



### Freedom of Information Policy

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#### **VISION & VALUES OF ST JOHN AND ST JAMES**

Our vision is to create an inclusive community of aspirational learners, children, families and colleagues, working collaboratively and respectfully within a happy, nurturing environment where all flourish and achieve. Pupils are given extensive opportunities through an exciting and engaging curriculum, through which our Christian values are woven.

**'I have come that they may have life, and have it to the full'.**

**John 10 verse 10**

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### **Statement of intent:**

As an educational provider, St John and St James Church of England Primary School, has an obligation to publish a freedom of information statement, outlining how we will meet our duties under the Freedom of Information Act 2000 and associated regulations. The development and effective implementation of this policy fulfils that requirement.

More specifically, this policy outlines our school's policy and procedures for:

- The release and publication of private data and public records.
- Providing applicants with advice and assistance throughout the duration of their requests.

It also clarifies our position regarding the appropriate limit to the costs incurred by the school in obtaining any requested information, and on charging fees for its provision.

## **1 [Updated] Legal framework**

This policy has due regard to the following legislation:

- The UK General Data Protection Regulation (UK GDPR)
- The Data Protection Act 2018
- The Freedom of Information Act 2000
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

**[Updated]** This policy also has due regard to guidance including, but not limited to, the following:

- Cabinet Office (2018) 'Freedom of Information Code of Practice'
- ICO (2021) 'Definition document for the governing bodies of maintained and other state-funded schools in England'
- ICO (2015) 'Model publication scheme'
- ICO (2016) 'Duty to provide advice and assistance (Section 16)'
- **[Updated]** ICO (2023) 'Time limits for compliance under the Freedom of Information Act (Section 10)'

This policy will be viewed in conjunction with the following other school policies:

- Data Protection Policy
- Freedom of Information Publication Scheme
- Records Management Policy

## **2 Accepting requests for information**

The school will only accept a request for information which meets all of the following criteria:

- It is in writing, this includes requests sent to the school's official social media accounts
- It states the name of the applicant and an address for correspondence
- It adequately describes the information requested

A request will be treated as made in writing if it meets all of the following requirements:

- It is transmitted by electronic means
- It is received in legible form
- It is capable of being used for subsequent reference

Where a request is submitted in a foreign language, the school is not expected to obtain a translation of the request. For the request to be processed, the school will ask the applicant to provide their request in English.

The school will publish details of its procedures for dealing with requests for information on the website, which includes the following:

- A contact address and email address
- A telephone number
- A named individual to assist applicants with their requests

## **3 General rights of access to information held by the school**

Provided that the request meets the requirements set out in section 2 of this policy, the school will comply with its duty to:

- Confirm or deny to any person making a request for information to the school, whether it holds information of the description specified in the request.
- Provide the documentation if the school confirms that it holds the requested information.

This will be completed no later than 20 school days, or 60 working days if this is shorter, from receipt of the request. Where a fee is charged, the timeframe within which the school has to respond to the request begins from the day the fee is received.

The school will not comply with this duty where:

- The school reasonably requires further information to meet a freedom of information request, has informed the applicant of this requirement, but was not subsequently supplied with that further information.
- The information is no longer readily available as it is contained in files that have been placed in archive storage or is difficult to access for similar reasons.
- A request for information is exempt under section 2 of the Freedom of Information Act 2000.
- The cost of providing the information exceeds the appropriate limit.
- The request is vexatious.
- The request is a repeated request from the same person made within 60 consecutive working days of the initial one.
- A fee notice was not honoured.
- The requested information is not held by the school for the purposes of the school's business.

Where information is, or is thought to be, exempt, the school will, within 20 school days, give notice to the applicant which:

- States that fact.
- Specifies the exemption in question.

If information falls within scope of a qualified exemption and the school needs additional time to consider the public interest test, the school may extend the deadline. In most cases, the extension will exceed no more than a further 20 school days; however, the actual length of the extension will be decided on a case-by-case basis.

Where a public interest test extension is required, the school will write to the applicant to inform them of this, stating the following information:

- Which exemption(s) the extension relies on and why
- A revised deadline for when the applicant will receive their response

Where a deadline has to be further extended, the school will write to the applicant again, stating the information outlined above.

Requests for information that is not recorded by the school (e.g. requests for explanations, clarification of policy and comments on the school's business) will not be considered valid requests. In these cases, the applicant will be provided with an explanation of why their request will not be treated under the Freedom of Information Act 2000 and the school will respond to the applicant through other channels as appropriate.

The information provided to the applicant will be in the format that they have requested, where possible. Where it is not possible to provide the information in the requested format, the school will assist the applicant by discussing alternative formats in which it can be provided. The information provided will also be in the language in which it is held, or another language that is legally required. If, under relevant disability and discrimination regulations, the school is legally obliged to provide the information in other forms and formats, it will do so.

In some cases, a request may be dealt with under more than one access regime, e.g. if the request involves both information about the school and personal information, it will be dealt with under the Freedom of Information Act 2000 and the Data Protection Act 2018.

Staff are made aware that it is a criminal offence to alter, deface, block, erase, destroy or conceal any information held by the school with the intention of preventing disclosure following a request.

#### **4 The appropriate limit**

The school will not comply with any freedom of information request that exceeds the statutorily imposed appropriate limit of £450.

When determining whether the cost of complying with a freedom of information request is within the appropriate limit, the school will take account only of the costs we reasonably expect to incur in relation to:

- Determining whether it holds the information.
- Locating the information, or a document which may contain the information.
- Retrieving the information, or a document which may contain the information.
- Extracting the information from a document containing it.
- Costs related to the time spent by any person undertaking any of the activities outlined in this policy on behalf of the school, are to be estimated at a rate of £25 per person per hour.

The school is not required to search for information in scope of a request until it is within the cost limit. If responding to one part of a request would exceed the cost limit, the school does not have to respond to any other parts of the request.

Where multiple requests for information are made to the school within 60 consecutive working days of each other, either by a single person or by different persons who appear to be acting in concert, the estimated cost of complying with any of the requests is to be taken to be the total costs to the school of complying with all of them.

## **5 Charging fees**

The school may, within 20 school days, give an applicant who has requested information from the school, a written notice stating that a fee is to be charged for the school's compliance.

Charges may be made for disbursements, such as the following:

- Production expenses, e.g. printing and photocopying
- Transmission costs, e.g. postage
- Complying with the applicant's preferences about the format in which they would like to receive the information, e.g. scanning to a CD

Fees charged will not exceed the total cost to the school of:

- Informing the person making the request whether we hold the information.
- Communicating the information to the person making the request.

Where a fee is to be charged, the school will not comply with the [General rights of access to information held by the school](#) section of this policy unless the requested fee is paid within a period of three months, beginning with the day on which the fees notice is given to the applicant.

Where a fee is paid by cheque, the school has the right to wait until the cheque is cleared before commencing work. Once a fee is received, the school will inform the applicant of the revised response deadline, i.e. an additional 20 school days (or 60 working days).

Where the school has underestimated the cost to be charged to an applicant, a second fees notice will not be issued; instead, the school will bear the additional costs. The school will not take into account any costs which are attributable to the time spent by persons undertaking any of the activities mentioned in the [Charging fees](#) section of this policy.

When calculating the 20<sup>th</sup> school day in which to respond to a freedom of information request, the period beginning the day on which the fee notice is given to the applicant and ending with the day on which the fee is received will be disregarded.

## **6 Means of communication**

Where, on making a request for information, the applicant expresses a preference for communication by any one of the following means, the school will, as far as is practicable, give effect to that preference:

- The provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant.

- The provision to the applicant of a reasonable opportunity to inspect a record containing the information.
- The provision to the applicant of a digest, or summary of the information, in permanent form or in another form acceptable to the applicant.

Where a preference is not stated by the applicant, the school will communicate by any means which are reasonable under the circumstances. For example, where an applicant uses Twitter to make a request, the school may respond via an alternative medium as Twitter restricts the length of a response.

## **7 Providing advice and assistance**

The school will meet its duty to provide advice and assistance, as far as is reasonable, to any person who proposes to make, or has made, requests for information to the school.

The school may offer advice and assistance in the following circumstances:

- If an individual requests to know what types of information the school holds and the format in which it is available, as well as information on the fees regulations and charging procedures.
- If a request has been made, but the school is unable to regard it as a valid request due to insufficient information, leading to an inability to identify and locate the information.
- If a request has been refused, e.g. due to an excessive cost, and it is necessary for the school to assist the individual who has submitted the request.

The school will provide assistance for each individual on a case-by-case basis; examples of how the school will provide assistance include the following:

- Informing an applicant of their rights under the Freedom of Information Act 2000
- Assisting an individual in the focus of their request, e.g. by advising of the types of information available within the requested category
- Advising an applicant if information is available elsewhere and how to access this information
- Keeping an applicant informed on the progress of their request

Where the school wishes to ask a different public authority to deal with a request by transferring it to them, this will only be done with the agreement of the applicant.

In order to provide assistance as outlined above, the school will engage in the following good practice procedures:

- Make early contact with an individual and keep them informed of the process of their request
- Adhere to the school's Customer Services Policy which outlines the steps included within the code
- Accurately record and document all correspondence concerning the clarification and handling of any request
- Give consideration to the most appropriate means of contacting the applicant, taking into account their individual circumstances
- Discuss with the applicant whether they would prefer to receive the information in an alternative format, in cases where it is not possible to provide the information requested in the manner originally specified
- Remain prepared to assist an applicant who has had their request denied due to an exemption

The school will give particular consideration to what level of assistance is required for an applicant who has difficulty submitting a written request.

In circumstances where an applicant has difficulty submitting a written request, the school will:

- Make a note of the application over the telephone and then send the note to the applicant to confirm and return – the statutory time limit for a reply would begin here.
- Direct the individual to a different agency that may be able to assist with framing their request.

**Please note:** This list is not exhaustive, and the school may decide to take additional assistance measures that are appropriate to the case.

Where an applicant's request has been refused either because the information is accessible by other means, or the information is intended for future publication or research, the school, as a matter of good practice, will provide advice and assistance.

The school will advise the applicant how and where information can be obtained, if it is accessible by other means.

Where there is an intention to publish the information in the future, the school will advise the applicant of when this publication is expected. If the request is not clear, the school will ask for more detail from the applicant in order to identify and locate the relevant information, before providing further advice and assistance.

If the school believes the applicant has not provided their real name, the school will inform the applicant that the request will not be responded to until further information is received from the applicant.

If the school is able to clearly identify the elements of a request, it will respond following usual procedures and will provide advice and assistance for the remainder of the request. If any additional clarification is needed for the remainder of a request, the school will ensure there is no delay in asking for further information.

Applicants are given two months to provide any requested clarification. If an applicant decides not to follow the school's advice and assistance and fails to provide clarification, the school is under no obligation to contact the applicant again.

If the school is under any doubt that the applicant did not receive the advice and assistance, the school will re-issue it. The school is not required to provide assistance where an applicant's request is vexatious or repeated, as defined under section 14 of the Freedom of Information Act 2000.

Where the school has already sent a refusal request in relation to a previous vexatious request, the school is not obliged to send another notice for future vexatious requests.

An ongoing evidence log is kept, recording relevant correspondence or behaviour that has been taken into account when a request has been classed as vexatious.

The school is not required to provide information where the cost of complying with a request exceeds the limit outlined in the Freedom of Information Act 2000. In such cases, the school will firstly provide the applicant with advice and assistance to help them reframe or refocus their request with a view of bringing it within the cost limit. Then the school will consider whether any information can be provided free of charge if the applicant refuses to pay the fee.

If a request is refined, it will be treated as a new request.

A record will be kept by the headteacher in the school office of all the advice and assistance provided.

## **8 Consultation with third parties**

The school may need to consult third parties about information held in scope of a request to consider whether it would be suitable to disclose the information. Situations where third parties may need to be consulted include the following:

- When requests relate to persons or bodies who are not the applicant and/or the school
- When the disclosure of information is likely to affect the interests of persons or bodies who are not the applicant or the school

The school will consider if a third party needs to be directly consulted about a request, particularly, if there are contractual obligations that require consultation before information is disclosed.

Third parties will also be consulted where the school is proposing to disclose information relating to them or information that is likely to affect their business or private interests.

The views of third parties will be given appropriate weighting when deciding how to respond to a request. For example, if the third party created or provided the information, they may have a better understanding of its sensitivity.

It is ultimately the school's decision as to whether information in scope of a request will be released following any relevant consultation.



Where the school decides to release information following consultation with a third party, the third party will be informed in advance that the information is going to be disclosed. Where the school intends to release information that relates to a large number of third parties, the school will consider whether it would be more appropriate to contact a representative organisation who can express views on behalf of the third parties, rather than contacting each party individually. If no representative organisation exists, the school may also consider only notifying or consulting a sample of the third parties relating to the disclosure. Decisions will be made on a case-by-case basis.

## **9 Internal reviews**

When responding to requests for information, the details of the school's internal review process will be set out, including information about how applicants can request an internal review. Applicants will also be informed of their right to complain to the ICO if they are still dissatisfied following the outcome of the school's internal review.

Requests for an internal review should be made in writing to the school.

For a request for an internal review to be accepted, it must be made within 40 school days from the date the school issued an initial response to the request.

Upon receipt of an application, the school will acknowledge an application and inform the applicant of the intended response date. Responses will usually be delivered within 20 school days of receipt of the application.

If an internal review is complex, requires consultation with third parties or the relevant information is of high volume, the school may need to extend the usual response timeframe. In these cases, the school will inform the applicant and provide an alternative response date. In most cases, the extension will exceed no more than a further 20 school days; however, the actual length of the extension will be decided on a case-by-case basis.

Where clarification is needed from an applicant regarding the review, the normal response period will not begin until clarification is received. Wherever possible, the review will be undertaken by a different member of staff than the person who took the original decision. During a review, the school will evaluate the handling of the request; particular attention will be paid to concerns raised by the applicant.

The applicant will be informed of the outcome of the review and a record will be kept of such reviews and the final decision that is made. If the outcome of the review is to disclose information that was previously withheld, the information will be provided to the applicant at the same time they are informed of the response to the review, where possible. If this is not possible, the applicant will be informed of when the information will be provided.

Within the response to a review, the applicant will be informed again of their right to complain to the ICO.

## **10 Publication scheme**

The school will meet its duty to adopt and maintain a publication scheme which specifies the information which it will publish on the school's website, and whether the information will be available free of charge or on payment.

The publication scheme will be reviewed and, where necessary, updated on an annual basis.

## **11 Contracts and outsourced services**

The school will make clear what information is held by third party contractors on behalf of the school. Where a contractor holds information relating to a contract held with the school on behalf of the school, this information is considered in the same way as information held by a public authority and so is subject to the Freedom of Information Act 2000.

When entering into a contract, the school and contractor will agree what information the school will consider to be held by the contractor on behalf of the school, this will be indicated in the contract. Appropriate arrangements will be put in place for the school to gain access to information held by the contractor on the school's behalf, in the event that a freedom of information request is made. These arrangements will be set out in a contract, and will cover areas including, but not limited to, the following:

- How and when the contractor should be approached for information and who the points of contact are
- How quickly information should be provided to the school

- How any disagreement about disclosure between the school and contractor will be addressed
- How requests for internal reviews and appeals to the ICO will be managed
- The contractor's responsibility for maintaining record keeping systems in relation to the information they hold on behalf of the school
- The circumstances under which the school must consult with the contractor about disclosure and the process for doing so
- The types of information which should not be disclosed and the reasons for this confidentiality, where appropriate

In some situations, the school may offer or accept confidentiality arrangements that are not set out within a contract with a third party. The school and the third party will both be aware of the legal limits placed on the enforceability of expectations of confidentiality and the public interest in transparency. Such expectations will only be created where it is appropriate to do so.

Contractors must comply with requests from the school for access to information they hold on behalf of the school. Requests for information held by a contractor on behalf of the school will be responded to by the school. If a contractor receives a request, this will be passed onto the school for consideration.

## **12 Monitoring and review**

This policy will be reviewed on an annual basis, or in light of any changes to relevant legislation, by the headteacher.

## Appendix A

### **The next scheduled review date for this policy is July 2025.Categories of requests where you should consult the Board of Governors**

The following illustrate examples of requests that should be referred to the Board of Governors.

- a) Requests relating to school expenditure;
- b) Requests relating to the number of children in care or receiving services from YOT/YOS/YISP;
- c) Requests relating to governors;
- d) Requests relating to travel expenses;
- e) Requests regarding any legal prosecution with school involvement past, present or future;
- f) Requests relating to deceased persons;
- h) Requests relating to staff pay
- i) Requests relating to agency workers and/or their pay
- j) Requests relating to staff sickness absence

## Appendix B

## **Re-use of school information and copyright**

Unless otherwise stated, the School owns the copyright in all material on their website and any information contained in responses to request for information made under Freedom of Information or Environmental Information Regulations.

Subject to the following conditions, the School has no objection to organisations reusing its copyright-protected materials (the 'Materials') and reproducing them in their own publications, or on their internal computer networks. Organisations using the School's materials must adhere to the following criteria:

- Any publication or internal network which incorporates the School Materials must include an acknowledgement of the source of such materials.
- The Material must be clearly separated from any comment made on it by the organisation or others.
- Readers of the Material must not be given the impression that the School is responsible for, or has in any way approved, the publication or network in which his Materials are reproduced.
- The Materials may not be altered or amended unless such material is clearly marked as altered or amended by the organisation or others.
- No fee may be charged by any organisation reproducing the School's Materials in respect of reproducing Materials.
- When reproducing the School's Materials, organisations must have regard to any qualifying statements or descriptions attached to the Materials, (for example, descriptions such as 'consultation document', are important as are statements concerning the audience at which the Material is directed). If the Material is reproduced in full, or substantial extracts are reproduced, any qualifying statements attached to the Material must be included.
- There is no charge for the reproduction of Materials made in accordance with these conditions.

The Re-use of Public Sector Information Regulations 2005 provided a framework for deciding issues relating to the re-use of information held by public bodies. Subject to the conditions set out above, the School has no objection to organisations reproducing the Materials made available.

Where an organisation wishes to re-use the School's Materials, but the proposed re-use would contravene any of the conditions set out above, the organisation should contact the School Administration Team to determine whether the proposed re-use would be permitted and what, of any, additional conditions may apply. The application should be in writing, specifying name and address of the applicant, identifying the documents to be re-used and the purpose for re-use.

If an individual or organisation is unhappy with the manner in which an application for the reproduction or the re-use of the School's Materials has been handled by the school, a complaint should be made in writing to the school.

## **Internal Review Procedure**

This process relates to the FOIA Internal Review Procedure.

1. In all cases where a Freedom of Information (FOI) response is made to a request received, the response must contain the following statement, or words to a similar effect:

*“If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. If so, you should email or write to me to ask for an internal review to be carried out. The review will be carried out by a senior manager within the School, who will advise you directly of the outcome of the review. If you are still dissatisfied, you may ask the Information Commissioner’s Office to consider your complaint. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to [Responding officer]:*

*If you are not content with the outcome of the internal 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.”*

2. On receipt of a request for a review of the response, the original responding officer, referred to hereafter as the *Responding Officer*, should consider the detail of the review and re-evaluate the basis of the response as appropriate. In doing so, the Responding Officer may wish to take advice from the legal.
3. If the Responding Officer, on reflection considers that the request for the review is reasonable and that further disclosure is merited, they should respond accordingly.
4. If after deliberation the Responding Officer does not consider the grounds of the appeal to be reasonable, they should arrange for a senior manager (senior to the original responding officer) to undertake a review and is referred to hereafter as the Review Manager. The Responding Officer should pass the Review Manager all the relevant correspondence (e.g. the request for information, the response and any other communications relating to the request) as well as the disputed information.
5. The applicant should be given an estimate as soon as possible after the request for an appeal has been received, of the time the review is likely to take. The Reviewing Manager should aim to complete their review and respond within 20 working days. Where there is delay in the review the applicant should be informed and advised of the revised response time.
6. The School Administration Team may, if they feel it appropriate, request that the review response is considered by the Data Protection Officer prior to being sent out.
7. Once the School Administration Team has completed the review they should respond as appropriate. If the appeal is upheld then a disclosure of the disputed information should be given to the applicant. However if the appeal is only partially upheld or if the original decision is maintained then a full explanation as possible should be provided to the applicant and any additional disclosure as appropriate.
8. If the review relates to a procedural matter and it was shown that the school did not follow its procedures an apology should be offered to the applicant. Steps should also be taken to ensure that the occurrence is not repeated.
9. The School Administration Team should send a copy of their response to the Responding Officer for their information.
10. Full details of all steps taken must be recorded (e.g. the reasoning and logic behind the response, the steps taken to review, etc.) in lieu of any appeal to the Information Commissioner’s Office.
11. All requests for a review of a data protection issue, whether made by an individual or the Information Commissioner’s Office, should be passed to the School’s Data Protection Officer.

## **Appendix D**

## **Handling a request involving a Dataset**

The introduction of Protection of Freedoms Act 2012 on the statute book has amended the Freedom of Information Act 2000 (FOIA) to the effect that the school has further obligations when dealing with requests for information involving a "Dataset" and you must be aware of these obligations when handling requests. The new provision came into force on 1st September 2013. This fact sheet and the Q&A is designed to assist in understanding these responsibilities and should be read in conjunction with the Freedom of Information Act Section 45 Code of Practice relating to Datasets and with the Information Commissioners guidance on handling information requests involving Datasets.

The change to FOIA is but a part of a wider Government initiative to increase transparency of public bodies and ensure public authorities proactively release data in a way that allows businesses, and other enterprises to re-use it for both non-commercial and commercial purposes.

Fundamentally the Protection of Freedoms Act, amends FOIA so that schools are obliged to release datasets in a re-usable electronic format.

So that the School complies with this new obligation it is important that staff dealing with request have an appreciation of what exactly a Dataset is. This is because this new provision will only be applicable to information which meets the definition of a **Dataset**.

So what exactly constitutes a **Dataset**? A dataset is a collection of information held in electronic form where all or most of the information meets the following criteria:

- It has been obtained or recorded for the purpose of providing a school with information in connection with the provision of a service y or the carrying out of any other function;
- It is factual information which:
  - a) is not the product of interpretation or analysis other than calculation (i.e. it is the raw data) and
  - b) is not an official statistic as defined by the Statistics and Registration Service Act 2007
- It remains in a form that (except for the purpose of forming part of the collection) has not been organised, adapted or otherwise materially altered since it was obtained or recorded.

The last criterion is important to understand. It essentially means that any Dataset which have had some value added to them or which have been materially altered, by way of analysis, representation or application of some technical manipulation, would fall outside the legal definition.

Typical examples of a dataset could be:

- Postcodes
- List of School owned assets
- Staff sickness statistics
- Balance sheet showing receipts and spend
- Demographic statistics of residents receiving a particular service
- Approval rating for School services or functions
- Organisation structure charts

The above list is no way exhaustive and is merely serves to indicate what types of information the definition will capture. It would not be feasible here to provide a definitive list of what information may constitute a Dataset because of the diversity of information that may be collected and requested. School staff should if in doubt seek advice either from their respective information co-ordinators or from the School Administration Team for an opinion about whether the information constitutes a Dataset.

### **Communication of information electronically in a re-usable form**

The new obligation will mean that any request for information that constitutes a Dataset must be released in an electronic and re-usable form. Until the implementation of the new provision applicants

have been able to state their preference as to whether the information is provided to them electronically or in manual form and as long as it was reasonable to do so the school were required to comply with that preference.

However the amendment will now mean that in future where a request is made for information that is held by a school which constitutes a dataset, or which forms part of a dataset, and the applicant requests that information be sent to them in an electronic form, then the school must, so far as is reasonably practicable, provide the information to the applicant in an electronic form that is capable of re-use. In effect this means that the information should be provided in a machine-readable form using open standards which permits unrestricted re-use and manipulation of the information. This will effectively prevent the school from providing such information in a format incapable of manipulation (e.g. PDF format) but instead to provide the information in an open format (e.g. Character Separated Value or CSV format).

However it should be noted that this obligation is qualified in that the School would only be required to provide the information in a re-usable format unless it was unreasonable to do so with regards to any technical or financial considerations. Although the expectation is that in the vast majority of cases the School will comply with this obligation.

### **Re Use of Copyright Works**

As part of the new provision schools when communicating a Dataset to an applicant in response to an FOI request and all or part of the dataset contains a relevant copyright work, then school must make the copyright work available for re-use in accordance with the terms of the specified license.

So what exactly is a “relevant copyright work”? This is a legal term defined by the Copyright Designs and Patents Act 1998, and in this context relates to a product such as a report, collection of information or database that is created by the relevant copyright work owner (e.g. the School). This ownership allows the owner to control how their product is re-used after dissemination to a third party. In the context of Freedom of Information request the existence of a relevant copyright work does not impact on whether the information is made available to the requestor (the availability issue depends on whether an exemption is available on which the council can rely on to withhold information) but instead on ability of the requestor to re-use the information once it is in their possession. What the new provision will do in the majority of cases is remove the re-use restrictions of what a third party (e.g. the information requestor) may do with that information once they have it.

Information captured by this provision must meet the following criteria:

- a) the person must have made a request for a dataset
- b) the dataset requested includes a ‘relevant copyright work’
- c) that the School
- d) is the only owner of the ‘relevant copyright work’ (in other words that it is not owned in whole or part by a third party); and
- e) that the school is communicating the relevant copyright work to the requester under the FOIA (in other words it is not being withheld under one of the exemptions).

When providing a Dataset, in response to a request for information under FOIA, under the new provisions of the Act, the School must make that work available for re-use in accordance with the terms of one of the specified licences (see below). In practice when providing a Dataset in response to a request under FOIA reference will be required to the appropriate license. It is expected that the vast majority of cases the School will make use the UK Open Government Licence as most datasets should be available without a charge or restrictions. It is expected that only in a few exceptional cases will alternative licenses be used.

A description of the licenses that will be available for use in this context are described below.

- **UK Open Government Licence:** The Open Government Licence is the main licensing model for the UK Government. And it encourages the use and re-use of a wide range of public sector information. The Open Government Licence is a non-transactional open licence which enables use and re-use with virtually no restrictions. It permits use and re-use, including for commercial purposes, at no cost to the user/re-user. The Licence can be easily used by

public authorities, for example, it only requires public authorities to link to the Open Government Licence which is hosted on The National Archives website  
<http://www.nationalarchives.gov.uk/doc/open-government-licence>

- **Non- Commercial Government Licence:** It is recognised, however, that the Open Government Licence will not be appropriate in all cases, for example, in circumstances where information may only be used for non-commercial purposes. As with the Open Government License above the license can be access through the National Archives website at <http://www.nationalarchives.gov.uk/doc/non-commercial-government-licence/>
- **Charged Licence (Beta):** If re-use for commercial purposes which involves payment of a fee and/or royalties by the re-user is required, a transactional licence may be used. The licence uses standard licensing terms and forms part of the UK Government Licensing Framework and is available on the National Archives website <http://www.nationalarchives.gov.uk/information-management/government-licensing/charged-licence.htm> .( It should be noted that the version of the license is a prototype and is currently open to consultation).

### **Publication of Datasets through the Publication Scheme**

On disclosure of a Dataset in response to a FOIA request there is a new requirement that obliges the public authority to publish this information and keep it up to date in accordance with the Publication Scheme. Datasets that are published in this way should be in an electronic format that is capable of re-use and any relevant copyright work within it will have to be made available for re-use in accordance with the terms of the specified licence (referred to above) as in the case of Datasets made available in response to requests under FOIA.

These provisions only apply to Datasets which have been requested and do not extend to Datasets that the school may collect or hold but have not been subject to a formal request under FOIA.

There is an exception to the publication requirement and that is where the public authority is satisfied that it is not appropriate for the dataset to be published. This maybe because the information is of limited value or interest to the wider public.

### **Other considerations**

As already referred to above, the new provisions make no changes to the statutory exemptions available to public authorities under Part II of FOIA to withhold information. In other words, if the information requested involves a Dataset which is covered by an exemption then the School can still rely on the exemption to withhold the information and the new provisions do not then come into play. It is important to remember that the new provision outlined above have no consequence to the right of access available under FOIA. The changes relate only to the form in which the information is to be provided (e.g. in an open format capable of manipulation) and the facility for re-using the information by the requestor where it relates to information constituting a Dataset.

Similarly, the new provision puts no onus on schools to create new information when none existed before. As with any other FOIA request the obligation is to information already in the possession of the school at the time the request is made.

Generally speaking the vast majority of information will allow for liberal re-use of the information without charge to the third party. However, the legislation does potentially permit schools to use alternative licensing arrangements that could require the applicant to pay a fee. It should be remembered however that the payment in this case is for re-use and not access. It is important to stress that the school cannot refuse disclosure on the basis that it has not received the required fee for re-use where applicable.

The Secretary of State has issued regulations on the charging for re-use of information. These are contained in Freedom of Information (Release of Datasets for Re-use) (Fees) Regulations 2013. Any fees that are charged in relation to reuse of information must be in accordance with these regulations. Alternatively, there is nothing to prevent a school to charge for re-use of information if existing legislation is available to permit this.



The School Administration Team should be aware that the new provisions amending the FOIA will be regulated by the Information Commissioner (ICO). Any complaints received from applicants about failure to comply with these new provisions outlined above must be handled under the internal review procedures in exactly the same way as standard FOIA complaints have been handled. The requestor if dissatisfied with the outcome of the internal review may seek recourse from the ICO.

These provisions only apply to requests falling under FOIA 2000 and therefore does not apply to information requests under Environmental Information Regulations (EIR) 2004.

## **Changes to Freedom Of Information Act 2000 – Q&A**

### **What has changed?**

*The change relate to the way we must comply with our obligations in providing certain kinds of information under the Freedom of Information Act (FOIA) 2000. Specifically it relates to information defined as a Dataset. The changes have no affect to information that does not constitute a Dataset.*

### **How has this change come about?**

*The changes to FOIA 2000 were made law with the passing of the Protection of Freedoms Act (PoFA) 2012.*

### **Why has this change come about?**

*This is but part of a wider government initiative to make information held by public authorities/schools not only more transparent but to allow both commercial and non-commercial organisations to exploit publicly held information for the benefit of the wider economy.*

### **What is a Dataset?**

*It is important to understand what the term “Dataset” means as the new provisions referred to in this document will only apply to information falling within the scope of the definition.*

*A Dataset will have **all** the following attributes:*

- a) Information that was collected in connection with the provision of a service or carrying out a function;*
- b) it is factual information (but not the product of interpretation or analysis; neither is it an official statistic) and*
- c) has not been altered or manipulated since it was collected.*

### **What is an example of a Dataset?**

*The legislation does not provide a definitive list but the kinds of information that may fall within the scope of the definition include:*

- ☐ *Property postcodes*
- ☐ *List of council assets*
- ☐ *Receipts and spend information*
- ☐ *Resident satisfaction ratings*
- ☐ *Number of disabled parking bays in a geographic district*

### **When did the changes take effect?**

*1st September 2013*

### **What are the new obligations?**

*When providing information in response to a request under FOIA that meets the definition of a Dataset the information must be:*

- a) provided in a machine readable, open format (e.g. CSV format).*
- b) Information containing copyright works will require a specified license to be issued which sets out the conditions for the re-use of the information*

### **What is a copyright works?**

*This relates to information where the copyright is owned wholly or in part with a third party. Where the works is owned wholly by the school then the school can provide the information with a specified.*

*However if the copyright to the information is co-owned or owned exclusively by a third party then permission would need to be sought from the third party in regards to any intentions for re-use of that information (Remember this is permission about re-use and not disclosure!)*

**Do the changes effect information that are exempt under FOIA?**

*No. If requested information is exempt under one of the statutory exemption (e.g. Section 40 – Personal Information) then the information can still be withheld by citing the relevant exemptions. The changes only apply to information we intend to disclose or publish.*

**Do the changes apply to Environmental Information?**

*No*

If you have any questions about the new provisions, contact legal services.

Appendix E

**FOI Request Evidence Log**

Date of request	Format (e.g. email or in writing)	Location (Where is the correspondence stored?)	Requester	Repeated request? (Yes/No)	Deemed vexatious or repeated? (Yes/No)	Comments