



Martin Primary School

# **Freedom of Information Policy**

Reviewed and ratified by the DPO & Headteacher: summer 2024

Reviewed every three years

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The Freedom of Information Act (FoIA) applies to all public authorities and came fully into force on 1st 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 1st 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”.

### 1 Introduction

MARTIN PRIMARY SCHOOL will undertake our responsibilities to comply with the provisions of the Freedom of Information Act 2000 (FOI).

The FOI Act 2000 gives the public the right of access to recorded information held by all public authorities (which include schools). This access however, may be subject to exemptions.

Access to information can and will be denied if there is an absolute exemption which applies to its disclosure or if a qualified exemption applies and the public interest test/assessment dictates that the information should not be disclosed.

The FOI is regulated by the Information Commissioner’s Office (ICO) and ultimately by the Information Commissioner.

The Freedom of Information Act 2000, supports and or complements:

- Data Protection Act 2018 and UK GDPR, which relates the rights and freedoms of personal data, and provides individuals access to their personal information held by schools.
- Environmental Information Regulations 2004, that provides access to information about the environment held by public authorities and the government.

A public authority must take account of the Freedom of information Code of Practice issued by the Ministry of Justice under Section 45 FOIA 2000. The school will follow the code whenever it is possible and or appropriate to do so.

## 2 Scope

This Policy shows the procedures and processes for the school to follow in order to comply with the FOIA 2000.

This Policy applies to all school staff, temporary staff, governors, agents, contractors and any other third parties etc. Who are working on behalf of the school within the school's business.

This Policy does not cover Subject Access Requests (requests for access to information about a living individual which could identify them). These requests are exempt from the FOI under section 40 of the act, and should be undertaken in accordance with the provisions of the Data Protection Act 2018 (DPA) and UK GDPR

The school is under a legal duty to protect personal data under the provisions of the Data Protection Act 2018 and UK GDPR.

This policy does not cover personal written communications (such as personal e-mails sent by staff)

### Legal framework

- The Freedom of Information Act 2000
- The Data Protection Act 2018
- UK General Data Protection Regulation
- ICO (2016) 'Model publication scheme'
- Cabinet Office (2018) 'Freedom of Information Code of Practice'
- Any other relevant legislation and or guidance

## 3 Policy statement

MARTIN PRIMARY SCHOOL will comply with all the relevant provisions of the Freedom of Information Act 2000 and, where relevant, the requirements of the Environmental Information Regulations 2004 (EIR).

MARTIN PRIMARY SCHOOL will provide advice and assistance to help people make requests under the FOI. The School will aim to respond to all requests promptly, and within the statutory response period of **20 working days following receipt of a valid request, or 60 working days if this is shorter**, from receipt of the request. Where a fee is charged, the timeframe within which the school has to respond to the request begins from the day the fee is received.

In cases where information is covered by a qualified exemption or other legislation, consideration is given as to whether or not it is in the public interest to disclose the information, regardless of the exemption.

The school will adopt and maintain a Publication Scheme that follows similar lines to the ICO template approved by the Information Commissioner or uses the template. The Publication Scheme provides details of all the information that the school makes available to the public. The Publication Scheme is subject to regular review as appropriate.

The DfE also requires the school to publish specific information on its website for DfE website compliance.

The school is committed to conducting its affairs in a transparent manner and enabling public access to its information whenever this is appropriate. The school will act in as open and transparent a manner whenever possible, whilst ensuring and taking in to account the integrity of its information and protecting privacy.

#### **4 Dealing with Requests**

Martin Primary School, will follow statutory guidelines when dealing with requests. Requests that are vexatious or repeated will be refused. There are exemptions that the school will claim as appropriate but within the public interest. Qualified exemptions require such a test and may extend the statutory time limit by a further 20 days (40 days in total).

The school may refuse requests on the grounds of cost. The statutory maximum is currently £450 or 18 hours of work at £25 per hour. For finding and editing the information etc.

##### **Requests must be:**

- In writing
- State the name of the person making the request (no pseudonym).
- Contain an address for correspondence (can be an email address when verified with applicant)
- Describe the information requested

##### **When the requester has made a valid request**

The school will:

- Provide the information to the requester
- Write back to the requester to inform them that the information is not held
- Refuse to confirm or deny whether information is held
- Confirm that information is held but refuse to provide it

#### **5 Extending request time limits**

##### **For the public interest test**

The school may require additional time to consider the public interest test. The school may extend the time for a further 20 days (40 days in total) or in certain justifiable exceptional circumstances for longer.

##### **To claim this extra time:**

- The school will contact the requester in writing within the standard time for compliance;
- specify which exemption(s) the school is seeking to rely on
- give an estimate of when the school will have completed the public interest test

##### **When the school has come to a conclusion on the balance of the public interest, the school will:**

- Disclose the information

- Write to the requester explaining why you have found that the public interest favours maintaining the exemption.

Information provided will be in any requested format where possible and take in to account equality legislation relating for example to disability.

### **School requiring clarification of a request**

If the school requires clarification, the applicant is given two months to provide it. If clarification is not provided the school is not obliged to contact the applicant.

## **6 Roles and 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. They have delegated the day-to-day responsibility of implementation to the Headteacher.

The Headteacher is assisted by the SLT as FoI officer. All School staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts.

FoI advice will be taken from the FoI Officer at the Local Authority when in post and or DPO.

All employees are responsible for ensuring that any request for information they receive is dealt with in line with the requirements of the FOI and in compliance with this policy and the prevailing procedures. All staff must recognise that all recorded information may be provided to the public, and that the law requires that there will be full and unconditional disclosure in every case unless one of the statutory exemption applies.

Staff are made aware that under section 77 of the Act it is a criminal offence to alter, deface, block, erase, destroy or conceal any information held by the public authority (school) with the intention of preventing disclosure following a request under the Act for the information.

Staff handle information securely and with adequate supervision in line with information management procedures which are evaluated as appropriate.

## **7 Publication Scheme**

Section 19 of the FoIA requires the School to make information available in a Publication Scheme. This scheme will list classes of information that will routinely be made available without the need for a specific FoI request. The scheme is published on the school website, and will indicate charges where information is not produced in a freely available format. The scheme is subject to review as appropriate.

Whenever any information is provided in response to a FoI request. enquiry, the School will assess whether the information is suitable for wider publication. If so, the information will be published unless there is a good reason not to do so, as the school will favour publishing such information under FoI.

## 8 Right to refuse a request

### Requests can be refused under the following grounds:

- Cost - The school reserves the right to refuse requests whose total administrative cost exceeds the appropriate limit of 18 hours based on an average flat rate of £25 per hour (£450), as stated in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004.
- Vexatious requests
- Repetitious requests
- Not held -The requested information is not held by the school for the purposes of the school's business.
- Fee notice -Fee notice was not paid.
- Information already published - Where the school already publishes the information requested, enquirers will be directed to the public resource where they may find the information they require
- Copyright -Not provide copies of items subject to copyright restrictions, although these will still be open for inspection under the Act
- Non-school business – Information requested is not held by the school for the purposes of the school's business.
- Exemptions - Withhold information if it is subject to an exemption under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or other exemption

### Refusal notice in writing made to applicant

A refusal of a request for information will only be made when it is necessary to do so. The refusal of the request will be made in writing and will state:

- The reason for refusal and specify the exemption which applies and why the exemption applies.
- Where applicable the school will identify why the public interest in maintaining an exemption outweighs the public interest in any disclosure. This also may take any prejudice test into account. Specifying the likelihood of prejudice- If the school is withholding information under a prejudice based exemption, it should always make a choice between 'would' or 'would be likely' to cause prejudice and state this in its refusal notice.
- Where applicable the school will identify as appropriate the factors, taken into account
- The right to an internal review by the governing body, following the appropriate sections of the school complaints procedure.
- The right to complain to the Information Commissioner

## 9 Withholding Information

The Freedom of Information Act provides exemptions allowing information to be withheld.

### Absolute Exemption

The school can withhold the information.

### Qualified (non-absolute) Exemption

When the school declares that it is in the public interest to withhold the information. Information can be withheld. Some exemptions are also subject to a 'Prejudice Test'. ('Prejudice' means causing harm in some way. Many of the exemptions apply if disclosing the information you hold would harm the interests covered by the exemption. In the same way, confirming or denying whether you have the information can also cause prejudice. Deciding whether disclosure would cause prejudice is called the prejudice test).

**To decide whether disclosure (or confirmation/denial) would cause prejudice:**

- The school must be able to identify a negative consequence of the disclosure (or confirmation/denial), and this negative consequence must be significant (more than trivial)
- The school must be able to show a link between the disclosure (or confirmation/denial) and the negative consequences, showing how one would cause the other
- There must be at least a real possibility of the negative consequences happening. The School will only withhold information covered by the exemption. Whole documents and or files will not be fully withheld when only part of the information requested is covered by an exemption. The parts covered by the exemption will not be disclosed.

**Factors to consider when withholding information under a qualified (non-absolute) exemption**

The school will take into account the following ICO guidance:

- There is a public interest in transparency and accountability, to promote public understanding and to safeguard democratic processes.
- There is a public interest in good decision-making by the school, in upholding standards of integrity, in ensuring justice and fair treatment for all
- There is a public interest in in securing the best use of public resources and in ensuring fair commercial competition in a mixed economy.

This is not a complete list; the public interest can take many forms. However, these examples of the public interest do not in themselves automatically mean that information should be disclosed or withheld. For example, an informed and involved public helps to promote good decision making by public bodies, but those bodies may also need space and time in which to fully consider their policy options, to enable them to reach an impartial and appropriate decision, away from public interference. Revealing information about wrongdoing may help the course of justice, but investigations into wrongdoing may need confidentiality to be effective. This suggests that in each case, the public interest test involves identifying the appropriate public interests and assessing the extent to which they are served by disclosure or by maintaining an exemption.

**10 Third Parties -Consultation and Liability**

Third parties who are provided with information by the school for use are subject to the provisions of Fol, and will take account of any guidance provided by the ICO. Contracts will indemnify the school against any losses resulting from proceedings, claims, prosecutions, damages claims etc. incurred where possible

The school may consult with third parties about the disclosure of information as necessary. For example, if they hold any information passed to them by the school and or created any information for the school, or for any other relevant reason. When the school releases third party information, the third party will be informed in advance of the disclosure.

**Similar requests to other schools** - If another school has received a similar request, the school may consider consulting with the other school and or the Local Authority information officer and or DPO or any other relevant party, to provide a consistent response to the requester.

## 11 Internal Reviews and complaints

If you are not satisfied with the response to your request, you have the right to ask for a review.

### Internal reviews

**Internal review requests should be made in writing to the school.** The internal review will broadly follow the complaints policy at an appropriate stage that involves the governing body.

You should make a request within 40 working days of receipt of our response and set out what you are not satisfied with.

The school will aim to respond within 20 days of the request for the review. If the review process is complex, requires third party consultation and or other reasonable/ relevant factors require consideration, the time limit may be extended by the school.

### Complaints

If you are not content with the outcome of the review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
[www.ico.org.uk](http://www.ico.org.uk)

Tel: 01625 545 745

The school will maintain a record of all complaints and their outcomes.