

Freedom of Information Policy & Procedure

Review Date: September 2023

Review by: Pastoral, Safeguarding, Wellbeing Committee

Final Approval: Pastoral, Safeguarding, Wellbeing Committee

Academy Context

The Core Values of the Academy which relate specifically to this policy state that we are working together to form relationships based on

- Truth - everyone is required to be honest and to communicate in a positive manner
- Responsibility - everyone is expected to understand the consequences of their actions
- Justice - everyone is entitled to be treated fairly and to promote the self-esteem of others

Such values contribute to our common purpose of “Striving for high-quality education with a strong Christian ethos”, and underpin, data practices within the Academy.

Contents

Academy Context	1
1. Introduction	2
2. Managing requests	2
3. Other regimes.....	3
Personal Data	3
The Environmental Information Regulations 2004 (“EIRs”).....	3
4. Responsibilities	3
5. The Freedom of Information (FOI) Publication Scheme.....	4
6. Fees	4
7. Provision of information	5
8. Advice and assistance	5
9. Procedure for making a request	5
10. Exemptions.....	5
11. Consultation with Third Parties.....	6
12. Refusal of requests	6
13. Internal review process.....	6
14. The Information Commissioner	7
15. Reasonable adjustments and alternative formats	7
16. Contacts.....	7
Annex 1: Procedure for Managing Freedom of Information Requests	8
1. Freedom of Information resources.....	8

2. Procedure overview	8
3. Receiving a request.....	8
4. Clarifying a request.....	9
5. Applying an Exemption	9
6. Assembling the response	10
7. Communicating the response	11
8. Complaints and consulting the ICO	11

1. Introduction

The Freedom of Information Act 2000 (“FoIA”) is an Act of Parliament that sets out a public “right to know” in relation to public bodies, including Schools, Academies, Multi-Academy Trusts, and other educational establishments. The FoIA also sets out certain exemptions to those rights.

The purpose of the Freedom of Information Policy (‘the Policy’) is to outline the approach of Bishop Stopford School (‘the School’) in its FoIA obligations to create a climate of openness and dialogue with its stakeholders and the general public.

This Policy applies to all staff including all permanent, temporary and contract workers employed or engaged by the Academy and any third-party organisations or service providers while at work or engaged on our behalf and any members of the public who request information under the FoIA.

2. Managing requests

The Academy is included in the definition of a public authority under Schedule 1 of the FoIA.

The Academy is required to respond to requests for information. Information is defined in the FoIA as meaning “information recorded in any form.” This is interpreted as including paper records, e-mails, information stored on a computer, voicemail messages, handwritten notes, or any other form of recorded information. Information, which is known to staff, but not recorded, is not covered by the FoIA.

All official information that is recorded is covered by the FoIA, irrespective of classification or format.

The dedicated routes for Freedom of Information (Fol) requests are:

- by email to: aharwood@bishopstopford.com or dposervice@schoolspeople.co.uk
- by post to: Bishop Stopford School, Headlands, Kettering, Northamptonshire NN15 6BJ

Staff who receive written requests for information under the FoIA (including any requests which do not specifically mention the FoIA) must forward these immediately to aharwood@bishopstopford.com

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Where an oral request is made, the requester should be advised to put their request in writing.

The FoIA imposes strict time limits for dealing with a request for information. The Academy will issue a response within 20 working days (not including weekends, bank holidays in any part of the four nations of the UK, and school holidays), from the date upon which the written request is received unless:

- I. clarification of the request has been sought from the requester. In which case the clock starts ticking the day after receipt of clarification; or,
- II. an extension to the statutory timescales is sought by the Academy under *Section 10(3) of the FoIA*, where it requires additional time to consider whether to release information covered by a qualified exemption.

3. Other regimes

Personal Data

Under

sections 40 (1) & (2) of the FoIA the Academy is generally exempt from the duty to provide access to personal data.

Data protection legislation including the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act (2018), govern the rights of individuals concerning their personal data, including rights of access.

Any application for access to personal information of which the requester is the subject will be classed as a request under data protection legislation and treated accordingly. The requester will be advised to this effect.

Application for personal data from third parties will be assessed in line with the regulation and treated accordingly

The Environmental Information Regulations 2004 (“EIRs”)

The Environmental Information Regulations 2004 provide public access to environmental information held by public authorities and deal specifically with information relating to any decisions, activities and policy formulation that may have an impact on the environment.

The Regulations do this in two ways:

- public authorities must make environmental information available proactively
- members of the public are entitled to request environmental information from public authorities.

All requests for environmental information will be handled in a similar manner as requests for information made under the FoIA.

However, the regulations do not specify that requests must be in writing. This means that Staff should be aware that any face-to-face or telephone requests on environmental matters will be valid.

The Academy will put in place a system to record verbal requests received.

4. Responsibilities

The Academy will:

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- Put in place a clear procedure for dealing with Freedom of Information requests. This procedure is attached as Annex 1.
- Follow any additional guidance from the Information Commissioner’s Office (ICO) produced subsequently to this policy.
- Appoint and maintain a Freedom of Information Officer to provide guidance and support in meeting requests under such legislation. (See Section 16, below)
- Ensure that the Freedom of Information Officer is aware of any requests received by the Academy.
- Provide access to information to allow requests to be met, in line with legislation.
- Take advice from the Freedom of Information Officer concerning the management of requests.
- Ensure that all requests are suitably documented including the rationale for any information that is withheld.
- Ensure that the response to a request is made within 20 working days.

The Freedom of Information Officer will:

- Provide guidance and support to the Academy in dealing with Freedom of Information (Fol) request
- Work with the Data Protection Officer to ensure that any responses to requests do not contravene the provisions of the Data Protection Act (2018)
- Provide a route of communication to the Information Commissioner’s Office in the event of a dispute about the response to a request.
- The Data Protection Officer will provide support and guidance to separate personal data from responses to Fol requests

5. The Freedom of Information (FOI) Publication Scheme

Under the FoIA, all public authorities are obliged to adopt and maintain a Publication Scheme specifying:

- the classes of information that they publish or intend to publish; and
- how the information is or will be published.

The Academy’s Fol Publication Scheme can be found on the schools website.

Additionally, a copy can be requested by contacting the Academy either by email or the postal address stated in section 2 above.

The FOI Publication Scheme requires the Academy to publish information covered by the scheme. The scheme sets out the Academy’s commitment to making certain classes of information routinely available, including certain policies and procedures, minutes of meetings, annual reports and financial information.

The Academy will periodically review the Fol Publication Scheme and make amendments and updates where appropriate.

6. Fees

Where possible, the Academy will not charge requesters a fee for complying with requests. However, it reserves the right to do so. If the Academy determines that a fee will be charged for complying with the request, a fee notice will be issued to the applicant following section 9 of the FoIA.

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Freedom of Information Policy & Procedure	4 of 13	Implementation Date: September 2022	Version 2
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7. Provision of information

The Academy will seek to provide the requested information, subject to the application of any absolute or qualified exemption under the FoIA.

In responding to requests for information, the Academy will have regard to any preferences expressed by the requester as to the form of communication. Where it is not reasonably practicable to comply with any preference expressed, the Academy will notify the requester of the reasons for this determination.

8. Advice and assistance

The Academy has a duty, as far as it is reasonable to do so, to give advice and assistance to anyone who has made a request or is considering making one.

9. Procedure for making a request

Individuals are required to make an FoI request in writing – in the form of a letter or email. Requests via the Academies official Social Media channels must also be accepted as written requests. Requests may also be made via third-party websites such as <https://www.whatdotheyknow.com/>

The request at a minimum must contain the requesters:

- Full Name
- Address in the physical world. An email address alone is not sufficient.
- Address for correspondence (if different)
- Description of the specific information they are seeking.

Requests need not refer to/quote FOI legislation (but it may be helpful to do so). Requesters should address their requests to the School Office. The Academy may contact the requester to clarify the terms/scope of the request and to give advice and assistance as needed.

10. Exemptions

Where information is held by the Academy, the information will not be withheld unless:

- an exemption to disclosure under Part II of the FoIA applies
- it would cost too much to comply with the request
- the request is considered vexatious; and/ or
- the request is repeated/repetitive.

The exemptions to disclosure are set out in the FoIA and include non-disclosure in matters of a sensitive commercial nature or where disclosure would prejudice the effective conduct of public affairs.

Some of the FoIA exemptions are absolute exemptions, and include:

- security matters
- information prohibited from disclosure by other legislation
- if disclosure would result in a breach of confidence that would be actionable

If an absolute exemption applies, then the Academy does not need to release the information.

The remaining exemptions are qualified exemptions that require the Academy to apply the public interest test in deciding whether to release the information. In considering the public interest, the Academy will consider:

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- whether the public interest in maintaining the exclusion of the duty to confirm or deny that information is held outweighs the public interest in disclosing whether the Academy holds the information; and/or
- whether the public interest in withholding the information outweighs the public interest in releasing it.
- Where the public interest test is relevant, the Academy will apply it separately to each piece of potentially exempt information.
- Where a document cannot be released in its entirety, the Academy will endeavour to release what it can, in as intelligible a format as possible.
- Where information is not held, the Academy will seek to provide appropriate advice and assistance to the requester.

11. Consultation with Third Parties

The Academy may consult with a third party if:

- the views of that third party may assist the Academy to determine whether an exemption under the FoIA applies to the information requested; and/or
- where the views of the third party may assist the Academy to determine where the public interest lies under section 2 of the FoIA.

12. Refusal of requests

Where the Academy refuses a request, it will give the requester a notice setting out the reasons for the refusal.

When any written request is refused, the Academy will notify the requester of the internal review process and their right under *Section 50 of the FoIA* to apply to the Information Commissioner for a Decision Notice.

The Academy reserves the right to refuse to respond to a request for information if it exceeds the value of £450 to process in terms of staff time and disbursements. The £450 is calculated to be 18 hours of staff time based on an hourly rate of £25 per hour, which is provided for by *Regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004*.

13. Internal review process

If a requester is unhappy with:

- how their request has been handled
- is dissatisfied with the decision made regarding the disclosure or non-disclosure of information; and/or
- is of the opinion that the Academy is not compliant with its Publication Scheme, they may request an internal review.

All responses issued under an FoI request will include details on how to request such an internal review. The Chair of Trustees has overall responsibility for the internal review procedure. The Chair of Trustees will be the internal reviewer unless they are unable to undertake the review due to circumstances such as, but not limited to, absence, illness, or prior involvement. If the Chair of Trustees is unable to undertake the review, an alternative internal reviewer will be appointed, and the requester duly notified. The internal reviewer will review the way the request was dealt with and is empowered to either uphold or overturn the original decision. The Academy will only consider requests for an internal review which are made within 2 months of the date of the response to the requester. The requester will be

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notified as to the outcome within a reasonable timescale. The Academy aims to deal with internal reviews within 20 working days of receipt thereof. If it becomes clear at any stage of the internal review that the Academy will not be able to meet this target, the requester will be notified.

14. The Information Commissioner

The Information Commissioner's Office ("ICO") is the UK's independent authority set up to promote access to official information. If the requester remains dissatisfied with the decision made as a result of the internal review procedure, they can, under section 50 of the FoIA, complain to the Information Commissioner by writing to the ICO at Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF. (www.ico.org.uk) and apply for a decision as to whether the request has been dealt with following the requirements of Part 1 of the FoIA.

A Decision Notice will be served if the Information Commissioner decides that the Academy has failed to:

- communicate information
- confirm or deny where required to do so by section 1(1) of the FoIA
- comply with requirements of section 11 of the FoIA (which refers to the manner of communication in response to a request for information); or,
- comply with any of the requirements of section 17 of the FoIA (which refers to the refusal of a request for information).

The Decision Notice will specify the steps, which must be taken by the Academy to comply with the FoIA and the timescale for compliance.

The Information Commissioner can serve an Information Notice on the Academy requiring the provision of specified information to him/her (unless legal professional privilege applies). If the Information Commissioner is satisfied that the Academy has failed to comply with any of the requirements under Part 1 of the FoIA, they may serve an Enforcement Notice requiring the Academy to take steps within a specified time to comply with those requirements.

All public authorities may appeal to the First-Tier Tribunal (Information Rights) against Decision Notices and Information and Enforcement Notices.

15. Reasonable adjustments and alternative formats

The Academy is committed to equal opportunities and aims to make this Policy easy to use and accessible to all. The Academy will take reasonable steps to accommodate any reasonable adjustments require to:

- enable access to this Policy
- provide responses to requests in other formats; or,
- provide such assistance as may reasonably be required.

Should a copy of this Policy be required in an alternative format, such as audio or large print, please contact Arthur Harwood. Email: aharwood@bishopstopford.com

16. Contacts

Data Protection/FoI Officer: Dee Whitmore. Email: DPOService@SchoolsPeople.co.uk

FoI Lead (Internal). Arthur Harwood. Email: aharwood@bishopstopford.com

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Related Internal Documents

- Data Protection Policy
- FoI Publication Schedule

Relevant Legislation

[Freedom of Information Act \(2000\)](#)

[Data Protection Act \(2018\)](#)

[Freedom of Information and Data Protection \(Appropriate Limit and Fees\) Regulations \(2004\).](#)

[Environmental Information Regulations \(2004\)](#)

Annex 1: Procedure for Managing Freedom of Information Requests

1. Freedom of Information resources

Information accessible through a Freedom of Information request is by its nature related to the administration of the Academy.

If the Academy receives an FOI request it should seek advice from the Academy's FoI Officer

2. Procedure overview

The procedure for managing Freedom of Information Act (FoIA) requests needs to be implemented in detail by the management team across the Academy. These procedures need to take into account the following stages and requirements.

The actions described in this section are by no means exhaustive. The Academy may establish further detailed procedures and work instructions. Where this happens, they will be referred to in the main body of this policy.

- Receiving a request
- Clarifying a request
- Application of exemptions
- Assembling the response
- Communicating the response
- Complaints and dealing with the ICO

3. Receiving a request.

Requests under the FoIA are required to be in writing. This includes any social media channel made available by the Academy.

To be considered valid a FoIA request must include:

- The legal name of the requestor
- A physical address for the requestor
- The details of the information sought

A request that does not meet these basic requirements cannot be ignored and must be handled based on the requirements in Section 4 of this policy.

There is no intrinsic requirement to verify the name given by the person making the request. However, if the Academy believes that a false name is being used as part of a repeated or vexatious request, it may seek suitable evidence from the requestor to demonstrate that they have used their real name.

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All requests must be recorded at the point of receipt and the Freedom of Information Officer should be informed.

4. Clarifying a request

Although the FOIA has been in force since 2005 there is frequently a misunderstanding about its application. The Academy has a duty under *Section 16 of the Freedom of Information Act* to provide advice and assistance to an individual making a request. This means that the Academy cannot ignore a request that does not fully meet the specifications listed in Part 3 above. Instead, it has a responsibility to reach out to the requestor to clarify the request that is being made.

There are several reasons for a request to need clarification, the following examples are common but not exhaustive:

- The request is for personal data or a mixture of organisational and personal data
- The request is not specific enough to be actioned
- The request is for data covered by the Environmental Information Regulations

In the case that the request is not clear, the Freedom of Information Officer should be consulted.

The Freedom of Information Officer may advise the Academy of the best action to take or may communicate directly with the requestor.

Where necessary the Freedom of Information Officer will work with the Data Protection Officer to separate requests for personal data.

Where communication with the requestor is required, the time for delivering the response does not commence until the Academy has had answers to its questions of clarification. Any requests for clarification will be recorded in detail.

If the requestor does not provide the required clarification for the request to become valid the Academy can record the attempt to seek clarification and consider the request closed. In some situations, a request may be considered vexatious. In these circumstances, the Academy can refuse to meet the request. In the case that the Academy feels that a request is vexatious, it must seek the advice of the Freedom of Information Officer who will make a final determination on whether the request must be answered. This determination will be based on the history of the request and the specific guidance on vexatious requests published by the Information Commissioner's Office.

Any refusal of a request on the grounds of being vexatious will be recorded in detail.

5. Applying an Exemption

At this point, there is a properly framed request for information from the Academy. The Academy's publication scheme should be checked to see if the data is already made public. If it is already in the public domain, the requestor can simply be referred to that published data.

The majority of exemptions do not apply to the Academy. However, some notable examples are:

- Section 36: Prejudice the effective conduct of public affairs
- Section 38: Endangering Health and Safety
- Section 40: Personal Information

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- Section 41: Confidentiality
- Section 43: Trade secrets and prejudice to commercial interests
- Section 44: Prohibitions on disclosure

Some of these exemptions are absolute while others are subject to both a prejudice test and a public interest test.

Particularly with the exemptions around personal information, the result can be a request that can only be met in part.

The application of the exemption in *Section 36 of the FoIA* would require a decision at the highest level of management - the Governing Board.

Where a Governing Board decision is required, this will be dealt with by the Chairs' Committee.

Application of any exemptions other than those in *Section 40* of the FoIA should not be undertaken without consulting the Freedom of Information Officer.

Any use of an exemption should be documented. Where the exemption is not absolute this documentation must include the evaluation of the prejudice and public interest tests.

The FoIA includes clauses on the amount of work it is reasonable to undertake to meet a request. For the Academy, this limit is £450. The majority of this cost is likely to be based on administrative costs. This must be accounted for at the rate of £25 per hour irrespective of who carries out the request. There may also be costs associated with retrieving and manipulating the information required.

In the case of a large request, the Academy will undertake an exercise to estimate the potential cost of responding. If the cost is estimated at over £450 the Academy can take this forward as an exemption.

Alternatively, the Academy may communicate with the requestor to determine if they are willing to accept the cost above £450 or whether they can reduce the scope of the request. If the requestor agrees to pay the difference between the £450 limit and the estimated cost, the collation of the information should not commence until payment has been received from the requestor this initiates the 20-working day delivery period.

If the Academy is proposing to make a charge for providing information, then the rationale for the estimate must be documented as this may be required if the requestor complains about the scale of the charge.

6. Assembling the response

Once decisions have been made about whether a blanket exemption is going to be applied then any remaining information can be gathered.

In general, the deliverables from a request include a statement of whether the requested information exists and then the relevant information itself.

It is important to recognise that the FoIA can only provide access to information and documents that exist at the time of the request. For example, if an individual asks for minutes of a meeting to discuss potential overspends at the Academy, and no such meeting has taken place there is no data to provide.

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Some requestors, understanding this stipulation will ask for notes and emails relating to a particular subject as well as specific items like minutes. If data has not been collected about a particular subject, even if it could be collected, there is no requirement to begin collection to meet the request.

It is during this phase of assembling the response that questions arise about whether the data would be classed as personal data relating to a third party (not the requestor). It is important to bear in mind that the definition of personal data under the terms of the *Data Protection Act (2018)* is extremely broad and the full range of data must be considered. This is especially the case with the addition of the term 'identifiable' to the definition. In general, personal data would be exempt from release, although there are some circumstances where the legitimate interest of disclosure would outweigh the protection provided to the individual.

In any circumstances where there is a question over whether information represents personal data, the Freedom of Information Officer will consult with the Data Protection Officer. The Data Protection Officer will have the final judgement on whether any of the information is personal data and will advise the Academy about to potential application of Legitimate Interest disclosure.

There is a requirement for the response to an FoI request to be delivered within 20 working days. This period commences once a valid request has been received. Unlike subject access requests, weekends, bank holidays and school holidays are not included in the calculation.

7. Communicating the response

The response to a request should be in writing and delivered to the address provided by the requestor.

If the volume of results is large and the requestor provided a postal address, the Academy may ask the requestor if they are willing to accept electronic delivery.

Fulfilment should clearly state the response to all points in the request and both confirm or deny the information is held (unless an exemption to confirmation has been used) and then state whatever information is available for that question.

In situations where the requested information is withheld and the duty to confirm the existence of the information is in place, the Academy needs to provide an overview of the reasons for the data being withheld. This overview must be sufficiently detailed to permit the requestor to base a complaint upon the decision.

Details of how a complaint should be provided. This might first refer to the Freedom of Information Officer and include the contact details for the ICO.

A copy of the information provided should be retained for six (6) years after the completion of the request.

8. Complaints and consulting the ICO

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When a requestor is unhappy with the way that a request has been dealt with, they have the right to raise a complaint with the ICO (Information Commissioners Office). This complaint must be founded on the process by which the response has been made unless there is a question of the veracity of the information release.

Complaints are often based on issues such as:

- The time taken to fulfil a request
- Missing information expected by the requestor
- Whether applied exemptions are appropriate

If a complaint is received, the Freedom of Information Officer must be informed and consulted, and notification should be made to Academy Board. The potential for a decision being made against the Academy by the ICO to produce negative publicity is high.

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Annex 2: FOI Request Flow Chart

