



Freedom of Information Policy

Version 1.0

Important: This document can only be considered valid when viewed on the VLE. If this document has been printed or saved to another location, you must check that the version number on your copy matches that of the document online.	
Name and Title of Author:	Lisa Pipes, Director of Human Resources
Name of Responsible Committee/Individual:	Board of Directors
Implementation Date:	12 November 2015
Review Date:	Within two years

Contents

	Page
Policy Statement	3
1. Scope	3
2. Roles and Responsibilities	3
3. Equality and Diversity	4
4. Vision and Values	4
5. Managing Requests	4
6. Exemptions	5
7. Public Interest Test	5
8. Charging	6
9. Refusing a Request	6
10. Complaints	8
11. Monitoring Compliance With and Effectiveness of this Policy	8
12. Associated Documentation	8
13. Review	8

POLICY STATEMENT

The Education Alliance takes its responsibilities regarding the 7 principles of public life (otherwise known as the 'Nolan Principles') seriously and this policy details its approach to accountability and access to information as required by the Freedom of Information Act 2000. The policy outlines the Trust's approach and framework for achieving its legal and statutory requirements in maintaining an appropriate level of openness and transparency. The 7 principles of public life were published in May 1995 and they include selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

In the spirit of openness and transparency, the Trust routinely publishes a range of information via its website, hard copy publications, and other forms of communication. Requests for additional information are managed in accordance with the statutory guidance and legal requirements.

1. SCOPE

The FOI Act sits alongside other legal frameworks, such as the Data Protection Act 1998 and the Environmental Information Regulations. Requests for personal information are covered by the Data Protection Act (DPA) and individuals can request to see the information the Trust holds about them via a Subject Access Request (SAR). Requests for information relating to the environment are covered by the Environmental Information Regulations (EIR). FOI covers any recorded information held by the Trust, including printed documents, computer files, letters, emails, photographs and sound or video recordings. FOI information may be held by the Trust in official documents, drafts, emails, notes, recordings of telephone conversations and CCTV recordings. It does not cover information that is known or understood, but not recorded.

2. ROLES AND RESPONSIBILITIES

The **Board of Directors** is responsible for monitoring the effectiveness of this policy, ensuring that a clear, structured approach that adheres to legal and statutory requirements is applied consistently across the Trust.

The **Executive Principal** is responsible for ensuring that staff and managers adhere to this policy and that all FOI requests are logged and responded to appropriately and within legally established timeframes.

Heads of School are responsible for ensuring they work with the Executive Board of the Trust to ensure full compliance with this policy.

The **Human Resources Department** is responsible for ensuring that all employees are aware of this policy.

The **Governance Clerk** is responsible for logging, tracking and escalating FOI requests and responses.

All **employees** are responsible for ensuring FOI requests are logged and responded to in line with this policy.

3. EQUALITY AND DIVERSITY

The Education Alliance is committed to:

- Eliminating discrimination and promoting equality and diversity in its policies, procedures and guidelines
- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged

4. VISION AND VALUES

The Education Alliance's vision is to develop a culture of respect, honesty and high aspiration, encouraging staff and students to inspire each other and learn to value greatness, ambition and achievement of all kinds. This policy supports this vision as the Trust aims to promote a greater sense of openness and encourage collaboration and sharing of information to help achieve the vision.

5. MANAGING REQUESTS

The Trust has a legal duty to provide advice and assistance to anyone requesting information, although there are legal parameters within the FOI Act which means that some information cannot be shared as per the FOI exemptions which are detailed within this policy. For a request to come under the FOI definition it must:

- Be in writing
- State the requester's name and correspondence address (email addresses are acceptable)
- Describe the information requested (e.g. there must be enough detail in the request to enable the Trust to identify and locate the information and where a request is ambiguous the Trust will assist the requester to understand more clearly the information required)
- The information must not be covered by another piece of legislation (e.g. a SAR sits under the DPA rather than FOI)

Requests under the FOI Act can be addressed to anyone employed by the Trust and they do not need to be titled as a FOI request. All responses must be logged by the Governance Clerk and approved by a member of the Executive Board of the Trust. FOI requests do not need to mention the Act, nor do they have to explain why the requester needs the information. There is a legal duty to respond to all FOI requests within a time limit of 20 school days, or 60 working days if this is shorter.

On receipt of a FOI request the member of staff must notify the Governance Clerk and the request will be logged, tracked and escalated as appropriate. The responder will acknowledge the request and advise the requester whether the Trust holds any information falling within the scope of the request (unless the subject is exempt or a 'neither confirm nor deny' (NCND) issue arises with the request). The Trust may hold the information because it has created the information; it has received the information from another body or person or; the information may be held by another body on behalf of the Trust. If the Trust doesn't hold the information it is not expected to create it or acquire it, although a reasonable search must be undertaken before a response is provided to the requester.

If the information is already in the public domain the responder can simply direct the requester to the information, explaining how they can access it. If the information is held by another body on behalf of the Trust, the Trust must respond to any aspects of the request that it does hold information on and advise the requester that the Trust does not hold all information requested, suggesting where they may go to seek the additional information they require.

Consultation with third parties may be required if their interests could be affected by a disclosure and any such consultation may affect the decision to disclose. Consultation will be necessary where disclosure of information may affect legal rights of a third party; the views of a third party may assist the Trust in determining whether or not the information is exempt from disclosure or; the views of a third party may assist the Trust in undertaking a public interest test.

If information contains exempt information it cannot be re-written therefore parts of documents may be redacted and associated letters to the requester must explain this.

The responder will gather the information and seek approval from a member of the Executive Board prior to submitting a response. The Governance Clerk will track the FOI request, sending reminders to the responder in line with the established timescales to ensure legal timeframes are met. Information disclosed must be the information held at the time of the request and staff must not make any changes or deletions as a result of the request, even where there is an error in the information held.

6. EXEMPTIONS

Exemptions exist to protect information that should not be disclosed, for example where disclosing information would be harmful to another person or against public interest. In some cases, neither confirm nor deny (NCND) may be appropriate where either confirming or denying could be harmful. Requests where a qualified exemption applies will require a member of the Executive Board of the Trust to undertake a public interest test to determine if public interest in applying the exemption outweighs the public interest in disclosing the information.

The Governance Clerk will maintain a register of requests, including responses and refusals, neither confirm nor deny responses alongside dates requests are received and responded to.

7. PUBLIC INTEREST TEST

If it is established that there is an exemption that may apply and rather than the exemption being absolute it requires a public interest test, a member of the Executive Board will undertake the test and unless it is within the public interest to withhold the information requested, the information will be released.

Factors that may be considered as part of a public interest test include:

For Disclosure	Against Disclosure
Is disclosure likely to increase access to information held by the Trust?	Is disclosure likely to distort public reporting or be misleading because it is incomplete?
Is disclosure likely to give the reasons for a decision or allow individuals to understand decisions affecting their lives or assist them in challenging those decisions?	Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving?
Is disclosure likely to improve accountability and transparency of the Trust in the use of public funds and help to show that it obtains value for money?	Is disclosure likely to cause unnecessary public alarm or confusion?
Is disclosure likely to contribute to public debate and assist the understanding of existing and proposed policy?	Is disclosure likely to seriously jeopardise the Trust's legal or contractual position?

Is disclosure likely to increase public participation in decision-making?	Is disclosure likely to infringe other legislation (e.g. DPA)?
Is disclosure likely to increase public participation in political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair the Trust's ability to obtain information in the future?
Is disclosure likely to bring to light information affecting public safety?	Is disclosure likely to adversely affect the Trust's proper functioning and discourage openness in expressing opinions?
Is disclosure likely to reduce further enquiries on the topic?	If a large amount of information on the topic has already been made available, would further disclosure shed any more light or serve any useful purpose?

Factors that can't be taken into account as part of a public interest test include the following:

- Potential or actual embarrassment to, or loss of confidence in, the Trust
- The information is technical, complex and difficult to understand and therefore may be misunderstood

8. CHARGING

The FOI Act does not allow the Trust to charge a flat fee, but communication costs such as photocopying, printing and postage can be recovered. In most cases the Trust will not charge for a response to a FOI request, however, the Trust reserves its right to charge as per the Information Commissioner's Office 'Guide to Freedom of Information'. The Trust also reserves the right to refuse to supply information where the cost of doing so exceeds the statutory maximum which is currently £450. When calculating the cost the Trust will aggregate the costs of all related requests received within 60 days from the same person or people who seem to be working together.

The Trust is required to estimate whether the limit will be exceeded and the estimate must be reasonable. When estimating the cost the Trust will take into account the following activities:

- Determining whether the Trust holds the information requested
- Finding the requested information, or records containing the information
- Retrieving the information or records
- Extracting the requested information from records

Staff time will be calculated at £25 per person per hour, regardless of who does the work, including external contractors, as per the Information Commissioner's Office 'Guide to Freedom of Information'. If the Trust intends to use section 12 (cost limit) of the FOI Act as grounds for refusing a request, the responder will notify the requester of this in writing.

9. REFUSING A REQUEST

The Trust can refuse a request as detailed in the FOI Act and legal reasons for refusing a request include the following circumstances:

If the Trust receives **vexatious or repeated requests** from the same person it will arrange for a single refusal notice to be sent to the requester within 20 school days, explaining that the Trust finds their request(s) to be vexatious or repeated and that a further written refusal in response to any further vexatious or repeated requests will not be sent. The Trust cannot ignore all future requests from that person if a future request is about a completely different topic or there is a valid reason for the repeated request. The Act permits the Trust to take into

account the context and history of a request, including the identity of the requester and any previous contact with them.

If the information requested is **already accessible** to the requester the Trust can advise the requester where they can find the information (e.g. they may already have it or it may be information that is already in the local domain and easily accessible to the requester).

If the Trust is already preparing **material for publication** at the point of receiving the request and it is not reasonable to disclose the information until that time, an exemption under section 22 of the Act can apply, although it won't apply to any draft materials or background research. This exemption is qualified by the public interest test.

If the request applies to information received from or relating to any of a list of named **security bodies**, the Trust does not have to confirm nor deny whether it holds that information if in doing so it would reveal anything about that body or anything received from it. This exemption is absolute and does not require a public interest test to be undertaken.

Information that the Trust may hold or has ever held for the purposes of **criminal investigations** is exempt (sections 30 and 31 of the Act) and these exemptions also apply to information obtained in other types of investigations if it relates to obtaining information from confidential sources.

Section 32 of the Act relates to **court records**, therefore any information held by the Trust which was originally in a document created or used as part of legal proceedings is exempt from the Act. This exemption is absolute and does not require a public interest test to be undertaken.

If responding to a request would or would likely endanger anyone's physical or mental **health and safety**, section 38 of the Act may apply as an exemption and this would require a public interest test to be undertaken by a member of the Executive Board.

Any request that falls within the scope of the **Environmental Information Regulations 2004** should not be viewed as a FOI request. However, this exemption requires a public interest test to be undertaken.

SAR fall under the **DPA** rather than FOI and should be managed in line with the Trust's Data Protection Policy. Information relating to the personal data of third parties is also exempt from the FOI Act and the Data Protection Policy should be followed instead.

Section 41 of the Act relates to confidentiality, therefore if the Trust holds information that is from someone else and complying with the request would **breach confidentiality**, an exemption may apply as long as the legal principles of the common law test of confidence are applied.

Section 42 of the Act relates to **legal professional privilege**, where compliance with a request would reveal information that is subject to 'legal professional privilege' (e.g. information shared between the Trust as a client and the Trust's legal professional advisor for the purposes of obtaining legal advice or for ongoing proposed legal action). This exemption requires a public interest test to be undertaken.

Trade secrets and prejudice to commercial interests are exempt as per section 43 of the Act and the exemption includes information that constitutes a trade secret. Section 43 also covers information that if shared would prejudice or would be likely to prejudice someone's commercial interests. This exemption does require a public interest test to be undertaken.

Section 44 of the Act relates to exemptions based on information that is not allowed to be shared by **law**; where sharing of information would be contrary to an obligation under EU law or; would constitute contempt of court.

In deciding on prejudice (which within the Act means causing harm) the Trust must:

- Be able to identify a significant negative consequence of the disclosure
- Be able to show a link between the disclosure (or confirmation/denial) and the negative consequences
- See a real possibility of the negative consequences happening

If the Trust refuses to disclose information it must notify the requester of the reason for the refusal, detailing the requester's right to appeal to the Information Commissioner's Office. The Trust must include the address of the Information Commissioner's Office in their letter to the requester.

10. COMPLAINTS

Any comments or complaints will be managed via the Trust's Complaints Procedure and the Trust aims to respond to all complaints within 10 days of receipt. Each school within the Trust will maintain records of all complaints and their outcomes. If the Trust receives a complaint and on investigation the original decision is upheld, the Trust will inform the complainant of their right to appeal to the Information Commissioner's office, providing the complainant with the following details:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

11. MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY

Effectiveness and compliance of this Policy will be monitored on an annual basis.

12. ASSOCIATED DOCUMENTATION

Data Protection Policy
Records Management Guidance

13. REVIEW

This Policy and Procedure will be reviewed within two years of the date of implementation.