



DATA PROTECTION & FREEDOM OF INFORMATION POLICY

Crofton Academy is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment

Date of Policy: January 2016
Date of Review: January 2018



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INTRODUCTION

CROFTON ACADEMY fully endorses and is committed to both the Freedom of Information Act 2000 (FOIA) and the Data Protection Acts 1994 and 1998. All staff and students are data subjects and both manual and electronic data relating to individuals is managed in accordance with the Data Protection Act 1998. All staff involved in the collection, processing and disclosure of personal data, are aware of their duties and responsibilities within this policy. The policy further outlines our response to both Data Protection and Freedom of Information, and provides a framework for managing and meeting requests.

PART ONE

DATA PROTECTION ACTS 1994 AND 1998

1. FAIR OBTAINING AND PROCESSING

- 1.1 Crofton Academy undertakes to obtain and process data fairly and lawfully by informing all data subjects of the reasons for data collection, the purposes for which data is held, the likely recipients of the data and the data subject's rights of access to that data. Information about the use of personal data is printed on appropriate data collection forms used by the Academy. These forms are sent annually to all parents/guardians and additionally to staff, to be updated together with a Fair Processing Notice.

2. DEFINITIONS

Processing	Obtaining, recording or holding the information or data or carrying out a set of operations on the information or data
Data Subject	Means an individual who is the subject of personal data or the person to whom the data relates
Personal Data	Means data which relates to an individual who can be identified, (addresses, dates of birth, telephone numbers)
Parent	Refers to the meaning given in the Education Act 1996 and includes any person who has parental responsibility for a child and for the purposes of this policy includes legal guardians.
Sensitive Personal Data	means personal data which relates to religion, racial or ethnic origin, political opinion, medical conditions, sexuality and information relating to any criminal claims against a person.

3. REGISTERED PROCESSING PURPOSES

3.1 All information and data that can identify a living individual, held in any format (visual, verbal, paper, computer, microfilm etc.) is safeguarded by the Act. Crofton Academy is registered with the Information Commissioner under the Data Protection Act 1998 under which are listed the purposes of the Academy's processing of personal data. This registration is attached at Appendix A.

4. DATA INTEGRITY

4.1 Data Accuracy

Data will be as accurate and up to date as is reasonably possible. If a data subject informs the Academy of a change of circumstance their records will be updated as soon as is practicable. A printout of data will be provided to all data subjects annually so they can check its accuracy and make any amendments. Where a subject challenges the accuracy of their data, Crofton Academy will immediately mark the record as potentially inaccurate and make the appropriate amendments.

4.2 Data Adequacy and Relevance

Data held about people will be adequate, relevant and not excessive in relation to the purpose for which the data is held. In order to ensure compliance with this principle, Crofton Academy will check records regularly for missing, irrelevant or seemingly excessive information and may contact the subjects to verify certain items of data.

4.3 Length of Time

Data held about individuals will not be kept for longer than necessary for the purposes registered. A full schedule of the length of time documents will be kept is included in this document as Appendix B. After this time documents will be destroyed in a confidential manner by school personnel or organisations instructed to do so by the Academy under a confidential waste agreement.

4.4 Subject Access

The Data Protection Acts allow all data subjects a right of access to their own personal data. In order to ensure that people receive only information about themselves it is essential that a formal system of request is in place. Where a request for subject access is received the Academy's policy is that:

- Requests from pupils will be processed as any subject access request outlined below and the copy will be given directly to the pupil, unless it is clear that the pupil does not understand the nature of the request.
- Requests from pupils who do not appear to understand the nature of the request will be referred to their parents/guardians.
- Requests from parents/guardians in respect of their own child will be processed as requests made on behalf of the data subject and the copy will be sent in a sealed envelope to the requesting parent.

4.5 Processing Subject Access Requests

Requests for Access must be made in writing and addressed to the Headteacher or alternatively, pupils, parents or staff may ask for a Data Subject Access Request Form available from the Main School Office. Completed forms should be returned to the Central Services Manager at the Academy.

Provided that there is sufficient information to process the request, an entry will be made on the Subject Access Request Log, showing the date of receipt, data subject's name, name and address of person making the request, type of data required and the planned date of supplying the information (normally within 40 (forty) from the date of request). If it is felt that more information is required to establish either the identity of the data subject, the person making the request or the type of data requested, the date of entry in the log will be the date on which sufficient information has been provided and not the date of initial request.

4.6 Authorised Disclosures

Crofton Academy will, in general, only disclose data about individuals with their consent. However there are circumstances under which the Academy may need to disclose data without explicit consent for that occasion. These circumstances are strictly limited to:

- Pupil data disclosed to authorised recipients related to education and administration necessary for the Academy to perform its statutory duties and obligations
- Pupil data disclosed to authorised recipients in respect of their child's health, safety and welfare
- Pupil data disclosed to parents/guardians in respect of their child's progress, achievements, attendance, attitude or general demeanour within the vicinity of school
- Staff data disclosed to relevant authorities, for example in respect of payroll and other administrative matters such as student loans, pensions, occupational health etc
- Only authorised and trained staff will be allowed to make external disclosures of personal data. Data used within the school by administrative staff, teachers and welfare officers will

only be made available where the person requesting the information is a professional, legitimately working within the school who need to know the information in order to do their work. We will not disclose anything on a pupil's records which would be likely to cause serious harm to their physical or mental health or that of anyone else, including anything which suggests that they are, or have been subject of or at risk of child abuse.

A "**legal disclosure**" is the release of information from the computer to someone who requires the information to do his or her job within or for the organisation, provided that the purpose of that information has been registered

An "**illegal disclosure**" is the release of information to someone who does not need it, or has no right to it, or one which falls outside the organisation's registered purposes.

4.7 Data and Computer Security

Crofton Academy undertakes to ensure the security of personal data by the following general methods:

- Encrypted USB sticks
- Strong passwords, password protocol

4.8 Physical Security

Appropriate building security measures are in place, such as alarms, window bars and deadlocks. Only authorised persons are allowed in the school. Disks, tapes and printouts are locked away securely when not in use. Visitors to the Academy are required to sign in and out and wear a visitor's badge whilst in school and are, where appropriate, accompanied

4.9 Logical Security

Security software is installed on all computers containing personal data. Only authorised users are allowed access to the computer files and password changes are undertaken regularly. Computer files are backed up regularly.

4.10 Procedural Security

All new members of staff are given a copy of this Freedom of Information and Data Protection Policy as part of their induction programme and regular updates and refreshers are provided to all staff on an on-going basis. Security arrangements are continually assessed and updated to ensure the latest technology is applied and procedures are up to date. Guidance given to new members of staff as part of their induction programme in respect of basic standard security procedures is attached to this document at Appendix C.

Any queries or concerns about security of data in the Academy in the first instance should be referred to the Headteacher.

Individual members of staff can be personally liable in law under the terms of the Data Protection Acts, they may also be subject to claims for damages from persons who believe they have been harmed as a result of inaccuracy, unauthorised use or disclosure of data. A deliberate breach of this Data Protection Policy will be treated as a disciplinary matter.

PART 2
FREEDOM OF INFORMATION

1. BACKGROUND

1.1 The Freedom of Information Act came into force on 1 January 2005. Under the FOIA any person has a legal right to ask for access to information held by the school. They are entitled to be told whether the school holds information and to receive a copy subject to exemptions. To meet this requirement Crofton High School must produce a publication scheme, setting out:

- the classes of information which we publish or intend to publish;
- the manner in which the information will be published; and
- whether the information is available free of charge or on receipt of payment.

1.1 The scheme covers information already published and information which is to be published in the future. All information in our publication scheme is available in paper form.

1.2 Some information which we hold will be sensitive data and not required to be made public, for example personal information.

1.3 This Publication Scheme conforms to the model scheme for schools approved by the Information Commissioner.

1.4 As the FOIA is retrospective an appendix has been added to this policy (Appendix B) showing a Retention Schedule (produced by the Records Management Society of Great Britain) which is a guide as to how long our organisation is required to keep school records. It is important to note that some of the documents detailed in this Schedule are not accessible under the FOIA, but may be available via the Data Protection Act 1998 (DPA) for which a Subject Access Request is required (See Page 3, Paragraph 4.4 of Part 1).

1.5 Requests under FOIA should be addressed to the Headteacher, however all staff in school are aware of the process for dealing with such requests. Requests must be made in writing (including e-mail) stating **what** information is required. Individuals requesting the information are not obliged to say **why** they want the information.

1.6 Crofton Academy has a duty to respond to all requests advising whether or not we hold the information requested and supply the information (except where exemptions apply). The

school will comply with the time limit of twenty (20) days (excluding school holidays) to respond to the request.

2. ENVIRONMENTAL INFORMATION REGULATIONS

2.1 Requests for information about air, water, land, natural resources, health and safety, etc are covered by the Environmental Information Regulations (EIR) and will be responded to in line with the EIR (Appendix D).

3. HOLDING AND PROVIDING OF INFORMATION

3.1 “Holding” information means information relating to the business of the school which:

- the school has **created**;
- the school has **received from another** body or person, or
- is **held by another** body **on the school’s behalf**

3.2 “Information” means both hard copy and digital information, including email.

3.3 If we do not hold the information we do not have to create or acquire it in order to answer an enquiry, although a reasonable search will be made before denying that we have information which we might be expected to hold.

3.4 We are not obliged to comply with “vexatious” requests for information. This is taken to mean a request which is designed to cause inconvenience, harassment or expense rather than to obtain information, and would require substantial resources or would otherwise undermine the work of the school. We will also not be obliged to answer repeated, identical or substantially similar requests from the same applicant unless a “reasonable” interval has elapsed between requests. This does not however provide us with reason not to undertake good record management.

3.5 If the information is held by another public authority, for example the Local Authority, we will check that they hold this information and transfer the request for information to them. In this instance we will advise the enquirer that we do not hold the information and provide details of where we have transferred the request.

4. PUBLICATION SCHEME

4.1 Crofton Academy has adopted the Model Publication Scheme for Schools approved by the Information Commissioner.

5. DEALING WITH REQUESTS

5.1 We will respond to all requests in accordance with the procedures laid down in Appendix E. We will ensure that all staff are aware of these procedures.

6. EXEMPTIONS

6.1 Certain information is subject to either **absolute** or **qualified** exemptions and these are listed in Appendix F.

6.2 When we wish to use a qualified exemption we will apply the “Public Interest Test” procedures to determine if public interest in applying the exemption outweighs the public interest in disclosing it.

6.3 We will keep a register of all requests, including where we have refused to supply information and the reason for that refusal. This register will be kept for five (5) years.

7. PUBLIC INTEREST TEST

7.1 Unless it is in the public interest to withhold information, it will be released. See Appendix G for more details on public interest test.

8. CHARGING

8.1 Crofton Academy reserves the right to refuse to supply information where the cost of doing so exceeds the statutory maximum which is currently £450.

8.2 Information available via our website is free of charge. Single copies of information covered by this publication are provided free unless stated otherwise in Appendix H. If your request means that we have to do a lot of photocopying or printing, or pay a large postage charge, or is for a priced item such as some printed publications or videos, we will let you know the cost before

fulfilling your request. (Where there is a charge this will be indicated by a £ sign in the description box).

- 8.3 Fees for the provision of information will be calculated according to FOIA regulations and are outlined in Appendix H.

9. INTERNAL RESPONSIBILITIES

- 9.1 The day to day responsibility to compliance with the FOIA lies with the Headteacher. In regards to co-ordinating and processing enquiries the Headteacher has nominated the Central Services Manager to be a point of reference for advice and training.

10. FEEDBACK AND COMPLAINTS

- 10.1 We welcome any comments or suggestions you may have about this scheme. If you want to make any comments about this publication scheme or if you require further assistance or wish to make a complaint then initially this should be addressed to: *The Headteacher, Crofton Academy, High Street, Crofton, Wakefield, WF4 1NF.*

- 10.2 If you are not satisfied with the assistance that you get, or if we have not been able to resolve your complaint and you feel that a formal complaint needs to be made then this should be addressed to the Information Commissioner's Office. This is the organisation that ensures compliance with the Freedom of Information Act 2000 and that deals with formal complaints. They can be contacted at: *Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF* OR by telephone (enquiry/Information line): 01625 545 700 OR E Mail: publications@ic-foi.demon.co.uk. The Information Commissioner's Website Address is: www.informationcommissioner.gov.uk.

11. CLASSES OF INFORMATION PUBLISHED

- 11.1 The Publication Scheme guides you to information which we currently publish (or have recently published) or which we will publish in the future. This is split into categories of information known as 'classes'. These are contained in I of this Scheme.

11.2 The classes of information that we undertake to make available are organised into four broad topic areas:

School Prospectus	information published in the school prospectus
Governors' Documents	information published in the School Profile and in other governing body documents
Pupils & Curriculum	information about policies that relate to pupils and the school curriculum
School Policies and other information related to the school	information about policies that relate to the school in general

12. HOW TO REQUEST INFORMATION UNDER FREEDOM OF INFORMATION

12.1 If you require a paper version of any of the documents within the scheme, please contact the school by telephone, email, fax or letter. Contact details are set out below.

Email: headteacher@croftonacademy.org.uk

Tel: **01924 862985**

Fax: **01924 865985**

Contact Address: **High Street, Crofton, Wakefield, WF4 1NF**

To help us process your request quickly, please clearly mark any correspondence **"PUBLICATION SCHEME REQUEST"** (in CAPITALS please). If the information you're looking for is not available via the Scheme, you can still contact the school to ask if we have it.

DATA PROTECTION**REGISTRATION WITH INFORMATION COMMISSIONER'S OFFICE**

Updated annually as the Academy registers annually with the ICO

Registration number	Z461323X
Date of Registration	04 May 2000
Registration Expires	03 May 2016 (renewed on an annual basis)
Data Controller	Crofton Academy
Address	High Street Crofton Wakefield WF4 1NF

DATA PROTECTION AND FREEDOM OF INFORMATION

RECORDS MANAGEMENT AND RETENTION OF DOCUMENTS SCHEDULE

The Academy recognises that the efficient management of its records is necessary to comply with its legal and regulatory obligations and to contribute to the effective overall management of the institution. This document provides the policy framework through which this effective management can be achieved and audited. It covers:

- Scope
- Responsibilities
- Relationships with existing policies

1. SCOPE OF THE SCHEDULE

This schedule applies to all records created, received or maintained by staff of the school in the course of carrying out its functions.

Records are defined as all those documents which facilitate the business carried out by the school and which are thereafter retained (for a set period) to provide evidence of its transactions or activities. These records may be created, received or maintained in hard copy or electronically.

A small percentage of the school's records will be selected for permanent preservation as part of the institution's archives and for historical research.

2. RESPONSIBILITIES

The school has a corporate responsibility to maintain its records and record keeping systems in accordance with the regulatory environment. The person with overall responsibility for this policy is the Headteacher.

The person responsible for records management in the school will give guidance for good records management practice and will promote compliance with this policy so that information will be retrieved easily, appropriately and timely.

Individual staff and employees must ensure that records for which they are responsible are accurate, and are maintained and disposed of in accordance with the school's records management guidelines.

3. RELATIONSHIP WITH EXISTING POLICIES

This schedule has been drawn up within the context of:

- Freedom of Information Policy;
- Data Protection Policy; and
- with other legislation or regulations (including audit, equal opportunities and ethics) affecting the school.

4 RETENTION OF DOCUMENTS

The following is a section from the Retention Guidelines for Schools which outlines specific documents that school may hold and the retention period and action required in respect of disposals.

EXTRACT FROM THE RECORDS MANAGEMENT TOOLKIT FOR SCHOOLS

VERSION 4 MAY 2012

COMPILED BY

INFORMATION & RECORDS MANAGEMENT SOCIETY

AVAILABLE ON REQUEST

DATA PROTECTION AND FREEDOM OF INFORMATION

STAFF GUIDANCE

The School is registered to process data with the Information Commissioner's Office under registration number X461323X.

Keeping Personal Information Secure:

All staff are advised that the protection of personal information is their responsibility at all times. In order to do this, staff are advised:

- To keep passwords secure – change regularly and not share them under any circumstances
- To lock or log off computers when away from their desks or leaving their classroom unattended
- To dispose of confidential paper waste and to dispose of personal data they are no longer required or eligible to keep, by either shredding this themselves or placing it in a confidential wastepaper bin
- To prevent virus attacks by taking care when opening emails on electronic devices, attachments or visiting new websites
- To work on a 'clear desk' basis - securely storing hard copy personal information when it is not being used
- That visitors should be signed in and out of the premises, or accompanied in areas normally restricted to staff
- About positioning computer screens away from windows and other public areas to prevent accidental disclosures of personal information
- To encrypt personal information that is being taken out of the office if it would cause damage or distress if lost or stolen
- To keep back-ups of information
- To use only encrypted USB sticks

In addition staff are advised to inform the Administrative Team of any changes to personal data that they are made aware of relating to either staff or pupils in order for records to be updated as soon as possible (for example change of address).

Disclosing of information/data:

Staff are advised that under no circumstances must they disclose personal data. Staff are advised:

- To be aware of people who may trick them into giving out personal information
- That to prevent these disclosures they should carry out identity checks before giving out personal information to someone making an incoming call and to perform similar checks when making outgoing calls

- To ensure that data is only communicated after taking account of special instructions on SIMS, for example “quick notes” in respect of pupils who have restricted parental and other contact
- About limiting the amount of personal information given out over the telephone and to follow up with written confirmation if necessary

Subject Access/Information Requests under the Data Protection or Freedom of Information Acts

- Any requests for information should be passed to the Headteacher or Central Services Manager who will deal with the request.
- No request should be dismissed as time wasting or otherwise, and should be responded to appropriately within given timescales. Staff should ensure requests are passed on immediately in order that Data Protection Subject Access Requests can be responded to within 40 (forty) calendar days, or under the Freedom of Information Act within 20 (twenty) working days.

FREEDOM OF INFORMATION

ENVIRONMENTAL INFORMATION REGULATIONS

Is the request is FOIA or Environmental Information?

“Environmental information” can be summarised as

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites and the interaction between these elements
- (b) factors such as substances, energy, noise, radiation or waste affecting or likely to affect the elements of the environment
- (c) measures such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect or protect the elements of the environment
- (d) reports on the implementation of environmental legislation
- (e) cost-benefit and other economic analyses and assumptions used within the framework of environmental measures and activities
- (f) the state of human health and safety, including the contamination of the food chain, conditions of human life, cultural sites and built structures in as much as they are or may be affected by the state

The procedure for issuing information under the FOIA should be followed whilst relating to Environmental Information requests. However under the EIRs there is no “cost limit” for dealing with requests, but requests that cost a disproportionate amount can be refused on the basis that they are manifestly unreasonable, subject to a public interest test. Any charges imposed must be reasonable, and public authorities should publish a schedule of their charges.

EIR Exceptions subject to the public interest test

- Does not hold that information when an applicant’s request is received
- Is manifestly unreasonable
- Is formulated in too general a manner (provided assistance has been given to the applicant with a view to re-framing the request)
- Relates to unfinished documents or incomplete data
- Would involve disclosure of internal communications

and if disclosure would adversely affect:

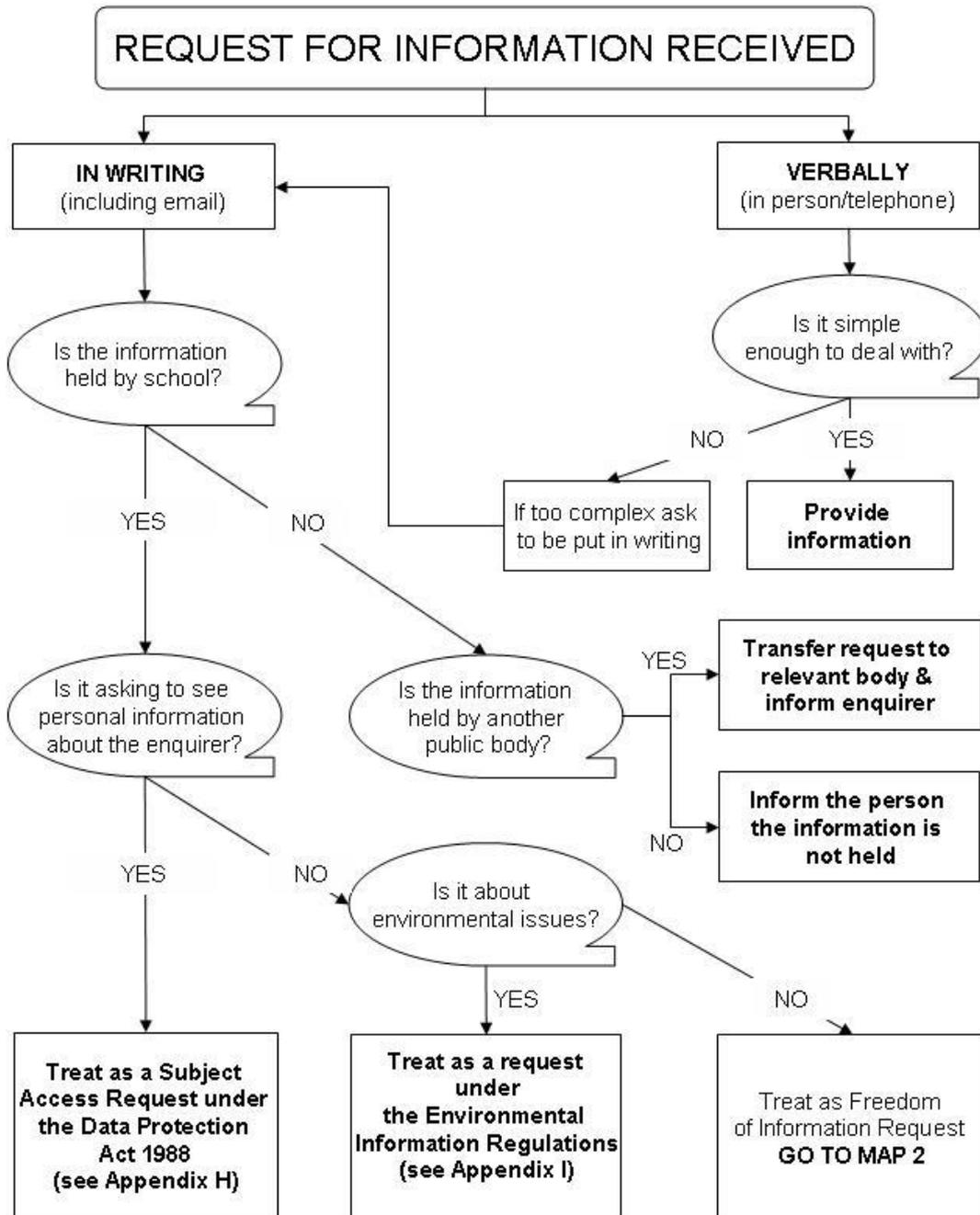
- International relations, defence, national security or public safety
- The course of justice, fair trial, conduct of a criminal or disciplinary inquiry
- Intellectual property rights
- Confidentiality of public authority proceedings when covered by law
- Confidentiality of commercial or industrial information, when protected by law to cover legitimate economic interest
- Interests of the person who provided the information
- Protection of the environment

FREEDOM OF INFORMATION

PROCEDURES FOR HANDLING REQUESTS

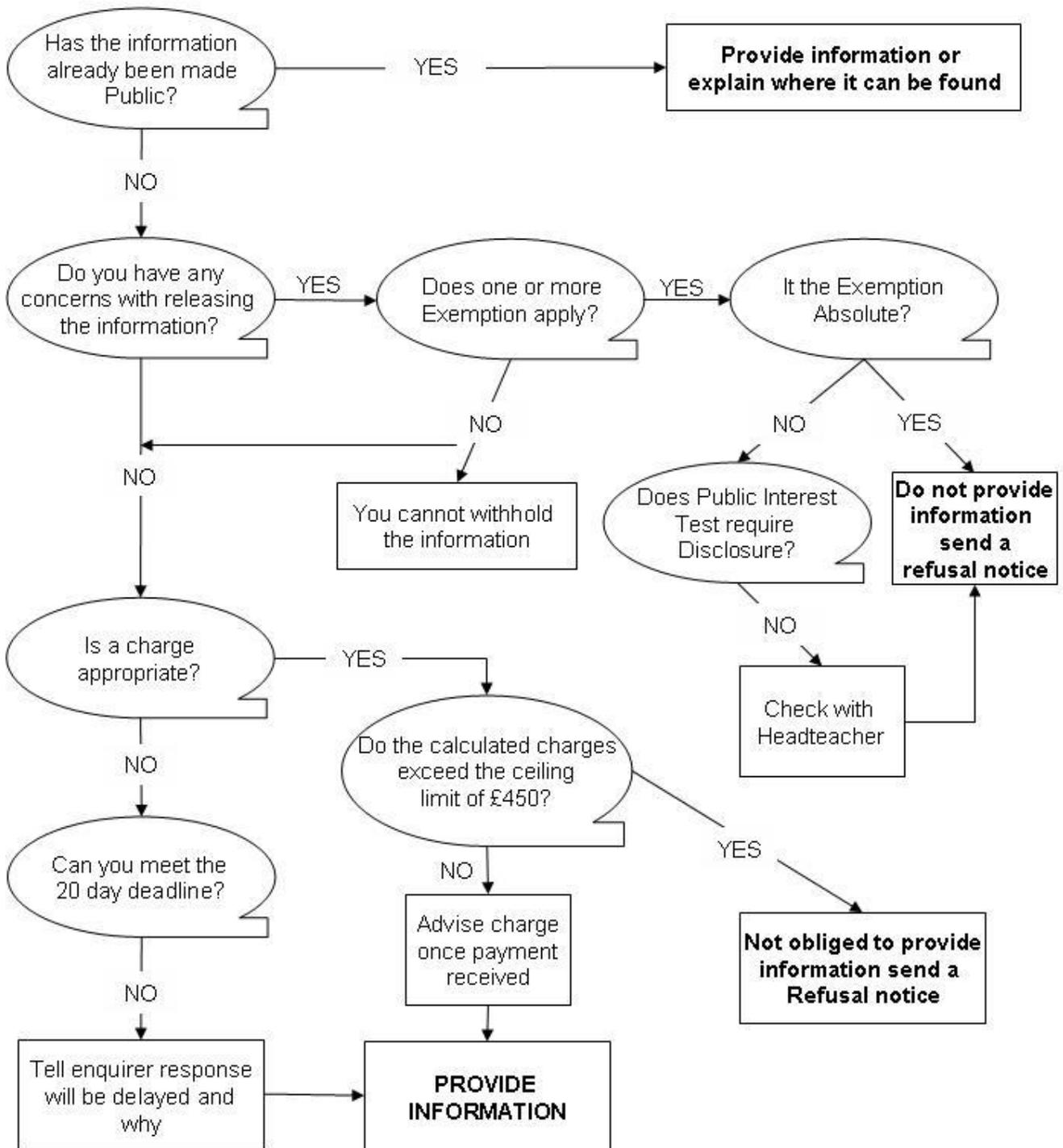
MAP 1

PROCESS MAP FOR HANDLING REQUESTS FOR INFORMATION



PROCESS MAP FOR HANDLING FREEDOM OF INFORMATION REQUESTS

REQUEST FOR INFORMATION RECEIVED



FREEDOM OF INFORMATION

EXEMPTIONS

Note: This Appendix is taken from the DfES Guide for Maintained Schools on Full Implementation from January 2005.

A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry. Some are very specialised in their application (such as national security) and would not usually be relevant to schools. There are more than twenty (20) exemptions but schools are likely to use only a few of them.

There are two general categories of exemptions:

Absolute: where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest; and

Qualified: where, even if an exemption applies, there is a duty to consider the public interest in disclosing information

ABSOLUTE EXEMPTIONS

1. There are eight (8) absolute exemptions listed in the Act. Even where an absolute exemption applies:
 - it does not mean that we cannot disclose in all cases; it means that disclosure is not required by the FOIA. A decision could be taken to ignore the exemption and release the information taking into account all the facts of the case;
 - there is still a legal obligation to provide reasonable advice and assistance to the enquirer

The absolute exemptions in the FOIA are set out below. **Those which might be relevant to schools are marked with an *:**

1. **Information accessible to the enquirer by other means*** (Section 21) - If information is reasonably accessible to the applicant by another route than the FOIA, it is exempt information. This is the case even if the enquirer would have to pay for the information under that alternative route. This exemption includes cases where you are required to give information under other legislation, or where the information is available via the Publication Scheme.
2. **Information dealing with security matters** (Section 23) (see also qualified exemption under Section 24 on national security) - This applies to information directly or indirectly supplied by, or relating to, bodies dealing with security matters such as GCHQ, MI5, MI6, Special Forces and the National Criminal Intelligence Service.
3. **Court records** (Section 32) – (see also the qualified exemption under Section 30 concerning investigations and proceedings conducted by public authorities) - This applies to information related to proceedings in a court or tribunal or served on a public authority for the purposes of proceedings.
4. **Parliamentary Privilege** (Section 34) - This exempts information if it is required for the purpose of avoiding an infringement of the Parliamentary privilege. Parliamentary privilege is an immunity whereby MPs cannot be prosecuted for sedition or sued for libel or slander over anything said during proceedings in the House.

5. **Prejudice to the effective conduct of public affairs** (Section 36) - see also the qualified exemption part of Section 36. This relates to the maintenance of the collective responsibility of Ministers.
6. **Personal information*** (Section 40) - see also the qualified exemption part of Section 40. Where enquirers ask to see information about themselves, this is exempt under the Act because it is covered by the Data Protection Act. Consult your existing school Data Protection guidance.
7. **Information provided in confidence*** (Section 41) - This relates to information obtained from a person if its disclosure would constitute a breach of confidence actionable by that, or another, person.
8. **Prohibitions on disclosure*** (Section 44) - Information is exempt where its disclosure is prohibited under any other legislation by order of a court or where it would constitute a contempt of court or where it is incompatible with any EC obligation.

QUALIFIED EXEMPTIONS

With qualified exemptions, even if it is decided that an exemption applies, there is a duty to consider the public interest in confirming or denying that the information exists and in disclosing information. The qualified exemptions in the Act are set out below. **Those which might be relevant to schools are marked with an *:**

1. **Information intended for future publication*** (Section 22) - If at the time the request was made, information is held with a view to publication, then it is exempt from disclosure if it is reasonable that it should not be disclosed until the intended date of publication. This could apply for instance to statistics published at set intervals, for example annually or where information is incomplete and it would be inappropriate to publish prematurely¹. Remember, you still have a legal duty to provide reasonable advice and assistance.
2. **National security** (Section 24) (see also absolute exemption 23) - Information is exempt for the purposes of safeguarding national security.
3. **Defence** (Section 26) - Information is exempt if its disclosure would prejudice the defence of the UK.
4. **International relations** (Section 27) - Information is exempt if its disclosure would or would be likely to, prejudice relations between the UK and any other state, international organisation.
5. **Relations within UK** (Section 28) - Information is exempt if its disclosure would or would be likely to, prejudice relations between any administration in the UK ie the Government, Scottish Administration, Northern Ireland Assembly, or National Assembly of Wales.
6. **The economy** (Section 29) - Information is exempt if its disclosure would, or would be likely to, prejudice the economic or financial interests of the UK
7. **Investigations and proceedings conducted by public authorities*** (Section 30) - Information is exempt if it has at any time been held by the school for the purposes of criminal investigations or proceedings, such as determining whether a person should be charged with an offence or whether a charged person is guilty, or investigations which may lead to a decision to institute criminal proceedings. The duty to confirm or deny does not apply to such information.
8. **Law enforcement*** (Section 31) - Information which is not exempt under Section 30 Investigations and Proceedings, may be exempt under this exemption in the event that disclosure would, or would be likely to, prejudice the following among others:-
 - the prevention or detection of crime

¹ Note the following:

- the intended publication does not have to be by the school, it can be by another person or body on behalf of the school
- the date of publication does not have to be known, it could be at some future date (although it is recommended that some idea of a likely date is given)
- the duty to confirm or deny does not apply if to do so would involve the disclosure of any of the relevant information

- the apprehension or prosecution of offenders
- the administration of justice
- the exercise of functions such as ascertaining if a person has broken the law, is responsible for improper conduct, whether circumstances justify regulatory action, ascertaining a person's fitness or competence in relation to their profession, ascertaining the cause of an accident or protecting or recovering charities or its properties

any civil proceedings brought by or on behalf of the school which arise out of an investigation carried out for any of the purposes mentioned above. The duty to confirm or deny does not arise where prejudice would result to any of these matters.

- 9. Audit Functions** (Section 33) - Information is exempt if its disclosure would, or would be likely to, prejudice the exercise of an authority's functions in relation to the audit of the accounts of other public authorities. It does not apply to internal audit reports.
- 10. Formulation of government policy** (Section 35) - Information held is exempt information if it relates to the formulation or development of government policy, ministerial communications, advice by Law Officers (eg Attorney General) and the operation of any Ministerial private office
- 11. Prejudice to the conduct of public affairs** (Section 36) (excluding matters covered by the absolute exemption part of Section 36) - Information likely to prejudice the maintenance of the convention of the collective responsibility of Ministers or likely to inhibit the free and frank provision of advice or exchange of views
- 12. Communications with the Queen*** (Section 37) - Information is exempt if it relates to communications with the Queen, the Royal Family or Royal Household or if it relates to the award of honours. The duty to confirm or deny does not arise where this exemption applies.
- 13. Health and Safety*** (Section 38) - Information is exempt if its disclosure would or would be likely to endanger the safety or physical or mental health of any individual. The duty to confirm or deny does not arise where prejudice would result.
- 14. Environmental information*** (Section 39) - Information is exempt under FOI where it is covered by the Environmental Information Regulations. Environmental information can cover information relating to: air, water, land, natural sites, built environment, flora and fauna, and health. It also covers all information relating to decisions or activities affecting any of these.
- 15. Personal information*** (Section 40) – see also the absolute exemption part of Section 40 Where an individual seeks information about themselves Data Protection Act powers apply. Where the information concerns a third party, it is exempt if its disclosure would contravene the Data Protection Act, or the data protection principles; or if the person to whom the information relates would not have a right of access to it because it falls under one of the exemptions to the Data Protection Act. The duty to confirm or deny does not arise in relation to this information if doing so would be incompatible with any of the above.
- 16. Legal professional privilege*** (Section 42) - Legal professional privilege covers any advice given by legal advisers, solicitors and barristers. Generally such information will be privileged. A school wishing to disclose the information will need to seek consent from the provider of the advice. This exemption covers all such information where a claim to legal professional privilege can be maintained in legal proceedings. The duty to confirm or deny does not arise where to do so would involve the disclosure of such information.
- 17. Commercial interests*** (Section 43) - Information is exempt if it constitutes a trade secret or would be likely to prejudice the commercial interests of any person or body (including the school). The duty to confirm or deny does not arise where prejudice would result to commercial interests but not where the information constitutes a trade secret.

PROTECTIVE MARKINGS AND APPLYING EXEMPTIONS

When considering if an exemption to disclosure should apply, bear in mind that the presence of a protective marking (Restricted, Confidential or Secret, with or without descriptors such as Staff, Management, Commercial etc) does not constitute an exemption and is not in itself sufficient grounds on which to prevent disclosure. Each case must be considered on its merits.

TIMING

Where information has previously been withheld, it must not be assumed that any subsequent requests for the same information will also be refused. Sensitivity of information decreases with age and the impact of any disclosure will be different depending on when the request is received. Therefore, for each request, it will be necessary to consider the harm that could result at the time of the request and, while taking into account any previous exemption applications, each case should be considered separately.

NEXT STEPS

In all cases, before writing to the enquirer, the school governing body will have ensured that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound.

FREEDOM OF INFORMATION

APPLYING THE PUBIC INTEREST TEST

Note: This Appendix is taken from the DfES Guide for Maintained Schools on Full Implementation from January 2005.

Background

1. 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

2. 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 in the school 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 school?	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 premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving?
Is disclosure likely to improve the accountability and transparency of the school in the use of public funds and help to show that it obtains value for money?	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 policy?	Is disclosure likely to seriously jeopardise the school'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 school'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?

3. Note also that:

- potential or actual embarrassment to, or loss of confidence in, the school, 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?

4. 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

5. 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

6. 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.

FREEDOM OF INFORMATION

CHARGING

Note: This Appendix is based on the guidance from the DfES and the Department for Constitutional Affairs. A summary of the DCA guidance can be found at: www.dca.gov.uk/foi/feeguidesum.htm

Important: Different charges apply for requests under the Data Protection Act

MAY I CHARGE A FEE?

FOI does not require charges to be made but schools have discretion to charge applicants a fee in accordance with the Fees Regulations (fees Regulations on the DCA website www.dca.gov.uk/foi/secleg.htm)

WHAT STEPS SHOULD WE TAKE IN CONSIDERING WHETHER TO CHARGE?

- Step 1 Is the information exempt for the purposes of the FOIA?
If information is exempt, then fees do not apply. You may not know if information is exempt until it has been located and checked. However, there are many instances, for example information in your publication scheme, when it is automatically exempt. If you wish to charge for information in your publication scheme, this should be made clear in the scheme itself. The school would need to contact the enquirer to inform them that the information is exempt, and how to obtain it.
- Step 2 Do you wish to calculate whether the cost of the request would exceed the appropriate limit (currently £450)? In many cases, it will be obvious that the request would cost less than the appropriate limit, so there would be little point in making the calculation.
- Step 3 Calculate the appropriate limit
Staff costs are calculated at £25 per hour. When calculating whether the limit is exceeded, schools can take account of the costs of determining whether the information is held, locating and retrieving the information, and extracting the information from other documents. They cannot take account of the costs involved with considering whether information is exempt under the Act.
- Step 4 Requests costing less than the limit. If a request would cost less than the limit, schools can only charge for the cost of informing the applicant whether the information is held, and communicating the information to the applicant (e.g. photocopying, printing and postage costs)
- Step 5 Requests exceeding the limit. If a request would cost more than the limit, the school can turn the request down, answer and charge a fee, or answer and waive the fee. If you choose to comply with a request where the estimated cost exceeds the threshold you should calculate the charge as outlined in Step 3, plus the costs of informing the applicant whether the information is held, and communicating the information to them (e. printing and postage costs)
- Step 6 For all requests, schools should have regard to the following two points:
- The duty to provide advice and assistance to applicants. If planning to turn down a request for cost reasons, or charge a high fee, you should contact the applicant in advance to discuss whether they would prefer the scope of the request to be modified so that, for example, it would cost less than the appropriate limit.

- Maximum amount that can be charged. The Regulations set out the maximum amount that can be charged. However there is nothing to stop schools charging a lesser or no fee. Governing bodies should develop a consistent policy on charging.

MAY I AGGREGATE THE COSTS WHERE THERE ARE MULTIPLE REQUESTS?

Where two or more requests are made to the school by different people who appear to be acting together or as part of a campaign the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with them all, provided that:

- (a) the two or more requests referred to in that section are for information which is on the same subject matter or is otherwise related;
- (b) the last of the requests is received by the school before the twentieth working day following the date of receipt of the first of the requests; and
- (c) it appears to the school that the requests have been made in an attempt to ensure that the prescribed costs of complying separately with each request would not exceed the appropriate limit.

If you get multiple requests for the same information, it is good practice to include the information in your publication scheme.

HOW DO I INFORM THE APPLICANT OF THE FEE?

1. Where you intend to charge a fee for complying with a request for information then the school must give the person requesting the information notice in writing (the "fees notice") stating that a fee of the amount specified in the notice is to be charged for complying.
2. Where a fees notice has been given to the person making the request, you do not need to comply with the request unless the fee is paid within three months of the notice being received.

FREEDOM OF INFORMATION

CLASSES OF INFORMATION CURRENTLY PUBLISHED

1. SCHOOL PROSPECTUS/WEBSITE:

This section sets out information published in the school prospectus/on the school website. The statutory contents of the school prospectus are as follows, (other items may be included in the prospectus at the school's discretion):

- the name, address and telephone number of the school, and the type of school
- the names of the Headteacher and Chair of Governors
- information about the school's Admissions Policy
- a statement of the school's ethos and values
- details of any affiliations with a particular religion or religious denomination; the religious education provided; parents' right to withdraw their child from religious education and collective worship; and the alternative provision for those pupils
- information about the school's policy on providing for pupils with special educational needs
- details of the number of pupils on roll and rates of pupils' authorised and unauthorised absences
- National Curriculum assessment results for appropriate Key Stages 3 and 4, with national summary figures
- the school's GCSE/GNVQ and equivalent results together with a summary of local and national results
- the number of pupils studying for and percentage achieving other vocational qualifications
- the destinations of school leavers²
- the arrangements for visits to the school by prospective parents
- the number of places for pupils of normal age of entry in the preceding school year and the number of written applications/preferences expressed for those places

2. GOVERNORS' INFORMATION PUBLISHED IN THE SCHOOL PROFILE AND IN OTHER GOVERNING BODY DOCUMENTS INCLUDING THE INSTRUMENT OF GOVERNMENT AND GOVERNORS' CONSTITUTION

This section sets out information published in the school profile and in other governing body documents:

- The name of the school
- The category of the school
- The name of the governing body
- The manner in which the governing body is constituted
- The term of office of each category of governor if less than 4 years
- The name of any body entitled to appoint any category of governor
- Details of any trust
- If the school has a religious character, a description of the ethos
- The date the instrument takes effect

² Some information might be confidential or otherwise exempt from the publication by law – we cannot therefore publish this

Minutes ³ of meetings of the governing body and its committees

- Agreed minutes of meetings of the governing body and its committees current and last full academic school year

3. PUPILS & CURRICULUM POLICIES:

This section gives access to information about policies that **relate to pupils and the school curriculum**

Class	Description
Admissions Policy	Policy detailing the school's procedures on admitting pupils to the school
Behaviour Policy	Statement detailing expectations of pupils' behaviour and consequences of acting outside of these requirements
Careers Education Policy	Statement of the programmes of careers education provided for Key 4.
Child Protection Policy	Statement of policy for safeguarding and promoting welfare of pupils at the school. <i>(from March 2004)</i>
Collective Worship	Statement of arrangements for the required daily act of collective worship
Curriculum Policy	Statement on following the policy for the secular curriculum subjects and religious education and schemes of work and syllabuses currently used by the school
Emergency Care in Schools Policy	Policy detailing first aid in school, the handling of medication and the treatment of pupils with medical conditions.
Equal Opportunities policy	Which incorporates the Disability Equality, Gender Equality and Race Equality Policies
Home School Agreement	Statement of the school's aims and values, the school's responsibilities, the parental responsibilities and the school's expectations of its pupils for example homework arrangements
Pupil Discipline	Statement of general principles on behaviour and discipline and of measures taken by the head teacher to prevent bullying.
Safeguarding Policy	Statement of policy for the safeguarding of pupils and the procedures in place to ensure their safe wellbeing whilst in school care.
Sex Education Policy	Statement of policy with regard to sex and relationship education
Special Education Needs Policy	Information about the school's policy on providing for pupils with special educational needs

School Policies and other information related to the school – This section gives access to information about policies that **relate to the school in general**

Class	Description
Charging and Remissions Policies	A statement of the school's policy with respect to charges and remissions for any optional extra or board and lodging for which charges are permitted, for example school publications, music tuition, trips
Complaints procedure	Statement of procedures for dealing with complaints
Curriculum circulars and statutory instruments	Any statutory instruments, departmental circulars and administrative memoranda sent by the Department of Education and Skills to the head teacher or governing body relating to the curriculum
Health and Safety Policy and risk assessment	Statement of general policy with respect to health and safety at work of employees (and others) and the organisation and arrangements for carrying out the policy

³ Some information might be confidential or otherwise exempt from the publication by law – we cannot therefore publish this

Performance Management of Staff	Statement of procedures adopted by the governing body relating to the performance management of staff and the annual report of the head teacher on the effectiveness of appraisal procedures
Post-Ofsted inspection action plan	A plan setting out the actions required following the last Ofsted inspection and where appropriate an action plan following inspection of religious education where the school is designated as having a religious character
Published reports of Ofsted referring expressly to the school	Published report of the last inspection of the school and the summary of the report and where appropriate inspection reports of religious education in those schools designated as having a religious character
School session times and term dates	Details of school session and dates of school terms and holidays
Staff Conduct, Discipline and Grievance	Statement of procedure for regulating conduct and discipline of school staff and procedures by which staff may seek redress for grievance

Other Documents and Policies held by the school

Name of Document	Description
Attendance & Punctuality	School expectations
Careers Education	Section 43 of the Education Act 1997
Child Protection Policy	Section 175 of the Education Act 2002 (<i>from March 2004</i>)
Citizenship	Curriculum Policy regarding teaching and learning
Educational Visits Policy	Procedures regarding safety for school visits.
Emergency Care in School Policy	How first aid will be administered and maintained for pupils and staff and how medicines will be stored and administered in school
Emergency Plan	Procedures for operating the school in the event of an emergency
e-Safety Policy	Policy regarding keeping pupils safe whilst using electronic forms of media during school time
Examination Policy	Policies for public examinations incorporating Malpractice Policy, Internal Moderation Policy, Internal Appeals – Assessment Decision Policy, Controlled Assessment Policy, Exams Contingency Policy
Gender Equality Policy	Currently being written
Governors Annual Report	Education (Governors Annual Report) (England) Regulations 1999 [SI 1999/2157, amended by SI 2002/1171]
Health and Safety Policy	Section 2 & 3 of the Health and Safety at Work Act 1974 Management of Health and Safety at Work Regulations 1999 [SI 1999/3242]
Health Education	Curriculum policy regarding teaching and learning
Minibus & Transport Policy	Governors' procedures regarding minibus safety and use of own vehicles of business use
Performance Management of Staff	Education (School Government) (Terms of Reference) (England) Regulations 2000 [SI 2000/2122] Education (School Teacher Appraisal) (England) Regulations 2001 [SI 2001/2855]
Premises Policy	Incorporating: The Asbestos Management Plan, Legionella, Gritting and Lettings procedures
Race Equality Policy	Race Relations Act 1976 (Statutory Duties) Order 2001 [SI 2001/3458]
School Improvement Plan	Plans to develop the school in the current academic year.
School session times and term dates	Education (School Sessions and Charges and Remissions Policies) (Information) (England) Regulations 1999 [SI 1999/2255] Education (School Curriculum and Related Information) Regulations 1989 [SI1989/954].
Social Inclusion Policy	The school's statement in response to Inclusion in Education.
Staff Conduct, Discipline and Grievance	School Staffing (England) Regulations 2003 [SI 2003/1963]
Uniform Code	Governors' Dress Policy.