

Data Protection and Freedom of Information Policy



Approved: 28 March 2018 – Board of Trustees
Review date: March 2021
Responsible Officer: Chief Operating Officer

Vision and Ethos



The vision statement of the Trust demonstrates its Christian ethos and faith foundation.

The Trust believes in the transformational power of education for each individual and that this is enhanced through collaborative working between the academies.

We believe:

- that a Christian ethos underpins and informs all that we do
- that the focus of the Trust is to promote collaboration between schools within a strategic locality in order to secure mutual improvement
- that through managed collaboration between academies there will be increased and improved opportunities for the development of all staff, students/children, parents and community
- in the development of a broad and balanced curriculum that supports young people's personal development and preparation for life
- that the family of academies within the Trust, working together, will secure continuity and progression for all
- that there should be high expectation for all children/students and young people whatever their circumstances or starting point and addressing disadvantage
- that, through its structures and work, the Trust can create and support effective Governance for all members
- that, through the Trust's work across its academies, expertise and capacity will be developed so that they can be supported with their development needs and economies of scale achieved

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Where the word 'Trust' is used in this document it refers to Archway Learning Trust.

Where the term 'Governing Body' is used it refers to the Local Governing Body of an individual academy within the Trust.

Where appropriate the Local Governing Bodies of individual academies will publish details of the procedures and practices to implement Trust policies.

Related Policies and Procedures

- Charging Policy
- Health, Safety and Security Policy
- ICT Acceptable Use Policy

1. Policy Statement

- 1.1. This policy applies to all statutory records, organisational records and personal data held by Archway Learning Trust. It encompasses paper records, data held on computer and associated equipment, including CCTV, of whatever type and at whatever location, used by or on behalf of the Trust.
- 1.2. The Trust is committed to being transparent about how it collects and uses data from staff, students, parents and visitors, and to meeting its data protection obligations.
- 1.3. The obligations outlined in this policy apply to all those who have access to personal data, whether they are employees, governors, employees of associated organisations or temporary staff.

2. Scope and Principles

- 2.1. The Trust processes personal data in accordance with the following protection principles:
 - 2.1.1. The Trust processes personal data lawfully, fairly and in a transparent manner.
 - 2.1.2. The Trust collects personal data only for specified, explicit and legitimate purposes.
 - 2.1.3. The Trust processes personal data only where it is adequate, relevant and limited to what is necessary for the purpose of processing.
 - 2.1.4. The Trust keeps accurate personal data and takes all reasonable steps to ensure that inaccurate personal data is rectified or deleted without delay. The Trust will update personal data promptly if an individual advises that his/her information has changed or is inaccurate.
 - 2.1.5. The Trust keeps personal data only for the period necessary for processing.
 - 2.1.6. The Trust adopts appropriate measures to make sure that personal data is secure and protected against unauthorised or unlawful processing, and accidental loss, destruction or damage.
- 2.2. The Trust tells individuals the reasons for processing their personal data, how it uses such data and the legal basis for processing in its privacy notices. It will not process personal data of individuals for other reasons.
- 2.3. Special Category information (including information relating to race or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health, sexual orientation, biometric data for purposes of identifying a natural person) is given special protection, and additional safeguards apply if this information is to be collected or used.
- 2.4. Personal data gathered for staff and students is held in the individual's personal file and on MIS systems. The Trust keeps a record of its processing activities for staff and students in accordance with the requirements of the General Data Protection Regulation (GDPR).
- 2.5. The Trust may hold personal information in relation to other individuals who have contact with the academies, such as volunteers and guests. Such information shall be held only in accordance with the data protection principles and shall not be kept longer than necessary.

3. Conditions of processing

- 3.1. The individual has given consent that is specific to the particular type of processing activity, and that consent is informed, unambiguous and freely given.
- 3.2. The processing is necessary for the performance of a contract, to which the individual is a party, or is necessary for the purpose of taking steps with regards to entering into a contract with the individual, at their request.
- 3.3. The processing is necessary for the performance of a legitimate purpose to which the Trust is subject.
- 3.4. The processing is necessary to protect the vital interests of the individual or another.
- 3.5. The processing is necessary for the performance of a task carried out in the public interest, or in the exercise of official authority vested in the Trust.
- 3.6. The processing is necessary for a legitimate interest of the Trust or that of a third party, except where this interest is overridden by the rights and freedoms of the individual concerned.

4. Individual Rights

- 4.1. As a data subject, individuals have a number of rights in relation to their personal data:

4.1.1. Subject Access Requests

4.1.1.1 Individuals have the right to make a subject access request. If an individual makes a subject access request, the Trust will tell him/her:

- whether or not his/her data is processed and if so why, the categories of personal data concerned and the source of the data if it is not collected from the individual;
- to whom his/her data is or may be disclosed, including to recipients located outside the European Economic Area (EEA) and the safeguards that apply to such transfers;
- for how long his/her personal data is stored (or how that period is decided);
- his/her rights to rectification or deletion of data, or to restrict or object to processing;
- his/her right to complain to the Information Commissioner if he/she thinks the Trust has failed to comply with his/her data protection rights.

4.1.1.2 The Trust will also provide the individual with a copy of the personal data undergoing processing. If the individual wants additional copies, the Trust will charge a fee, which will be based on the administrative cost to the Trust of providing the additional copies. The Trust will normally respond to a request within the period of one month from the date the request is received. If a subject access request is manifestly unfounded or excessive, the Trust is not obliged to comply with it. If an individual submits a request that is unfounded or excessive, the Trust will notify him/her that this is the case and whether or not it will respond to it.

4.1.2 Other rights

Individuals have a number of other rights in relation to their data. They can require the Trust to:

- Stop processing or delete data that is no longer necessary for the purposes of processing or if the processing is unlawful.

- Rectify data.
- Stop processing or erase data if the individual's interests override the Trust's legitimate grounds for processing data.
- Stop processing data for a period if data is inaccurate or if there is a dispute about whether or not the individual's interests override the organisation's legitimate grounds for processing data.

5. Security of personal data

- 5.1. The Trust will take reasonable steps to ensure that members of staff will only have access to personal data where it is necessary for them to carry out their duties. All staff will be made aware of this policy and their duties under GDPR. The Trust will take all reasonable steps to ensure that all personal information is held securely and is not accessible to unauthorised persons.

6. Data breaches

- 6.1. If the Trust discovers that there has been a breach of personal data that poses a risk to the rights and freedoms of individuals, it will report it to the ICO within 72 hours of discovery. The Trust will record all data breaches regardless of their effect.
- 6.2. If the breach is likely to result in a high risk to the rights and freedoms of individuals, it will tell affected individuals that there has been a breach and provide them with information about its likely consequences and the mitigation measures it has taken.

7. International Data transfers

- 7.1. The Trust will not normally transfer personal data to countries outside the EEA.
- 7.2. Personal data may be transferred to countries outside the EEA on rare occasions. Any such data transfers shall be made to the data host on the basis of a legally binding contract.

8. Individual responsibilities

- 8.1. Individuals are responsible for helping the Trust keep their personal data up to date. Individuals should let the Trust or individual academy within the Trust know if data provided changes.
- 8.2. Individuals may have access to the personal data of other individuals in the course of their employment or contract with the trust. Where this is the case the Trust relies on individuals to help meet its data protection obligations to staff and students. Individuals who have access to personal data are required:
- 8.2.1. to access only data that they have authority to access and only for authorised purposes;

- 8.2.2. not to disclose data except to individuals (whether inside or outside the Trust) who have appropriate authorisation;
- 8.2.3. not to remove personal data, or devices containing or that can be used to access personal data, from the Trust's premises without adopting appropriate security measures (such as encryption or password protection) to secure the data and the device;
- 8.2.4. not to store personal data on local drives or on personal devices that are used for work purposes.

9. Training

- 9.1. The Trust will provide guidance to all individuals about their data protection responsibilities. Data handlers will be provided with training as part of their induction and every 3 years thereafter.

10. Freedom of Information (FOI)

- 10.1. As a public authority, the Trust is committed to complying with the Freedom of Information Act 2000 (FOIA) and the principles of accountability and the general right of access to information, subject to legal exemptions.
- 10.2. The information which the Trust routinely makes available to the public is included in the Trust's FOI Publication Scheme. Requests for other information are dealt with in accordance with statutory guidance. While the Act assumes openness, it recognises that certain information is sensitive. There are exemptions to protect this information.
- 10.3. The Publication Scheme and the materials it covers will be readily available from the Trust's website.
- 10.4. The Trust will respond to all requests in accordance with the procedures in the Appendix and will ensure that its staff are aware of the procedures. The Trust will respond to all requests within 20 working days of the date of receipt of the request. For the Trust, a "working day" is one in which students are in attendance. The time to respond to a request is subject to an absolute limit of 60 calendar days.
- 10.5. Certain information is subject to either absolute or qualified exemptions. The exemptions are listed in the Appendix. When the Trust wishes to apply a qualified exemption to a request, it will invoke the public interest test procedures to determine if public interest in applying the exemption outweighs the public interest in disclosing the information.
- 10.6. The Trust will maintain a register of all requests including where it has refused to supply information, and the reasons for the refusal. The register will be retained for five years from the date of the request.
- 10.7. The Board of Trustees reserves the right to charge a fee for complying with requests for information under FOI, other than information available through its website. The fees are according to FOIA regulations and the enquirer will be asked for payment of the charge before the information is supplied.

11. Policy Review

- 11.1. This policy will be reviewed by the Board of Trustees every 3 years or sooner if it is deemed necessary.

Appendix: Freedom of Information Act Procedures

Under the Freedom of Information Act 2000, any person has a legal right to ask for access to information held by Archway Learning Trust. They are entitled to be told whether the Trust holds the information, and to receive a copy, subject to certain exemptions. The Trust is under a duty to provide advice and assistance to individuals making requests under the FOIA.

The Act is fully retrospective, so that any past records which the Trust holds are covered by the Act. The Trust has a Retention Schedule based on the schedule recommended by the Information & Records Management Society of Great Britain, which guides the Trust as to how long it should keep records.

Requests received under the FOIA could be addressed to anyone employed by the Trust. However, all requests for information received should be referred to the Corporate Services Manager - Business and Finance, who will decide firstly if the request is an FOIA request and secondly how it is to be dealt with and by whom. Staff need to be aware of the process for dealing with requests. Requests must be made in writing (which can include email), and should include the enquirer's name and correspondence address, and state what information they require. They do not have to mention the Act, nor do they have to say why they want the information.

There is a duty to respond to all requests, telling the enquirer whether or not the information is held, and supplying any information that is held, except where exemptions apply. There is no need to create information which doesn't exist in order to respond to an enquiry, although gathering information from multiple sources should not be discounted. There is a time limit of 20 working days for responding to the request.

1. Complaints

If the Trust receives any complaints in relation to requests made under the FOIA, they will be dealt with by the Chief Executive Officer (CEO). She will investigate promptly the basis of the complaint, including discussion with the complainant. She will investigate fully how the request has been dealt with and decide whether she agrees with the information given or, if the request has been refused, the basis on which refusal has been made. The outcome of the CEO's review will be communicated to the complainant within 20 working days.

If, after investigation, the original reply to the request is unchanged, the complainant will be informed of their right to appeal to the Information Commissioner's Office.

Appeals should be made in writing to the Information Commissioner's Office at:

FOI/EIR Complaints Resolution,
Information Commissioner's Office
Wycliffe House,
Water Lane,
Wilmslow, Cheshire,
SK9 5AF

2. Records

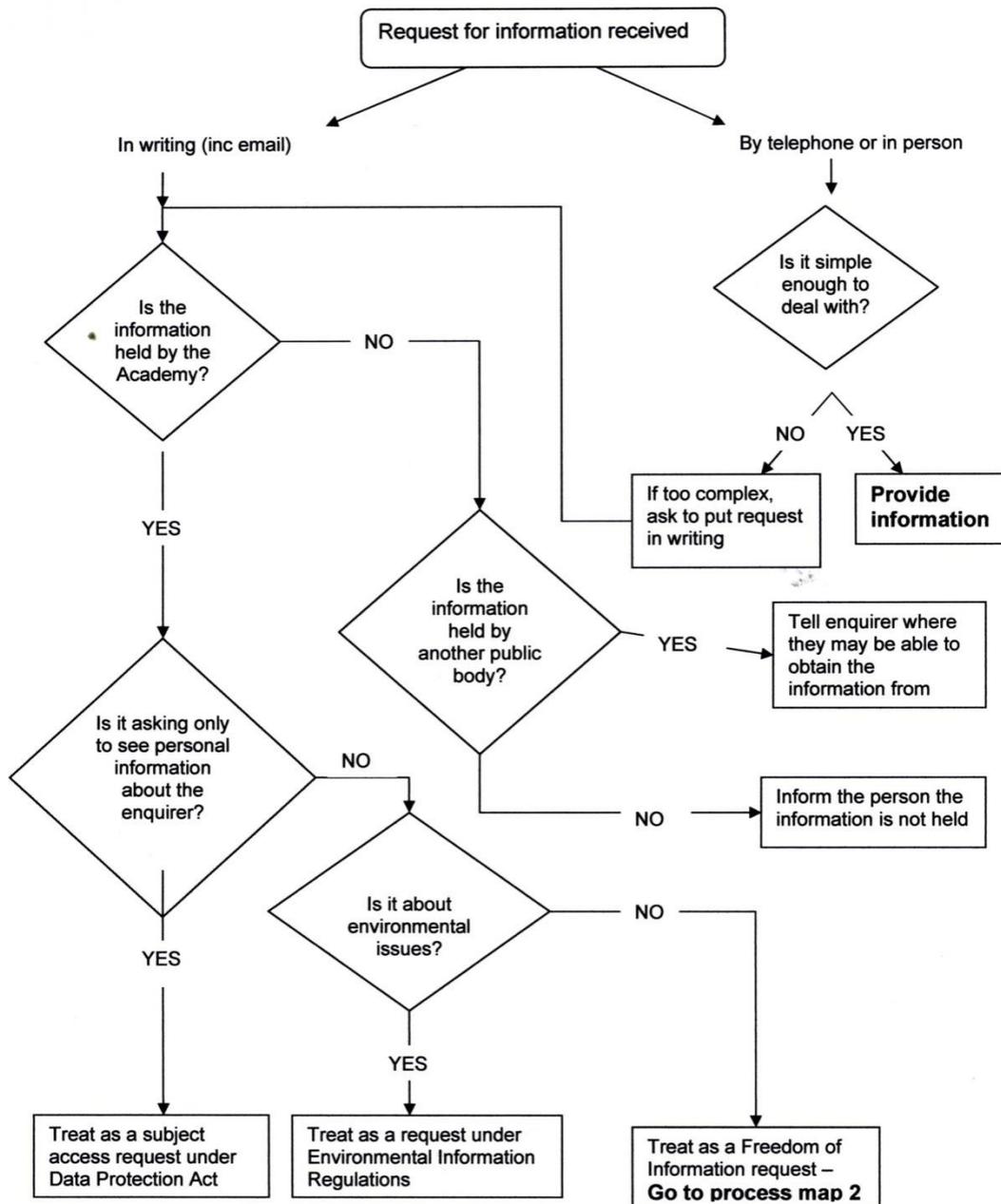
The following records are kept under the control of the COO and Corporate Services Manager:

Record	Minimum retention time	Disposal authority
Register of Requests	Five Years	COO
Original Written Requests	Five Years	COO
Response to Requests	Five Years	COO
Correspondence Related to Freedom of Information Requests	Five Years	COO

3. Procedure for dealing with requests

Process maps

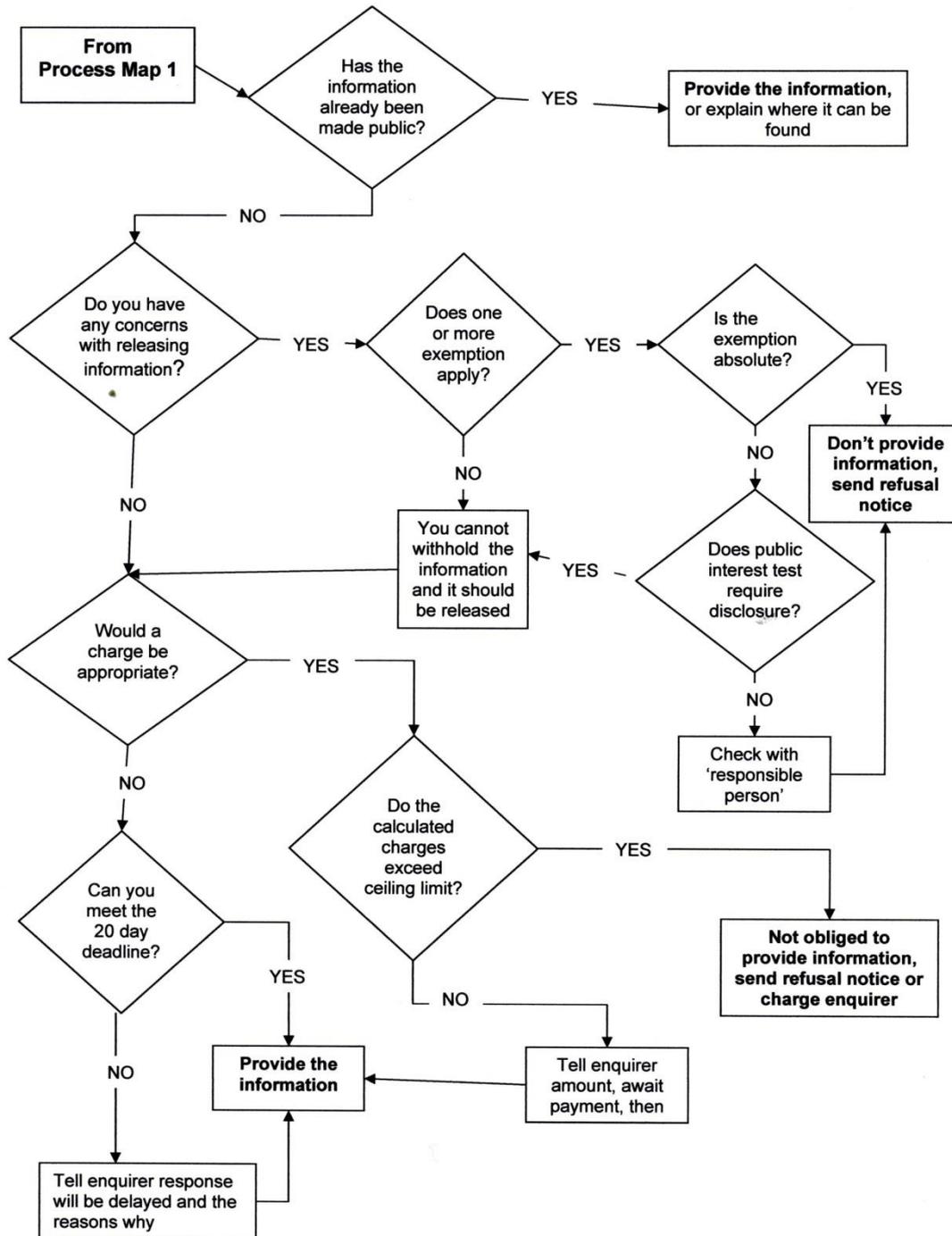
1 PROCESS MAP FOR RECEIVING REQUESTS FOR INFORMATION



Note: Verbal requests for information which fall under the Environmental Information Regulations will be accepted. However, enquirers will be asked to put them in writing if their request is unclear. Requests under the DPA and FOIA must be in writing.

Procedure for dealing with requests

2 PROCESS MAP FOR HANDLING FOI ENQUIRIES



4. Is this a valid FOI request for information?

An FOI request should:

- be in writing, including email or fax;
- state the enquirer's name and correspondence address (email addresses are sufficient);
- 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.

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 substantial diversion of resources or would otherwise undermine the work of the Trust.

The Trust does not have to comply with repeated identical or substantially similar requests from the same applicant unless a reasonable interval has elapsed between requests.

6. Could a third party's interests be affected by disclosure?

Consultation of third parties may be required if their interests could be affected by the release of the information, and any such consultation may influence the decision. The Trust does not need to consult where it is not going to disclose the information because it is applying 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 the Trust to determine if information is exempt from disclosure; or
- the views of the third party may assist the Trust to determine the public interest.

7. Is the request for personal information about the applicant?

Personal information requested by the subject of that information is exempt under the FOI Act as such information is covered by the GDPR legislation. Individuals must make a 'subject access request' under the GDPR legislation if they wish to access information about themselves.

8. Do the details requested contain personal information?

Personal information requested by third parties is also exempt under the FOI where release of that information would breach the GDPR legislation. If a request is made for a document which contains personal information whose release to a third party would breach the GDPR legislation, the document may be issued by blanking out the relevant personal information.

The procedure for redaction, or blocking out information, is to mask the passages which are not to be disclosed and then photocopy the document. Annotate in the margin against each blank passage the

exemption and section of the Act under which the passage is exempt. Explain in the covering letter that the relevant exemptions are marked in the attachments and in the case of non-absolute exemptions, how the public interest test has been considered.

Under no circumstances should the document be rewritten, so that the resulting document appears as though it does not contain the exempted passage.

9. What is the cost of providing the information requested?

There is an exemption from the Trust's obligation to comply with a request for information where the cost of compliance is estimated to exceed the cost limit (currently £450). The first step therefore is to determine if the cost limit would be exceeded. Staff costs should be calculated at £25 per hour, regardless of which staff member would be undertaking the work. This means that the cost limit will be exceeded if more than 18 man hours would be expended. The Trust can take account of the time it takes to determine if the information is held, the time to locate and retrieve the information and extract the information from other documents. The Trust cannot take into account the time involved in determining whether the information is exempt.

10. Is there a time limit for replying to the enquirer?

Compliance with a request must be prompt and within the prescribed limit of 20 working days of the date of receipt, disregarding any working day that, in relation to the Academy, is not a school day. Failure to comply may result in a complaint to the Information Commissioner. The response time starts from the time the request is received. Where the enquirer has been asked for more information, the start time begins when this further information has been received.

If a qualified exemption applies and the Trust needs more time to consider the public interest test, it will reply within the prescribed limit stating that an exemption applies but include an estimate of the date by which a decision on the public interest test will be made. This should be within a "reasonable" time – in practice, it is recommended by the Department for Education that normally this should be within 10 working days.

Where the Trust has notified the enquirer that a charge is to be made, the time period stops until payment is received and then resumes once payment has been received.

11. What action is required to refuse a request?

If it is decided to refuse a request, a refusal notice will be sent, which must contain:

- a) the fact that the responsible person cannot provide the information asked for;
- b) which exemption the Trust is claiming to apply;
- c) why the exemption applies to this enquiry if it is not self-evident;
- d) the reasons for refusal if based on cost of compliance;
- e) in the case of non-absolute exemptions, how the Trust has applied the public interest test, specifying the public interest factors taken into account before reaching the decision;
- f) reasons for refusal on vexatious or repeated grounds;
- g) details of the internal complaints procedure.

12. What does the Trust do if someone asks a follow up question?

If an applicant requests a follow up question this is treated as a new request.

13. What does the Trust do if someone appeals?

Any written expression of dissatisfaction (including email) – even if it does not specifically seek a review – should be forwarded to the CEO. She will conduct a review of how the request has been dealt with and of the information provided or, if the request has been refused, of the reasons for refusal. The results of the CEO's review should be communicated to the enquirer within 20 working days. The Trust will maintain records of all complaints and their outcomes.

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 Trust have not been properly followed, the Trust will review procedures to prevent any recurrence. When the outcome upholds the Trust's original decision or action, the applicant will 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

14. Exemptions

There are two general categories of exemptions:

- **Absolute** – where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest test, and
- **Qualified** – where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.

The absolute exemptions which might be relevant to the Trust are laid out below:

- **Information accessible to the enquirer by other means** (section 21) – If information is reasonably accessible to the applicant by another route than the Act, it is exempt information. This is the case even if the enquirer would have to pay for the information under the alternative route. This exemption includes cases where it is required to give information under other legislation, or where the information is available via the Publication Scheme.
- **Personal information** (section 40) – Where the enquirers ask to see information about themselves, this is exempt under the Act because it is covered by the GDPR legislation.
- **Information provided in confidence** (section 41) – This relates to information obtained from a person if its disclosure would constitute a breach of confidence actionable by that, or another, person.
- **Prohibitions on disclosure** (section 44) – Information is exempt where its disclosure is prohibited under any other legislation by order of a court or where it would constitute a contempt of court or where it is incompatible with any EC obligation.

The qualified exemptions which might be relevant to the Trust are laid out below:

- **Information available by other means** (section 21) – Information is exempt from the right of access under the FOIA if that information is reasonably accessible to the applicant by other means.
- **Information intended for future publication** (section 22) – If, at the time the request was made, information is held with a view to publication, then it is exempt from disclosure if it is reasonable that it should not be disclosed until the intended publication date. This could apply to statistics published at set intervals, statutory accounts, and similar information.
- **Investigations and proceedings conducted by public authorities** (section 30) – Information is exempt if it has at any time been held by the Trust for the purposes of criminal investigations or proceedings, such as determining whether a person should be charged with an offence or whether a charged person is guilty, or investigations which may lead to a decision to institute criminal proceedings. The duty to confirm or deny does not apply to such information.
- **Law enforcement** (section 31) – Information which is not exempt under Section 30 may be exempt under this exemption in the event that disclosure would, or would be likely to, prejudice the following among others:
 - The prevention or detection of crime.
 - The apprehension or prosecution of offenders.
 - The administration of justice.
 - The exercise of functions such as ascertaining if a person has broken the law, is responsible for improper conduct, whether circumstances justify regulatory action, ascertaining a person's fitness or competence in relation to their profession, ascertaining the cause of an accident or protecting or recovering charities or its properties.
 - Any civil proceedings brought by or on behalf of the Trust which arise out of an investigation carried out for any of the purposes mentioned above.
 - The duty to confirm or deny does not arise where prejudice would result to any of these matters.
- **Health and Safety** (section 38) – Information is exempt if its disclosure would or would be likely to endanger the safety or physical or mental health of any individual. The duty to confirm or deny does not arise where prejudice would result.
- **Environmental information** (section 39) – Information is exempt under FOIA when it is covered by the Environmental Information Regulations.
- **Personal information** (section 40) – Where the information concerns a third party, it is exempt if its disclosure would contravene the GDPR legislation, or the data protection principles; or if the person to whom the information relates would not have a right of access to it because it falls under one of the exemptions to the GDPR legislation. The duty to confirm or deny does not arise in relation to this information if doing so would be incompatible with any of the above.
- **Legal professional privilege** (section 42) – Legal professional privilege covers any advice given by legal advisers, solicitors or barristers. Generally such information will be privileged. If the Trust wishes to disclose the information, it will need to seek consent from the provider of the advice. This exemption covers all such information where a claim to legal professional privilege

can be maintained in legal proceedings. The duty to confirm or deny does not arise where to do so would involve the disclosure of such information.

- **Commercial interests** (section 43) – Information is exempt if it constitutes a trade secret or would be likely to prejudice the commercial interests of any person or body, including the Trust. The duty to confirm or deny does not arise where prejudice would result to commercial interests but not where the information constitutes a trade secret.

15. Applying the Public Interest Test

Factors that might be taken into account when weighing the public interest include:

For Disclosure	Against Disclosure
Is disclosure likely to increase access to information held by the Trust?	Is disclosure likely to distort public reporting or be misleading because it is incomplete?
Is disclosure likely to give the reasons for a decision or allow individuals to understand decisions affecting their lives or assist them in challenging those decisions?	Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving?
Is disclosure likely to improve the accountability and transparency of the Trust in the use of public funds and help to show that it obtains value for money?	Is disclosure likely to cause unnecessary public alarm or confusion?
Is disclosure likely to contribute to public debate and assist the understanding of existing or proposed policy?	Is disclosure likely to seriously jeopardise the Trust's legal or contractual position?
Is disclosure likely to increase public participation in decision making?	Is disclosure likely to infringe upon other legislation e.g. GDPR legislation?
Is disclosure likely to increase public participation in the political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair our ability to obtain information in the future?
Is disclosure likely to bring to light information affecting public safety?	Is disclosure likely to adversely affect the Trust's proper functioning and discourage openness in expressing opinions?
Is disclosure likely to reduce further enquiries on the topic?	If a large amount of information on the topic has already been made available, would further disclosure shed any more light or serve any useful purpose?

The Trust will record the answers to these questions and the reasons for these answers. Deciding on the public interest is not simply a matter of adding up the number of relevant factors on each side. The Trust will decide how important each factor is in the circumstances and make an overall assessment.