



FREEDOM OF INFORMATION POLICY

Summary

This document explains

- How the Freedom of Information Act applies to the school
- The approach the school takes to providing information routinely
- How a request for information can be made
- What action the school must take on receiving a request for information
- The circumstances when the school will not be able to provide information
- The timescales which the school must follow when dealing with a request for information
- The limited circumstances in which a request may be refused
- How to complain if you feel your request has been not handled correctly or turned down unreasonably
- The right to appeal to the Information Commissioner





FREEDOM OF INFORMATION ACT 2000

POLICY FOR DEALING WITH REQUESTS FOR INFORMATION

1. Legal Basis

The Freedom of Information Act 2000 provides a legal right for any person to ask a school for access to information held by that school. The Act adds to an existing framework of legislation on disclosure of information by the school. From the full implementation of the Act (1 January 2005) requests for information are made under:

- Freedom of Information Act
- Environmental Legislation
- Data Protection Act

The procedure below allows the governing body to comply with the Act and to inform all staff of the need to comply with the terms of the Act.

2. Procedure for requesting information

1. The Elmgreen School is already providing much information on request or has sought to make it available through such means as its website. This procedure is not designed to end the processes by which information is published and made available. The school wishes to promote openness and accountability and will seek to make the process for requesting information as straightforward as possible.
2. The governing body has delegated the day to day responsibility for Freedom of Information Act policy to the Headteacher, to whom. In the first instance requests should be addressed.. The Headteacher has nominated the Director Finance and Administration to be responsible for the administration of the procedures.
3. Requests for information must be made in writing which can include faxes and e-mails. The request does not have to specifically mention the Freedom of Information Act. The request must include:
 - The enquirers name and address (an email address is permissible)



- A description of the information requested
4. The school will then confirm whether or not it holds the information requested (duty to confirm or deny).
 5. The school will not provide the information requested if:
 - It does not hold the information
 - The information has already been made public e.g through the school website
 - The information is held by another body (the request will be transferred to them)
 - The duty to provide the information is subject to the exemptions in the Act
 - The request is vexatious or repeated
 - Personal information about a third party where its release would breach the Data Protection Act. In some cases it may be possible to remove personal references in a document using the redaction procedure.
 6. The school will provide the information requested if:
 - It is satisfied that the request falls within the terms of the Freedom of Information Act
 - It holds the information requested. Records and information are kept in accordance with statutory guidance where it exists or in accordance with the guidelines provided by the Records Management Society of Great Britain.
 - There is no breach of the Data Protection Act
 - No other exemptions apply.

Timescales

1. A request for information will be dealt with within 20 working days (excluding school holidays). The 20 day period is calculated from the date on which the request is received. If further information from the enquirer is needed the 20 day period commences from the date on which the additional information is received.
2. The receipt of the request will be acknowledged.
3. If there is a need to delay replying because of the need to consult a third party, an exemption may apply and time is needed to apply the public interest test then the enquirer should be informed, within the 20 day period of the delay. Normally the extension of time should not be more than 10 working days beyond the expiry of the original 20 days.
4. If a payment is required and the enquirer has been notified, the time period stops until payment is received and then continues once payment has been received.



Procedure in the event of a refusal to provide information

1. 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, you need to send a refusals notice, which must contain
 - the fact that the responsible person cannot provide the information asked for;
 - which exemption(s) you are claiming apply;
 - why the exemption(s) apply to this enquiry (if it is not self-evident);
 - reasons for refusal if based on cost of compliance
 - 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
 - reasons for refusal on vexatious or repeated grounds
 - the internal complaints procedure.

Complaints Procedure

1. 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. The school maintains records of all complaints and their outcome.
2. 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 should review procedures to prevent any recurrence. When the outcome upholds the school's original decision or action, the applicant should 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



Annex 1

Exemptions

1. 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 would not usually be relevant to schools. There are more than 20 exemptions but schools are likely to use only a few of them.

2. 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. These are likely to be rare for a school, but from time to time they may arise. Not all the exemptions given in the Act would apply in a school context. The following give an indication of the most likely.

- **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.
- **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 Data Protection Act. Consult your existing school Data Protection guidance.
- **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.
- **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: where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.

Not all the qualified exemptions given in the Act would apply in a school context. The following give an indication of the most likely.



- **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.
- **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:-
 - 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** (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.
- **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.
- **Environmental information** (Section 39) 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** (Section 40) – see also the absolute exemption part of Section 40 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** (Section 42). 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** (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 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.

The table below gives some indications of the arguments that may be used in applying the public interest test. The list is not exhaustive.

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?



Annex 2

Charging

The legislation provides the governing body with the right to make a charge for providing information. The Elmgreen School governing body will not make a charge for information that has previously been made available, nor will it make a charge for simply providing a single copy.

The governors are mindful of the use of public money and as such reserve the right to charge if:

Multiple documents have to be provided

There is more than one request for information

The gathering, copying, collation and dispatch of documents is likely to take more than 30 minutes.

Scale of Charges:

Copying (per sheet)	10p
Postage	£2.00
Administrative Charge (per 15 minutes)	£10
Multiple documents sent by email	£1.00

Enquirers will be informed if a charge applies and of what the total charge will be. The request will only be processed once the fee has been received.



Annex 3

Further Information

Key Organisations within Freedom of Information

- [The Department for Constitutional Affairs](#)
The DCA is the lead department responsible for Freedom of Information policy. Their site includes The Lord Chancellor's [Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of the FOI Act](#) (section 45) which provides guidance to public authorities on good practice when handling requests for information.
- [The Information Commissioner](#)
The Information Commissioner is the independent authority responsible for administering and enforcing the Act, including approval of publication schemes.
- [The Department for the Environment, Food and Rural Affairs](#)
DEFRA have responsibility for the [Environmental Information Regulations](#) which make specific provision for access to environmental information.
- [The National Archives](#)
TNA produces policy and guidance on records management, and on public records held in archives offices, to enable public authorities to meet their obligations under the Act.
- The Department for Education has guidance available for schools on its [Governorline website](#) and [Teachernet website](#) including retention schedule, checklist, powerpoint presentation and a summary leaflet for governors
- Governorline on 08000 722181 or at www.governorline.info

