



HMFA

# Freedom of Information Policy

January 2021

Next Review Due: January 2022

Co-ordinator – Mrs S McGowan

## HMFA Freedom of Information Policy

POLICY DATE: 31 January 2021

REVIEW DATE: January 2022

### 1.0 Introduction

- 1.1 The Freedom of Information Act 2000 (FOIA) came fully into force on the 1st January 2005. The FOIA gives a right of public access to information held by public authorities. It is a legal right for any person(s) to ask for access to information held by the school.
- 1.2 Although the FOIA presumes openness it recognises the need to protect sensitive information in certain circumstances and provides for exemptions.
- 1.3 The FOIA is overseen by the Information Commissioner who also has responsibility for the Data Protection Act 1998 (DPA), and The Environmental Information Regulations 2004 (EIRs). The DPA enables individuals to access information about themselves. The EIRs enable people to access environmental information. The FOIA enables people to access all other information and reasoning behind decisions and policies, which do not fall under DPA or EIR.
- 1.4 The FOIA seeks to promote a culture of openness and accountability amongst public sector bodies, and therefore improve public understanding of how public bodies (which includes the governing body of schools) carry out their duties, why they make the decisions they do, and how they spend public money.
- 1.4 The Academy Trust welcomes this culture of openness and accountability and is committed to providing freedom of information. This policy sets out the Academy Trusts response to the FOIA, and the ways in which the requirements of the Act will be enacted by the school on a day to day basis.
- 1.6 The Co-ordinator is Mrs Suzanne McGowan.

### 2.0 Information Held by the School

- 2.1 In general, the information held by the school is already accessible, but within a framework which respects the confidentiality of some of that information, in particular with regard to individual children, school staff and Trustees or regarding any court orders (such information being subject to the Data Protection Act).
- 2.2 A comprehensive list of the documents and other information published by / available from the school is provided in a separate document entitled "Model Publication Scheme"

### 3.0 Requests for Information

- 3.1 Any request for information beyond that which is already provided by the school (for example, through the Prospectus and Annual Report, or information about children to which parents already have access) should be made in writing (this includes email) to the Executive Headteacher.
- 3.2 Section 8 of the FOIA states any request should state the applicants name and address for correspondence and describe details of the information being requested. If a request is very general, the school may contact the enquirer for clarification of the request.
- 3.3 The person making the request for information can also indicate how they would like to receive the information and where possible the school will try to comply with those wishes. If it is not possible to do so, the school will notify the enquirer and offer an alternative.
- 3.4 Any member of staff may be approached for information beyond which may be regarded as 'normal information'. In this context, 'normal' means the kind of information that teachers and other members of school staff feel confident about giving, as opposed to requests for information which may seem of an intrusive or sensitive nature. If a member of staff receives such a request, they should avoid giving an

immediate response and refer the request in the first instance to the Co-ordinator. Depending upon the nature of the request, the Co-ordinator (after discussion with one of the Executive Headteacher) may then either sanction a response or refer the request to the relevant person(s), Local Advisory Body (LAB) or Board of Trustees (BOT).

3.5 Under the FOIA the enquirer is entitled to be told whether the school holds the information (the duty to confirm or deny) except where certain exemptions apply.

3.6 The Co-ordinator is responsible for ensuring that all members of staff are familiar with this policy and the procedures to be adopted in responding to requests for information under the FOIA.

#### **4.0 Responding to Requests for Information**

4.1 Any requests are to be passed to the Co-ordinator who will then pass the request on to the relevant person(s). Should this not be possible due to the nature of the request, if required, a Committee of the Academy Trust, led by a named BOT Advisor, will manage access to information and will give due consideration to any requests put forward to them. The named BOT advisor for 2021 is Helen Field, who will convene the Committee to include three members at such times as are necessary.

4.2 The Academy Trust will consider any requests received and keep records of their deliberations and outcomes. The potential outcomes are:

- Agreement to meet the request in full
- Agreement to meet the request in part (with reasons)
- Refusal to meet the request (with reasons)

4.3 The Academy Trust will respond to the enquirer within 20 school days (i.e. excluding weekends and school holidays) of the request being made. (Note: The 20-day time limit starts the day after we have received the request. The period from the day the fees notice is issued, if applicable, to the day the fee is received does not count towards the 20 working day limit for response).

4.4 The response to the request in some circumstances may take longer than 20 days. If a request is delayed for any reason (if further information is required/in order to identify and locate the information requested), the Academy Trust will keep the enquirer informed of the progress and where possible provide an expected date for a response.

4.5 Under Section 36 of the FOIA 2000, certain information is exempt from disclosure where it is deemed that disclosure is likely to:

- prejudice collective Cabinet responsibility
- inhibit the free and frank provision of advice and exchange of views for the purposes of deliberation
- prejudice the effective conduct of public affairs

The application of Section 36 needs to be approved by a qualified person, which in this case is the Chair of the BOT (Mrs Chris Hayes), who will give their reasonable opinion that disclosure would or would not be likely to cause the types of prejudice or inhibition listed above. [Note: further guidance on this exemption can be found at [www.ico.gov.uk](http://www.ico.gov.uk)].

4.6 The Act states that requests should not be allowed to cause a drain on the school's time, energy and finances to the extent that they negatively affect our normal public functions (in excess of 3.5 days). The Academy Trust can reserve the right to refuse a request if it is likely to be in excess of 3.5 days to find, sort and edit the information requested. Under these circumstances the Academy Trust will provide an opportunity for the request to be refined.

4.7 Wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence.

4.8 Any expressions of dissatisfaction with the information provided or the decision to refuse to supply information by the Academy Trust should then be addressed to the Information Commissioner's Office (ICO).

## **5.0 Vexatious Requests**

- 5.1 Under section 14 of the FOIA if the Academy Trust receives several requests from the same person, or a series of requests that the Academy Trust thinks are intended to disrupt its work, these may be treated as repeated or vexatious. In this case the Academy Trust may refuse to provide the information requested but would issue a refusal notice within 20 school days from receipt of the request to the enquirer to explain the decision and reasons for withholding the information (Note: this must include information regarding the appeals process).

## **6.0 Appeals**

- 6.1 Upon notification of a refusal to meet the request (either in part or in whole), the party making the request for information may appeal the decision. Any such appeal will be considered by the appeals committee consisting of three Trustees convened by the Chair of Trustees who have not taken part in the original proceedings.
- 6.2 The Appeals Committee will meet in a timely manner such that it can respond to the enquirer within 20 school days of the request being made.
- 6.3 If the enquirer is still not satisfied with the outcome they can commence the complaints process to the ICO. The complaint should be submitted within 6 months of the outcome of the internal review. The enquirer must provide supporting information and evidence along with the completed complaints form. This can be done via email to [casework@ico.gsi.gov.uk](mailto:casework@ico.gsi.gov.uk) or by post to:

First contact team  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

## **7.0 Use of Information Provided**

- 7.1 The Freedom of Information Act allows access to information, but it does not give the enquirer permission to re-use that information for commercial gain. Therefore, the enquirer may reproduce the School's copyright protected information free of charge, without specific permission, provided it is not being reproduced for profit, material or financial gain.
- 7.2 The material must be reproduced accurately and must not be used in a misleading context. If the enquirer is publishing the material or issuing it to others, they must acknowledge the source of the information, its copyright status and the date of publication, if known.
- 7.3 This permission to reproduce the school's copyright protected material does not extend to any material that is identified as being the copyright of a third party. Under those circumstances, the enquirer must seek authorisation to reproduce the material from the copyright holder concerned.

## **8.0 Record Keeping**

- 8.1 Records will be entered into a "Freedom of Information Requests Log" kept within the school (in the Co-ordinator's office). Such records will remain on file for a period of six years and will be disposed of at a set time in a calendar year.
- 8.2 The log will include details of:
- The party making the request for information;
  - The date upon which the request was received (date stamp) and to whom it was addressed;
  - If relevant, the date upon which the request was subsequently referred (internal/external);

- The nature of the information requested;
- The date and time of the meeting(s) convened by the Academy Trust;
- The outcome of the Academy Trust's deliberations, including summary reasons for a refusal (in whole or in part) to meet the information request;
- The response made by the Academy Trust to the party requesting the information, including the person nominated to implement the response (Executive Headteacher or Trustee), the date and format of the response and the details of the information provided.
- Any subsequent appeal made by the enquirer
- The date and time of the meeting convened by the appeals committee;
- The outcome of the appeals committee's deliberations, including summary reasons for a refusal (in whole or in part) to meet the information request;
- The response made by the appeals committee to the party making the appeal, including the person nominated to implement the response (Executive Headteacher or Trustee), the date and format of the response and the details of the information provided.

8.3 The appeals committee shall consider each appeal without reference to the records of the Academy Trust meeting at which the request for information was refused.

## **9.0 Charges**

9.1 The maximum cost limit cannot exceed £450.00 and will only be charged if the work involved exceeds the 18 hour threshold. Any work involved over 18 hours will be charged at £25.00 per hour per person involved in locating, collating and retrieving information requested.

9.2 All requests for information will be subject to charges where appropriate to cover the costs of photocopying and postage.

9.3 If a fee is not received within 3 months of issuing a fees notice, we are no longer obliged to respond to the request. (FOIA 2000 fees notice attached)

## **10.0 Policy Review**

10.1 This policy will be reviewed annually by the Co-ordinator.

## **APPENDIX 1**

### **Checklist for action on receipt of a request for information**

- Decide whether the request is a request under DPA (Data Protection Act 1998), EIR (The environmental information regulations 2004) or FOIA (The freedom of information act 2000)
- Decide whether the school holds the information or whether it should be transferred to another body
- Provide the information if it has already been made public
- Inform the enquirer if the information is not held
- Consider whether a third party's interests might be affected by disclosure and if so consult them
- Consider whether any exemptions apply and whether they are absolute or qualified
- Carry out a public interest test to decide if applying the qualified exemption outweighs the public interest in disclosing the information
- If a request is made for a document that contains exempt personal information, ensure that the personal information is removed as set out in the guidance for schools
- Decide whether the estimated cost of complying with the request will exceed the appropriate limit
- Consider whether the request is vexatious or repeated