



Altwood
Church of England School

SAR Guidance

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Introduction

A freedom of information (FOI) request refers to instances where any member of the public requests information from an organisation. Anyone has the right to request information from organisations, yet this does not mean that they will receive a response immediately. Schools should have a designated trained member of staff who addresses requests on a case-by-case basis. It isn't the case that every request will be accepted; there is criteria in which a request can be denied, however, if a school holds the relevant information and the request isn't restrained for legal reasons, schools should oblige with the request. This guidance informs schools on what to consider when receiving a request, as well as how to respond to requests and what exemptions there are to responding to requests. Please note this document should be taken as guidance only, and any queries schools may have should be directed to the Information Commissioner's Office (ICO).

1. How to process a request

Once a request is sent to a school, it should be addressed by a trained member of staff. The school can appoint any staff member to the role as long as they're trained to identify FOI requests and know how to appropriately refer it to the relevant people. The designated member of staff should ensure that the request is valid before processing it. For a request to be valid, it should be:

- In written form – either print copy or digital
- Legible and can be understood clearly by the designated member of staff
- Sent with the full name of the requester, as well as a suitable correspondence details e.g. an address

If the designated member of staff receiving the request believes that it is not a valid request, they should respond to the requester explaining why the request isn't valid and what they need to do for it to be. Once the requester has sent a valid request, the school's designated member of staff can begin to process the request. The school has 20 school days to send the information to the requester or 60 working days if that is shorter, i.e. if the request is sent over or before the summer holidays.

If an individual is requesting their personal data that the school holds, then the request should be dealt with as a subject access request (SAR) under section 7 of the Data Protection Act (DPA) 1998. Upon receiving a request, it is vital that schools identify the nature of the request, for example, if the request was pertaining to environmental information then the school should refer to the Environmental Information Regulations 2004.

2. Considerations

Once the school has become privy to the request, there are key considerations that should be made. First and foremost, the school should identify whether they are in possession of said requested information. If they don't have the information the request cannot be ignored, the school should contact the requester within the 20 school days or 60 working days, and inform the requester of this. Furthermore, if the school know of an organisation that does possess the relevant information, they should pass on the request to said organisation and inform the requester of the request's progress.

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If, however, the school has the relevant information, it should be collated and sent to the requester using an agreed method, e.g. via email. Before the information is sent, it is imperative the school checks that the information doesn't include any personal data of people connected to the school. This can be particularly difficult to remove or block when using a digital copy of the relevant information. Moreover, the school needs to make absolutely sure that the information they have obtained is what the requester asked for.

3. Sending information to a requester

Once the organisation has collated all the information required by the requester, it can be sent. The designated member of staff should take into account the method in which the requester would prefer to receive the information; it can be sent via email, printed copy, disk or an arranged viewing. The method of receiving the information can be made clear in the original request or in later correspondences. If the school has not received word of how the requester would like the information sent, then the designated member of staff should consider asking them – as to deliver a good service.

4. Costs

Retrieving data doesn't come without its costs. Schools can recover their communication costs, such as photocopying, printing and postage. Time and personnel demands are not something that schools can charge for unless it is authorised by other legislation. Yet, under section 12 of the Freedom of Information Act 2000 (FOIA) schools can refuse the request if they estimate that the cost of retrieving the information exceeds £450. Estimations have to be made fairly and so schools should estimate time spent retrieving a request by equating one hour of work per person to cost £25. This means that the limit for working on a request would be 18 hours. If a request is estimated to exceed the aforementioned time and cost, and there is an unreasonable amount of work to complete for the request, then the school can reject the request.

5. Other reasons for rejection

Requests can also be rejected, if processing it would cause a great deal of stress, frustration and worry – this is otherwise known as a vexatious request. These rejections occur if the requestor is intentionally trying to cause distress, this can occur due to repeated requests for information which could lead to staff feeling harassed. As well as rejecting vexatious requests, schools can reject a request if the requester has asked for the same information before. This doesn't necessarily mean that the requester is acting with negative intentions towards the school, so the two rejections should remain distinct.

6. Exemptions

The DPA lays out rights and duties which are applied to organisations who collect personal data, in order to protect the privacy of data subjects. When releasing data, organisations, have to adhere to these duties; however, there are certain circumstances whereby requests can be exempt from the duties under the FOIA. If organisations are approached by statutory agencies, such as the police, schools may disclose information to said organisation without

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authorisation from the individual it involves. Exemptions in such instances need to be analysed on a case-by-case basis as they only permit organisations to depart from the FOIAs general requirements minimally so that particular functions/activity is protected – other aspects of the FOI requests can still be protected under the DPA.

7. How do exemptions work?

Primarily, exemptions may restrict certain individual rights in relation to the processing of their personal data and/or limit the duties of organisations when processing data. The DPA categorises the rights and duties of each restriction into two groups 'subject information provisions' and 'non-disclosure provisions'. When an exemption applies to an FOI request, they are 'disapplying' or 'blocking' one or both groups. For instances where schools are approached by statutory agencies and an exemption applies, they will be working within exemptions of 'non-disclosure' provisions. Non-disclosure provisions are an organisations duty to comply with the principles of the DPA as well as an individual's right to object to the processing of data that can cause damage or distress – an exemption from 'non-disclosure' provisions allows organisations to disclose information that would otherwise be protected under these provisions.

8. When do exemptions apply?

Exemptions can apply when organisations are approached by any law enforcement organisation, including the police and HM Revenue & Customs. In instances where information is being requested to detect and prevent crime, the DPA recognises that it is appropriate for information to be handed over without the usual duties of the Act being adhered to. For example, if the police contacted the school requesting the details of a member of staff or a pupil who were suspected of being involved in a serious crime, the school could pass over the information to the police, irrelevant of the rights of the data subject, if communicating to the member of staff or pupil would significantly prejudice the investigation – in this instance by giving the suspect time to hide from the police.

It should be noted that exemptions only apply if adhering to the provisions outlined in the DPA are likely to prejudice the crime or taxation investigation. If schools are not certain that an FOI request applies under an exemption, they should continue their duties under the DPA. Furthermore, if the school is reluctant to disclose information to a statutory agency due to their relationship with the individual in question, they are not obliged to hand over information unless obligated under a court order.

The ICO advise that schools should be prepared to defend their decisions in court if any action is taken after the exemption has been applied. Therefore, decisions to make an exemption to an FOI request must be assessed on a case-by-case basis with meticulous judgement by the designated trained member of staff and other interested parties within the school, e.g. the headteacher. Exemptions exist so that organisations can continue to operate within the DPA whilst cooperating with organisations such as the police.

9. Other reasons for exemption

Apart from crime and taxation purposes, exemptions can be made if the individual in question is at risk of being exposed to serious physical or psychological harm, or if their

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safety is at risk. This extends to pupil's SEND records as well as any parental reports a school may possess. In extension to this, educational records, such as examination grades can be disclosed under exemptions if required; however, to reiterate as previously mentioned, schools need to be confident that an exemption is appropriate before deciding what information should be disclosed in response to an FOI request.

10. What's next?

Schools can access more information about FOI requests here. This resource pack includes an easy to follow flowchart which outlines the steps to take when dealing with an FOI request. There is also a model Freedom of Information Policy schools can utilise to ensure school staff are up-to-date with the procedures to follow upon receiving a request.

Bibliography

Data Protection Act (DPA) 1998

Freedom of Information Act (FOIA) 2000

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