



Freedom of Information Policy

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Date of Policy: Summer 2020

Next Review Date: Summer 2022

The School will ensure that the policy is applied fairly to all employees and does not have a negative impact in relation to the school's equality strands: race, sex, religion and belief, sexual orientation, age, disability, gender reassignment, marriage and civil partnership and pregnancy and maternity.

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1 Introduction

Alperton Community School is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 (FoIA) and the access provisions of the Data Protection Act 2018 (DPA). The School will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right to access to recorded information held by the School and that the School should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

2 Background

The FoIA applies to all public authorities and came fully into force on 1st January 2005. It provides the public with a statutory right of access to recorded information held by authorities, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1st January 2005. Section 19 of the Act also obliges the School to make information pro-actively available in the form of an approved “publication scheme”.

In addition, individuals currently have a statutory right of access to their own “personal data” under the DPA. Individual access rights to personal data are extended by the FoIA through amendments to the access provisions of the DPA.

The Environmental Information Regulations 2004 (EIR) provides a statutory right of access to “environmental information”, as defined in these regulations. The EIR came into force on 1st January 2005 and replaces the existing 1992 Regulations. The EIR are also fully retrospective.

The Government’s Information Commissioner enforces these three information regimes.

Each regime contains certain categories of exempt information, where information can be withheld. Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this policy, the “public” is defined as any individual or organisation anywhere in the world and an “information request” refers to any request for recorded information made under the FoIA, EIR or DPA.

3 Timescales

Freedom of Information requests should be dealt with within 20 working days, excluding school holidays. Requests under the DPA, Subject Access Requests (SAR) should be dealt with within one month from the date of the request. Requests for student education records should be dealt with under the terms of the DPA but with a response time of 15 days under the provisions laid out in

the Education (Pupil Information) (England) Regulations 2000.

The response time starts from the time the request is received. Where we need to ask for more information to enable us to answer, the 20 days start time begins when this further information has been received.

4 Delegated responsibilities

Overall responsibility for ensuring that the School meets the statutory requirements of the FoIA, EIR and DPA lies with the Governors and the Chair of Governors has overall responsibility for information management issues. They have delegated the day-to-day responsibility of implementation to the Headteacher.

The Headteacher is assisted by the schools' Data Protection Officer (DPO). All School staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the FoI officer where necessary.

5 Scope

This policy applies to all recorded information held by the School that relates to the business of the School. This includes:

- Information created and held by the School
- Information created by the School and held by another organisation on our behalf
- Information held by the School provided by third parties, where this relates to a function or business of the School (such as contractual information) and
- Information held by the School relating to Governors where the information relates to the functions or business of the School

This policy does not cover personal written communications (such as personal emails sent by staff). The School's Data Protection Policy establishes the standards regarding the use of "personal data" (as defined in the DPA).

6 Requesting information

6.1 Procedures

A request for information should be made in writing or by email (office@alperton.brent.sch.uk) and addressed for the attention of the Headteacher. The school will make reasonable efforts to provide the requested information though provision will very much depend on availability. Much of the information covered by the Publication Scheme will be provided on the website. Paper documents will be provided if requested, although there may be a charge for this. The school will respond to requests for information promptly and, in any event, normally within twenty working days.

The School has a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information. Although no such duty exists under the DPA, the same level of care will be provided.

6.2 Charges

The three information regimes contain different provisions that permit charges to be made for responding to information requests. The Governing Body may charge a fee for complying with requests, as calculated in accordance with FoIA regulations.

If a charge is to be made, the School will give written notice to the applicant before supplying the information requested.

The School will only charge for the cost of copying and transmitting information, not for time taken in reaching decisions regarding whether information is covered by an exemption.

Where the School estimates that the cost of locating the information will exceed the statutory threshold of £450, it will consider whether or not to comply with the request. The School is not obliged to comply with such a request but may choose to do so.

The DPA(2018) provides for a free of charge response to a subject access request. However, a charge can be levied at a “reasonable fee” for the administrative costs of complying with the request if:

- it is manifestly unfounded or excessive; or
- an individual requests further copies of their data following a request.

We will base the reasonable fee on the administrative costs of complying with the request. If we decide to charge a fee we will contact the individual promptly and inform them. You do not need to comply with the request until you have received the fee.

We can refuse to comply with a manifestly unfounded or excessive request.

6.3 Publication

Section 19 of the FoIA obliges the School to make information pro-actively available in the form of a “publication scheme”. This scheme will list categories, or “classes” of information that will routinely be made available without the need for a specific information request. The School will indicate in the scheme where it wishes to charge for providing particular categories of information. The scheme is published on the School’s website.

The School plans to review this scheme regularly. Whenever any information is provided in response to a recorded FoIA enquiry, the School will assess whether the information is suitable for wider publication. In general, there will be a presumption in favour of publishing such information on the School’s website.

7 Withholding Information

The Freedom of Information Act contains a number of exemptions whereby information can be withheld. The School will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, the School can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where the School decides that the public interest is best served by withholding the information.

Certain exemptions also contain a “prejudice test”, which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

The School will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption.

The School will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a “public interest” exemption is being considered, the School will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption the School will take into account whether the release of the information would:

- promote further understanding of current issues of public debate;
- promote the accountability of decisions taken by the School and the spending and allocation of public money;
- bring to light matters of public safety;
- allows the public to understand and challenge decisions made by the School;
- be otherwise in the public interest.

Where information is withheld under an exemption in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision through the School’s Governing Body and the right of appeal to the Information Commissioner’s Office.

Where a staff member plans to apply an exemption, he/she will consider whether other schools hold similar information. If this is considered likely, he/she may contact the relevant school(s) to ensure that a consistent response is provided to the applicant.

The School will also refuse to supply information under the FoIA, where the request is considered “vexatious” or “repeated” and under the EIR, where the request is considered ‘manifestly unreasonable’.

8 Releasing a third party’s information

Where, in response to a request, information belonging to a third party (either an individual or other organisation) has to be considered for release, the staff member that received the request will seek input from the Fol officer prior to the release of the information.

The release of third party information will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the DPA. Both the EIR and FoIA permit information to be withheld when its release would breach the provisions of the DPA.

When the requested information relates to a living individual and amounts to “personal data” as defined in the DPA, its disclosure could breach the DPA. Therefore the release of third party personal information relating to living individuals will be considered in accordance with the data protection principles and, in particular, the “third party” provisions of the DPA.

Where appropriate, the School will contact the individual to ask for permission to disclose the information. If consent is not obtained, either because it was not considered appropriate to approach the third party or the third party could not be contacted or consent is refused. The School will then consider if it is reasonable to disclose the information, taking into account:

- any duty of confidentiality owed to the third party
- the steps taken to seek consent
- whether the third party is able to give consent and
- any express refusal of consent

The decision to disclose third party information will also take into account the impact of disclosure on the third party, relative to the impact on the applicant of withholding the information. Where the third party has been acting in an official, rather than private capacity, the School will be minded to disclose the information, although decisions will be made on a case by case basis.

Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence the School’s decision whether to release the information. Where the information relates to a matter clearly private to the individual, e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. an expenses claim, the information will normally be released. The exemption relating to the release of a third party’s personal data will not be used to withhold information about administrative decisions taken by the School.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the Fol officer who will take advice from the Governing Body where necessary.

Where the third party is an organisation, rather than an individual, the provisions of DPA 1998 will not apply. The School will consider consulting the third party concerning the release of their information where:

- the views of the third party may assist the School to decide whether an exemption under the Act applies to the information and
- in the event of the public interest test being applied, where the views of the third party may assist the School to make a decision relating to where the public interest lies

Consultation will not be undertaken where:

- the School will not be disclosing the information due to some valid reason under the Act
- the School is satisfied that no exemption applies to the information and therefore cannot be withheld and
- the views of the third party will have no effect on the decision e.g. where there is other legislation preventing disclosure

Where input from a third party is required, the response time for the request remains the same. Therefore it will be made clear to the third party at the outset that they have a limited time for their views to be provided and that where responses are not immediate, the decision to disclose may have to be made without their input in order for the School to comply with the statutory time limits dictated by the legislation.

The School will endeavour to inform individuals and organisations submitting information that the information might be released following an information request and, where appropriate, will provide the supplier of the information opportunity to request confidentiality or supply reasons as to why the information should be treated confidentially.

9 Information held within contracts with the School

Any contractual information, or information obtained from organisations during the tendering process, held by the School are subject to the provisions of the FoIA and EIR. Whenever the School enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation. A standard form of wording will be included in contracts to cover the impact of FoIA and EIR in relation to the provision of information held in contracts.

The School can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where the School intends to include non-disclosure provisions in a contract, it will agree with the contractor a schedule of the contract that clearly states which information should not be disclosed.

The School will only agree to enter into confidentiality clauses where the information is confidential in nature and that it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FoIA may be relevant, relating to commercial interests. This exemption is subject to a “public interest” test. Whenever the School has to consider the release of such information, it will contact the relevant organisation to obtain its opinions on the release of

the information and any exemptions they may think relevant. However, the School will make the final decision relating to the disclosure of the information.

The School can also withhold information contained in contracts where any of the other exemptions listed in the FoIA or EIR are appropriate, although information will only be withheld in line with the School's policy on the use of exemptions. All future contracts should contain a clause obliging contractors to cooperate fully and in a timely manner where assistance is requested in responding to an FoIA or EIR request.

10 Complaints procedure

If the school does not comply with the Publication Scheme – for example by not making available documents it should, or delaying in providing them – a review of the school's actions can be requested by contacting the Governors, addressing the request to:

The Clerk to the Governors, Alperton Community School, Stanley Avenue, Wembley, Middlesex HA0 4JE Telephone 020 8902 2038.

If a person is dissatisfied with the outcome of the review, a complaint can be made to the

Information Commissioner: The Information Commissioner Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Telephone 01625 545 700 Fax 01625 545 510 Web www.ico.gov.uk

11 Requests made under the Data Protection Act

A Subject Access Request (SAR) is a request from a data subject to be provided with a copy of the personal data being processed by a Controller and an explanation of the purposes for which personal data is being used.

A complaint or general query about how personal data is being used does not constitute a SAR, for example a query about why marketing is being received or where you got someone's name from. A SAR is specifically when anyone asks to receive a copy of the personal data you may hold for them.

A subject access request under the DPA (2018) should be made to the Data Protection Officer (DPO) of the school. You can get details from the school office (office@alperton.brent.sch.uk). However, a request can be made to any staff member of the school and it will be dealt with by the DPO.

The DPA (2018) entitles an individual to his or her 'personal data', as defined in that Act, where the information is held on an automated system, such as a computer and also manual files, where they amount to what the DPA describes as an "accessible record" or in a structured filing system, defined in the DPA as a "relevant filing system".

Article 15 of the GDPR sets out the information that individuals have the right to be provided with. Broadly this covers providing information about:

- What personal data it is being processed
- The purposes for which the personal data is being
- Who the personal data has or will be disclosed
- The existence of any automated decision-making, including profiling. And, at least where this produces legal or similarly significant effects, what logic is being used for that purpose.
- How long the data will be retained for (or at least the criteria used to determine this)

In order for a formal SAR to be valid it must come from the individual themselves (or an authorised agent/parent/guardian) and needs to be accompanied by enough information to enable you to extract the personal data pertaining to the individual from your systems.

We will need to establish that the individual asking for the information is who they say they are, to avoid the damage of inadvertently disclosing personal information to the wrong person.

If the information the individual has provided in their request is insufficient, we will request further details and request proof of ID (if the requester is an employee or ex employee this may not be necessary if it is obvious to you who they are) or request proof of relationship/authority (for example if information is requested about a child or by an agent)

- ask if they are interested in specific information (if they request ALL personal data you cannot restrict this)
- ask what their relationship is with your organisation
- ask if they wish to see CCTV images of them (if relevant) and request a photograph, description of clothes worn, dates of visits etc.
- ask if they require the information to be provided in writing or whether they will accept it in an electronic form

If required we will seek clarification on any SAR. The date of the SAR will start after any clarification has been agreed. We will formally respond to the SAR within one calendar month of the request.

The parental right to receive information pertaining to the “educational record” of their child should continue to be administered under the Education (Pupil Information) (England) Regulations 2000. Whenever a request for personal data is received and is not covered by these regulations, the request will be administered in accordance with the relevant section of the School’s FoIA operating procedures.

Whenever a request is made under the DPA for personal data, the School will provide the applicant with the relevant information contained within files relating to that individual that is accessible under both the DPA and FoIA, subject to any exemptions.

Where it is not possible to remove third party information without rendering the response useless to the individual, the provision of third party information will be considered in line with section 7 of this policy regarding the disclosure of third party information.

The DPA contains the provision for numerous types of exemption. Therefore, whenever a member of staff is considering applying for an exemption, he/she will seek the opinion of the FoI officer.

12 Illegal actions

It is a criminal offence under any of the three information regimes for members of staff to alter, deface or remove any record (including e-mails) following receipt of an information request. Both the FoIA and EIR contain specific provisions to make such action a criminal offence.

13 Monitoring, Evaluation and Review

The Governing Body will review this policy at least every two years and assess its implementation and effectiveness.