

St Mary's Catholic Primary School



Freedom of Information Request Procedure

Date reviewed: Autumn 2020

Date of next review: Spring 2022

Freedom of Information Access Request Procedure

This procedure is based on guidance on Freedom of Information Request (FOI) produced by the Information Commissioner's Office (ICO).

Freedom of Information Request Rights

Members of the public have the right to attain any recorded information held by public authorities through:

- Publishing of certain information about their activities
- Requesting specific information.

The reasoning behind this is that they spend money collected from taxpayers and make decisions that can significantly affect many people's lives.

Being able to access information helps the public hold authorities accountable for their actions and allows public debate to be better informed and more productive.

This guide will focus only on the specific information requests, guidance on what information should be published can be found [here](#).

The Freedom of Information Act defines what constitutes a valid request.

- Must be in written format.
- Does not have to include the phrase "Freedom of Information Act"
- Requester needs to include their real name.
- Must contain an address for correspondence either electronic or paper i.e. email address is fine.
- Describe the information they have requested.

N.B. If the request is made incorrectly, then it is considered "good practice" that you draw their attention to how to make a valid request.

Key Principles:

- **Everybody has the right to access official information, disclosure should be the default. AKA Be as open with information as much as possible.**
- **Requesters do not need to justify why they want the information, but you have to justify why you are refusing a request.**
- **All requests should be treated equally, regardless of the requester be it journalists, parents, local residents, foreign nationals.**
- **If you have released information, treat it like you have told the world.**

Public Authorities:

As state Schools, Academy Schools and Free Schools receive money from the central government and or the local authority they would be regarded as Public Authorities who are required to comply with FOI's.

Private or Independent schools are not subject to FOI's.

Requesters

Anyone can make a request. They do not have to be UK citizens or residents. They also do not need to be an individual, organisations like a company, newspaper or campaign group can make a request.

Repeated Requests:

Section 14(2) of the Freedom of Information Act (FOIA) advises that authorities can refuse a request which is "identical" or "substantially similar" to a previous request to the same individual. Hence why authorities should ascertain the identity of the individuals who make request.

- Previously provided the requester with the information or confirmed that it was held.
- Identical means "scope and wording precisely match"
- Substantially similar "wording is different but the scope is the same or "wording is different but the scope does not differ significantly."
- The length of interval between the requests can affect the scope, has the information changed since the last request?

Vexatious/Manifestly unreasonable requests.

Section 14(1) of the Freedom of Information Act (FOIA) advises that authorities can refuse a request as being vexatious or manifestly unreasonable.

- Should only be used in the most extreme of circumstances.
- If the request is "patently unreasonable" or "objectionable."
- Is it likely to cause disproportionate or unjustified levels of disruption, irritation or distress?
- Objectively value Impact on Authority vs Purpose & Value of Request.
- Take into account the history of the request or requests.

N.B Always consider when refusing a request you have to be able to demonstrate to the individual and ICO why you have made that decision.

Receiving a Freedom of Information Request

On receipt of a confirmed or potential FOI, the staff member or data processor must immediately notify by contacting Louise Donohue/Ann Slavin (email- info@st-marys.rbkc.sch.uk; telephone – 020 8969 0321)

They will make a decision where to refer the matter to the Data Protection Officer (DPO).
As a public body, we have appointed Grow Partners Ltd as its Data Protection Officer (DPO). The responsible contact is David Coy, david.coy@london.anglican.org, 07903506531.

When a FOI is received it should be immediately entered onto the Freedom of Information log and given a reference number e.g. FOI2019001, in all future communications this reference number should be used to discuss the FOI
The Log should record the, who, when, what, and why of the process.

Additionally, a folder should be created under the reference number and all associated documentation regarding the FOI be kept in the file for posterity.

Irrespective of whether the DPO is notified or not the response to the breach will follow the same path and be broken down into four distinct sections: **Acknowledge, Assess, Collate, Response**

Timeframe of Response

The Freedom of Information Act 2000 gives a timeframe of **20 school days or 60 working days** if this is shorter.

Working days being any day other than Saturday, Sunday or Public Holidays

Stage 1: Acknowledgment:

Sending a formal acknowledgement to confirm that:

- A FOI has been received.
- The date of receipt.
- What you believe the FOI is regarding.
- Whether anything further is needed from the Data subject i.e. clarification or refinement of the FOI, their real name.
- The Timeframe for a response.
- How they would like to/will receive the data in response, email/post.

The acknowledgement can be sent electronically or in paper format, it is not recommended that this is undertaken verbally.

Content of FOI:

It is important that you state verbatim what the individual has requested and give them the opportunity to confirm that you have understood the request correctly. This will save wasted time collecting information which is not required.

Clarification or Refinement:

If a request is received with asks for a large amount of information, it is highly recommended that you seek further refinement to allow you to efficiently respond to the request within the timeframe.

Timeframe for Response:

This is where you will need to calculate what is a shorter period, 20 school days, or 60 working days.

Invariably it will be 20 school days, apart from if it is near the summer holidays.

It is best to explain and record how you came to this decision. i.e. 20 school days is the 18th of March, 60 working days is the 5th of April therefore...

Stage 2 Assess:

Make an assessment whether you practically or legally can respond to the request this is undertaken through five tests.

Some of these tests are best undertaken by the school, others by someone objective to the situation.

Test 1: Do you hold the information?

You cannot supply something you do not have. Therefore, work out if this is information that you hold.

Test 2: Is the Information an Absolute Exemptions:

There are several categories of information which a public authority does not need to supply from a FOI because they are an absolute exemption.

Therefore, you need to assess whether the information requested falls under one of these exemptions, the most common will be.

- Section 21: Information reasonably accessible to the applicant by other means e.g. Ofsted report which is already on the website.
- Section 32: Court, Inquiry or arbitration records e.g. Results of a recent court case.
- Section 40 (1): Personal information where the requester is a data subject e.g. Request for their own Data
- Section 40 (2) Personal information where the applicant is a 3rd party e.g. Request for someone else's Data.

N.B. if the individual is asking for their own personal data, then treat this as a subject access request under the Data Protection Act 2018 and inform the requester of the change.

Test 3: Public Interest Test:

The next is to see if the information falls under an exemption which requires a follow up Public Interest test. Therefore, you need to assess whether the information requested falls under one of these exemptions, and if they do, undertake a public interest test. the most common will be.

- Section 22: Information intended for future publication and research information. E.g. You are working with a researcher who will be publishing the information as part of a report.

- Section 30(1): Criminal Investigations and Proceedings. E.g. Information law enforcement are using as part of a criminal investigation.
- Section 38: Endangering Health and Safety E.g. complying would endanger someone's physical or mental health
- Section 42: Legal Professional Privilege E.g. Advice given to you by a solicitor.
- Section 43: Commercial Interests; E.g. Information which could be considered a "trade secret" or that affect a business dealing.

If your information falls under one of the above exemptions, then the Public Interest Test should be applied.

- 1) Would this information interest the public at large? E.g. Is there or has there been any media coverage surrounding it.
- 2) If there any benefit to this information coming out to the public at large or just the individual requester.
- 3) What benefits there will be to disclose the information?
- 4) Is the best time to disclose the information, or would a later date be beneficial?

N.B. Show your working.

Test 4: Prejudice Test:

There is a chance that the release of this information could cause harm in some way, therefore need to consider any potential negatives of releasing the information.

- 1) Identify the potential negative consequence of the disclosure, these consequences should be graded as either trivial, medium or significant
- 2) Demonstrate a link between the disclosure) and the negative consequences, showing how one would cause the other.
- 3) Indicate how there is a real possibility of the negative consequences happening, and grade it on a not likely, likely, very likely scale.

Test 5: Time/Cost Test:

Section 12 of the Freedom of Information Act (FOIA) advises that authorities can refuse a request if estimates that would exceed the appropriate cost limit of £450 to comply with the request;

- Cost estimates should include the time taken:
 - I. Determining whether the information is held,
 - II. Locating it,
 - III. Retrieving it
 - IV. Extracting it.
- Time spent is calculated on a flat rate of £25 per person per hour
- Therefore, the appropriate limit would be met after 18 hours of work.
- The cost estimate should be "sensible, realistic and supported by cogent evidence"

N.B If Section 12 is invoked the authority should assist the requestor to refine the request so it comes under the limit.

Stage 3 Collate:

Once the decision has been made whether or not you can respond or not, then comes collating the information and presenting it in a readable format.

This can vary greatly as the request could be for a policy or for specific figures.

Stage 4: Response.

This is where in a formal correspondence you explain the process and result of Assess and collate process to the requester and present them with the information.

It should include:

- Reconfirm what was asked for
- What is being supplied
- What is not being supplied and why.
- Ability to discuss this further with the school.
- Right to refer to the ICO and contact details.

N.B. When supplying the data, it must be in an understandable format. Therefore, it is recommended that to explain what is what and why. Go point for point with what was requested and what has and has not been supplied.

Label what the individual items are so a layperson can understand it.