

# FREEDOM OF INFORMATION & ENVIROMENTAL INFORMATION REGULATIONS POLICY

(INCLUDING PUBLICATION SCHEME)



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This is the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations Policy and School Publication Scheme on information available under FOIA Act 2000 and Environmental Information Regulations 2004 (EIR).

The governing body is responsible for maintenance of this scheme.

### **1. Background**

The Freedom of Information Act 2000 is that public authorities, including all schools and academies, should be clear and proactive about the information they will make public.

Our school is required to comply with the provisions of the FOIA/EIR and related legislation. This provides a general entitlement to any person to be able to access information held by our school, subject to exemptions and exceptions laid down by the relevant legislation.

### **2. Scope**

This policy applies to all information held by school regardless of how it was created or received. It applies irrespective of the media on which the information is stored and whether the information is recorded on paper or held electronically. The legislation is retrospective and thus information is capable of being accessible no matter how old it may be. Similarly, information in draft form will also be capable of being accessible under the legislation.

This policy and publication scheme is a means of showing how we are pursuing these aims.

To do this we are required under the FOIA to produce a publication scheme, setting out the following:

- The classes of information which we publish or intend to publish;
- The manner in which the information will be published; and
- Whether the information is available free of charge or on payment.

The scheme commits the School to proactively publish or make available as a matter of routine certain information, including environmental information, which the School holds. The scheme covers information already published and information which is to be published in the future including datasets. All information in our publication scheme is available in paper or electronic form. Some information which we hold may not be made public, for example personal information relating to individual pupils and staff.

It should be noted that access to personal information (that is information from which a living individual can be identified) and pupils' educational records is governed by the Data Protection Act 1998. Requests for access to such information will be governed in line with the requirements of this legislation

The school has adopted the attached model publication scheme approved by the Information Commissioner Office (ICO) together with the attached definition document for governing bodies of maintained and other state-funded schools in England.

### **3. Categories of information published**

The attached publication scheme guides you to information which we currently publish (or have recently published) or which we will publish in the future. This is split into categories of information known as 'classes'. The classes of information that we undertake to make available are organised into four broad topic areas (**See appendix A**):

1. Who we are and what we do

2. What we spend and how we spend it
3. What our priorities are and how we are doing
4. Our policies and procedures

#### **4 Dealing with Requests**

We have a duty under FOIA to advise and assist any person wishing to make a request for information. We are required to deal with requests within statutory timescales, which means that a response will be made promptly but in any event no more than 20 working (school) days from the date of request. Exceptionally if despite all attempts we are unable to provide the information within the 20 working (school) day period we will contact you and explain the reason for the delay and give an indication of when we anticipate a response will be sent.

If repeated or vexatious requests for information are made the school may refuse to provide the information.

If the information requested falls within an exemption or exception permitted under the legislation we are still required to provide advice and assistance and will consider providing information of a generic nature.

Any request in writing will be considered a Freedom of Information request including those received by email, fax, text, social media e.g. twitter. There is no requirement for requests to indicate that they are made under the Act and all requests will be dealt with under this policy.

We will provide the information free of charge but will make a charge for postage if applicable. We reserve the right to refuse requests where the cost of locating and retrieving (but not redacting) the information would exceed the statutory maximum (currently £450). However, under our duty to advise and assist, before we refuse requests we will invite requestors to reduce the scope of their requests in an attempt to ensure the costs do not exceed the statutory maximum and we can provide the information free of charge.

- Environmental Information Regulations – applies to all data that explains the way in which the schools and its operations interact with the wider environment. The environment is the air, water, soil, flora and fauna, land and landscape around us. Environmental information will also cover our impact on the conditions of human life and on the built environment which we inhabit. The Regulations apply to all recorded information in "written, visual, aural, electronic or any other material form". Requests under the EIR (2004) do not need to be made in writing; however a written record should be made of any verbal requests that are received and that different exemptions apply but the response time is 20 working (school) days (**See appendix C**)
- Responses to requests from an individual for information the school holds about them (subject access requests) should be dealt within 40 calendar days.
- Responses to requests for Pupils' Education Records should be sent within 15 school days.

#### **5 Withholding Information Exemptions Under FOIA and Exceptions under EIR**

Exceptionally certain information can be withheld. The Freedom of Information Act contains 23 exemptions whereby information is permitted to be withheld. There are two categories of exemptions; absolute and qualified. The School can only withhold information if it falls within the scope of one or more of these exemptions. (**See appendix B**)

Where an absolute exemption applies, the School can withhold the information. Where the exemption is qualified the information can only be withheld where the School decides that the public interest in withholding the information outweighs the public interest in disclosing it.

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 has a duty to advise and assist and even though an exemption applies the School will consider whether it can provide some generic information in response to the request.

#### **Exceptions under EIR: (See appendix C)**

#### **6 Releasing a third party's information**

The release of third party information e.g. pupil or staff personal data, 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. In response to a request for information containing third party details e.g. that of a pupil or staff member, consideration will be given to redacting or anonymising the information to ensure third party individuals are not able to be identified.

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 or other personal matter, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. a teaching matter or school matter, the information will normally be released.

#### **7 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 under the relevant legislation.

Whenever the School has to consider the release of such information, it will consult the relevant organisation to obtain its opinions on the release of the information and any exemptions they consider relevant and the reasons. 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 co-operate fully and in a timely manner where assistance is requested in responding to an FoIA or EIR request.

## **8 Relationship with the Data Protection Act 1998**

We are under a legal duty to protect personal data under the Data Protection Act 1998. We are required to consider our responsibilities under this Act before releasing personal information about living individuals, including current and former employees and pupils.

## **9 Responsibilities**

We recognise our responsibility to make information available in accordance with the Freedom of Information Act and EIR. Responsibility for compliance with this and related policies will rest with the Governing Body who will delegate those responsibilities to the Headteacher. Complaints regarding the use of this policy should be directed to the Governing Body.

We have a responsibility to ensure that any request for information we receive is dealt with under the Act and in compliance with this policy. All school staff are responsible for good information handling practice, for implementing records management policies and procedures as appropriate to their post.

## **10 Adopting and Maintaining the Publication Scheme**

Eldwick Primary School has adopted the attached ICO Model Publication Scheme in accordance with Section 19 of the Freedom of Information Act and is committed to updating and maintaining it to keep it current and relevant. The Publication Scheme contains many of the documents, policies, plans and guidance which may regularly be requested. Material contained within the publication scheme is readily available on the Schools website. School staff will give advice and assistance on how to use the scheme as appropriate.

## **11 Paying for Information**

Single copies of information covered by this publication are provided free unless stated otherwise in Section 15. If your request means that we have to do a lot of photocopying or printing, or pay a large postage charge, or is for a priced item such as some printed publications or videos we will let you know the cost in advance before fulfilling your request.

## **12 Feedback and Complaints**

We welcome any comments or suggestions you may have about the policy or the scheme. If you want to make any comments about this policy or the publication scheme or if you require further assistance or wish to make a complaint then initially this should be addressed to the Headteacher.

## **13 For advice and assistance please contact the Business Manager**

## **14 Information Commissioner's Office**

If you are not satisfied with the assistance that you get or if we have not been able to resolve your complaint and you feel that a formal complaint needs to be made then this should be addressed to the Information Commissioner's Office. This is the independent official body that ensures compliance with the Freedom of Information Act 2000 and EIR and that deals with formal complaints.

They can be contacted at:

Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

For your complaint to be eligible for further consideration they will usually need you to provide them with supporting information or evidence.

If you are still unsure what supporting evidence you will need to send to them, are not able to provide the information they need, or are unable to complete a form, please contact their Helpline on 0303 123 1113. Call us between 9am and 5pm Monday to Friday.

Telephone: (From the UK) 0303 123 1113 or 01625 545745

E-mail: First Contact team at [casework@ico.gsi.gov.uk](mailto:casework@ico.gsi.gov.uk)

Website: <https://www.ico.gov.uk>

## Appendix A

### Classes of Information Currently Published

<b>1. School Prospectus - This section sets out specific information published on the school website, in accordance with the School Information (England) (Amendment) Regulations 2012</b>	
<b>Class</b>	<b>Description</b>
<b>School Prospectus / Website</b>	<p>The statutory contents of the school prospectus are as follows, (other items may be included in the prospectus at the school's discretion):</p> <ol style="list-style-type: none"> <li>1. The name, postal address and telephone number of the school, and the name of a person to whom enquiries should be addressed.</li> <li>2. Either—               <ol style="list-style-type: none"> <li>(a) the determined admission arrangements for the school in relation to each relevant age group at the school, including any arrangements for selection, any oversubscription criteria and an explanation of the process of applying for a school place; or</li> <li>(b) information as to where and by what means parents may access that information in the local authority's composite prospectus published on their website.</li> </ol> </li> <li>3. Information as to where and by what means parents may access the most recent report about the school published by her Majesty's Chief Inspector of Education, Children's Services and Skills.</li> <li>4. The school's most recent key stage 2 results as published by the Secretary of State under the following column headings in the School Performance Tables published on the Department for Education's website:               <ol style="list-style-type: none"> <li>(a) "% achieving Level 4 or above in English and Maths";</li> <li>(b) "% making expected progress";</li> <li>(c) in relation to English, "% achieving Level 5 or above"; and</li> <li>(d) in relation to Maths, "% achieving Level 5 or above".</li> </ol> </li> <li>5. Information as to where and by what means parents may access the School Performance Tables published by the Secretary of State on the Department for Education's website.</li> <li>8. The amount of the school's allocation from the Pupil Premium grant in respect of the current academic year; details of how it is intended that the allocation will be spent; details of how the previous academic year's allocation was spent, and the effect of this expenditure on the educational attainment of those pupils at the school in respect of whom grant funding was allocated.</li> <li>9. The report prepared by the school under section 317(5)(a) of EA 1996 (duties of governing bodies in relation to special educational needs).</li> </ol>

	10. The school's charging and remissions policy determined by them under section 457 of EA 1996. 11. A statement of the school's ethos and values."
<b>2. Governors' Documents – This section gives information published in the Governors Annual Report and in other governing body documents</b>	
Instrument of Government	<ul style="list-style-type: none"> <li>• The name of the school</li> <li>• The category of the school</li> <li>• The name of the governing body</li> <li>• The manner in which the governing body is constituted</li> <li>• The term of office of each category of governor if less than 4 years</li> <li>• The name of any body entitled to appoint any category of governor</li> <li>• The date the instrument takes effect</li> </ul>
Minutes of meeting of the governing body and its committees	Agreed minutes of meetings of the governing body and its committees [current and last full academic school year]
<b>3. Pupils and Curriculum Policies - This section gives access to information about policies that relate to pupils and the school curriculum.</b>	
<b>Class</b>	<b>Description</b>
Home – school agreement	Statement of the school's aims and values, the school's responsibilities, the parental responsibilities and the school's expectations of its pupils for example homework arrangements
Curriculum Policy	Statement on following the policy for the secular curriculum subjects and religious education and schemes of work and syllabuses currently used by the school
Sex & Relationship Education Policy	Statement of policy with regard to sex and relationship education
Inclusion Policy	Information about the school's policy on providing Inclusive education.
Accessibility Plans	Plan for increasing participation of disabled pupils in the school's curriculum, improving the accessibility of the physical environment and improving delivery of information to disabled pupils.
Race Equality Policy	Statement of policy for promoting race equality
Child Protection Policy	Statement of policy for safeguarding and promoting welfare of pupils at the school. (from March 2004)
Pupil Discipline	Statement of general principles on behaviour and discipline and of measures taken by the head teacher to prevent bullying.
<b>4. School Policies and other information related to the school</b>	
This section gives access to information about policies that relate to the school in general.	
<b>Class</b>	<b>Description</b>
Published reports of Ofsted referring	Published report of the last inspection of the school and the summary of the report and where appropriate



expressly to the school	inspection reports of religious education in those schools designated as having a religious character
Post-Ofsted inspection action plan	A plan setting out the actions required following the last Ofsted inspection and where appropriate an action plan following inspection of religious education where the school is designated as having a religious character
Charging and Remissions Policies	A statement of the school's policy with respect to charges and remissions for any optional extra or board and lodging for which charges are permitted, for example school publications, music tuition, trips
School session times and term dates	Details of school session and dates of school terms and holidays
Health and Safety Policy and risk assessment	Statement of general policy with respect to health and safety at work of employees (and others) and the organisation and arrangements for carrying out the policy
Complaints procedure	Policy and procedures for dealing with complaints
Performance Management of Staff	Policy and procedures adopted by the governing body relating to the performance management of staff
Staff Conduct, Discipline and Grievance	Policy and procedure for regulating conduct and discipline of school staff and procedures by which staff may seek redress for grievance
Curriculum circulars and statutory instruments	Any statutory instruments, departmental circulars and administrative memoranda sent by the Department of Education and Skills to the head teacher or governing body relating to the curriculum

If the information you're looking for isn't available via the scheme you can still contact the school to ask if we have it [\[insert school's contact details\]](#)

## **Appendix B**

### LIST OF EXEMPTIONS UNDER FREEDOM OF INFORMATION ACT

Exemptions provide discretionary exceptions to the public's right of access to information held by the University under the terms of the Freedom of Information Act 2000. There are 23 exemptions provided under the Act that are either absolute or conditional in their effect, which are as follows:

#### **Absolute Exemptions**

Exemptions that are wholly exempt in their application include:

- Information accessible to the applicant by other means (s21)
- Information supplied by, or relating to, bodies dealing with security matters (s23)
- Information relating to Court records (s32)
- Parliamentary privilege (s34)
- Information provided in confidence (s41) and
- Information prohibited from disclosure by any other piece of legislation or enactment (s44)

Exemptions that are absolute only in part include:

- Information that would prejudice the effective conduct of public affairs (s36), and
- Personal information (s40)

#### **Conditional Exemptions**

Exemptions requiring the application of a public interest test include:

- Information intended for future publication (s22)
- National Security (s24)
- Investigations and proceedings conducted by public authorities (s30)
- Formulation of Government Policy (s35)
- Communications with Her Majesty and honours (s37)
- Health and Safety (s38)
- Environmental information (s39)
- Legal professional privilege (s42)

Exemptions requiring the application of a public interest test and/or a prejudice test include:

- Defence (s26)
- International relations (s27)

- Relations within the United Kingdom (s28)
- The economy (s29)
- Law enforcement (s31)
- Audit Functions (s33)
- Commercial Interests (s43)

## Appendix C

### LIST OF EXCEPTIONS UNDER ENVIRONMENTAL INFORMATION REGULATIONS

There is a presumption under the Regulations that environmental information must be released, unless there are strong public interest considerations to justify withholding it [outweighing the public interest in release].

Regulation 12 of the Regulations lays down the exceptions under which a public authority can withhold information. A request for information can be refused if:

Regulations 12 (3) & 13 Covers Personal Data

Regulations 12 (4) exceptions: Where are **Class Base** exception is claimed there is no need to demonstrate any prejudice or harm to any particular interest in order to engage the exception

Reg. 12 (4) (a) The information is not held

Reg. 12 (4) (b) The request is manifestly unreasonable (Nuisance)

Reg. 12 (4) (c) The request is too general

Reg. 12 (4) (d) The request is for unfinished documents/data

Reg. 12 (2) (e) The request is for internal communications

Public authorities can refuse to release information in order to protect:

Regulations 12 (5) are **Prejudice Base** exceptions: For this exception under the EIR the following wording is used: Disclosure would, or would be likely to prejudice...interest or factors specified in the exception. Prejudice base exceptions only comes into play if a particular disclosure would prejudice the purpose of the exception

Reg. 12 (5) (a) International relations/public security/defence

Reg. 12 (5) (b) The course of justice and right to a fair trial

Reg. 12 (5) (c) Intellectual property rights

Reg. 12 (5) (d) The confidentiality of proceedings

Reg. 12 (5) (e) Commercial confidentiality

Reg. 12 (5) (f) Personal/voluntary data

Reg. 12 (5) (g) The environment

If information relates to emissions the authority cannot refuse information on the grounds of:

**R.12 (5) (d)** confidentiality of proceedings,

**R.12 (5) (e)** commercial confidentiality,

**R.12 (5) (f)** personal/voluntary data or

**R.12 (5) (g)** environmental protection.