

FREEDOM OF INFORMATION POLICY

GOVERNANCE AND CONTROL

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AUDIENCE

Applicable to students and parents/carers?	Yes
Applicable to staff?	Yes
Accessible to students, parents/carers and staff?	Yes
Accessible to public?	Yes

1. INTRODUCTION

- 1.1. The Hart Schools Trust (“the Trust”) is subject to the Freedom of Information Act 2000 (“FOIA”) as a public authority, and as such must comply with any requests for information in accordance with the principles laid out in the FOIA.
- 1.2. The Trust acknowledges that, under the FOIA, any person has a legal right to ask for access to information held by the Academy and recognises its duty to:
 - 1.2.1. provide advice and assistance to anyone requesting information
 - 1.2.2. tell enquirers whether or not we hold the information they are requesting unless exempted from this duty (the duty to confirm or deny)
 - 1.2.3. provide access to the information we hold, subject to legal exemptions, in accordance with the procedures laid down in Parts 6 and 7 of this policy.
- 1.3. The Trust recognises the presumption of openness that underlies the FOIA. It is committed to maintaining a well-managed records management and information system in order to comply efficiently with requests and will adopt a straight-forward approach to meeting requests for information.

2. SCOPE

- 2.1. This policy covers requests made to the Trust asking for information under the Freedom of Information Act 2000 (“FOIA”) and enquiries relating to matters under the Environmental Information Regulations (“EIR”) 2004; namely enquiries about air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these.
- 2.2. This policy does not cover enquiries or subject access requests under the Data Protection Act 2018; that is, where the enquirer asks to see what personal information the Trust’s schools hold about them (see paragraph 6.4.1).

3. RESPONSIBILITIES

- 3.1. The Trust Board is responsible for overseeing access to information.
- 3.2. Day-to-day responsibility for the implementation of this FOIA policy and the provision of advice, guidance, publicity and interpretation of this policy is delegated to the Managing Director who is responsible for coordinating FOIA procedures, managing requests for information and leading on staff training.
- 3.2. The Trust will ensure that all members of staff are aware of this policy and know that all requests for information should be passed without undue delay to the Company Secretary.
- 3.4. The Trust acknowledges that wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence and will take all reasonable steps to ensure that records that are subject to a request for information are not deleted or amended by anyone within the Trust.

4. WHAT IS A REQUEST UNDER THE FOIA

- 4.1. Any written request (includes letter, email or fax) for any information from the Trust is technically a request under the FOIA, whether or not the individual making the request mentions the FOIA. However, the Information Commissioner’s Office (ICO) has stated that routine requests for information (such as a parent requesting a copy of a policy) can be dealt with outside of the provisions of the FOI. The request must state the enquirer’s name and correspondence address (includes email addresses), describe the information requested in sufficient detail to identify and locate the information, and not be a request falling within the provisions of the Data Protection Act (in other words not be a request for the inquirer’s personal data or that of their child/children or those for who they have parental responsibility).
- 4.2. In all non-routine cases, if the request is simple and the information is to be released, then the individual who received the request can release the information but must ensure that this is done within the timescale set out below.
- 4.3. All other requests should be referred in the first instance to the Company Secretary (email: rdale@nhc.ac.uk, or letter addressed to: Robert Dale, Company Secretary, North Hertfordshire College, Cambridge Road, Hitchin, SG4 0JD) who may allocate another individual to deal with the request. If the request is received elsewhere within the Trust, it must be forwarded promptly to

the Company Secretary and in any event within 3 working days of receiving the request.

- 4.4. When considering a request under FOI, it must be borne in mind that a release under FOI is treated as release to the general public. Once released to an individual, anyone can then access the same information and access cannot be restricted when releasing by marking the information “confidential” or “restricted”.

5. TIME LIMIT FOR COMPLIANCE

- 5.1. The Trust must respond as soon as possible, and in any event within 20 working days starting from the day after the date of receipt of the request.
- 5.2. When calculating the 20 working day deadline, a “working day” is a school day (one in which pupils are in attendance), subject to an absolute maximum of 60 normal working days (not school days) to respond.

6. PROCEDURE FOR DEALING WITH A REQUEST

- 6.1. When a request is received that cannot be dealt with by simply providing the information, it should be referred in the first instance to the Company Secretary, using the contact information under para 4.3 above, who may re-allocate to an individual with responsibility for the type of information requested.
- 6.2. The first stage in responding is to determine whether or not the Trust “holds” the information requested. The Trust will hold the information if it exists in computer or paper format.
- 6.3. Some requests will require the Trust to take information from different sources and manipulate it in some way. Where this would take minimal effort, the Trust is considered to “hold” that information, but if the required manipulation would take a significant amount of time, the requestor should be contacted to explain that the information is not held in the manner requested, and offered the opportunity to refine their request. For example, if a request required the Trust to add up totals in a spreadsheet and release the total figures, this would be information “held” by the Trust. If the Trust has to go through a number of spreadsheets and identify individual figures and provide a total, this is likely not to be information “held” by the Trust, depending on the time involved in extracting the information.
- 6.4. The second stage is to decide whether the information can be released, or whether one of the exemptions set out in the FOI applies to the information. Common exemptions that might apply include:
 - 6.4.1. Section 40 (1) – the request is for the applicant’s personal data. This must be dealt with under the subject access regime of data protection legislation, detailed in the Trust’s Data Protection and Management Policy, which can be found on the Trust’s website: [insert weblink];
 - 6.4.2. Section 40 (2) – compliance with the request would involve releasing a third party personal data, and release would breach data protection principles, as set out in the Data Protection Act 2018 and outlined in the Trust’s Data Protection and Management Policy;

- 6.4.3. **Section 41** – information that has been sent to the Trust (but not the Trust's own information) which is confidential;
 - 6.4.4. **Section 21** – information that is already publicly available, even if payment of a fee is required to access that information;
 - 6.4.5. **Section 22** – information that the Trust intends to publish at a future date;
 - 6.4.6. **Section 43** – information that would prejudice the commercial interests of the Trust and/or a third party;
 - 6.4.7. **Section 38** – information that could prejudice the physical health, mental health or safety of an individual (this may apply particularly to safeguarding information);
 - 6.4.8. **Section 31** – information which may prejudice the effective detection and prevention of crime – such as the location of CCTV cameras;
 - 6.4.9. **Section 36** – information which, in the opinion of the chair of the Trust Board, would prejudice the effective conduct of the Trust.
- 6.5. The exemptions shown in bold italics above are qualified exemptions. This means that even if the exemption could potentially be invoked, the Trust must consider whether the public interest in the information being released outweighs the public interest in withholding the information. The Company Secretary can advise on this matter.

7. RESPONDING TO A REQUEST

- 7.1. If the Trust intends to withhold some or all of the information requested, the Trust must write to the requestor to explain why the information has been withheld, quoting the appropriate section of the Act and explaining how the information requested fits within that exemption. If the public interest test has been applied, this also needs to be explained.
- 7.2. All responses should end by explaining to the requestor how they can ask for a review of the initial decision or seek the support of the Information Commissioner's Office (ICO).

Charges relating to requests for information

- 7.3. We follow the Department for Education recommendation that academies should ordinarily charge for dealing with requests for information to recover the costs to academy resources that would otherwise support teaching and learning.
- 7.4. We are not required to comply with a request for information where we estimate that the cost of compliance will exceed £450. In estimating the cost of compliance, we are entitled to consider:
 - 7.4.1. Prescribed costs i.e. the costs we reasonably expect to incur in determining whether we hold the information; locating the information or a document containing it; retrieving the information or a document containing it; and extracting the information from a document containing it. This includes staff time at £25 per hour (excluding time needed to consider

whether the information requested is exempt from disclosure or in redacting documents).

7.4.2. Communication costs i.e. costs we expect to directly and reasonably incur in informing the requestor whether we hold the information and communicating the information to the requestor, including reproducing any document containing the information (e.g. printing or photocopying) or postage.

7.5. If our estimated cost of complying with the request does not exceed £450, we are entitled to charge the actual communication costs incurred by us, but not the prescribed costs.

7.6. If our estimated cost of complying with the request does exceed £450, we will advise the requestor accordingly and advise what, if any, information can be provided for under £450 and/or suggest a narrowed version of the request that could be handled within this limit. Should the requestor wish us to provide the information as initially requested, we are entitled to charge:

7.6.1. the estimated costs of compliance with the request (see 4.7 above)

7.6.2. the actual communication costs; and

7.6.3. staff time, at £25 per hour per person, spent on the activities included under communication costs

7.7. If a fee is payable, we will notify the requestor as soon as practicable (the “fees notice”). The fee notice will state the amount to be charged and advise how the requestor can pay. If payment is not received within three months of issuing the fees notice, we are no longer obliged to respond to the request.

Right to refuse to comply with a request for information

7.8. There are only four reasons we may refuse to comply with a valid request for information under the FOIA:

7.8.1. **The information is not held by us.** Once we have received a request, we will ascertain whether we hold the information requested. “Holding” information means information relating to the business of the Academy that we have created, received from another body or person, or is held by another body on our behalf. If, after reasonable enquiry, we are able to confirm that we do not hold the information requested, we will advise the requestor accordingly using the correspondence address provided.

7.8.2. **The cost threshold (£450) will be exceeded.** See ‘Charges relating to requests for information’ above.

7.8.3. **The request is considered vexatious or repeated.** There is no obligation to comply with vexatious requests. These are requests designed to cause inconvenience, harassment or expense rather than to obtain information, and that would require a substantial diversion of resources or would otherwise undermine our work.

7.8.4. **One or more of the exemptions apply.** There are more than 20 possible exemptions provided for in the FOIA, with those that are most likely to

affect information held by schools outlined in paragraphs 6.4.1 to 6.4.9. Where the potential exemption is a qualified exemption, we will also consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.

- 7.9. Each case will be considered on its merits and we will maintain records on any refusals made and the reasons for them. Records will be retained for 5 years in accordance with statutory guidance.
- 7.10. If we refuse to provide the information, we will notify the requestor in writing, explaining:
 - 7.10.1. the fact that we cannot provide the information asked for;
 - 7.10.2. which exemption(s) we believe apply;
 - 7.10.3. why the exemption(s) apply to this enquiry (if it is not self-evident);
 - 7.10.4. reasons for refusal if based on cost of compliance;
 - 7.10.5. in the case of qualified exemptions, how we have applied the public interest test, specifying the public interest factors taken into account before reaching the decision;
 - 7.10.6. reasons for refusal on vexatious or repeated grounds;
 - 7.10.7. the internal complaints procedure.

The duty to confirm or deny

- 7.11. A person applying for information has the right to be told if the information requested is held, and if that is the case to have the information sent (subject to any of the exemptions). We do not have to confirm or deny if:
 - 7.11.1. the exemption is an absolute exemption, or
 - 7.11.2. in the case of qualified exemptions, confirming or denying would itself disclose exempted information.

Consultation with third parties

- 7.12. Consultation with 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. Consultation will be necessary where:
 - 7.12.1. 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;
 - 7.12.2. the views of the third party may assist us to determine if information is exempt from disclosure; or
 - 7.12.3. the views of the third party may assist us to determine the public interest test.

Redaction

- 7.13. If a request is made for a document which contains exempt information (for example, it contains personal information about a third party whose release to a third party would breach the Data Protection Act), the document may be issued by blanking out the relevant exempt information. This process is known as redacting.
- 7.14. The general procedure for redaction is:
 - 7.14.1. the exempt information will be masked;
 - 7.14.2. an annotation will be provided in the margin against each redaction, stating which exemption and section of the Act applies.

8. CONTACT

- 8.1. Any questions about this policy should be directed in the first instance to the Company Secretary, using the contact details in paragraph 4.3 above.