



# THE STONEHENGE SCHOOL

## FREEDOM OF INFORMATION POLICY

September 2019

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## **THE STONEHENGE SCHOOL FREEDOM OF INFORMATION POLICY**

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## **1. Introduction**

The Stonehenge School is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 (FoIA) and the access provisions of the Data Protection Act 1998 (DPA). The School will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right to access recorded information held by the School and that the School seeks to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation. Separate guidance, in the form of operating procedures (Appendix 1), has been given to staff in the staff handbook on how to handle information requests received under the FoIA regime.

## **2. Background**

The FoIA applies to all public authorities and came fully into force on 1 January 2005. It provides the public with a statutory right of access to recorded information held by authorities, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1 January 2005. Section 19 of the Act also obliges the School to make information pro-actively available in the form of an approved "publication scheme".

In addition, individuals currently have a statutory right of access to their own "personal data" under the DPA. Individual access rights to personal data are extended by the FoIA through amendments to the access provisions of the DPA.

The Environmental Information Regulations (EIR) provide a statutory right of access to "environmental information", as defined in these regulations. The EIR came into force on 1 January 2005 and replaces the existing 1992 Regulations. The EIR are also fully retrospective.

The Government's Information Commissioner enforces these three information regimes.

Each regime contains categories of exempt information, where information can be withheld. Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this policy, the "public" is defined as any individual or organisation anywhere in the world and an "information request" refers to any request for recorded information made under the FoIA, EIR or DPA.



### **3. Timescales**

Freedom of Information requests should be dealt with within 20 working days, excluding school holidays.

Requests for personal information under the Data Protection Act (subject access requests) should be dealt with within 40 calendar days.

Requests for pupil information should be dealt with within 15 school days.

### **4. Responsibilities**

Overall responsibility for ensuring that the School meets the statutory requirements of the FoIA, EIR and DPA lies with the Governors and the Chair of Governors has overall responsibility for information management issues. It is the responsibility of the Governors to ensure procedures are in place to enable the School to handle information requests covered by the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR) in accordance with the provisions laid out therein and to ensure that the school satisfies the standards set out in the Lord Chancellor's Code of Practice on satisfying public authorities' obligations under the FoIA, produced under Section 45 of that Act. Day to day responsibility for implementation of this policy and these procedures is delegated to the Headteacher.

The Headteacher is assisted by the School Business Manager who currently fulfils the role of 'Fol Officer'. All school staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the Fol Officer where necessary.

### **5. Scope**

This policy applies to all recorded information held by the School that relates to the business of the School. This includes:

- Information created and held by the School;
- Information created by the School and held by another organisation on the School's behalf;
- Information held by the School provided by third parties, where this relates to a function or business of the School (such as contractual information); and
- Information held by the School relating to Governors where the information relates to the functions or business of the School.

This policy does not cover personal written communications (such as personal e-mails sent by staff). The School's Data protection Policy establishes the standards regarding the use of "personal data" (as defined in the DPA).



## **6. Requesting Information**

### **6.1 Procedures**

Practical procedures for handling information enquiries in line with the relevant legislation are attached to Appendix 1 and copies can be obtained from the School's FoI Officer, via the School website or from the main Reception office.

The School has a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information. Although no such duty exists under the DPA, the same level of care will be provided.

### **6.2 Charges**

The three information regimes contain different provisions that permit charges to be made for responding to information requests. The Governing body may charge a fee for complying with requests, as calculated in accordance with FoIA regulations. If a charge is to be made, the School will give written notice to the applicant before supplying the information requested.

The School will only charge for the cost of copying and transmitting information, not for time taken in reaching decisions regarding whether information is covered by exemption.

Where the School estimates that the cost of locating, collating and extracting the information will exceed the statutory threshold of £450, (calculated at £25 per hour), it will consider whether or not to comply with the request. The School is not obliged to comply with such a request but may choose to do so.

The Data Protection Act 1998 permits a charge of up to £10 to be made for responding to requests for personal data. There is a sliding scale of up to £50 for copies of education records.

N.B. Information, in most cases, can be downloaded from the website or supplied electronically free or charge. If freely available to an applicant, the school may refuse to provide it as a response to a request, but redirect the applicant to where they may locate the information for themselves.

### **6.3 Publication**

Section 19 of the FoIA obliges the School to make information pro-actively available in the form of a "publication scheme". This scheme lists categories, or "classes" of information that will routinely be made available without the



need for a specific information request. The School will indicate in the scheme where it wishes to charge for providing particular categories of information. The scheme is published on the School's website [www.stonehenge.wilts.sch.uk](http://www.stonehenge.wilts.sch.uk).

The School will review this scheme regularly. Whenever any information is provided in response to a recorded FoIA enquiry, the School will assess whether the information is suitable for wider publication. In general, there will be a presumption in favour of publishing such information on the School's website.

## **7. Withholding Information**

The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories: absolute and non-absolute. The School will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, the School can automatically withhold the information. However, where the exemption is non-absolute, the information can only be withheld where the School decides that the public interest is best served by withholding the information. Certain exemptions also contain a "prejudice test", which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

The School will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption.

The School will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a "public interest" exemption is being considered, the School will only withhold that information where it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a nonabsolute exemption, the School will take into account whether the release of the information would:

- Promote further understanding of current issues of public debate;
- Promote the accountability of decisions taken by the School and the spending and allocation of public money;
- Bring to light matters of public safety;
- Allow the public to understand and challenge decisions made by the School
- Be otherwise in the public interest.

Where information is withheld under an exemption, in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision through the School's Governing Body and the right of appeal to the Information Commissioner's Office.



Where a staff member plans to apply an exemption, he/she will consider whether other schools hold similar information. If this is considered likely, he/she may contact the relevant school (s) to ensure that a consistent response is provided to the applicant.

The School will also refuse to supply information under the FoIA where the request is considered "vexatious" or "repeated" and under the EIR where the request is considered "manifestly unreasonable".

## **8. Releasing a Third Party's Information**

Where, in response to a request, information belonging to a third party (either an individual or other organisation) has to be considered for release, the staff member that received the request will seek input from the FoI Officer prior to the release of the information.

The release of third party information will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the DPA. Both the EIR and FoIA permit information to be withheld when its release would break the provisions of the DPA.

When the requested information relates to a living individual and amounts to "personal data" as defined in the DPA, its disclosure could breach the DPA. Therefore the release of third party personal information relating to living individuals will be considered in accordance with the data protection principles and, in particular, the "third party" provisions of the DPA.

Where appropriate the School will contact the individuals to ask for permission to disclose the information. If consent is not obtained, either because it was not considered appropriate to approach the third party or the third party could not be contacted or consent is refused, the School will then consider if it is reasonable to disclose the information, taking into account:

- Any duty of confidentiality owed to the third party
- The steps taken to seek consent
- Whether the third party is able to give consent and
- Any express refusal of consent

The decision to disclose third party information will also take into account the impact of disclosure on the third party, relative to the impact on the applicant of withholding the information. Where the third party has been acting in an official, rather than private, capacity, the School will be minded to disclose the information, although decisions will be made on a case-by-case basis. Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence the School's decision whether to release the information. Where the information relates to a matter clearly private to the individual.

e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their



official capacity e.g. an expenses claim, the information will normally be released. The exemption relating to the release of a third party's personal data will not be used to withhold information about administrative decisions taken by the School.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the FoI Officer who will take advice from the Governing Body where necessary.

Where the third party is an organisation, rather than an individual, the provisions of DPA 1988 will not apply. The School will consider consulting the third party concerning the release of their information where:

- The views of the third party may assist the School to decide whether an exemption under the Act applies to the information and
- In the event of the public interest test being applied, whether the views of the third party may assist the School to make a decision relating to where the public interest lies.

Consultation will not be undertaken where:

- The School will not be disclosing the information due to some valid reason under the Act;
- The School is satisfied that no exemption applies to the information and therefore cannot be withheld and
- The views of the third party will have no effect on the decision; e.g. where there is other legislation preventing disclosure.

Where input from a third party is required, the response time for the request remains the same. Therefore, it will be made clear to the third party at the outset that they have a limited time for their views to be provided and that, where responses are not immediate, the decision to disclose may have to be made without their input in order for the School to comply with the statutory time limits dictated by the legislation.

The School will endeavour to inform individuals and organisations submitting information that the information might be released following an information request and, where appropriate, will provide the supplier of the information opportunity to request confidentiality or supply reasons to why the information should be treated confidentially.

## **9. Information held within contracts with the School**

Any contractual information, or information obtained from organisations during a tendering process, held by the School are subject to the provisions of the FoIA and EIR. Whenever the School enters into contracts, it will seek to exclude confidential terms forbidding the disclosure of information beyond the restrictions contained in the legislation. A standard form of wording will





be included in contracts to cover the impact of FoIA and EIR in relation to the provision of information held in contracts.

The School can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where the School intends to include nondisclosure provisions in a contact, it will agree with the contractor a schedule of the contract that clearly states which information should not be disclosed.

The School will only agree to enter into confidentiality clauses where the information is confidential in nature and that it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FoIA may be relevant, relating to commercial interests. This exemption is subject to a "public interest" test. Whenever the School has to consider the release of such information, it will contact the relevant organisation to obtain its opinions on the release of the information and any exemptions that they may think relevant. However, the School will make the final decision relating to the disclosure of the information.

The School can also withhold information contained in contracts where any of the other exemptions listed in the FoIA or EIR are appropriate, although information will only be withheld in line with the School's policy on the use of exemptions. All future contracts should contain a clause obliging contractors to co-operate fully and in a timely manner where assistance is requested in responding to an FoIA or EIR request.

#### **10. Complaints Procedure**

The Stonehenge School takes our responsibilities under the Freedom of Information Act seriously but, if an applicant feels their request has not been properly handled or they are otherwise dissatisfied with the outcome of their request, they have the right to complain. The School will investigate the matter and endeavour to reply within 3-6 weeks. Complaints should be addressed to the Chair of Governors at the School.

If an applicant is still dissatisfied following the School's internal review, they have under Section 50 of the Act, to complain directly to the Information Commissioner. Before considering a complaint, the Information Commissioner would normally expect an applicant to have exhausted the complaints procedures provided by the School.

#### **11. Requests made under the Data Protection Act**

The Data Protection Act 1998 entitles an individual to his or her 'personal data' as defined in that Act, where the information is held on an automated system, such as a computer and also manual files, where they amount to what the DPA describes as an "accessible record" or in a structured filing system, defined in the DPA as a "relevant filing system".



The parental right to receive information pertaining to the “educational record” of their child should continue to be administered under the Education (Pupil Information) (England) Regulations 2000. Whenever a request for personal data is received and is not covered by these regulations, the request will be administered in accordance with the relevant section of the School’s FoIA operating procedures.

Whenever a request is made under the DPA for personal data, the School will provide the applicant with the relevant information contained with files relating to that individual that is accessible under both the DPA and FoIA, subject to any exemptions. Where it is not possible to remove third party information without rendering the response useless to the individual, the provision of third party information. The DPA contains the provision for numerous types of exemption. Therefore whenever a member of staff is considering applying an exemption, he/she will seek the opinion of the FoI Officer.

## 12. **Illegal Actions**

It is a criminal offence under any of the three information regimes for members of staff to alter, deface or remove any record (including emails) following receipt of an information request with intent to prevent disclosure.



## **Appendix 1**

### **Procedures for Handling Freedom of Information Requests**

1. The Stonehenge School's Freedom of Information Publication Scheme is published on the School website [www.stonehenge.wilts.sch.uk](http://www.stonehenge.wilts.sch.uk)
2. Requests for information under the Freedom of Information Act 2000 may be made by letter or email. Under the Environmental Information Regulations 2005 requests may be made by letter, email or verbally. Where applicants require assistance, they will be directed to the FoI Officers or, in their absence, the Data Manager. In respect of verbal requests, although it is not the requirement that the request be made formally, for the School to recognise that a request is actually being made, all effort should be made to clarify the position and also to obtain details from the requestor to enable appropriate communication to be undertaken.
3. All requests must be forwarded to the School Business Manager acting in the capacity of FoI Officer, or, in their absence, to the Headteacher immediately.
4. The School Business Manager (or in their absence, the Headteacher) will ascertain whether the request is legitimate in accordance with the above referenced legislation and the Data Protection Act 1998, and will also ascertain whether any exemptions apply.
5. The School Business Manager will consult with the Headteacher before the release of any information. Prior to releasing any information, the School Business Manager will confirm any costs to the applicant.
6. The School Business Manager (or Headteacher in their absence) will deal with any requests within the timescales defined by the legislation and outlined in paragraph 3 of the School's Freedom of Information Policy.
7. A copy of the Freedom of Information Complaints Procedure (Appendix 2 attached) will be made available to all applicants for information under the Freedom of Information Act 2000 and complaints regarding the handling of requests will be dealt with in accordance with these procedures. The decision to refuse or limit the scope of information released will be reviewed internally in consultation with the Chair of Governors. If the school's position is maintained, the applicant will be directed to the Information Commissioner's Office where a formal appeal may be made.



## Appendix 2

### Freedom of Information Complaints Procedure

1. The Stonehenge School takes its responsibilities under the Freedom of Information Act seriously but, if an applicant feels that their request has not been properly handled or they are otherwise dissatisfied with the outcome of their request, they have the right to complain. The Stonehenge School will investigate the matter and endeavour to reply within 3-6 weeks. Complaints should write to:

Chair of Governors  
The Stonehenge School  
Antrobus Road  
Amesbury  
Wilts  
SP4 7ND

Email: [admin@stonehenge.wilts.sch.uk](mailto:admin@stonehenge.wilts.sch.uk)

2. If a complainant is still dissatisfied following the School's internal review, they have the right, under Section 50 of the Act, to complain directly to the Information Commissioner. Before considering a complaint, the Information Commissioner would normally expect a complainant to have exhausted the School's own complaints procedure:  
The Information Commissioner can be contacted at:  
FOI Compliance Team (Complaints)  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF
3. Further information about The Stonehenge School is routinely published on our website at [www.stonehenge.wilts.sch.uk](http://www.stonehenge.wilts.sch.uk) or through our publication scheme. If you require any further assistance in connection with a request, please contact the School at the address above.