



## THE PIGGOTT SCHOOL

'Go and do Likewise' Luke 10:25-37, The Parable of the Good Samaritan  
We live with love and compassion, seeking help in times of need.

### FREEDOM OF INFORMATION POLICY AND GUIDANCE

**Date last reviewed:** Spring term 2022

**Responsibility:** Headteacher and Chair of Governors

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### Abbreviations:

DPA: Data Protection Act

FOI: Freedom of Information

# Freedom of Information (FOI) Act 2000

## Summary

The Freedom of Information Act (FOIA) came into force immediately for schools that converted to Academies on or after 1st September 2010. The Piggott School is responsible for compliance with the FOIA and needs to ensure that employees at the Academy are able to comply with requests for information under FOIA.

The FOIA will add to the framework of legislation required in relation to the disclosure of information held by the Piggott School. Any request for information in writing received by the Piggott School is likely to be either a request under FOIA, environmental legislation, the Data Protection Act, or a combination of any of them.

The Piggott School has a duty to provide advice and assistance to anyone requesting information.

The FOIA presumes openness. But it recognises the need to protect sensitive information in certain circumstances and provides for certain exemptions. Even where certain exemptions apply, information must still be released if it is in the public interest to do so.

The Piggott School will adopt a straight-forward approach to meeting the presumption of openness that underlies the FOIA.

The Piggott School may charge a fee for complying with a request for information under the FOIA. The fee will be calculated according to FOI regulations and the person notified of the charge before supplying the information. The Department for Education recommends that Academies respond to straightforward enquiries free of charge and charge where the costs are significant.

There are prescribed time limits for responding to requests for information.

## Background

1. FOIA was introduced to promote greater openness and accountability across the public sector, and establishes a general right of access to information held by public authorities, including Academies. Along with Human Rights and Data Protection legislation, FOI aims to build a culture of rights and responsibilities for citizens.
2. Compliance with the FOIA is overseen by the Information Commissioner's Office (ICO)<sup>1</sup> the independent body with responsibility for regulation of both the Freedom of Information Act 2000 and the Data Protection Act 1998. Both the IC and the Ministry of Justice have produced guidance on FOIA, including two Codes of Practice<sup>2</sup> providing guidance to public authorities generally on the implementation of the FOIA and on records management. This guide is a summary of the FOIA and these codes, but does not in any way replace them. Annex D provides further sources of information.

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<sup>1</sup> The Information Commissioner's Office FOI duties are to: promote good practice; give advice and guidance; enforce compliance and investigate complaints; report to Parliament on compliance; approve publication schemes; and publicise the Act.

<sup>2</sup> The *Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of the FOI Act* (section 45) provides guidance to public authorities on good practice when handling requests for information here. [<http://www.justice.gov.uk/guidance/docs/foi-section45-code-of-practice.pdf>]

The *Code of Practice on the Management of Records under the FOI Act* (section 46) sets out the practices which public authorities should follow in relation to creating, keeping, managing and disposing of their records here. [<http://www.justice.gov.uk/guidance/docs/foi-section-46-code-of-practice.pdf>]

## Right to request information

3. There is a legal right for any person to make a request to an Academy for access to information held by that Academy. We are under a duty to provide advice and assistance to any one requesting information. You do not have to say why you want the information and the request does not have to mention FOIA. Your request must be in writing, which includes fax or email. All requests for information that are not covered by the Data Protection Act 1998 (i.e. from individuals to see their own personal information) or Environmental Information Regulations 1992 are covered by FOIA.
4. You are entitled to be told whether we hold the information (this is known as the duty to confirm or deny) and, if so, to have access to it. Access can include providing extracts of a document or a summary of the information sought, or access to the original document. However, the FOIA recognises the need to preserve confidentiality of sensitive information in some circumstances and sets out a number of exemptions.
5. There are only four reasons for not complying with a valid request for information under FOI:-
  - the information is not held
  - the cost threshold is reached (£450)
  - the request is considered vexatious or repeated
  - one or more of the exemptions apply
6. FOIA provides a series of exemptions. These are explained further in Annex A. Some of the exemptions are absolute and some are qualified, in that they can be overridden by the public interest test. There is more information about these later in this guide.
7. Many of the exemptions are intended to protect sensitive or confidential information. However, some of the “exemptions” are there simply to avoid the legal position where two pieces of law cover the same information requested, or where the information is already available by some other means. These include:
  - a. information accessible by other means
  - b. personal information<sup>3</sup>

A request for personal information belonging to you should be handled under the terms of the Data Protection Act (DPA) 1998 and treated as a “subject access request” (or SAR). A SAR is where you ask to see what personal information we hold about you.
  - c. environmental information<sup>4</sup>

Where information is covered by the Environmental Information Regulations 1992<sup>5</sup>

## What action will we take?

8. The new legal presumption of openness makes it more important than ever that we conduct our day to day operations on a basis that stands up to public scrutiny.
9. Wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence. We recognise that we are at risk of criminal proceedings where such unlawful

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<sup>3</sup> Guidance on what constitutes personal data is available on the [ICO's website](#).

<sup>4</sup> Environmental Information Regulations enquiries are ones which relate to air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these. These could therefore include enquiries about recycling, phone masts, playing fields, car parking etc.

<sup>5</sup> Further guidance is available on the [ICO's website](#) or [DEFRA's website](#)

concealment, damage or destruction occurs. Therefore no action will be taken to delete or amend records that are subject to a request for information.

10. Requests for information can be directed to us through anyone who works here.

11. The Governing Body of the Piggott School:

- Agrees the FOIA publication scheme and access policy. The policy sets out how we propose to deal with requests and state that all staff should be aware of the process.
- Delegates to the Headteacher day-to-day responsibility for FOIA policy and the provision of advice, guidance, publicity and interpretation of our policy.
- Takes responsibility for FOIA, to provide a single point of reference, coordinate FOIA and related policies and procedures, take a view on possibly sensitive areas and consider what information and training staff may need.
- Ensures that a well managed records management and information system exists in order to comply with requests.
- Ensures a record of refusals and reasons for refusals is kept, allowing the Academy Trust to review its access policy on an annual basis.

### Charging

12. A fee for complying with requests will be charged, as calculated in accordance with FOIA regulations. Further information is available on page 8 and at Annex B.

### DEALING WITH A REQUEST FOR INFORMATION

13. To handle a request for information the Headteacher or Clerk to Governors will ask themselves a series of questions. These are set out below and shown on pages 10 -11 as process maps.

### Is it a FOI request for information?

14. A request for information may be covered by one, or all, of three information rights:

Requests for personal data made under the Data Protection Act (or subject access requests) are ones where the enquirer asks to see what personal information the Academy holds about themselves.

Both manual and computerised personal information held by Academies is subject to the Data Protection Act (DPA). Under the DPA, anyone who submits a written request to see or have copies of personal data held by us must have this made available to them within 40 calendar days<sup>6</sup>. When we receive requests from pupils for disclosure of educational records under the DPA, we cannot disclose any information which may not be disclosed under the DPA.

Further information on dealing with Data Protection enquiries is available in Chapter 25, Providing Information of [A Guide to the Law for School Governors](#).

Environmental Information Regulations enquiries are ones which relate to air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these. These could therefore include enquiries about recycling, phone masts, playing fields, car parking etc. If the enquiry is about environmental information, we will follow the guidance on the [ICO's website](#) or the [DEFRA website](#).

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<sup>6</sup> Subject to relevant ID checks carried out to confirm that the requestor is who they claim they be.

FOI enquiries are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the FOIA. All requests for information that are not data protection or environmental information requests are covered by the FOIA.

### **Is this a valid FOI request for information?**

15. An FOI request should:
- 1) be in writing, including email or FAX;
  - 2) state your name and correspondence address (email addresses are allowed);
  - 3) describe the information requested - there must be enough information to be able to identify and locate the information<sup>7</sup>; and
  - 4) not be covered by one of the other pieces of legislation
16. Verbal enquiries are not covered by the FOIA. Such enquiries can be dealt with where the enquiry is relatively straightforward and can be dealt with satisfactorily. However, for more complex enquiries, and to avoid disputes over what was asked for, you should put the request in writing or email, when the request will become subject to FOI.

### **Do we hold the information?**

17. Holding information means information relating to the business of the Piggott School:
- we have created, or
  - we have received, or
  - held by another body on our behalf.
18. Information means both hard copy and digital information, including email.
19. If we do not hold the information, we do not have to create or acquire it just to answer the enquiry, although a reasonable search will be made before denying that we have information we might be expected to hold.

### **Has the information requested already been made public?**

20. If the information requested is already in the public domain, for instance through our Publication Scheme or on our website, you will be directed to the information and explained how to access it.

### **Is the request vexatious or manifestly unreasonable or repeated?**

21. The FOIA states that there is no obligation to comply with vexatious requests. This is taken to mean a request which is designed to cause inconvenience, harassment or expense rather than to obtain information, and would require a substantial diversion of resources or would otherwise undermine our work<sup>8</sup>.

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<sup>7</sup> In cases where the enquiry is ambiguous assist the enquirer to describe more clearly the information requested. Where possible, establish direct contact. The aim is to clarify the nature of the information requested and not to determine the aims or motivation of the enquirer. If you notify the enquirer that you need further information to enable you to answer, you do not have to deal with the request until the further information is received. The response time limit starts from the date this is received.

<sup>8</sup> It is not intended to include otherwise valid requests in which the applicant may make complaints or vent frustrations. In addition, you do not have to comply with repeated identical or substantially similar requests from the same applicant unless a "reasonable" interval has elapsed between requests.

### **Can we transfer a request to another body?**

22. We will consider all FOIA requests we receive. If the information is held by another public authority, such as the Department for Education, we will notify you that we do not hold the information and suggest from where you may be able to obtain the information. We will answer any parts of the enquiry in respect of information we hold.

### **Could a third party's interests be affected by disclosure?**

23. Consultation of third parties may be required if their interests could be affected by release of the information requested, and any such consultation may influence the decision. We do not need to consult where we are not going to disclose the information because we will be applying an exemption.
24. Consultation will be necessary where:
- disclosure of information may affect the legal rights of a third party, such as the right to have certain information treated in confidence or rights under Article 8 of the European Convention on Human Rights;
  - the views of the third party may assist us to determine if information is exempt from disclosure, or
  - the views of the third party may assist us to determine the public interest.

### **Does an exemption apply?**

25. The presumption of the legislation is that we will disclose information unless the FOIA provides a specific reason to withhold it. There are more than 20 exemptions. They are set out in Annex A and are mainly intended to protect sensitive or confidential information.
26. Only where we have real concerns about disclosing the information will we look to see whether an exemption might apply. Even then, where the potential exemption is a qualified exemption, we will need to consider the 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 will be released. Annex C contains advice on conducting a public interest test.

### **What if the request is for personal information?**

27. Personal information is exempt from release under FOIA. However, if you are the subject of that personal information, you are entitled to have this personal information made available to you under the terms of the Data Protection Act. Therefore, when responding to FOI requests, we will not withhold personal data if you would be entitled to have this personal information made available to you in response to a request made under the DPA.

### **What if the details contain third party personal information (i.e. personal information belonging to someone other than you)?**

28. Personal information requested by third parties is exempt from release under the FOIA where this release would breach the Data Protection Act. If a request is made for a document (e.g. Governing Body minutes) which contains personal information whose release to a third party would breach the Data Protection Act, the document may be issued by blanking out the relevant personal information as set out in the redaction procedure.

### **Redacting documents**

- I. We will mask the passages which are not to be disclosed and photocopy;

- II. We will annotate in the margin against each blank passage, the exemption and section of the Act under which this passage is exempt;
- III. We will explain in the covering letter that the relevant exemptions are marked in the attachments and in the case of non-absolute exemptions, how the public interest test has been considered.

On no account will we use a computer to rewrite a document or email and simply delete the exempted passages so that the resulting document appears as though it did not exist. The one circumstance where this is permissible is where the only redacted parts are personal information such as people's names and the covering letter explains this.

### **How much can we charge?**

29. The FOIA allows us to charge for providing information. In principle the Department recommends that we should charge to recover our costs for resources that would otherwise support teaching and learning.
30. We will consider whether calculating the cost of the fee outweighs the cost of providing the information. In practice we will respond to straightforward enquiries free of charge and charge where the costs are significant.
31. We will send you a fees notice and will not comply with the request until the fee has been paid. Annex B gives more information on charging.

### **Does the estimated cost of complying exceed the appropriate limit?**

32. If the cost of complying with the request will exceed the appropriate limit, we are not obliged to comply. Further information is at Annex B.

### **Is there a time limit for replying to the enquirer?**

33. Compliance with a request will be within the legally prescribed limit of 20 working days, excluding non-school days<sup>9</sup>. Where the 20<sup>th</sup> day to respond to a request is during a non-school day, we will have up to 60 days to respond<sup>10</sup>. The response time starts from the time the request is received. Where we have asked you for more information to enable us to answer, the 20 days start time begins when this further information has been received.
34. If a qualified exemption applies and we need more time to consider the public interest test, we will reply within the 20 days stating that an exemption applies but will include 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 by the Department that normally this will be within 10 working days.
35. Where we have notified you that a charge is to be made, the time period stops until payment is received and then continues again once payment has been received.

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<sup>9</sup> School day is defined in section 579(1) of the Education Act 1996 and in relation to a school, means any day on which at that school there is a school session.

<sup>10</sup> Freedom of Information (Time for Compliance with Request) Regulations 2010, available to view at [www.legislation.gov.uk/uksi/2010/2768/contents/made](http://www.legislation.gov.uk/uksi/2010/2768/contents/made)

## **What action is required to refuse a request?**

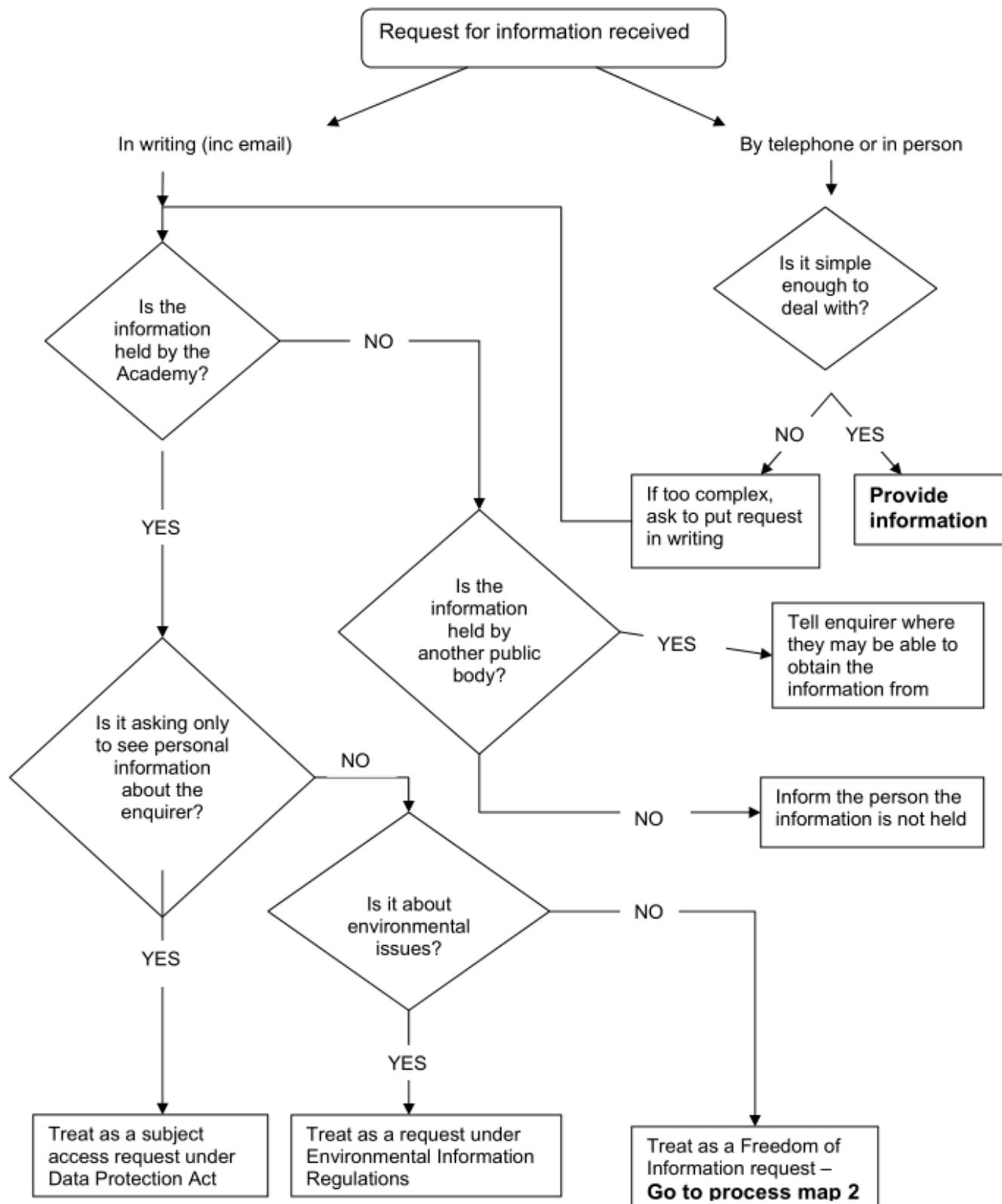
36. If the information is not to be provided, the Clerk to the Governors will immediately contact the Headteacher to ensure that the case has been properly considered and the reasons for refusal are sound. If it is decided to refuse a request, we will send a refusals notice, which will contain:
- i. the fact that we cannot provide the information asked for;
  - ii. which exemption(s) we are claiming apply;
  - iii. why the exemption(s) apply to your enquiry (if it is not self-evident);
  - iv. reasons for refusal if based on cost of compliance (see Annex B);
  - v. in the case of non-absolute exemptions, how we have applied the public interest test, specifying the public interest factors taken into account before reaching the decision (see Annex C);
  - vi. reasons for refusal on vexatious or repeated grounds
  - vii. the internal complaints procedure.
37. For monitoring purposes and in case of an appeal against a decision not to release the information or an investigation by the Information Commissioner, the Headteacher will keep record of all enquiries where all or part of the requested information is withheld and exemptions are claimed. The record will include the reasons for the decision to withhold the information. Records will be retained for 5 years. There is no requirement to keep records where we have supplied the information requested.

## **What do we do if someone complains?**

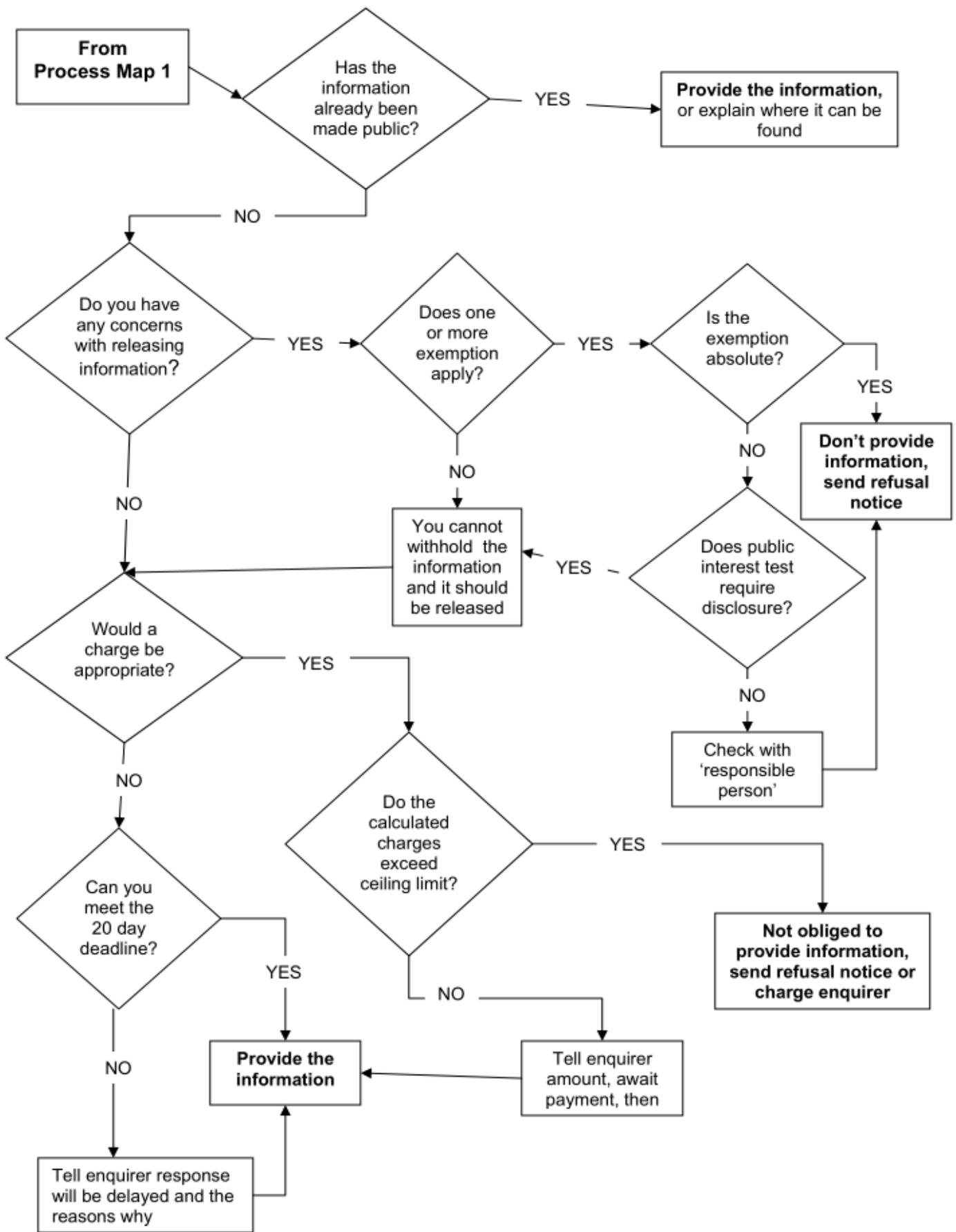
38. Any written (including email) expression of dissatisfaction - even if it does not specifically seek a review - will be handled through our existing complaints procedure. Wherever practicable, the review will be handled by someone not involved in the original decision. We will set and publish a target time for determining complaints and information on the success rate in meeting the target. We will maintain records of all complaints and their outcome.
39. When the original request has been reviewed and the outcome is that the information should be disclosed this will be done as soon as practicable. When the outcome is that our procedures have not been properly followed, we will review procedures to prevent any recurrence. When the outcome upholds our original decision or action, you will be informed of your right to appeal to the Information Commissioner. The appeal should be made in writing to:

The Case Reception Unit, Customer Service Team, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

## PROCESS MAP FOR RECEIVING REQUESTS FOR INFORMATION



**PROCESS MAP FOR HANDLING FOI ENQUIRIES**



## Annex A -Exemptions to Release of Information

1. Although decisions on disclosure should be made on a presumption of openness, the FOI Act recognises the need to preserve confidentiality and protect sensitive material in some circumstances.
2. We will not withhold information in response to a valid request UNLESS one of the following applies:-
  - the information sought is not held, or
  - the request is considered vexatious or repeated or
  - the cost of compliance exceeds the threshold (see Annex B)

### The duty to confirm or deny

3. You have the right to be told if the information requested is held by us, and if that is the case to have the information sent (subject to any of the exemptions). This obligation is known as our “duty to confirm or deny” that it holds the information. However, we do not have to confirm or deny if:-
  - the exemption is an absolute exemption (see paragraph 6), or
  - in the case of qualified exemptions (see paragraph 8), confirming or denying would itself disclose exempted information

### Exemptions

4. A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry.
5. 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

### What are the Absolute Exemptions?

6. There are 8 absolute exemptions listed in the Act. Even where an absolute exemption applies:-
  - it does not mean that we can't disclose in all cases; it means that disclosure is not required by the Act. A decision could be taken to ignore the exemption and release the information taking into account all the facts of the case
  - we still have a legal obligation to provide reasonable advice and assistance to you
7. The absolute exemptions in the Act are set out below. Those which might be relevant to us are marked with an \*:

#### 7.1 Information accessible to you by other means\* (Section 21)

If information is reasonably accessible to you by another route than the Act, it is exempt information. This is the case even if you would have to pay for the information under that alternative route. This exemption includes cases where we are required to give information under other legislation, or where the information is available via the Publication Scheme.

- 7.2 **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.
- 7.3 **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.
- 7.4 **Personal information\*** (Section 40) - see also the qualified exemption part of Section  
Where you ask to see information about yourself, this is exempt under the Act because it is covered by the Data Protection Act.
- 7.5 **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.
- 7.6 **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 EU obligation.

#### **What are the Qualified Exemptions?**

8. With qualified exemptions, even if it is decided that an exemption applies, we have a duty to consider the public interest in confirming or denying that the information exists and in disclosing information. Advice on carrying out the public interest test is at Annex C. The qualified exemptions in the Act are set out below. Those which might be relevant to The Piggott School are marked with an \*:
- 8.1 **Information available by other means** (Section 21)  
Information is exempt from the right of access under the Freedom of Information Act if that information is reasonably accessible to you by other means.
- 8.2 **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 prematurely<sup>11</sup>.
- 8.3 **Investigations and proceedings conducted by public authorities\*** (Section 30)  
Information is exempt if it has at any time been held by us for the purposes of criminal investigations or proceedings, such as determining whether a person should be

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<sup>11</sup> Note the following:-

- the intended publication does not have to be by the Academy, it can be by another person or body on behalf of the Academy
- 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

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.

#### 8.4 **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
- 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 us or on behalf of the Piggott School arise out of an investigation carried out for any of the purposes mentioned above.

Our duty to confirm or deny does not arise where prejudice would result to any of these matters.

#### 8.5 **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

#### 8.6 **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. Our duty to confirm or deny does not arise where this exemption applies.

#### 8.7 **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. Our duty to confirm or deny does not arise where prejudice would result.

#### 8.8 **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.

#### 8.9 **Personal information\*** (Section 40) - see also the absolute exemption part of Section 40

Where you seek information about yourself the Data Protection Act powers apply. Where the personal 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. Our duty to confirm or deny does not arise in relation to this information if doing so would be incompatible with any of the above.

#### 8.10 **Legal professional privilege\*** (Section 42)

Legal professional privilege covers any advice given by legal advisers, solicitors and barristers. Generally such information will be privileged. If we wish to disclose the information we 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 in legal proceedings. Our duty to confirm or deny does not arise where to do so would involve the disclosure of such information.

#### **8.11 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 Piggott School). Our duty to confirm or deny does not arise where prejudice would result to commercial interests but not where the information constitutes a trade secret.

### **Confidentiality and Applying Exemptions**

9. When considering if an exemption to disclosure should apply, we will bear in mind that the presence of confidential markings such as Restricted, Confidential and Private does not constitute an exemption and is not in itself sufficient grounds on which to prevent disclosure. Each case will be considered on its merits.

### **Timing**

10. Where information has previously been withheld, it will not be assumed that any subsequent requests for the same information will also be refused. We appreciate 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, we will be consider the harm that could result at the time of the request and, while taking into account any previous exemption applications, each case will be considered separately.

### **Next steps**

11. In all cases, before writing to you, the Headteacher will ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound.

## **Annex B - Charging**

### **Will we charge a fee?**

1. We have a discretion to charge you a fee.

### **What are the costs that may be taken into account?**

2. We will take the following into account when calculating the estimated cost of complying with a request for information:

- 1) *the prescribed costs:*

these are any costs reasonably incurred by us:

- in determining whether we hold of the description specified in your request
- in locating and retrieving the information and in meeting your preference for communicating the information
- the cost of associated staff time. But it does not include the cost of staff time incurred in determining whether we are obliged to comply with the request for information

- 2) *the disbursements*

these are any costs directly and reasonably incurred by us in:

- informing you whether we hold information of the description specified in your request
- communicating the information to you

### **Are there limits to the fee we can charge?**

3. If we choose to charge a fee for complying with your request for information, it must not be more than the sum of the prescribed costs and the disbursements.

### **What if the estimated costs exceed the threshold of £450**

4. If the estimated cost of complying exceeds the threshold we are not required to comply with the request but may choose to do so. If we choose to comply with a request where the estimated cost exceeds the threshold we will calculate the charge as follows:

- 10% of the prescribed cost for the first £450
- the prescribed costs over £450

### **Will we aggregate the costs where there are multiple requests?**

5. Where two or more requests are made to us by different people who appear to 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 us before the twentieth working day following the date of receipt of the first of the requests; and

- c. it appears to us 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.

**How will we inform you of the fee?**

6. Where we intend to charge a fee for complying with your request for information then we will give you 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.
7. Where a fees notice has been given to you, we will not comply with the request unless the fee is paid within three months of the notice being received.

## Annex C - Applying the Public Interest Test

### Background

1. Having established that a qualified exemption(s) definitely applies to a particular case, we will 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 will be released. Although precedent and a developed case law will play a part, individual circumstances will vary and each case will need be considered on its own merit.

### Carrying out the test

2. 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 Piggott 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 Piggott 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 Piggott 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 Piggott 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 Piggott 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:

- the balance of the public interest in disclosure will not 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
- potential or actual embarrassment to, or loss of confidence in, the Piggott School, staff or governors will not be 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 will be considered at the time the request is made rather than by reference to when the relevant decision was originally taken
  - 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. We will 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. We will 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, we will deal with the enquiry and the information required will be made available. Where the factors are equally-balanced, the decision will usually favour disclosure (but see 3<sup>rd</sup> bullet point above).

### **Against Disclosure**

6. After carrying out the public interest test if it is decided that the exemption should still apply, we will 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, we will contact you 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 will be within a “reasonable” time – (usually 20 days).

The ‘Qualified Person’ for section 36 - prejudice to effective conduct of public affairs is the Chair of the Governing Body.

## Annex D - Sources of further help

### Key Organisations within Freedom of Information

#### [Ministry of Justice](#)

The Ministry of Justice is the lead department responsible for Freedom of Information policy. The site includes The Lord Chancellor's [Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of the FOI Act](#) (section 45) which provides guidance to public authorities on good practice when handling requests for information.

#### [The Information Commissioner's Office \(ICO\)](#)

The ICO is the independent authority responsible for administering and enforcing the Freedom of Information Act and Data Protection Act, including approval of publication schemes.

#### [The Department for the Environment, Food and Rural Affairs](#)

DEFRA has responsibility for the [Environmental Information Regulations](#) which make specific provision for access to environmental information.

#### [The National Archives](#)

TNA produces policy and guidance on records management, and on public records held in archives offices, to enable public authorities to meet their obligations under the Act.

### Information and Records Management

Good records and information management will underpin Freedom of Information. Parliament recognised this by providing for a [Code of Practice on the Management of Records](#) under section 46 of the Freedom of Information Act which sets out the practices public authorities should follow in relation to creating, keeping, managing and disposing of their records.

The National Archives has produced [Model Action Plans](#) for developing records management that conforms to the Code of Practice under section 46. They also provide a range of [standards and guidance](#) on all aspects of records management.

Retention guidelines for Academies are available on the Records Management Society of Great Britain website at [www.rms-gb.org.uk](http://www.rms-gb.org.uk)

### Training and Awareness

The Department for Constitutional Affairs (now the Ministry of Justice) developed a booklet called '[Managing information and training: a guide for public authorities in implementing the Freedom of Information Act and the Environmental Information Regulations](#)'. The guide takes a practical approach to the planning and delivery of awareness raising and training on FOI and EIRs for staff within public bodies.

#### [Young People's Learning Agency](#)

The Academy Lead Officer (ALO) at the Young People's Learning Agency (YPLA) may provide further guidance.