



# FREEDOM OF INFORMATION POLICY

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## Belfast High School

***Date:*** February 2023

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***Ratified by:*** Board of Governors

***Responsibility:*** Board of Governors

***Author:*** Bursar

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## **Introduction**

This Policy has been written in accordance with the Freedom of Information Act (FOIA) 2000 which came into force on 1 January 2005. Details are provided as follows:

Section A	Key Points of the Freedom of Information Act
Section B	Right to Request Information
Section C	Dealing with a Request for Information - frequently asked questions

The Board of Governors has delegated responsibility for FOI requests to the Principal.

## **Section A - Key Points**

- Since 1 January 2005, when the Freedom of Information Act 2000 (FOIA) came into force, there has been a legal right for any person to ask a school for access to information held by the school.
- The aim of the FOIA is to promote a culture of openness and accountability amongst public sector bodies.
- The FOIA adds to the framework of legislation on disclosure of information held by schools. Other relevant legislation is as follows:  
Data protection legislation (including the General Data Protection Regulation) covers the rights individuals have in respect of their personal data, including rights of access.  
The Environmental Information Regulations 2004, which deal with information relating to any decisions, activities and policy formulation that may have an impact on the environment.  
The FOIA covers all other information, such as rights of access to and requests for non-personal data.
- The FOIA is overseen by the Information Commissioner.
- The FOIA while presuming openness, recognises the need to protect sensitive information in certain circumstances and provides for exemptions. Even where exemptions apply, however, information must still be released if it is in the public interest to do so.

## **Section B - Right to Request Information**

1. There is a legal right for any person to make a request to a school for access to information held by that school. Schools are under a duty to provide advice and assistance to anyone requesting information. Enquirers do not have to say why they want the information and the request does not have to mention the FOIA. All requests for information that are not covered by the Data Protection Act 2018 (i.e. from individuals to see their own personal information) or Environmental Information Regulations 2004 are covered by the FOIA.
2. The enquirer is entitled to be told whether the school holds 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 Act recognises the need to preserve confidentiality of sensitive information in some circumstances and sets out a number of exemptions.
3. There are only 4 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.

4. The FOIA provides a series of exemptions. Some of the exemptions are *absolute* and some are *qualified*, in that they can be overridden by the public interest test.
5. 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* eg information available from the school’s Publication Scheme, or information that other legislation requires the school to give.
  - b. *personal information*: a request for personal information is covered by the Data Protection Act 2018. Any requests from individuals seeking their own personal data (known as “subject access requests or SARs) will be dealt with by the school under the data protection legislation and within the applicable statutory timeframe for SARs..
  - c. *environmental information*: where information is covered by the Environmental Information Regulations 2004.

### **Section C - Dealing with a request for information**

To handle a request for information the Board of Governors of Belfast High School will follow the guidelines issued by the Information Commissioner’s Office in the Freedom of Information Code of Practice.

#### **1. What is a FOI request?**

*FOI enquiries* are concerned with rights of access to and requests for non-personal data, including the reasoning behind decisions and policies. The request does not have to mention the FOI Act.

#### **2. Managing requests**

A FOI request should:

- be **in writing**;
- **state the enquirer’s name and correspondence address** (this includes an email address;
- **describe the information requested** - there must be enough information to be able to identify and locate the information; and
- not be covered by one of the other pieces of legislation.

#### **3. Does the school hold the information?**

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

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

Information means both hard copy and digital information, including email. If the school does not hold the information, there is no obligation to create or acquire it just to answer the enquiry, although a reasonable search should be made before denying that the information is held.

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

If the information requested is already in the public domain, for instance in the Publication Scheme or on the school website, the enquirer will be directed to where the information is located.

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

The Act 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 the work of the school.

## **6. Can the school transfer a request to another body?**

If the information is held by another public authority, the request can be transferred to this authority. The enquirer will be notified that the information is not held by the school and to whom the request has been transferred.

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

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. This does not apply where there is an exemption. 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 you to determine if information is exempt from disclosure, or
- the views of the third party may assist you to determine the public interest.

## **8. Does an exemption apply?**

The presumption of the legislation is that information will be disclosed unless the Act provides a specific reason to withhold it. There are more than 20 exemptions. They are mainly intended to protect sensitive or confidential information.

Where the potential exemption is a qualified exemption, it is necessary 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 has to be released.

## **9. What if the details contain personal information?**

Personal information requested by third parties is also exempt under the FOI Act where release of that information would breach the Data Protection Act. If a request is made for a document (eg Governing Body minutes) which contains personal information whose release to a third party would breach the Data Protection Act, the school may issue the document with the relevant personal information redacted.

## **10. Fees**

Where possible the school will not charge enquirers a fee for complying with requests. However, it reserves the right to do so and in these circumstances, a fee notice will be issued to the applicant in accordance with section 9 of the FOIA.

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

If the cost of complying with the request will exceed the limit of £450, the school is not obliged to comply.

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

Compliance with a request must be prompt and certainly within the legally prescribed limit of 20 working days, excluding school holidays. Failure to comply could result in a complaint to the Information Commissioner. The response time starts from the time the request is received. Where more information has been requested, the 20 days start time begins when this further information has been received.

If a qualified exemption applies and more time is needed to consider the public interest test, a reply will be made within the 20 days stating that an exemption applies but an estimate of the date by which a decision on the public interest test will be made will be included. This should be within a “reasonable” time – in practice, it is recommended that normally this should be within 10 working days. Where the enquirer has been notified that a charge is to be made, the time period stops until payment is received and then continues again once payment has been received.

### **13. Procedures if refusing a request**

If the information is not to be provided, the following information will be provided by the school:

- the fact that the responsible person cannot provide the information requested;
- which exemption(s) apply;
- why the exemption(s) apply to this enquiry (if it is not self-evident);
- reasons for refusal if based on cost of compliance;
- in the case of non-absolute exemptions, how the public interest test has been applied, specifying the public interest factors taken into account before reaching the decision;
- reasons for refusal on vexatious or repeated grounds;
- the internal complaints procedure.

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 responsible person will keep a record of all enquiries where all or part of the requested information is withheld and exemptions are claimed. The record must include the reasons for the decision to withhold the information. Records should be retained for 5 years. There are no requirements to keep records where the information requested has been supplied.

### **14. Procedures following a complaint**

Any written (including email) expression of dissatisfaction - even if it does not specifically seek a review, will be handled through the school’s existing Complaints Procedure. Wherever practicable, the review should be handled by someone not involved in the original decision. The school will maintain records of all complaints and their outcome.

When the original request has been reviewed and the outcome is that the information should be disclosed, this should be done as soon as practicable. When the outcome is that procedures within the school have not been properly followed, the school should review procedures to prevent any recurrence. When the outcome upholds the school’s original decision or action, the applicant should be informed of their right to appeal to the Information Commissioner. The appeal should be made in writing to:

FOI Compliance Team (complaints)  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF