

Brighter Futures Academy Trust

Freedom of Information Policy



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1. Introduction

1.1 The Academy Trust is committed to the Freedom of Information Act 2000 and to the principles of accountability and the general right of access to information, subject to legal exemptions. This policy outlines our response to the Act and a framework for managing requests.

1.2 The Freedom of Information Act 2000 (FoIA) came fully into force on January 1 2005. Under the Act, any person has a legal right to ask for access to information held by the school. They are entitled to be told whether the school holds the information, and to receive a copy, subject to certain exemptions.

1.3 The Act is fully retrospective, so that any past records which the school holds are covered by the Act. The Records Management Society of Great Britain provides a guide schools on how long they should keep school records (www.irms.org.uk). It is an offence to wilfully conceal, damage or destroy information in order to avoid responding to an enquiry, so it is important that no records that are the subject of an enquiry are amended or destroyed.

1.4 There is a duty to respond to all requests, informing the enquirer whether or not the information is held, and supplying any information that is held, except where exemptions apply. There is a time limit of 20 days excluding school holidays for responding to the request.

1.5 The DfE has a Freedom of Information Guide for Academies on their website (www.education.gov.uk).

2. Purpose and Scope

2.1 This procedure applies to all academy trust staff.

2.2 Requests for personal data are still covered by the Data Protection Act (DPA). Individuals can request to see what information the school holds about them. This is known as a Subject Access Request, and must be dealt with accordingly.

2.3 Requests under the Act can be addressed to anyone employed by the academy trust. Staff need to be aware of the process for dealing with requests. Requests must be made in writing, (including email), and should include the enquirers 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.

2.4 Requests for information about anything relating to the environment – such as air, water, land, the natural world or the built environment and any factor or measure affecting these – are covered by the Environmental Information Regulations (EIR). They also cover issues relating to Health and Safety. For example queries about chemicals used in the school or on school land, phone masts, car parks etc. would all be covered by the EIR. Requests under EIR are dealt with in the same way as those under FoIA, but unlike FoIA requests, they do not need to be written and can be verbal.

3. Obligations and duties

3.1 The academy trust recognises its duty to provide advice and assistance to anyone requesting information. We will respond to straightforward verbal requests

for information, and will help enquirers to put more complex verbal requests into writing so that they can be handled under the Act.

3.2 We will inform enquirers whether or not we hold the information they are requesting (the duty to confirm or deny), and provide access to the information we hold in accordance with the procedures laid down in Appendix 1.

4. Publication Scheme

4.1 The academy trust has adopted the Model Publication Scheme for Schools approved by the Information Commissioner.

4.2 The Publication Scheme and the materials it covers will be readily available from the school's website.

5. Dealing with requests

5.1 We will respond to all requests in accordance with the procedures laid down in Appendix 1. We will ensure that all staff are aware of the procedures and delegate the day-to-day responsibility for FOIA policy and the provision of advice, guidance publicly to Alison Davis (trust business manager).

5.2 The trust business manager will be the single point of reference, co-ordinate FOIA and related policies and procedures and consider what information and training staff may need.

6. Exemptions

6.1 Certain information is subject to either absolute or qualified exemptions. The exemptions are listed in Appendix 2.

6.2 We will maintain a register of requests where we have refused to supply information, and the reasons for the refusal. The register will be retained for 5 years.

7. Public Interest Test

7.1 Unless it is in the public interest to withhold information, it has to be released. We will apply the Public Interest Test before any qualified exemptions are applied.

7.2 For information on applying the Public Interest Test see Appendix 3.

8. Charging

8.1 We reserve the right to refuse to supply information where the cost of doing so exceeds the statutory maximum, currently £450.

8.2 The board of trustees reserves the right to charge a fee for complying with requests for information under FOIA. The fees are calculated according to FOIA regulations (see Appendix 4).

9. Responsibilities

9.1 The board of trustees has delegated the overall responsibility for compliance with the FOIA to the executive head teacher.

10. Feedback and complaints

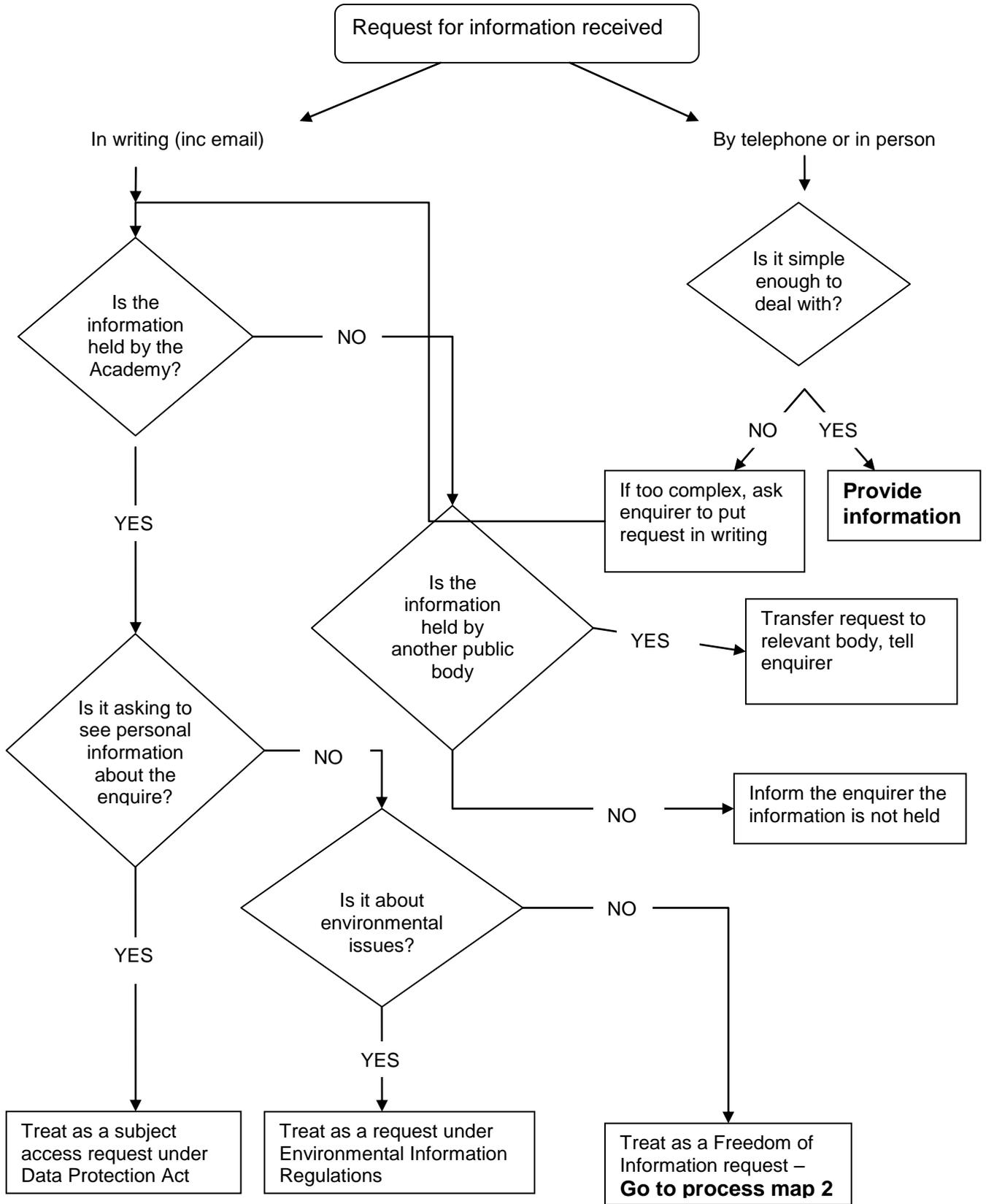
10.1 We welcome any comments and suggestions regarding this policy. Any comments or complaints will be dealt with through the academy trust's normal complaints procedure.

10.2 If on investigation the academy trust's original decision is upheld, then the academy has a duty to inform the complainant of their right to appeal to the Information Commissioner's office.

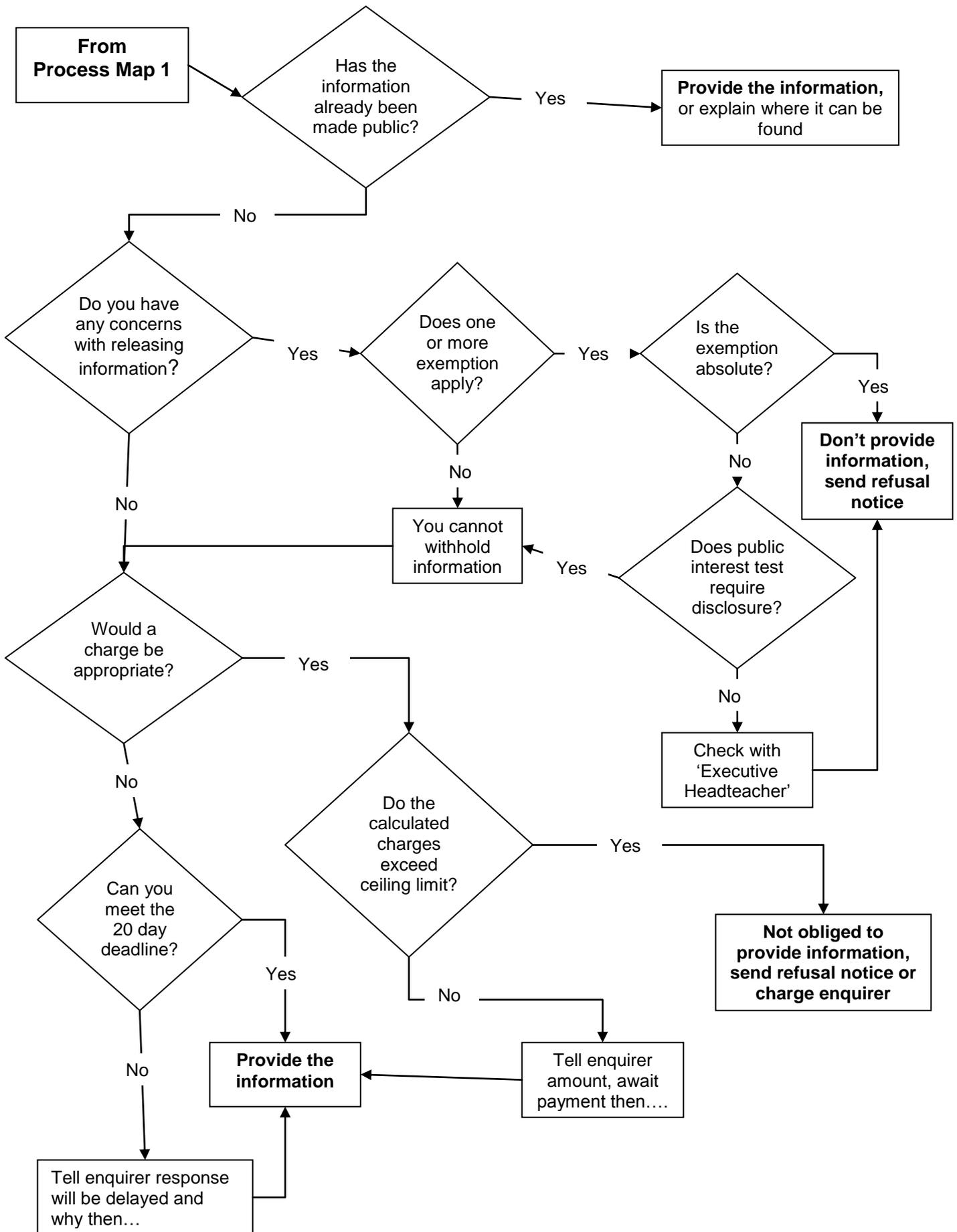
10.3 Appeals should be made in writing to the Information Commissioner's office. They can be contacted at:

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

Appendix 1 - Process Map 1 – Procedures for Dealing With FOI Requests



Freedom of Information Policy – Process Map 2



Appendix 2 – Exemptions

Although decisions on disclosure should be made on a presumption of openness, the FOI Act recognises the need to preserve confidentiality and protect sensitive material in some circumstances.

We will not withhold information in response to a valid request unless one of the following applies:

- An exemption to disclose, or
- The information sought is not held, or
- The request is considered vexatious or repeated, or
- The cost of compliance exceeds the threshold (see Appendix 4).

A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry. Some are very specialised in their application, such as national security, and are not normally relevant to the Academies. There are more than 20 exemptions but the Academies are likely to use only a few of them.

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.

Absolute exemptions

There are 8 absolute exemptions listed in the Act. Even where an absolute exemption applies it does not mean that the academy trust cannot disclose in all cases; it means that disclosure is not required by the Act. A decision could be taken to ignore the exemption and release the information taking into account all the facts of the case.

There is still a legal obligation to provide reasonable advice and assistance to the enquirer.

The absolute exemptions in the Act are set out below. Those which might be relevant to the academy are marked with an asterisk*:

- a. 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 you are required to give information under other legislation, or where the information is available via the Publication Scheme.
- b. Information dealing with security matters (section 23) – This applies to information directly or indirectly supplied by, or relating to, bodies dealing with security matters such as MI5, MI6, Special Forces, etc.
- c. Court records (section 32) – This applies to information related to proceedings in a court or tribunal or served on a public authority for the purposes of proceedings.

- d. Parliamentary Privilege (section 34) – This exempts information if it is required for the purpose of avoiding an infringement of the Parliamentary privilege.
- e. Prejudice to the effective conduct of public affairs (section 36) – This relates to the maintenance of the collective responsibility of Ministers.
- f. 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 Data Protection Act.
- g. 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.
- h. 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.

Qualified exemptions

With qualified exemptions, even if it is decided that an exemption applies, there is a duty to consider the public interest in confirming or denying that the information exists and in disclosing the information. Guidance on carrying out the public interest test is in Appendix 3.

The qualified exemptions in the Act are set out below. Those which might be relevant to the academy trust are marked with an asterisk*:

- a. 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.
- b. National security (section 24) – Information is exempt for the purposes of safeguarding national security.
- c. Defence (section 26) – Information is exempt if its disclosure would prejudice the defence of the UK.
- d. International relations (section 27) – Information is exempt if its disclosure would, or would be likely to, prejudice relation between the UK and any other state.
- e. Relations within the UK (section 28) - Information is exempt if its disclosure would, or would be likely to, prejudice relations between any administration in the UK.
- f. The economy (section 29) – Information is exempt if its disclosure would, or would be likely to, prejudice the economic or financial interests of the UK.

- g. Investigations and proceedings conducted by public authorities* (section 30) – Information is exempt if it has at any time been held by the Academy 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.
- h. 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 Academy 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.
- i. Audit functions (section 33) – Information is exempt if disclosure would, or would be likely to, prejudice the exercise of an authority's functions in relation to the audit of the accounts of other public authorities. It does not apply to internal audit reports.
- j. Formulation of government policy (section 35) – Information held is exempt information if it relates to the formulation or development of government policy, ministerial communications, advice by Law Officers (eg Attorney General) and the operation of any Ministerial private office.
- k. Prejudice to the conduct of public affairs (section 36) – Information likely to prejudice the maintenance of the convention of the collective responsibility of Ministers or likely to inhibit the free and frank provision of advice or exchange of views.
- l. Communications with the Queen (section 37) – Information is exempt if it relates to communications with the Queen, the Royal Family or Royal Household or if it relates to the award of honours. The duty to confirm or deny does not arise where this exemption applies.
- m. 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.
- n. Environmental information* (section 39) – Information is exempt under FOI when it is covered by the Environmental Information Regulations.

- o. Personal information* (section 40) – Where the information concerns a third party, it is exempt if its disclosure would contravene the Data Protection Act, 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 Data Protection Act. The duty to confirm or deny does not arise in relations to this information if doing so would be incompatible with any of the above.
- p. 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 Academy wishes to disclose information of this nature, we 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.
- q. 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 Academies. 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.

Assessing each case on its own merits

Where information has previously been withheld, it must not be assumed that any subsequent requests for the same information will also be refused. Sensitivity of information decreases with age and the impact of any disclosure will be different depending on when the request is received.

Therefore, for each request, we will consider the harm that could result at the time of the request and, while taking into account any previous exemption applications, each case should be considered separately.

In all cases, before writing to the enquirer, the person given responsibility for FOI by the Board of Trustees will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound. To help ensure this, every case of refusal is reviewed by the executive head teacher.

Appendix 3 - Applying the Public Interest Test

Having established that a qualified exemption definitely applies to a particular case, we must then carry out a public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it has to be released. Although precedent and a case law will play a part, individual circumstances will vary and each case will need to be considered on its own merits.

In the public interest is not necessarily the same as that which may be of interest to the public. It may be irrelevant that a matter may be the subject of public curiosity.

In most cases it will be relatively straightforward to decide where the balance of the public interest in disclosure lies. However, there will inevitably be cases where the decision is a difficult one. 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 academy?	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 school 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 Academy'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. Data Protection Act?
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 academy 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?

Note also that:

- Potential or actual embarrassment to, or loss of confidence in, the academy trust, staff, or governors is NOT a valid factor to consider.
- The fact that the information is technical, complex to understand and may be misunderstood may not of itself be a reason to withhold information.
- The potential harm of releasing information will reduce over time and should be considered at the time the request is made rather than by reference to when the relevant decision was originally taken.
- The balance of the public interest in disclosure cannot always be decided on the basis of whether the disclosure of particular information would cause harm, but on certain higher order considerations such as the need to preserve confidentiality of internal discussions.
- A decision not to release information may be perverse, i.e. would a decision to withhold information because it is not in the public interest to release it, itself result in harm to public safety, the environment or a third party.

We 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. We will decide how important each factor is in the circumstances on make an overall assessment. This assessment will be reviewed by the Principal.

Decision for disclosure

Where the balance of the public interest lies in disclosure, the enquiry will be dealt with and the information required will be made available.

Decision against disclosure

After carrying out the public interest test if it is decided that the exemption should still apply, we will reply to the request with the appropriate reply under the circumstances.

There will be occasions when it has been decided that a qualified exemption applies but consideration of the public interest test may take longer. In such a case, we will contact the enquirer within 20 working days stating that a particular exemption applies, but we will include an estimate of the date by which a decision on the public interest test will be made. This will be within a reasonable time, normally no more than 10 working days beyond the 20 days.

Appendix 4 - Fee charging

FOIA does not require charges to be made but academies have discretion to charge applicants a fee in accordance with the Fees Regulations (draft fees Regulations on the Legislation website: <http://www.legislation.gov.uk/ukxi/2004/3244/contents/made>)

Costs that may be taken into account

The following will be taken into account when calculating the estimated cost of complying with a request for information:

The prescribed costs: these are any costs reasonably incurred by the academy trust in:

determining whether we hold information of the description specified in the request

locating and retrieving the information and in meeting the applicant's preference for communicating the information including the cost of associated staff time.

but it does not include the cost of staff time incurred in determining whether the academy trust is obliged to comply with the request for information

The disbursements: these are any costs directly and reasonably incurred by the academy trust in:

informing the applicant whether you hold information of the description specified in the request

communicating the information to the applicant

How we charge

1. If the information is exempt for the purposes of the FOIA fees will not apply. The academy trust will contact the enquirer to inform them that the information is exempt. There will be no charge.
2. If it is apparent that the request would cost less than the current limit (£450), we would not make the calculation.
3. We will calculate the appropriate limit, staff costs are £25 an hour. When calculating whether the limit is exceeded, we will take into account the costs of determining whether the information is held, where it is held, retrieving the information and extracting the information from other documents. We do not take into account the costs involved with considering whether information is exempt under the Act.
4. If a request costs less than the limit, we will only charge for the cost of informing the applicant whether the information is held and communicating the information to the applicant (e.g. photocopying, printing and postage costs).

Charges are:

- 5p per A4 sheet for printing or photocopying, black and white;
 - 10p per A3 sheet for printing or photocopying, black and white;
 - 92p per A4 sheet for printing or photocopying, colour;
 - £1.24 per A3 sheet for printing or photocopying, colour;
 - Postage costs - documents will be sent by second class mail unless specified otherwise;
5. If a request exceeds the limit, we are able to turn the request down, answer and charge a fee, or answer and waive the fee. If we choose to comply with a request where the estimated cost exceeds the threshold we will calculate the charge (as paragraph 3).
6. For all requests we have regard to the following points:
- Duty to provide advice and assistance to applicants. If we plan to turn down a request for cost reasons we will contact the applicant in advance to discuss whether they would prefer the scope of the request to be modified so that it would cost less than the appropriate limit; or
 - If we plan to suggest charging the applicant a high fee, we will contact the applicant in advance to discuss the amount of the charge and whether they would prefer the scope of the request to be modified so that it would cost less than the appropriate limit
 - The Regulations set out the maximum amount that can be charged. They do not set out a minimum charge nor prevent the academy from charging no fee. We may, for straightforward requests, waive a fee.

Limits to fee charges

The fee for complying with a request for information must not be more than the sum of the prescribed costs and the disbursements.

Aggregated costs

Where 2 or more requests are made to the academy by different people who appear to be acting together or as part of a campaign, the estimated costs of complying with any of the requests is to be taken to be the estimated total cost of complying with them all, provided that:

- I. The two or more requests referred to in that section are for information which is on the same subject matter or is otherwise related;
- II. The last of the requests is received by the academy by the twentieth school day following the date of receipt of the first of the requests, and
- III. It appears to the academy trust that the requests have been made in an attempt to ensure that the prescribed costs of complying separately with each request would not exceed the appropriate limit.

How will the applicant be informed?

Where we intend to charge a fee for complying with a request for information, we will give the person requesting the information notice in writing (the “fees notice”) stating that a fee of the amount specified in the notice is to be charged for complying.

We require proof of delivery of a fees notice, either signed for in the post or emailed with a return receipt request. Where a fees notice has been given to the person making the request, we do not comply with the request unless the fee is paid within 3 months of the notice being received.

Appendix 5 - Guide to information available from Brighter Futures Academy Trust under the publication scheme

Information to be published	How the information can be obtained	Charge
<p>Who we are and what we do</p> <p>(Organisational information, structures, locations and contacts)</p> <p>This will be current information only</p>	(hard copy and/ or website)	
Academy Funding Agreement – a link to the document on the Department for Education’s website	School Office/hard copy	£
Academy Order (if applicable)	School Office/hard copy	£
School staff and structure – names of key personnel	School Office/hard copy	£
Governing body – names and contact details of the governors and the basis of their appointment	School Office/hard copy	£
School session times, term dates and holidays	Website	No charge

Location and contact information – address, telephone number and website	Website	No charge
Contact details for the Principal and the Governing Body	School Office/hard copy	£
School Prospectus	School Office/hard copy	£
School Session times and term dates	Website	No charge
GCSE results – a link to the data on the Department for Education's Website	http://www.education.gov.uk/cgi-bin/schools/performance/school.pl?urn=107578&superview=sec	No charge

Information to be published	How the information can be obtained	Charge
<p>What we spend and how we spend it</p> <p>(Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit)</p> <p>This should be a minimum of current and the previous two years financial years (accounts that have been filed with the Charity Commission and Companies House).</p>	(hard copy and/ or website)	
Annual budget plan and financial statements.	School Office/hard copy	£
Capital funding – details of capital funding allocated to the school along with information on related building projects and other capital projects.	School Office/hard copy	£
Additional funding – Income generation schemes and other sources of funding.	School Office/hard copy	£
Procurement and contracts – details of procedures used for the acquisition of goods and services. Details of contracts that have gone through a formal tendering process.	School Office/hard copy	£

Staffing and grading structure	School Office/hard copy	£
Pay policy – a statement of the Academy’s policy on procedures regarding teachers’ pay.	School Office/hard copy	£
Governors’ allowances – Details of allowances and expenses that can be claimed or incurred.	Website	No charge

Information to be published	How the information can be obtained	Charge
<p>What our priorities are and how we are doing</p> <p>(Strategies and plans, performance indicators, audits, inspections and reviews)</p> <p>Current information should be published.</p>	(hard copy and/or website)	
<p>School profile</p> <ul style="list-style-type: none"> • Government supplied performance data • OFSTED report – summary and full report 	www.education.gov.uk www.ofsted.gov.uk	No charge

Performance management information.	School Office/hard copy	£
Academy's future plans – any major proposals on safeguarding and promoting the welfare of children.	School Office/hard copy	£
Child protection – policies and procedures on safeguarding and promoting the welfare of children.	Website	No charge

Information to be published	How the information can be obtained	Charge
<p>How we make decisions</p> <p>(Decision making processes and records of decisions)</p> <p>Current and previous three years as a minimum.</p>	(hard copy and/or website)	
Admissions policy - arrangements and procedures and right of appeal – include information on application numbers and number of successful applicants by each oversubscription criteria.	Website	No charge
Governing body meeting agendas, papers and minutes – information that is properly considered to be private should be excluded.	School Office/hard copy	£

Information to be published	How the information can be obtained	Charge
<p>Our policies and procedures</p> <p>(Current written protocols, policies and procedures for delivering our services and responsibilities)</p> <p>Current information only</p>	(hard copy and/or website)	
<p>School policies including:</p> <ul style="list-style-type: none"> • Charging and remissions policy • Health and Safety and risk assessment • Complaints procedure • Staff conduct policy • Discipline and grievance policies • Information request handling policy • Staff recruitment policies 	Website	No charge

<p>Pupil and curriculum policies, including:</p> <ul style="list-style-type: none"> • Home-school agreement • Curriculum • Sex education • Special education needs • Accessibility • Collective worship • Careers education • Pupil discipline 	<p>Website</p>	<p>No charge</p>
<p>Records management and personal data policies</p> <ul style="list-style-type: none"> • Information security • Records retention • Destruction and archive policies • Data Protection policies 	<p>Website</p>	<p>No charge</p>
<p>Equality and diversity (Policies, statements, procedures and guidelines relating to equal opportunities)</p> <ul style="list-style-type: none"> • Policies and procedures for the recruitment of staff – details of vacancies should be included 	<p>Website</p>	<p>No charge</p>

Charging regimes and policies This should include details of any statutory charging regimes. Charging policies should include details of charges made for information routinely published. They should clearly state what costs are to be recovered, the basis on which they are made and how they are calculated.	School Office/hard copy	£
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Information to be published	How the information can be obtained	Charge
Lists and Registers Currently maintained lists and registers only	(hard copy and/or website; some information may only be available for inspection)	
Curriculum circulars and statutory instruments	School Office/hard copy	£
Disclosure logs	School Office/hard copy	£
Asset register	School Office/hard copy	£
Any information the Academy is currently legally required to hold in publicly available registers	School Office/hard copy	£

Information to be published	How the information can be obtained	Charge
<p>The services we offer</p> <p>(Information about the services we offer, including leaflets, guidance and newsletters produced for the public and businesses)</p> <p>Current information only</p>	<p>(hard copy and/or website; some information may only be available for inspection)</p>	
<p>Extra-curricular activities (Calendar)</p>	<p>Website</p>	<p>No charge</p>
<p>Out of school clubs</p>	<p>Website</p>	<p>No charge</p>
<p>School publications</p>	<p>Website</p>	<p>No charge</p>
<p>Services the Academy is entitled to recover a fee, together with those fees</p>	<p>School Office/hard copy</p>	<p>£</p>
<p>Leaflets, booklets and newsletters</p>	<p>Website</p>	<p>No charge</p>