



**Freedom of Information Policy**

**Introduction**

One of the aims of the Freedom of Information Act 2000 (which is referred to as FOIA in the rest of this document) is that public authorities, including all maintained schools, should be clear and proactive about the information they will make public.

To do this we must produce a publication scheme, setting out:

- 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 covers information already published and information which is to be published in the future. All information in our publication scheme is available in paper form.

Some information which we hold may not be made public, for example personal information.

This publication scheme conforms to the model scheme for schools approved by the Information Commissioner.

**Principles**

- The school has a duty to provide advice and assistance to anyone requesting information. Enquirers do not have to say why they want the information and the request does not have to mention FOIA.
- The FOIA presumes openness but it recognises the need to protect sensitive information in certain circumstances and provides for exemptions. Even where certain exemptions apply, information must still be released if it is in the public interest to do so.
- Our Governing Body has chosen to charge a fee for complying with a request for information. This fee will be calculated according to FOI regulations and the person will be notified of the charge before the information is supplied. The Governors of Millfield Primary School will follow DFE recommendations and respond to straightforward enquiries free of charge but charge where the costs are significant.
- There are prescribed time limits for responding to requests for information and a well managed record and information system will enable the school to reply promptly to requests.
- Wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence and so the governing body, or any person who is employed by, or is an officer of, or is subject to the direction of the governing body may be at risk of criminal proceedings where such unlawful concealment

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damage or destruction occurs. Therefore it is important that no action is taken to delete or amend records that are subject to a request for information.

There are only four reasons for not complying with a valid request for information under FOIA.

- The information is not held
- The cost threshold is reached We reserve the right to refuse to supply information where the cost of doing so exceeds the statutory maximum, currently £450
- The request is considered vexatious or repeated.
- One or more of the exemptions apply.

FOIA provides a series of exemptions. Some of the exemptions are absolute and some are qualified, in that they can be overridden by the public interest test.

### **Responsibilities**

The Head-teacher will ensure that all staff are made aware of this policy and the process by which requests for information will be met. The head teacher also has day -to-day responsibility for FOIA policy and the provision of advice, guidance, publicity and interpretation of the school's policy.

The head teacher will ensure that a well managed records management and information system exists in order to comply with requests and ensure that a record of refusals and reasons for refusals is kept, allowing the Governing Body to review its access policy on an annual basis.

The Chair of Governors of Millfield Primary School acts as individual governor for FOIA, to provide a single point of reference, co-ordinate FOIA and related policies and procedures, take a view on possibly sensitive areas and together with the Head-teacher, consider what information and training may be needed.

### **Procedures**

Requests for information must be made in writing, which includes the enquirers name and correspondence address and can be via fax or E mail, to the school office / Head-teacher. All requests for information that are not covered by the Data Protection Act 1988 or Environmental Information Regulations 1992 are covered by FOIA. The enquirer must describe the information that they are seeking and do so in sufficient detail that we can identify and locate the desired information.

Verbal enquiries are not covered by the FOI act. Such enquiries can be dealt with where the enquiry is relatively straightforward and can be dealt with satisfactorily. However, for more complex enquiries, and to avoid disputes over what was asked for, the enquirer will be asked to put the request in writing or Email, when the request will become subject to FOIA.

The enquirer is entitled to be told whether the school holds the information ( this is known as the duty to confirm or deny) and, if so, to have access to it. Access can include providing extracts of a document or a summary of the information sought, or access to the original document.

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“ Holding” information means information relating to the business of the school:

- The school has created, or
- The school has received from another body or person, or
- Held by another body on the school’s behalf.

Information means both hard copy and digital information, including Email.

If we do not hold the information, we do not have to create or acquire it just to answer the enquiry, although a reasonable search should be made before we state that we do not have the information we might be expected to hold. If the information requested is already in the public domain, the enquirer can be directed to the information and an explanation given on how to access it.

If the information is held by another public authority, such as the local authority, a check with them will be made first to determine whether they hold it, then the request will be transferred to them. The enquirer will be notified that we do not hold the information and to whom we have transferred the request. However, we will answer any parts of the enquiry in respect of information our school does hold.

### **Exemptions**

The Act recognises the need to preserve confidentiality of sensitive information in some circumstances and sets out a number of exemptions. Many of the exemptions are intended to protect sensitive or confidential information. Only where we have real concerns about disclosing information should we see whether an exemption applies. There is a public interest test. If the public interest in applying the exemption outweighs the public interest in disclosing it then the exemption is upheld. (Applying the public interest test is attached as an annex at the end of this policy.) However, some of the exemptions are there simply to avoid the legal position where two pieces of law cover the same information request, or where the information is already available by some other means. These include:

A) Information accessible by other means

B) Personal Information - Individuals may continue to make a “subject access request” under the Data Protection Act  
-these are where the enquirer asks to see what personal information the school holds about themselves.

### **Personal Information**

Personal information requested by the subject is exempt under the FOI Act as such information is covered by the Data Protection Act. Individuals must, therefore, continue to make a “subject access request” under the Data Protection Act.

If a request is made for a document (e.g. Governing Body Minutes) which contains personal information whose release to a third party would breach the Data Protection Act, the document may be issued by blanking out the relevant personal information as set out in the redaction procedure.

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### **Vexatious, Unreasonable or Repeated Requests**

The Act states that there is no obligation to comply with vexatious requests. This is taken to mean a request which is designed to cause inconvenience, harassment or expense rather than to obtain information, and would require a substantial diversion of resources or would otherwise undermine the work of the school. Valid requests in which the applicant may make a complaint can be dealt with either through this procedure or via the complaints procedure. The applicant will be given the choice depending upon the arguments laid out.

Repeated identical or substantially similar requests from the same applicant do not need to be complied with unless a “reasonable” interval has elapsed between requests.

Refusal to comply on the above grounds however does not provide an excuse for bad records management.

### **Charging**

A charge will be made for complying with requests for information. The applicant will be notified in writing (the “fees notice”) stating that a fee of the amount specified in the notice is to be charged for complying. Where a fees notice has been given to the person making the request, the request does not need to be complied with unless the fee is paid within three months of the notice being received.

The following points must be taken into account when calculating the estimated cost of complying with a request for information:

- The prescribed costs - these are costs reasonably incurred by the school:
- In determining whether we hold information of the description specified in the request.
- In locating and retrieving the information and in meeting the applicant’s preference for communicating the information.
- The cost of associated staff time. This does not include the cost of staff time incurred in determining whether the school is obliged to comply with the request for information
- The disbursements  
These are any costs directly and reasonably incurred by the school in: Informing the applicant whether we hold information of the description specified in the request.
- Communicating the information to the applicant.

The charge for complying with a request for information must not be more than the sum of the prescribed costs and disbursements.

An upper threshold for charges will apply. This has been set at £450.

If the estimated cost of complying exceeds the threshold we are not required to comply with the request but may choose to do so. If we choose to comply with a request where the estimated cost exceeds the threshold we should calculate the charge as follows:

10% of the prescribed cost for the first £450 + the prescribed costs over £450+ the disbursements

Where two or more requests are made to the school by different people who appear to be acting together or as part of a campaign the estimated cost of complying with any of the requests is to taken to be the estimated total cost of complying with them all, provided that:

- a) the two or more requests referred to in that section are for information which is on the same subject matter or is otherwise related.
- b) The last of the requests is received by the school before the twentieth working day following the date of receipt of the first of the requests and
- c) It appears to the school 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.

### **Time Frame For Responding to a Request for Information**

Compliance with a request must be prompt and certainly within a legally prescribed limit of 20 working days, excluding school holidays. Failure to comply could result in a complaint to the Information Commissioner. The response time starts from the time the request is received. Where we have asked the enquirer for more information to enable us to answer, the 20 days start time begins when this further information has been received.

If a qualified exemption applies and we need more time to consider the public interest test, we 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.

This should be within a reasonable time- in practice, it is recommended that normally this should be within 10 working days.

Where we have notified the enquirer that a change is to be made to supply the information, the time period stops until payment is received and then continues again once payment has been received.

### **Refusal of a request**

If the information is not to be provided, the person dealing with the request must immediately contact the Head-teacher 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, a refusal notice needs to be sent, which must contain:

- i) the fact that the responsible person cannot provide the information asked for;
- ii) which exemptions we are claiming apply;
- iii) why the exemptions apply to this enquiry (if it is not self-evident);
- iv) reasons for refusal if based on cost of compliance;

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- v) in the case of non-absolute exemptions, how we have applied the public interest test, specifying the public interest factors taken into account before reaching the decision ( see Annex C )
- vi) reasons for refusal on vexatious or repeated grounds
- vii) the internal complaints procedure.

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 responsible person ( Head-teacher) must keep a record of all enquiries where all or part of the requested information is withheld and exemptions are claimed.

The record must include the reasons for the decisions to withhold the information. Records should be retained for 5 years . There are no requirements to keep records where we have supplied the information requested.

### **Complaints**

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 which should be fair and impartial. The procedure should be clear and non-bureaucratic. Wherever practicable the review should be handled by someone not involved in the original decision. The Governing Body will set and publish a target time for determining complaints ( eg. within 6 months of receipt of a complaint) and information on the success rate in meeting the target. The school should maintain records of all complaints and their outcome.

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:

**FOIA Compliance Team (Complaints )**  
**Wycliffe House,**  
**Water Lane,**  
**Wilmslow,**  
**Cheshire.**  
**SK9 5AF**

### **Monitoring and review**

The Governor Body will review this policy every three years or when necessary should significant issues be brought to the Governor's attention through the report of the Head teacher or at such time as there are significant changes to national guidance.

Mr. S. Kelly - September 2104

Date of next review: September 2017

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