Lady Joanna Thornhill (Endowed) Primary School

Learning for the Head, Heart and Hand

Freedom of Information Policy

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Date reviewed	September 2026
Date of next review	September 2027
Reviewer	Privacy Culture
Co-chairs of Governors	James Coumbe
Version 4.0	

(This policy will be reviewed at least annually and/or following any updates to national and local guidance and procedures)

It is the responsibility of the Governors to ensure procedures are in place to ensure that the school handles information requests covered by the Freedom of Information Act 2000 (FoI), the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018) and the Environmental Information Regulations 2004 (EIR) in accordance with the provisions laid out therein and that the school satisfies the standards set out in the Lord Chancellor's Code of Practice on satisfying public authorities obligations under the FoI, produced under section 45 of that Act.

Introduction

The School is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 and the access provisions of the GDPR. The School will make all reasonable efforts 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 reasonable 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.

The staff are instructed to work in accordance with the GDPR legislation and training given on how to handle information requests under the FoI regime.

Background

The FoI applies to all public authorities and came fully into force on 1 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 1 January 2005. Section 19 of the Act also obliges public authorities 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 GDPR. Individual access rights to personal data are extended by the FoI through amendments to the access provisions of the GDPR.

The Environmental Information Regulations provide a statutory right of access to "environmental information", as defined in these regulations. EIR enquiries are those which relate to air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these. These could therefore include enquiries about recycling, phone masts, school playing fields, car parking et.

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 FoI, EIR or GDPR.

Timescales

Freedom of Information requests should be dealt with within 20 working days, excluding school holidays.

Requests for pupil education records should be dealt with within 15 school days.
Data Subject Rights Requests should be handled as set out in the Data Protection Policy and the Data Subject Rights Request Procedure.

Delegated responsibilities

Overall responsibility for ensuring that the School meets the statutory requirements of the FoI, EIR and GDPR 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 Finance & HR Manager who currently fulfils the role of 'FoI officer'. 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.

The Data Protection Officer (DPO) provides independent advice on data protection obligations, monitors compliance, and acts as the point of contact with the Information Commissioner's Office (ICO). All subject access requests (SARs) and privacy-related complaints must be referred to the DPO.

All staff handling personal data or information requests shall complete regular training on data protection, FOI, and EIR procedures. The School will maintain training records and audit staff understanding periodically.

Scope

This policy distinguishes between public access rights under the Freedom of Information Act 2000 and individual access rights under the UK GDPR and Data Protection Act 2018. Each request will be triaged to identify the appropriate legal regime.

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 e-mails sent by staff). The School's Data Protection Policy establishes the standards regarding the use of "personal data" (as defined in the GDPR).

Requesting information

a) Procedures

Practical procedures for handling information enquiries in line with the relevant legislation will be produced and copies can be obtained from the School's FoI Officer.

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

b) Charges
The three information regimes contain different provisions that permit charges to be made for responding to information requests. The Governing Board may charge a fee for complying with requests, as calculated in accordance with FoI 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, 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.

c) Publication
Section 19 of the FoI 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 shall review this scheme regularly. Whenever any information is provided in response to a recorded FoI 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.

Withholding Information

The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories; absolute and non-absolute. 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 an information disclosure presents a high risk to individuals' rights and freedoms, the School will consider conducting a suitable privacy impact assessments before responding.

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 FoI, where the request is considered "vexatious" or "repeated" and under the EIR, where the request is considered 'manifestly unreasonable'.

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 FoI 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 GDPR. Both the EIR and FoI permit information to be withheld when its release would breach the provisions of the GDPR.

When the requested information relates to a living individual and amounts to "personal data" as defined in the GDPR, its disclosure could breach the GDPR. 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 GDPR.

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 GDPR 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, eg 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, eg 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 GDPR only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoI will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the FoI officer who will take advice from the Governing Body where necessary. In complex cases a referral can be made to the DPO.

Where the third party is an organisation, rather than an individual, the provisions of the GDPR 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.

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 FoI 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 FoI and EIR in relation to the provision of information held in contracts.

The School can withhold contractual information where its disclosure under either the FoI 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 FoI 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 FoI 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 FoI or EIR request.

Complaints procedure

Whenever the School withholds information under an exemption, or for any other reason, it will inform the applicant of their right to complain about the decision through the School's complaints procedure and of the right of appeal to the Information Commissioner. The DPO will oversee all privacy-related complaints and cooperate fully with the Information Commissioner's Office (ICO) in investigations or audits. Any complaint received will be dealt with in accordance with the School's complaints procedure as detailed in its Complaints Policy which is available from the school's website. If the result of the complaint is that any decision to withhold information be overturned, this information will be supplied as soon as it is possible.

If the outcome is that the School's original decision or action is upheld, then the applicant can appeal to the Information Commissioner. The appeal can be made via their website or in writing to:
Customer Contact
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Note: for complaints specifically about the handling of personal data (as opposed to FoI/EIR requests), individuals also have a statutory right under the Data Protection Act 2018 to complain directly to the School, which will acknowledge such complaints within 30 days and respond without undue delay; this does not replace the right to complain to the ICO.

Requests made under the GDPR

The data protection principles, the definition of personal data, and individuals' rights that apply to any request for personal data are set out in full in the School's Data Protection Policy. Where a request is made for personal data, the School will handle it in accordance with that policy and its Data Subject Rights Request Procedure, subject to the FoI-specific process set out below.

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 2005. [C1][PC2]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 FOI operating procedures.

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 emails) following receipt of an information request. Both the FoI and EIR contain specific provisions to make such action a criminal offence.

Retention and Disposal of Information Requests

The School will retain records of all Freedom of Information, Environmental Information, and GDPR information requests, including correspondence, decisions, and disclosures, in line with its Records Retention Policy.

These records will be kept in line with schools retention period after which they will be securely deleted or archived. Personal data disclosed in response to requests will be handled and disposed of in accordance with the UK GDPR principles, ensuring confidentiality, integrity, and appropriate disposal.

Review of the Policy

This policy is scheduled for review by the Headteacher and Governing Board. Any issues or queries raised should be addressed to the headteacher.