**Freedom of Information Requests**

**FAQ**

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Freedom of Information Q+A’s

# What information is covered by the Freedom of Information Act 2000 (FOIA)?

The FOIA covers all recorded information held by the school. This is defined in Section 84 of the Act as ‘information recorded in any form’. This includes official documents, drafts, emails, notes, telephone and CCTV recordings, and information held by other organisations on the school's behalf.

# What information is not covered by the FOIA?

The FOIA does not cover information that is not held in recorded form. The school is not required to create new information to respond to a request. Additionally, the FOIA does not cover information that the school holds solely on behalf of another person, body or organisation.

# What is an FOIA request?

An FOI request is a request for information that is not already available, made by an applicant to the school. Under Section 1 (1) of the FOIA, any person making a request for information to a public authority is entitled to be informed in writing by the public authority, whether it holds information of the description specified in the request, and if that is the case, to have that information communicated to them.

# Who can make an FOI request?

Anyone, anywhere in the world can submit an FOI request to the school. The applicant does not need to be a UK citizen or resident. FOI requests can also be submitted by organizations such as newspapers, campaign groups or even other public authorities.

# What makes a request valid?

For a request to be valid under the FOIA, it must be:

* submitted in writing
* include the applicant's real name
* include an address for correspondence (this can be an email address)
* describe the information requested.

# How long does the school have to respond to an FOI request?

The standard time limit is 20 school days, or 60 working days if that's sooner. This time starts from the first working day after your school receives the request. Good practice dictates that a school responds to any FOIA as soon as possible.

# Can the school charge a fee for an FOI request?

A: In certain cases, a fee may be appropriate to recover communications costs, such as for photocopying, printing and postage. However, these will usually be waived if they amount to £10 or less. Only in exceptional circumstances can charges be made for other costs, such as for staff time spent searching for information unless other relevant legislation authorizes this.

# The requester has not said why they want the information, can we ask why it’s wanted?

No. An applicant does not need to give you a reason for asking for the information.

# I do not know who the requester is, can I ask for their identity?

No, The Freedom of Information Act is applicant blind. Therefore, the requesters’ identity should not be considered when responding to a request.

# I have received a request in the form of a survey or a questionnaire, do I still need to respond to the request?

Yes, an FOIA request can come in many formats, one of which may be a questionnaire or a survey. It’s important to remember that an FOIA request is a written request for information held by a public body.

# I don’t understand the request, can I ask for clarification?

There may be occasions where you cannot identify the information being asked for from the request. In this case, you can seek clarification from the requester. The statutory timescale does not start until you have received this.

# It is going to take me ages to collate the information! Do I have to respond?

It depends. Section 12 of the FOIA states that you do not need to respond to a request, where it would take over 18 hours, or cost over £450, to collate the information. However, you cannot refuse all of your requests because you think it will take a while. You must calculate how long it will take, or the costs associated with this. Your calculations should then be given to the requester in your response.

# Someone has asked for a copy of their own personal data, what do I do?

It is a common misconception that this type of request falls under FOIA, however this would actually be classed as a ‘subject access request’ and should be dealt with under data protection legislation. It is important to remember that FOI does not cover personal data.

# We don’t have the information recorded, but I know the answer, how do I respond?

The FOI act only covers information that is recorded, therefore if the response is in someone’s head, you are not obliged to respond. You should inform the requester that the information is not held in a recorded format.

# The requester has not said their request is under FOIA. Does that mean we don’t have to deal with it as an FOIA?

An FOIA request does not have to mention ‘FOIA’ for it to be valid. A request to a public authority for public information is still an FOIA request.

For example:

1. Under the Freedom of Information Act 2000, please provide details of your payments relating to stationary for the year 17/18
2. How much did you spend on stationary last academic year?

Both of the above are FOIA requests and are asking for the same information, albeit in different ways.

# I want to disclose the information to the requester only. I do not want them to forward the response. Can I do this?

A disclosure under FOI should be treated as disclosure to the world. If the information is confidential or personal, there are exemptions to prevent disclosure.

# In what format should the school provide the information?

The school can make information available in response to an FOI request in a number of ways, including via email, as a printed copy, or by arranging for the applicant to view the information. Normally, the information is provided to the applicant by whatever means are most reasonable. However, under Section 11 of the FOIA, applicants have the right to specify their preferred means of communication in their initial request.

# Do I always have to release information under the FOIA?

Under the FOIA there is a presumption in favour of disclosure, however Part II of the Act provides a list of exemptions that can be applied to the general right of access to information under the legislation. The exemptions exist to protect information that should not be disclosed, for example where disclosing it would be harmful or it would be against the public interest.

Annex B provides you with information about common school exemptions. We advise all schools to contact the IG Team igschoolsupport@stockport.gov.uk if it thinks an exemption will apply.

# Annex A – Request Flowchart







# Annex B – common school exemptions

**Section 21 – Information accessible to the applicant by other means**

Section 21 applies if the information requested is already accessible to the applicant by other means, even if only on payment of a fee. For example, the information may already be published on the school’s website or accessible under another piece of legislation.

**Section 22 – Information intended for future publication**

Section 22 can apply when the schools is preparing the information for publication, whether a publication date has been determined or not. This exemption can only apply if it is reasonable and in the public interest not to disclose it until then. For example, where the premature release of the information could cause harm.

**Section 31 – Law enforcement**

Section 31 can apply if disclosure of the information would be likely to prejudice law enforcement. For example, the prevention or detection of crime, the apprehension or prosecution of offenders, the assessment or collection of tax and the exercise by any public authority relating to crime/conduct functions.

**Section 32 – Court records**

Section 32 applies to court records held by the council. To claim this exemption, the school must hold the information only because it was originally in a document created or used as part of legal proceedings, including an inquiry, inquest or arbitration.

**Section 38 – Health and safety**

Section 38 can apply where complying with the request would be likely to endanger the physical health, mental health or safety of any person.

**Section 40 (1) – Personal information (the applicants)**

Section 40 (1) applies where an applicant makes a request for their own personal data. Any request for access to their own personal data would be treated as a right of access or subject access request under Article 15 of the UK General Data Protection Regulation (UK GDPR).

**Section 40 (2) – Personal information (not the applicants)**

Section 40 (2) covers the personal data of third parties where complying with the request would breach any of the UK GDPR or Data Protection Act 2018 principles. This exemption can only apply to information relating to living individuals.

**Section 41 – Information provided in confidence**

Section 41 applies if the school has received confidential information from someone else and complying with the request would constitute an actionable breach of confidence. The exemption cannot be applied to information generated within the school even if it is marked confidential, however can be applied to information originally received from someone else but then included in its records.

**Section 42 – Legal professional privilege**

Section 42 can apply whenever complying with a request would reveal information that is subject to legal professional privilege (LPP). LPP protects information shared between a client and their professional legal advisor, such as a solicitor, barrister or in-house lawyer for the purposes of obtaining legal advice.

**Section 43 – Commercial interests**

Section 43 (1) is class based and provides an exemption for information which is a trade secret. Section 43 (2) is prejudice based and provides an exemption where disclosure would be likely to prejudice the commercial interests of any legal person.