



THE SOUTHFIELD GRANGE TRUST

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FREEDOM OF INFORMATION POLICY

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Review due: October 2017

FREEDOM OF INFORMATION POLICY

1. Introduction

The Southfield Grange Trust is committed to the Freedom of Information Act (Fol) and to the principles of accountability and the general right of access to information. This policy outlines our response to the Act and a framework for managing requests.

2. Background

The Trust recognises that under the Fol, any person (the enquirer) has a legal right to ask for access to information held by the Trust. The enquirer is entitled to be told whether the Trust holds the information, and to receive a copy, subject to certain exemptions.

The information which the Trust routinely makes available to the public is included in the Publication Scheme which is given in appendix 1 (Fol Publication Scheme). Requests for other information will be dealt with in accordance with the statutory guidance.

As requests under Fol can be addressed to anyone in the Trust all staff will be made aware of the process for dealing with requests.

The Trust will 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.

The Trust will respond to each request within 20 days excluding school holidays.

3. Scope

If any element of a request to the Trust includes personal or environmental information, these will be dealt with under the Data Protection Act (DPA) or Environmental Regulations (EIR). Any other information is a request under Fol, and must be dealt with accordingly.

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 EIR. They also cover issues relating to Health and Safety. Requests under EIR are dealt with in the same way as those under Fol, but unlike Fol requests, they do not need to be written and can be verbal.

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

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

This policy does not cover personal written communications (such as personal e-mails sent by staff). The Trust's Data Protection Policy establishes the standards

regarding the use of “personal data” (as defined in the DPA).

4. Obligations and Duties

The Trust recognises its duty to:

- provide advice and assistance to anyone requesting information. The Trust 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.
- tell enquirers whether or not we hold the information they are requesting (the duty to confirm or deny), and provide access to the information the Trust hold in accordance with the procedures laid down (Fol Dealing with Requests).

5. Publication Scheme

The Southfield Grange Trust has adopted the Model Publication Scheme for Trusts approved by the Information Commissioner.

The Publication Scheme is published on our website and the materials it covers will be readily available from the office.

6. Dealing with Requests

The Trust will respond to all requests in accordance with this policy. The Trust will ensure that all staff are aware of the procedures. Any request made under the Freedom of Information Act must be in writing, including by email or Fax; state the enquirer's name and correspondence address, describe the information requested – giving enough information to be able to identify and locate the information and not be covered by one of the other pieces of legislation.

7. Exemptions

The Trust will consider if information requested is subject to exemption.

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

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

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

The Trust will only apply an exemption where it has reason to believe that prejudice might

occur to the interest protected by the exemption. In addition, wherever a “public interest” exemption is being considered, the Trust will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption the Trust will take into account whether the release of the information would:

- promote further understanding of current issues of public debate;
- promote the accountability of decisions taken by the Trust and the spending and allocation of public money;
- bring to light matters of public safety;
- allows the public to understand and challenge decisions made by the Trust;
- be otherwise in the public interest.

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

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

The Trust will also refuse to supply information under the FoIA, where the request is considered “vexatious” or “repeated” and under the EIR, where the request is considered ‘manifestly unreasonable’.

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.

The Trust 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.

8. Public Interest Test

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

9. Releasing a Third Party’s Information

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

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

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

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

- any duty of confidentiality owed to the third party
- the steps taken to seek consent
- whether the third party is able to give consent and
- any express refusal of consent

The decision to disclose third party information will also take into account the impact of disclosure on the third party, relative to the impact on the applicant of withholding the information. Where the third party has been acting in an official, rather than private capacity, the Trust will be minded to disclose the information, although decisions will be made on a case by case basis.

Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence the Trust’s decision whether to release the information. Where the information relates to a matter clearly private to the individual, e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. an expenses claim, the information will normally be released. The exemption relating to the release of a third party’s personal data will not be used to withhold information about administrative decisions taken by the Trust.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the FoI officer who will take advice from the Board of Trustees where necessary. Where the third party is an organisation, rather than an individual, the provisions of DPA 1998 will not apply. The Trust will consider consulting the third party concerning the release of their information where:

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

Consultation will not be undertaken where:

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

legislation preventing disclosure

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

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

10. Information held within contracts with the Trust

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

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

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

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

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

11. Requests made under the Data Protection Act

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

“accessible record” or in a structured filing system, defined in the DPA as a “relevant filing system”.

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

Whenever a request is made under the DPA for personal data, the Trust will provide the applicant with the relevant information contained within files relating to that individual that is accessible under both the DPA and FoIA, subject to any exemptions.

Where it is not possible to remove third party information without rendering the response useless to the individual, the provision of third party information will be considered in line with section 7 of this policy regarding the disclosure of third party information.

The DPA contains the provision for numerous types of exemption. Therefore, whenever a member of staff is considering applying an exemption, he/she will seek the opinion of the FoI officer.

12. Charging

The Trust will respond to most requests free of charge, and only charge where significant costs are incurred. The Trust may choose to charge a fee for complying with requests for information under FOI. The fees will be calculated according to FoI regulations and the person notified of the charge before information is supplied.

The Trust reserves the right to refuse to supply information where the cost of doing so exceeds the statutory maximum.

13. Responsibilities

The Board of Trustees has delegated the day-to-day responsibility for compliance with the FoI to the Head Teacher. The Headteacher may nominate an appropriate senior member of staff as the delegated person to deal with all FoI requests.

14. Review

This policy document and associated Publication Scheme will be reviewed every three years.

15. Complaints

Any comments or complaints will be dealt with through the Trust’s normal complaints procedure. The Trust will maintain records of all complaints and their outcome.

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

FOI/EIR Complaints Resolution

Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Appendix 1

Publication of Information Scheme

https://ico.org.uk/for_organisations/freedom_of_information/guide/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/model-publication-scheme.pdf

References

DfE: Academies and freedom of information, January 2014