where prejudice would result.
- 11.14. **Environmental information*** (Section 39).
- 11.14.1. Information is exempt under Freedom of Information where it is covered by the Environmental Information Regulations.
- 11.14.2. Environmental information can cover information relating to air, water, land, natural sites, built environment, flora and fauna, and health.
- 11.14.3. It also covers all information relating to decisions or activities affecting any of these.
- 11.15. **Personal information*** (Section 40) – see also the absolute exemption part of Section 40.
- 11.15.1. Where an individual seeks information about themselves, UK GDPR powers apply.
- 11.15.2. Where the information concerns a third party, it is exempt if its disclosure would contravene the UK GDPR, or its 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 UK GDPR.
- 11.15.3. 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.
- 11.16. **Legal professional privilege*** (Section 42).
- 11.16.1. Legal professional privilege covers any advice given by legal advisers, solicitors and barristers; generally such information will be privileged.
- 11.16.2. A school wishing to disclose the information will need to seek consent from the provider of the advice.
- 11.16.3. This exemption covers all such information where a claim to legal professional privilege can be maintained in legal proceedings.
- 11.16.4. The duty to confirm or deny does not arise where to do so would involve the disclosure of such information.
- 11.17. **Commercial interests* (Section 43).**

11.17.1. 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).

11.17.2. 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.

Confidentiality and Applying Exemptions

12. When considering if an exemption to disclosure should apply, the Trust will bear in mind that the presence of a confidential marking (eg Restricted, Confidential or Private) 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.

13. Timing

13.1. Where information has previously been withheld, it must not be assumed that any subsequent requests for the same information will also be refused.

13.2. Sensitivity of information decreases with age and the impact of any disclosure will be different depending on when the request is received.

13.3. Therefore, for each request, the Trust 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.

14. Next steps

14.1. In all cases, before writing to the enquirer, the FD / DPO will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound.

14.2. To help ensure this, every case of refusal is reviewed by the CEO.

Annex C. Applying the Public Interest Test

1. Having established that a qualified exemption definitely applies to a particular case, the Trust must carry out a public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.
2. 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

3. 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.
4. In most cases it will be relatively straightforward to decide where the balance of the public interest in disclosure lies. There will inevitably be cases where the decision is a difficult one.
5. Applying such a test depends to a high degree;
 - 5.1. on objective judgement,
 - 5.2. on a basic knowledge of the subject matter and
 - 5.3. its wider impact in the academy and possibly wider.
6. 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 academy?	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 academy in the use of public funds and help to show that it obtains value for money?	Is disclosure likely to cause unnecessary public alarm on 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 academy’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 academy’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:

7. Potential or actual embarrassment to, or loss of confidence in, the academy, staff, Trustees or governors is NOT a valid factor to consider.
8. The fact that the information is technical, complex to understand and may be misunderstood may not of itself be a reason to withhold information.
9. 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.
10. 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.
11. A decision not to release information may be perverse ie 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.
12. Coming to a decision.
 - 12.1. The Trust will record the answers to these questions and the reasons for these answers.
 - 12.2. Deciding on the public interest is not simply a matter of adding up the number of relevant factors on each side.
 - 12.3. The Trust will decide how important each factor is in the circumstances on make an overall assessment.
 - 12.4. This assessment will be reviewed by the CEO.

Decision for disclosure

13. 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

14. If it is decided, after carrying out the public interest test, that the exemption should still apply, the Trust will reply to the request with the appropriate reply under the circumstances.
15. There will be occasions when it has been decided that a qualified exemption applies but consideration of the public interest test may take longer.

16. In such a case, the Trust will contact the enquirer within the prescribed time limit stating that a particular exemption applies, but will include an estimate of the date by which a decision on the public interest test will be made.
17. Replies will be within a reasonable time, normally no more than 10 working days beyond the prescribed time limit.

Annex D. Charging

1. Different charges apply for requests under the Data Protection Act.

May we charge a fee?

2. The Freedom of Information Act does not require charges to be made but the Trust has discretion to charge applicants a fee in accordance with the Fees Regulations.

What are the costs that may be taken into account?

3. The Trust will take the following into account when calculating the estimated cost of complying with a request for information:
4. **Prescribed Costs.** The Trust may, for the purposes of its estimate, take into account only the costs it reasonably expects to incur in relation to the request in:
 - 4.1. determining whether it holds the information,
 - 4.2. locating the information, or a document which may contain the information,
 - 4.3. retrieving the information, or a document which may contain the information, and
 - 4.4. extracting the information from a document containing it.
5. Disbursements. These are any costs directly and reasonably incurred by the school in;
 - 5.1. informing the applicant whether it holds information of the description specified in the request and
 - 5.2. communicating the information to the applicant

Are there limits to the fee that can be charged?

6. Yes. If the Trust chooses to charge a fee for complying with a request for information, it must not be more than the sum of the;
 - 6.1. prescribed costs and
 - 6.2. disbursements.

What if the estimated costs exceed the cost limit of £450?

7. If the estimated cost of complying exceeds the cost limit the Trust is not required to comply with the request but may still choose to do so. The charge levied in such a case will be based upon the true costs to the Trust.
8. For all requests, the Trust has regard to the following points:
 - 8.1. The duty to provide advice and assistance to applicants. If the Trust plans to refuse a request on grounds of cost it will contact the enquirer in advance to discuss whether they would prefer the scope of the request to be modified so that it would cost less than the limit.
 - 8.2. The Regulations set out the maximum amount that can be charged. They do not set out a minimum charge nor prevent the Trust from charging no fee. The Trust will waive a fee for simple and straightforward requests.

May the costs be aggregated where there are multiple requests?

9. Where two or more requests are made to the Trust by different people who appear to be acting together or as part of a campaign, the estimated costs of complying with any of the requests is to be taken to be the estimated total cost of complying with them all, provided that;
 - 9.1. The;
 - 9.1.1. two or more requests referred to in that section are for information which is on the same subject matter or is otherwise related;
 - 9.1.2. last of the requests is received by the academy by the twentieth working day following the date of receipt of the first of the requests and
 - 9.2. it appears to the Trust 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.

How will the Trust inform the applicant of the fee?

10. Where the Trust intends to charge a fee for complying with a request for information, it 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.
11. Where a fees notice has been given to the person making the request, the Trust does not need to comply with the request unless the fee is paid within three months of the notice being received.