

St Hugh of Lincoln RC Primary School

FREEDOM OF INFORMATION AND SUBJECT ACCESS REQUEST POLICY

*“St Hugh of Lincoln School will nurture, guide, educate and
develop all our children on their journey with Jesus*

Amen

Updated: January 2020

Review date: January 2022

1. Introduction

1.1 The Freedom of Information Act 2000 (“the Act”) provides individuals with a general right of access to recorded information held by Public Authorities. The Environmental Information Regulations 2004 (“the Regulations”) provide a right of access to Environmental Information held by Public Authorities. St Hugh of Lincoln is a Public Authority and has a legal obligation to provide information through an approved publication scheme and in response to valid requests made by individuals under the Act and Regulations.

1.2 Information which is held by the school in a recorded format (paper or electronic) can be requested under the Act/Regulations and, subject to any relevant exemptions applying, will need to be disclosed. **Disclosures under the Act/Regulations are disclosures into the public domain.**

1.3 The Act does not give people access to their own personal data (information about themselves, see Subject Access Request guidance below). The right of access to personal data is provided by the General Data Protection Regulation (GDPR) and this is addressed in the school’s Data Protection policy.

2. Related Policies and Documents

- Data Protection Policy
- Records Management and Retention policy
- Retention schedule
- Other policies and documents may be produced and added to this list.

3. Responsibilities

Overall responsibility for ensuring that the school meets the statutory requirements of the Act and Regulations rests 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 may decide to assign operational responsibility for keeping a record of requests received and responding to requests to another member of staff, for example the School Business Manager.

4. Support and guidance

Support and advice is available from the Council’s Information Governance team as part of the GDPR SLA service. Queries should be emailed to Data.Protection@trafford.gov.uk or schoolsig@trafford.gov.uk

Comprehensive guidance regarding the Freedom of Information Act and Environmental Information Regulations has been produced and published by the Information Commissioner’s Office (<https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/>). The school will make use of this, in particular in the event that it needs to consider withholding information in response to a request.

5. Core Principles

5.1 The school will publish the information as set out in the ICO Model Publication Scheme and will ensure that documents containing the information are available on request.

5.2 Following receipt of a valid request under the Act or regulations, the school will provide access to information, subject to any exemptions applying, within 20 school days or 60 working days, whichever is shorter.

5.3 There will be occasions where the School does not hold the information requested or when it can refuse to give access to the requested information. If a request is refused, the School will explain why, identifying applicable exemptions and providing reasons for the public interest being better served by non-disclosure than by disclosure where necessary

5.4 In all cases, responses provided by the school will include details of an appeals procedure against refusal to give access or to address any dissatisfaction in relation to the school's handling of a request.

6. Implementation, Monitoring and Review

The publication scheme

6.1 Publication of information listed in the Publication Scheme will be the responsibility of the office manager at the school.

6.2 The Publication Scheme and the materials it covers will be readily available from the School.

Handling requests for information

6.3 The School will provide information that it holds as quickly as possible within the timeframe unless it is determined to be exempt from disclosure under the Act, for example where it:

- i. Is not held by the School;
- ii. is information reasonably accessible through another route (i.e. already within the public domain);
- iii. is information in respect of an investigation that relates to criminal proceedings, either current or potential;
- iv. relates to the prevention or detection of crime, the apprehension or prosecution of offenders or the administration of justice and disclosure would prejudice these activities;
- v. relates to Court records, including information relating to legal proceedings;
- vi. is personal information and disclosure would breach the Data Protection principles;
- vii. is information provided in confidence;
- viii. is planned to be publicly disclosed in the future;
- ix. is likely to endanger health and safety;
- x. is covered by legal or litigation privilege;
- xi. would prejudice commercial interests, or
- xii. is vexatious or repeated.

xiii. The Environmental Information Regulations contain a similar set of exceptions. The bar for applying exceptions under the Regulations is set high as there is a strong presumption in favour of disclosure.

6.4 The above is not an exhaustive list. All requests received should be forwarded immediately to the office manager at the school. The statutory timescale begins the first working day after it is received by the school (no matter who within the school received it).

6.5 Requests for information under the Act will be overseen by the office manager under the supervision of the headteacher.

6.6 The office manager will:

- i. publish the model Publication Scheme on the School's website and make it available in printed form;
- ii. provide assistance to persons wishing to access information but who are unclear about the process;
- iii. acknowledge requests within 5 working days of receipt;
- iv. where further details of the information requested are needed before the can be dealt with, send a letter or email requesting that information within 5 working days of receipt of the request;
- vi. make the information accessible within 20 school days of receipt of the original request (or 60 working days, whichever is shorter) or within 20 school days of the receipt of clarification about the request if it was required (or 60 working days whichever is shorter).
- vii. In exceptional cases an extension to the timescale may be required due to the length of time that is required to consider the public interest arguments in respect of possible disclosure of the requested information. The School will notify the individual requesting the information of the extension and ensure that the request is answered as promptly as possible and, in any event, within an additional 20 working days;
- viii. where the information is exempt or the access request is vexatious or repeated, the office manager will send a refusal notice to the applicant setting out the reason for refusal with details of the exemption(s) claimed, any public interest test considerations (if applicable) and outlining the appeals procedure;
- ix. where the information is exempt, the office manager will decide whether to confirm or deny in the refusal notice the existence of the information following the guidance in the Act;
- x. where the refusal is on the grounds that the information is available elsewhere, the response will direct the applicant to where the information can be accessed e.g. by providing a relevant web link;

Appeals Procedure

6.7 Any appeals received (known as 'internal reviews') will be directed to the Headteacher within two days of receipt for response unless the Headteacher has been involved in the initial response. In the event the Headteacher has already been involved, the Chair of Governors will be responsible for responding.

6.8. The Headteacher or Chair of Governors will complete the appeals process and respond within 20 school days, or in the case of an internal review regarding an Environmental Information Request, 40 working days.

Policy review

6.9. The policy will be reviewed annually and updated if necessary to reflect any changes in the law or in school governance arrangements. Steps will be taken to ensure all staff are aware of and have read this policy. This policy will also be shared with the full governing board.

Subject Access Request

7.0. All personal data held by the School is processed within the Data Protection Principles and is treated with the utmost respect for its lawful use and the safeguarding of individual rights. One of these rights is the “right of access”; permitting individuals to see a copy of any information held about them.

Submitting a request

7.1. The easiest way to see a specific piece of information (for example - an email, a form, or letter) is to contact the person holding the information and ask them if they will provide a copy. Any request can be made to any member of staff, either verbally or in writing. To help us recognise and validate a formal request and manage our official response, we do ask that requests are submitted to the (enter main contact here). Please note that this is not compulsory and individuals can contact the school via email or telephone to discuss submitting their request.

7.2. To reasonably confirm the identity of the “subject” (the person) or the authority of the third party requester, we may ask for requisite information to be submitted either by email or post. This is a legal requirement where we need to establish the identification of the individual.

7.3. Information which can be requested - Requesters do not have to explain their reason for making a request or what they intend to do with the information requested, although it may help to collect the relevant information if the purpose of the request is clear.

Individuals are entitled to be:

- told whether any personal data is being processed. If the answer is no, we will still respond to let them know we do not hold any personal data about them;
- given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- given a copy of the personal data; and
- given details of the source of the data.

A Subject Access Request will only provide access to an individual's own "personal data" - not whole documents or files which will not always personally identify someone - for example, a training record on file may include personal data about an individual's attendance on the course, but a Subject Access Request will not provide the course content.

7.4. Who can make a request?

Data Protection laws give all school pupils, regardless of age, the right of access to their personal information. If a pupil wishes to request a copy of their own data or exercise any of the above rights then the School would assess whether or not they were competent to independently make the request and whether or not the request would be in their best interests. If we decided that the pupil was not competent to make this request, then we would request that somebody who has parental responsibility for the pupil would make this request on their behalf. Similarly, it is recognised that young children may ask a parent to make a request on their behalf. Consideration will be made as to whether the pupil is mature enough to understand their rights, the nature of the personal data, any detriment to the pupil if those with parental responsibility cannot access this information; and any views the pupil has on whether their parents should have access to information about them.

If a parent makes a request for their child's data, but the School felt that the pupil was competent to independently make the request, we would forward the information to the pupil. Parents will only be entitled to access information about their child if the child is unable to act on their own behalf or has given their consent.

Personal data will only be disclosed to further parties who have been given consent to receive the data - for example, a solicitor acting on behalf of a member of staff (it is the third party's responsibility to provide evidence of this entitlements), or to organisations that have a legal right to receive the information without consent being given - for example, data related to our safeguarding child protection.

7.5. Timescales

The School will provide a response within one calendar month, from the date on which the request is submitted, with the day of receipt counting as 'day one' (for example, a SAR received on 3 September will be responded to by 3 October).

7.6. Responding to requests:

In line with good practice, on receipt of a request the details will be logged on a "Subject Access Register" and we will take the following steps:

1. Acknowledging and clarifying the request
2. An email will be sent to the requester to acknowledge receipt of the request and to clarify the deadline for our response.
3. We may need more information to find the data, especially if it is not immediately obvious what is being requested, or if there is a large quantity of information about an individual we may ask them to specify the information their request relates to.

4. Whilst we will always be transparent about what information we hold and how this will be used, where requests are manifestly unfounded or excessive, we may refuse to respond. In such cases, we will explain the grounds within one month of the request, and advise them of their right to complain.

7.7. Finding and retrieving the information

1. On receipt of the request, the team will contact relevant stakeholders to obtain the relevant personal information. Depending on the request, this search may be conducted through the Information Governance team, or through one or more of the Information Asset Functions (Admissions and School Offices, External Relations, HR and/or Finance).
2. There are some categories of information that may be difficult to access without further details about the likely dates when processing occurred (e.g. historical records or data in legacy databases which do not have modern search mechanisms). A judgment will be made and documented in the "Subject Access Register" about what may be unreasonable or disproportionate to the importance of providing access to that information.
3. There may be records which have been deleted as part of the School's general records management process
4. Personal information may be contained in emails that have been archived and removed from 'live' systems so may be difficult to retrieve. A reasonable proportionate effort will be made in the circumstances and we may ask the requester to give details about the context that would help find what they want.

Keeping you informed

1. We will inform individuals of regular progress and whether there is any delay.
2. Where requests are complex or numerous, an extended period may be requested and we will inform the individual and explain why the extension is necessary.

Redactions

1. Documents or files may contain a mixture of information that is the requester's personal data, personal data about other individuals and information that is not personal data at all. Where the information is sensitive or contentious, each document will be assessed for the information they contain, and redacted appropriately.
2. As we are not obliged to disclose mixed data in response to a request, we will only do so if either (a) the third party has consented or (b) it is "reasonable", taking into account all the relevant circumstances, to disclose without consent (for example where staff are identified in their role in the School).

7.8. Exemptions

We take privacy of personal information very seriously, especially where there is an expectation of confidentiality. Some types of personal data are exempt from the right of subject access and so cannot be obtained by making a request.

7.9. References

Whether created by School or received from a third party, references are exempt from subject access; as they are given in confidence for the purposes of an individual's education, training or employment or the provision of a service by them.

8.0. Child Protection

The School will also withhold information from Subject Access Requests in certain circumstances, such as where there are Child Protection issues or serious harm may be caused to the physical or mental health of an individual.

8.1. Charges

The School will provide a copy of personal information to individuals free of charge. However, a reasonable administrative fee will be charged when a request is manifestly unfounded or excessive, particularly if it is repetitive (e.g. further copies of the same information).