



Freedom of Information Policy

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Prosper Learning Trust

is a Multi Academy Trust

Registered in England and Wales number 10872612

Registered Office: Firbank Road, Manchester, M23 2YS

The Prosper Learning Trust has several Trust-wide policies which are adopted by all schools/academies in the Trust to ensure an equitable and consistent delivery of provision.

The Trust Board has responsibility for the operational of all schools/academies and the outcomes of all students however responsibility is delegated to the Local Governing Body of each school via the Scheme of Delegation.

Within our policies reference to:

- Governing Body / Governors relates to the members of the Local Governing Body representing the Trust Board.
- School includes a reference to school, academy or free school unless otherwise stated.
- Headteacher includes a reference to Headteacher, Principal or Head of School of a school, academy, or free school.

1 Introduction

- 1.1 Prospere Learning Trust is committed to complying with the provisions of the Freedom of Information Act 2000 (FOI) and to the principles of accountability and the general right of access to information, subject to legal exemptions. This policy outlines our responses to the Act and provides a framework for managing requests.
- 1.2 The FOI Act 2000 gives the public the right of access to all recorded information held by all public authorities, subject to exemptions.
- 1.3 Access to information can only and will only be denied if there is an absolute exemption which applies to its disclosure or if a conditional exemption applies and the public interest assessment dictates that the information should not be disclosed.
- 1.4 The FOI is regulated by the Information Commissioner.
- 1.5 The Freedom of Information Act complements or supports the following legislation:
 - The UK General Data Protection Regulation (UK GDPR), which gives individuals access to personal information held about them by schools;
 - Environmental Information Regulations 2004 that gives access to information about the environment held by the government and public authorities.
- 1.6 In complying with its duty any public authority must take account of the Code of Practice in relation to Freedom of Information issued by the Ministry of Justice under Section 45 of the Act. The school will abide by the terms of Code of Practice whenever this is possible or appropriate.

2 Policy Statement

- 2.1 Prospere Learning Trust will comply with all the relevant provisions of the Freedom of Information Act 2000 and, where relevant, the requirements of the Environmental Information Regulations 2004 (EIR).
- 2.2 Prospere Learning Trust will provide advice and assistance to help people make requests under the FOI. Schools will aim to respond to all requests promptly and within the statutory response period of 20 working days following receipt of a valid request.
- 2.3 In cases where information is covered by a conditional exemption or other legislation, consideration is given as to whether or not it is in the public interest to disclose the information, regardless of the exemption.
- 2.4 The Prospere Learning Trust will adopt and maintain a Publication Scheme that has been approved by the Information Commissioner. The Publication Scheme contains details of all the information that the Prospere Learning Trust makes available to the public. The Publication Scheme (based on the ICO model publication scheme - <https://ico.org.uk/media/for-organisations/documents/1153/model-publication-scheme.pdf>), which will be subject to regular review.

- 2.5 Prospere Learning Trust is committed to conducting its affairs in a transparent manner and enabling public access to its information whenever this is appropriate. Generally, schools will act in as open and transparent a manner as possible, whilst ensuring the integrity of its information and protecting the privacy of its customers.

3 Scope

- 3.1 This Policy informs recipients of Trust services, members of the public and external parties of the processes the Trust has established for complying with the FOIA.
- 3.2 This Policy operationally applies to all employees of the Trust, governors, contractors, agents, and temporary staff working for or on behalf of the school.
- 3.3 This Policy does not cover Subject Access Requests (requests for access to information about a living individual which could identify them). These requests are exempt from the FOI under section 40, and should be processed in accordance with the General Data Protection Regulation (GDPR).

4 Procedure for Dealing with Requests

There will be a delegated person/s in each school who will handle all FOI requests. The delegated person must inform the Trust DPO and the CEO on receipt of a FOI request. In handling a request for information, the Trust Board or delegated person(s) will need to ask themselves a series of questions. These are set out below.

5 Is it a Freedom of Information (FOI) request for information?

A request for information may be covered by one, or all, of the three information rights:

- Data Protection enquiries or Subject Access Requests are ones where the enquirer asks to see what personal information the school holds about the enquirer. If the enquiry is a Subject Access Request, follow the Trust's Subject Access Request guidance.
- Environmental Information Regulations enquiries are ones 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 therefore could include enquiries about recycling, phone masts, playing fields, car parking, etc. If the enquiry is about environmental information, follow the guidance on the Information Commission's website or the DEFRA website.
- Freedom of Information enquiries are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the Freedom of Information Act. All requests for information that are not data protection or environmental information requests are covered by the Freedom of Information Act (FoIA).

6 Is this a valid FOI request for information?

A FOI request should:

- Be in writing, including email or fax(a);
- State the enquirer's name and correspondence address (email addresses are sufficient);
- Describe the information requested – there must be enough information to be able to identify and locate the information(b); and
- Not be covered by one of the other pieces of legislation.
 - a) Verbal enquires are not covered by the FOI Act. Such enquiries can be dealt with when the enquiry is fairly straightforward. However, for more complex enquiries, and to avoid disputes over what information was requested, we ask the enquirer to put the request in writing or email, when the request will become subject to the FOI.
 - b) In cases where the enquiry is ambiguous, we will attempt to assist the enquirer to describe more clearly the information requested. Where possible, we will establish direct contact. The aim is to clarify the nature of the information requested and not to determine the aims or motivation of the enquirer. If we notify the enquirer that we need further information to enable us to answer, we do not have to deal with the request until the further information is received. The response time limit commences from the date the further information is received.

7 Does the Trust hold the information?

7.1 "Holding" the information means information relating to the business of the Trust which:

- The Trust has created, or
- The Trust has received from another body or person, or
- Is held by another body on the Trust's behalf.

7.2 Information means both hard copy and digital information, including emails.

If the Trust does 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 responding that you have **not** got the information the Trust might be expected to hold.

8 Has the information requested already been made public?

If the information requested is already in the public domain, for instance through the Publication Scheme, we will direct the enquirer to the information and explain how to access it.

9 Is the request vexatious or manifestly unreasonable or repeated?

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 substantial diversion of

resources or would otherwise undermine the work of the Trust.

We do not have to comply with repeated identical or substantially similar requests from the same applicant unless a reasonable interval has elapsed between requests.

10 Could a third party's interests be affected by disclosure?

10.1 Consultation of third parties may be required if their interests could be affected by the release of the information, and any such consultation may influence the decision. We do not need to consult where we are not going to disclose the information because we are applying an exemption.

1.1 Consultation will be necessary where:

- Disclosure of information may affect the legal rights of a third party, such as the right to have certain information treated in confidence or rights under Article 8 of the European Convention on Human Rights;
- The views of the third party may assist us to determine if information is exempt from disclosure, or
- The views of the third party may assist us to determine the public interest.

11 Does an exemption apply?

11.1 The presumption of the legislation is that we will disclose information unless the Act provides a specific reason to withhold it. Certain information is subject to either absolute or qualified exemptions. For a full list of exemptions refer to the Freedom of Information Act 2000.

11.2 Only where we have real concerns about disclosing the information should we refer to see whether an exemption might apply. Where the potential exemption is a qualified exemption, we need to consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it will be released. Appendix 2 contains guidance on conducting a public interest test.

12 What if the request is for personal information about the applicant?

Personal information requested by the subject of that information is exempt under the FOI Act as such information is covered by the General Data Protection Regulation (GDPR). Individuals must make a "subject access request" under the General Data Protection Regulation if they wish to access information about themselves.

13 What if the details contain personal information?

13.1 Personal information requested by third parties is also exempt under the FOI where release of that information would breach the General Data Protection Regulation. If a request is made for a document which contains personal information whose release to a third party would breach the General Data Protection Regulation, the document may be issued by blanking out the relevant personal information.

- 13.2 The procedure for redaction, or blocking out information, is to mask the passages which are not to be disclosed and then photocopy the document. Annotate in the margin against each blank passage the exemption and section of the Act under which the passage is exempt. Explain in the covering letter that the relevant exemptions are marked in the attachments and in the case of non-absolute exemptions, how the public interest test has been considered.
- 13.3 Under no circumstances should the document be rewritten, so that the resulting document appears as though it does not contain the exempted passage.

14 How much can we charge?

- 14.1 The Act allows the Trust to charge for providing information.
- 14.2 The first step is to determine if the threshold (currently £450) would be exceeded. Staff costs should be calculated at £25 per hour, regardless of which staff member would be undertaking the work. We can take account of the time it takes to determine if the information is held, the time to locate and retrieve the information or extract the information from other documents. We cannot take into account the costs involved in determining whether the information is exempt.
- 14.3 If a request would cost less than the appropriate limit in force at the time of the request, the Trust can only charge for the cost of informing the applicant whether the information is held, and communicating the information to the applicant. This may include photocopying, printing and postage.
- 14.4 If a request would cost more than the appropriate limit in force at the time of the request, the Trust can turn the request down, answer and charge a fee, or answer and waive the fee. If the Trust decides to charge a fee, it can charge on the basis of the costs above.
- 14.5 The Trust may wish to consider whether calculating the cost of the fee outweighs the cost of providing the information. For relatively straight forward requests, the Trust will consider responding free of charge.
- 14.6 If the Trust makes the decision to charge, we will send the enquirer a fees notice and do not have to comply with the request until the fee has been paid.

15 Is there a time limit for replying to the enquirer?

- 15.1 Compliance with a request must be prompt and within the prescribed limit of 20 working days, excluding school holidays. Failure to comply may 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 begins when this further information has been received.
- 15.2 If a qualified exemption applies and we need more time to consider the public interest test, we will reply within the 20 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 by the Department that normally this should be within 10 working days.
- 15.3 Where we have notified the enquirer that a charge is to be made, the time period stops until payment is received and then resumes once payment has been received.

16 Right to refuse a request:

- 16.1 The Trust reserves the right to refuse requests whose total administrative cost exceeds the appropriate limit of 18 hours based on an average flat rate of £25 per hour (£450), as stated in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004.
- 16.2 Refuse any vexatious or repetitious request;
- 16.3 Where the Trust already publishes the information requested, enquirers will be directed to the public resource where they may find the information they require;
- 16.4 Withhold information if it is subject to an exemption under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or the Local Government Act 1972; and/or
- 16.5 Not provide copies of items subject to copyright restrictions, although these will still be open for inspection under the Act

17 What do we do if someone asks a follow up question?

If an applicant requests a follow up question this is treated as a new request.

18 Who has delegated responsibilities?

The Trust Board has delegated responsibility for compliance with the FOI Act to the Headteacher/Head of School of each school.

19 Review and Complaints

- 19.1 If you are not satisfied with the response to your request, you have the right to ask for a review. You should make this request in 20 working days of receipt of our response and set out what you are not satisfied with, sending it to the address below
- 19.2 The Trust has a 'Complaints Process' and any complaints about the general handling of a request under General Data Protection Regulation, the Environmental Information Regulations or the Freedom of Information Act may be dealt with by clearly marking your correspondence 'Complaint' and addressing it to:

Data Protection Officer
Prosper Learning Trust
Piper Hill High School
Firbank Road
Wythenshawe
Manchester
M23 2YS

Tel. 0161 436 3009

- 19.3 If you are not content with the outcome of the review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:-

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow Cheshire
SK9 5AF
www.ico.org.uk Tel: 01625 545 745

- 19.4 The school will maintain a record of all complaints and their outcomes.

20 Associated Documents

The following documents have relevance to this policy:

- FOI Publication Scheme
- General Data Protection Regulation (GDPR) Policy
- Subject Access Request Policy

FREEDOM OF INFORMATION POLICY – APPENDIX 1

Appendix 1 – Exemptions

Although decisions on disclosure should be made on a presumption of openness, the FOI Act recognises the need to preserve confidentiality and protect sensitive material in some circumstances.

We will not withhold information in response to a valid request unless one of the following applies:

- An exemption to disclose, or
- The information sought is not held, or
- The request is considered vexatious or repeated, or
- The cost of compliance exceeds the threshold

The duty to confirm or deny

A person applying for information has the right to be told if the information requested is held by the Trust, and if that is the case to have the information sent (subject to any of the exemptions). This obligation is known as the Trust's "duty to confirm or deny" that it holds the information.

However, the Trust does not have to confirm or deny if:

- The exemption is an absolute exemption or
- In the case of qualified exemptions, confirming or denying would itself disclose exempted information.

Exemptions

A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry. Some are very specialised in their application, such as national security, and are not normally relevant to the Academies. There are more than 20 exemptions but the Academies are likely to use only a few of them.

There are two general categories of exemptions:

- Absolute – where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest test, and
- Qualified – where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.

What are the Absolute Exemptions?

There are 7 absolute exemptions listed in the Act at the time of writing (see the FOI Act for further detail). Even where an absolute exemption applies:

- It does not mean that we can't disclose in all cases; it means that disclosure is not required by the Act. A decision could be taken to ignore the exemption and release the information taking into account all the facts of the case.
- There is still a legal obligation to provide reasonable advice and assistance to the enquirer.

What are the Qualified Exemptions?

With qualified exemptions, even if it is decided that an exemption applies, there is a duty to consider the public interest in confirming or denying that the information exists and in disclosing the information. Guidance on carrying out the public interest test is in Appendix 2.

Protective markings and Applying Exemptions

When considering if an exemption to disclosure should apply, we will bear in mind that the presence of a protective marking (Restricted, Confidential or Secret) does not constitute an exemption and is not, in itself, sufficient grounds on which to prevent disclosure. Each case must be considered on its merits.

Timing

Where information has previously been withheld, it must not be assumed that any subsequent requests for the same information will also be refused. Sensitivity of information decreases with age and the impact of any disclosure will be different depending on when the request is received. Therefore, for each request, we will consider the harm that could result at the time of the request and, while taking into account any previous exemption applications, each case should be considered separately.

Next steps

In all cases, before writing to the enquirer, the person given responsibility for FOI by the governing body will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound. To help ensure this, every case of refusal is reviewed by the Headteacher of the relevant Academy and the CEO informed.

FREEDOM OF INFORMATION POLICY – APPENDIX 2

Appendix 2 – Applying the Public Interest Test

Having established that a qualified exemption definitely applies to a particular case, we must then carry out a public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it has to be released. Although precedent and case law will play a part, individual circumstances will vary and each case will need to be considered on its own merits.

Carrying out the test

It is worth noting that what is in the public interest is not necessarily the same as that which may be of interest to the public. It may be irrelevant that a matter may be the subject of public curiosity.

In most cases it will be relatively straightforward to decide where the balance of the public interest in disclosure lies. However, there will inevitably be cases where the decision is a difficult one.

Applying such a test depends to a high degree on objective judgement and a basic knowledge of the subject matter and its wider impact in the Trust and possibly wider. Factors that might be taken into account when weighing the public interest 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 the accountability and transparency of the school 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 or 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 upon other legislation e.g. General Data Protection Regulation?
Is disclosure likely to increase public participation in the political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair our 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?

Note also that:

- Potential or actual embarrassment to, or loss of confidence in, the Trust, staff, or Trustees/governors is NOT a valid factor to consider.
- The fact that the information is technical, complex to understand and may be misunderstood may not of itself be a reason to withhold information.
- The potential harm of releasing information will reduce over time and should be considered at the time the request is made rather than by reference to when the relevant decision was originally taken.
- The balance of the public interest in disclosure cannot always be decided on the basis of whether the disclosure of particular information would cause harm, but on certain higher order considerations such as the need to preserve confidentiality of internal discussions.
- A decision not to release information may be perverse, i.e. would a decision to withhold information because it is not in the public interest to release it, itself result in harm to public safety, the environment or a third party.

We will record the answers to these questions and the reasons for these answers. Deciding on the public interest is not simply a matter of adding up the number of relevant factors on each side. We will decide how important each factor is in the circumstances and make an overall assessment. This assessment will be reviewed by a member of the Trust's Executive Team. If the reviewer disagrees with the assessment, it will be referred to another reviewer.

Decision for disclosure

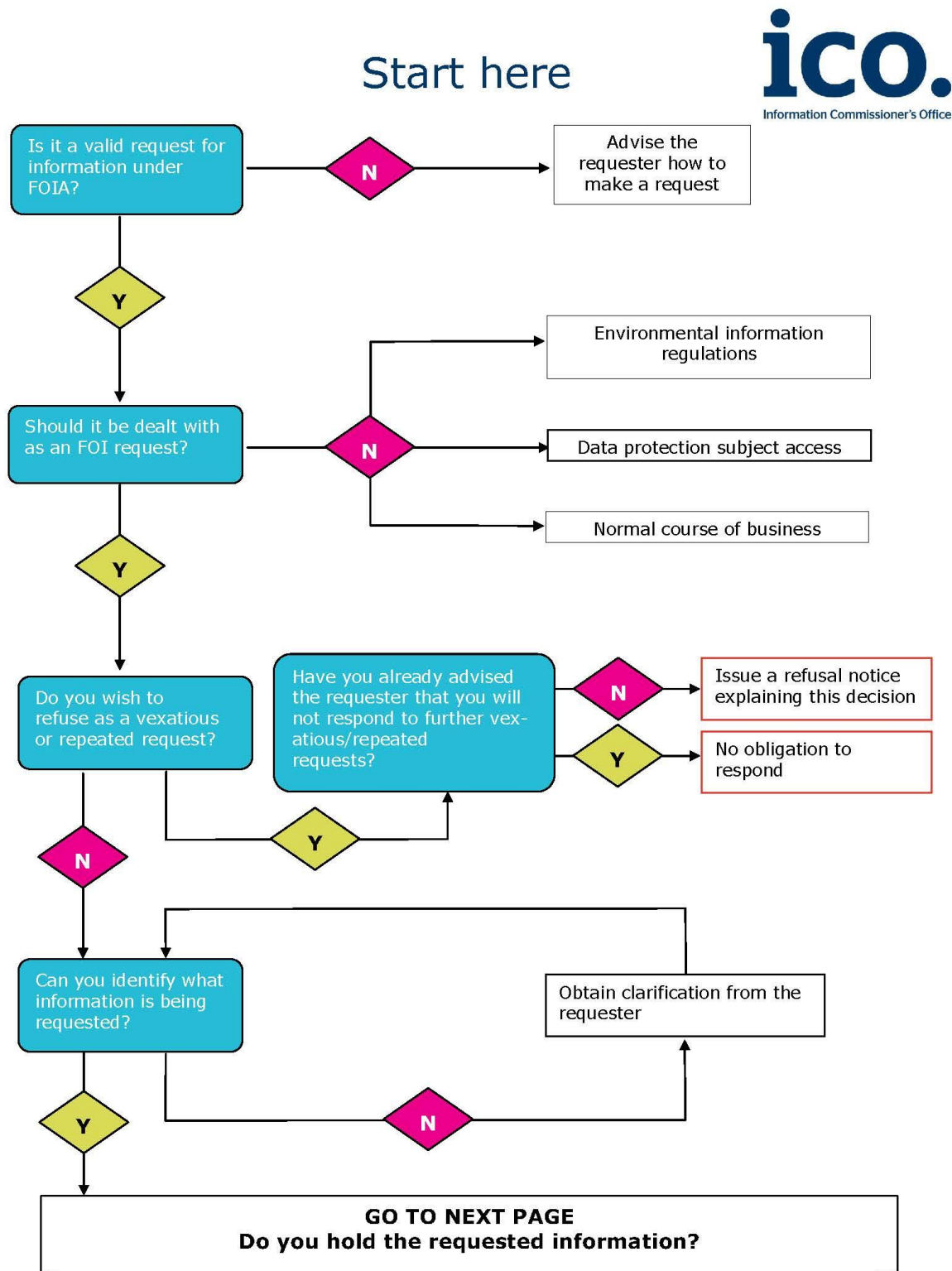
Where the balance of the public interest lies in disclosure, the enquiry will be dealt with and the information required will be made available.

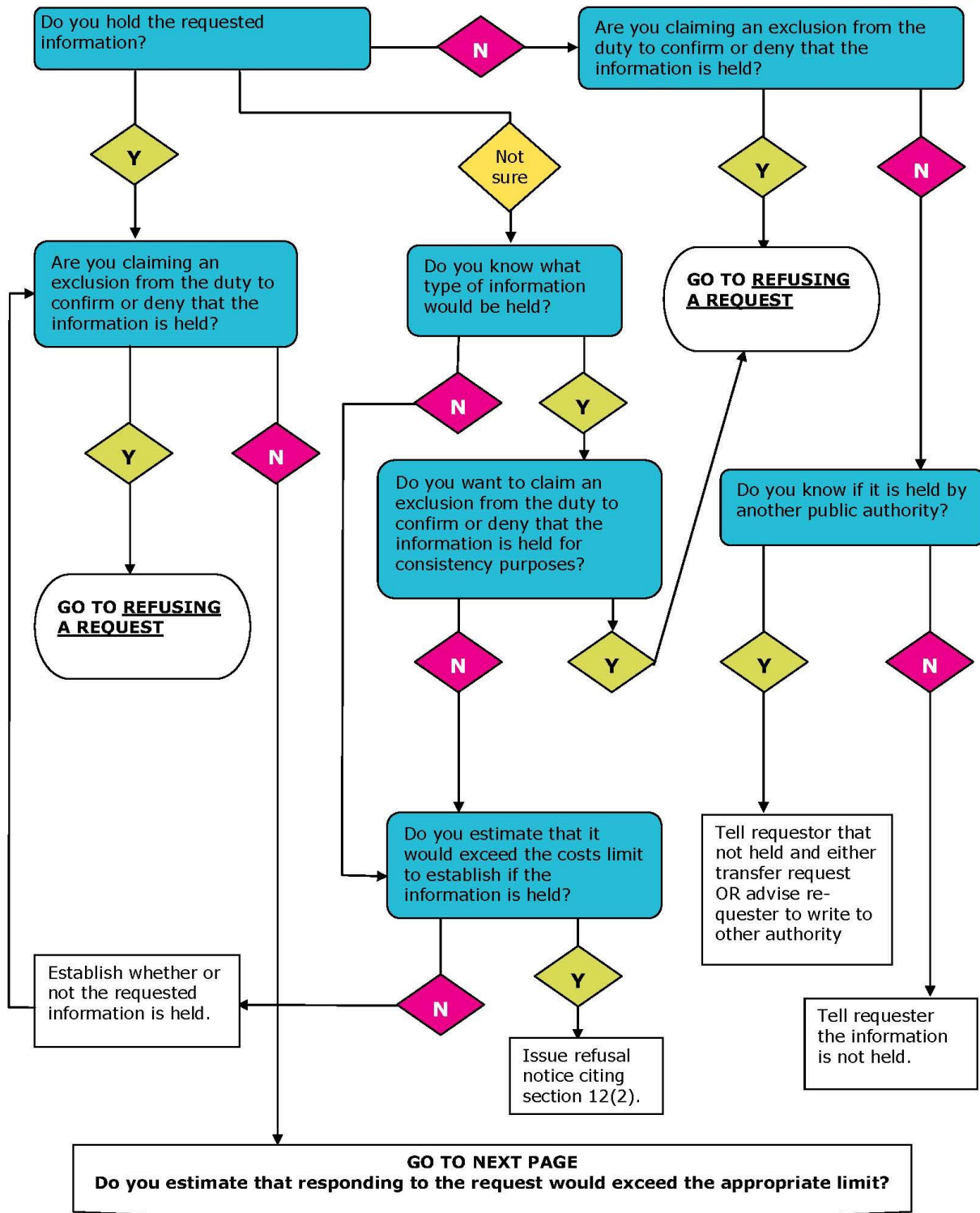
Decision against disclosure

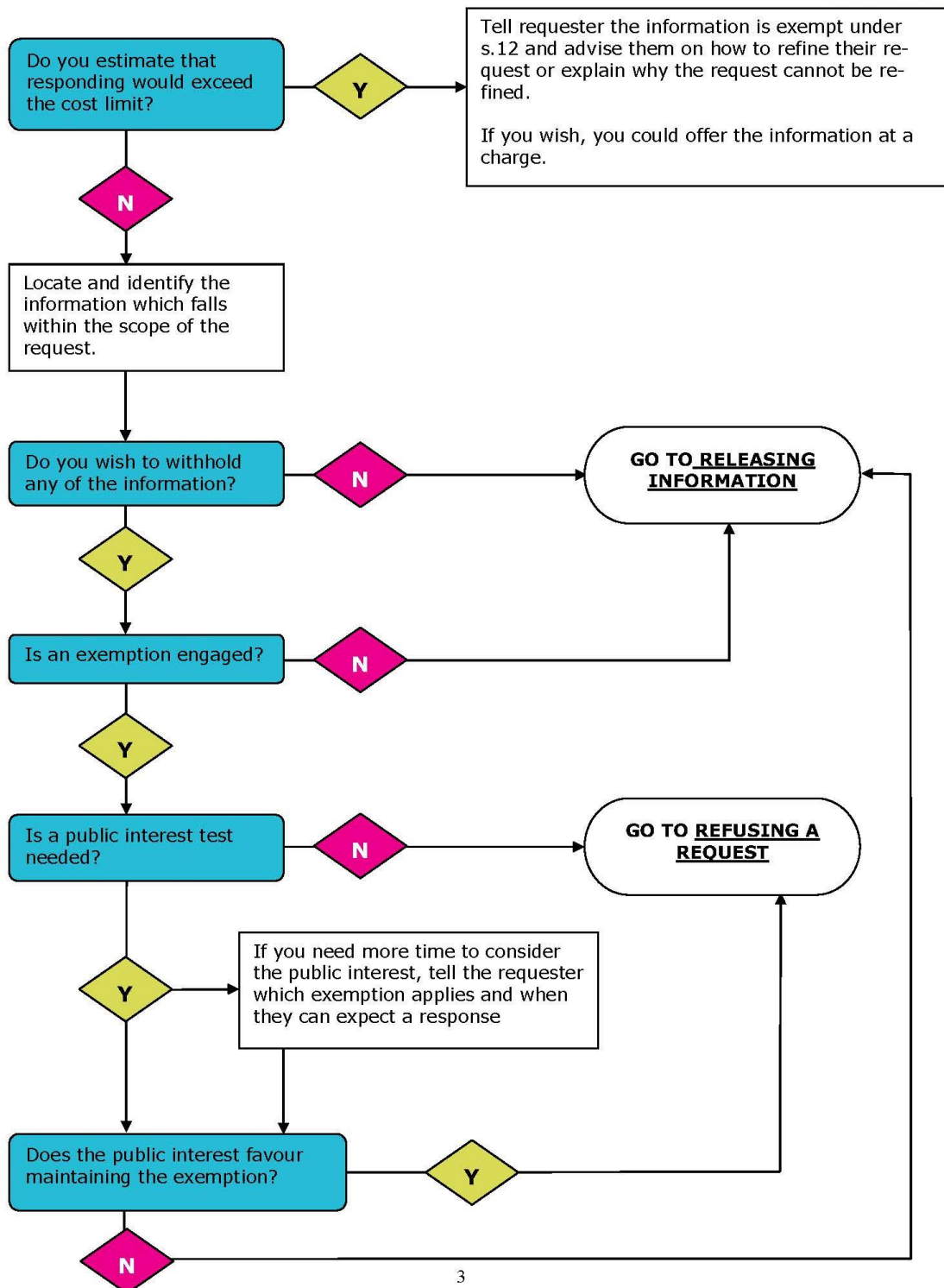
After carrying out the public interest test if it is decided that the exemption should still apply, we will reply to the request with the appropriate reply under the circumstances.

There will be occasions when it has been decided that a qualified exemption applies but consideration of the public interest test may take longer. In such a case, we will contact the enquirer within 20 working days stating that a particular exemption applies, but we will include an estimate of the date by which a decision on the public interest test will be made. This will be within a reasonable time, normally no more than 10 working days beyond the 20 days.

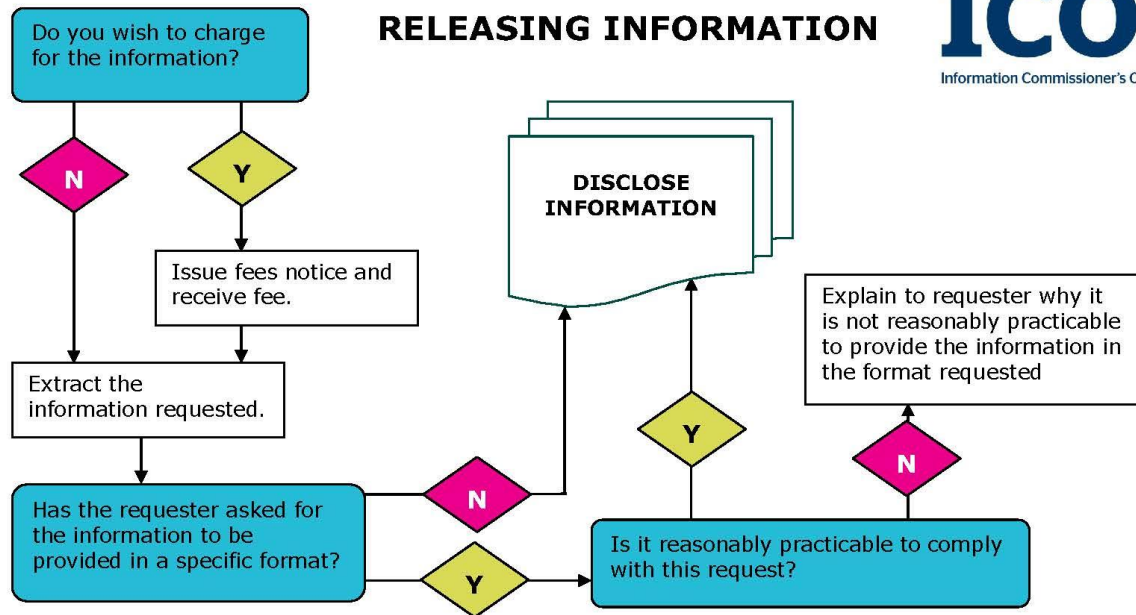
Appendix 3 - ICO Flow Chart – Request Handling under the FOI







RELEASING INFORMATION



REFUSING A REQUEST

