

# FREEDOM OF INFORMATION (ACADEMY/FREE SCHOOL) POLICY

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**Version:** 1

## **Freedom of Information policy**

### **1. Scope**

This policy applies to all staff within The Shared Learning Trust Academies and Free Schools. This relates to all requests for information under the Freedom of Information Act 2000. Requests for individual's personal data are detailed under the Data Protection Policy.

### **2. Context**

The Shared Learning Trust are required to comply with the Freedom of Information (FOI) Act 2000, disclosing information which is in the public interest. Note that whilst we may request that FOI requests go to specific contacts, these requests can still be made to any member of staff and we are still required to respond within the required timescales.

Certain types of information are excluded from being disclosed, so whilst we may receive a request for information, it does not mean that this will be fulfilled.

Any breach of the Freedom of Information Act 2000 or The Shared Learning Trust Freedom of Information Policy is considered to be an offence and in that event, disciplinary procedures may apply. It is recommended that any requests under the FOI Act are passed immediately to the appropriate data controller.

### **3. Aims**

The purpose of this policy is to advise and guide the staff within the Shared Learning Trust to ensure we are compliant with the FOI Act, and that any requests are dealt with appropriately, and responded to within the required timescales. It is also to advise third parties on how to make FOI requests, and the response which can be anticipated.

### **4. Statutory position**

Individuals can request information which is in the public interest, and we must respond within 20 working days unless this is subject to specific exemption criteria.

Individual schools within the Trust comply with DOE (Department of Education) guidance in actively publishing key information on their websites. This includes financial information, policies, achievement data and Ofsted inspection results.

### **5. Responsibilities under the Freedom of Information Act 2000**

Responsibility for FOI requests falls to the relevant Data Protection Officer, which for individual academies and schools is the Principal. The Data Protection Officer for the central trust functions is the Trust Head of IT. It is recommended the Data Protection Officers work collectively when required in dealing with requests, where advice and guidance may be required.

All staff in managerial roles are responsible for raising awareness of the Freedom of Information Act within The Shared Learning Trust and our legal responsibilities.

All staff have a responsibility to pass on any FOI requests to the appropriate Data Protection Officer as soon as they can. Note that these requests can come in via e-mail, so staff are advised to put 'out of office' messages in place when not available.

## 6. Exemptions Under the Freedom of Information Act 2000

The Shared Learning Trust may refuse to respond to requests on the following grounds: -

- We do not hold the information requested
- The request is considered vexatious or repeated, under the definitions within the act.
- The cost of compliance exceeds the 'charging' threshold – currently £450.

### Exemptions

For full definitions, please see the full act available on the Information Commissioner's Website <https://ico.org.uk>. There are two categories of exemptions: -

Absolute – Here there is no obligation for the Trust to disclose to comply with the act.

Qualified – Can be disclosed if in the public interest; so subject to a public interest test.

The Shared Learning Trust has a duty to confirm or deny that it holds the information. However, this does not have to be done if the subject is in relation to an absolute exemption, or in the case of a qualified exemption, confirming or denying would effectively disclose the exempted information.

### Absolute Exemptions

Disclosure to FOI requests will be made in relation to: -

- Information accessible to the enquirer by other means e.g. Information published on a trust website, or public interest site.
- Information dealing with security matters
- Court records
- Parliamentary Privilege
- Prejudice to the effective conduct of public affairs
- Personal information (The Shared Learning Trust)
- Information provided in confidence
- Prohibitions on disclosure

### Qualified Exemptions

These are subject to a public interest test in terms of whether the exemption applies. The Shared Learning Trust will apply a public interest test as per the DOE (Department of Education) and ICO guidance. See Appendix A.

- Information intended for future publication
- National security
- Defence
- International relations
- Relations within the UK
- The economy
- Investigations and proceedings conducted by public authorities
- Law enforcement
- Audit functions

- Formulation of government policy
- Prejudice to the conduct of public affairs
- Communications with the Queen
- Health and Safety
- Environmental information
- Personal information (third parties)
- Legal professional privilege
- Commercial interests

## 9. Charging

The Shared Learning Trust reserves the right to charge a fee for FOI requests. This is to cover costs in retrieving the required information, its distribution or producing this in hard copy. We will inform the person making the request if there is likely to be a charge ahead of complying.

Once informed, the fee will need to be paid within a 3-month period or the request will not be complied with.

## 10. Making Requests

Note that Shared Learning Trust has an obligation to respond to any request made to any member of staff via the FOI Act. However, we should actively encourage requests to be made by the appropriate route: -

- In writing, to the appropriate academy principal, or to the Head of IT for the requests with reference to the main trust.
- To the school's main contact e-mail address as per the contacts page of their website.

Full contact details of the individual must be provided for us to be able to comply with the request.

## Appendix A – DOE Guidelines on Public Interest Test

Having established that a qualified exemption(s) definitely applies to a particular case, you 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 a developed 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 on the Academy 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 Academy?	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 disclosure likely to improve the accountability and transparency of the Academy in the use of public funds and help to show that it obtains value for money?	Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving? 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?	Is disclosure likely to seriously jeopardise the Academy's legal or contractual position?
Is disclosure likely to increase public participation in decision-making?	Is disclosure likely to infringe other legislation e.g. Data Protection Act?
Is disclosure likely to increase public participation in political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair your 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 Academy'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 Academy, staff or governors is NOT a valid factor
- 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?

You will need to record the answers to these questions and the reasons for those answers. Deciding on the public interest is not simply a matter of adding up the number of relevant factors on each side. You need to decide how important each factor is in the circumstances and go on to make an overall assessment.

### **For Disclosure**

Where the balance of the public interest lies in disclosure, the enquiry should be dealt with and the information required should be made available. Where the factors are equally-balanced, the decision should usually favour disclosure (but see 3rd bullet point above).

### **Against Disclosure**

After carrying out the public interest test if it is decided that the exemption should still apply, proceed to reply to the request. 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, you must contact the enquirer within 20 working days stating that a particular exemption applies, but including 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 this decision is made and communicated within the 20 days but where not possible it is suggested that no more than 10 working days beyond the 20 days should be allowed.

In the case of Academies, the ‘Qualified Person’ for section 36 - prejudice to effective conduct of public affairs would be the Chair of the Board of Directors of the proprietor of the Academy. In most cases, this would be the Chair of the Governing Body.