

## CROSSHALL JUNIOR SCHOOL

### FREEDOM OF INFORMATION POLICY

#### 1. Introduction

Crosshall Junior School Limited (CJSA) is committed to the Freedom of Information Act 2000 (FOIA) which came into force on 1 January 2005 and which applies to Academies with effect from 1 January 2011. The CJSA is committed to the principles of accountability and the general right of access to information, subject to legal exemptions. This policy outlines its framework for managing requests.

Under the Freedom of Information Act 2000, any person has a legal right to ask for access to information held by the CJSA. They are entitled to be told whether the CJSA holds the information, and to receive a copy, subject to certain exemptions. The CJSA is under a duty to provide advice and assistance to individuals making requests under the FOIA. There may be a charge for the information sought and if so, this will need to be paid in advance of disclosure.

The information which the CJSA routinely makes available to the public is included in the CJSA FOIA 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.

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

Requests received under the FOIA could be addressed to anyone employed by the CJSA. However, all requests for information received should be referred to the Principal, 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 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. 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 (but see appendix 1).

## **2. Scope:**

The Principal is responsible for ensuring compliance with CJSA Policies and Procedures. This policy and procedures applies to all CJSA staff when requests for information are received.

Requests for personal data are covered by the Data Protection Act. Individuals can request to see what information the CJSA holds about them. This is known as a Subject Access Request, 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 Environmental Information Regulations ("EIR"). Requests under the EIR are dealt with in the same way as those under the FOIA, but they can be verbal.

## **3. Associated documents:**

The following documents have relevance to this policy:

- CJSA FOIA Publication Scheme
- Retention Schedule
- CJSA Data Protection Policy

## **4. Procedure:**

### **4.1. Obligations and duties**

The Governing Body of the CJSA recognises its duty to provide advice and assistance to anyone requesting information. The CJSA 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 FOIA.

The Governing Body recognises its duty to tell enquirers whether or not it holds the information they are requesting (the duty to confirm or deny), and provide access to the information the CJSA holds in accordance with the procedures laid down in Appendix 1.

### **4.2. Publication scheme**

The CJSA has created a Publication Scheme derived from the Model Publication Scheme for Academies approved by the Information Commissioner.

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

### **4.3. Dealing with requests**

The CJSA will respond to all requests in accordance with the procedures in Appendix 1 and will ensure that its staff are aware of the procedures.

#### **4.4. Exemptions**

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

When the CJSA 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 CJSA will maintain a register of requests where it has refused to supply information, and the reasons for the refusal. The register will be retained for 5 years from the date of the request.

#### **4.5. Public interest test**

Unless it is in the public interest to withhold information, it has to be released. Having established that a qualified exemption definitely applies to a particular case, the CJSA 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. For further details on applying the Public Interest Test see Appendix 3. Where the qualified exemption refers to Section 36 of the FOIA the decision should be directed to the Chair of Governors or a Trust Member.

#### **4.6. Charging**

Much information will be freely available through the CJSA website. Enquirers will be directed to the CJSA website if the information they request is available on it.

The Governing Body reserves the right to charge a fee for complying with requests for information under FOIA, other than information available through its website. The fees are according to FOIA regulations, (see Appendix 4) and the enquirer will be asked for payment of the charge before the information is supplied.

Under Section 12 of the FOIA, the CJSA does not have to comply with a request for information if the estimated cost of compliance exceeds £450 (see Appendix 4)

#### **4.7. Responsibilities**

The Governing Body has delegated responsibility for compliance with the FOIA to the Principal. Responsibility for day-to-day compliance with the FOIA and the CJSA's policy has also been sub-delegated to the Principal, who will coordinate responses to all enquiries and be a point of reference for advice and staff training.

#### **4.8. Complaints**

If the CJSA receives any complaints in relation to requests made under the FOIA, they will be dealt with by the Principal. 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 Principal'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

#### **4.9. Records:**

The following records are kept under the control of the Principal:

<b>Record</b>	<b>Minimum retention time</b>	<b>Disposal authority</b>
Register of Requests	Five Years	Principal
Original Written Requests	Five Years	Principal
Response to Requests	Five Years	Principal
Correspondence Related to Freedom of Information Requests	Five Years	Principal

#### **5. Appendices to this policy:**

Appendix 1 - Procedures for Dealing with Requests

Appendix 2 - Exemptions

Appendix 3 - Applying the Public Interest Test

Appendix 4 - Charging

Appendix 5 - Standard Letters

#### **6. Policy Review**

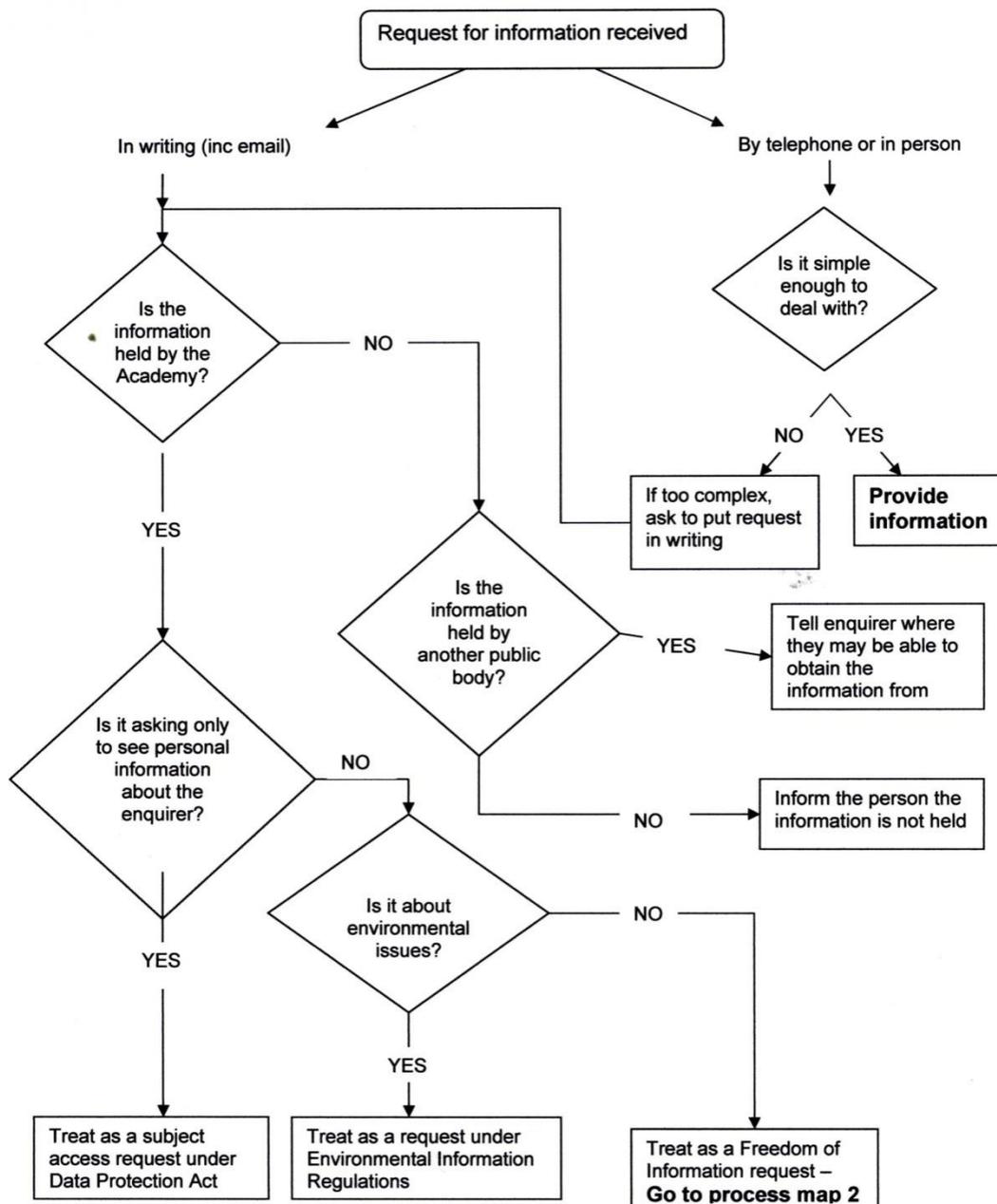
This policy will be kept under review in order to keep it in line with relevant legislation and modifications authorised by the governing body and the SLT.

This policy was adopted by the Governing Body of CJSA.

## Procedure for dealing with requests

## Process maps

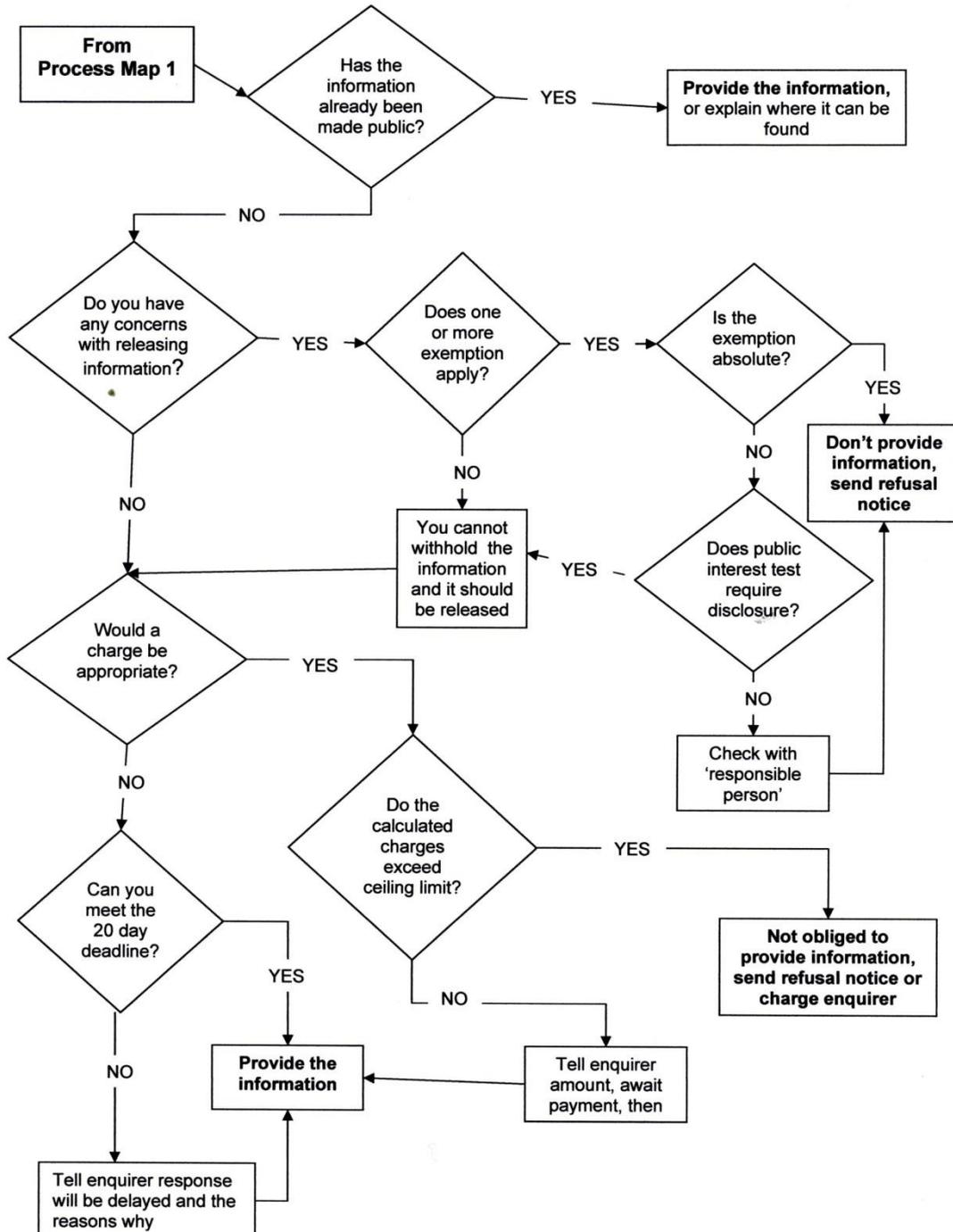
## 1 PROCESS MAP FOR RECEIVING REQUESTS FOR INFORMATION



**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



## Procedure for dealing with requests

In order that a request for information can be handled appropriately it is necessary to ask a series of questions. These are set out below and shown on the process maps.

### 1. Is it a Freedom of Information (FOI) request for information?

A request for information may be covered by one, or all, of three information rights:

- Data Protection enquiries or Subject Access requests are ones where the enquirer asks to see what personal information the academy holds about the enquirer. If the enquiry is a Data Protection request, follow the Academy's Data Protection Access guidance.
- Environmental Information Regulations enquiries are ones which relate to air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these. These therefore could include enquiries about recycling, phone masts, playing fields, car parking, etc. If the enquiry is about environmental information, follow the guidance on the Information Commission's website or the DEFRA website.
- Freedom of Information enquiries are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the Freedom of Information Act. All requests for information that are not data protection or environmental information requests are covered by the Freedom of Information Act (FOIA).

### 2. Is this a valid FOI request for information?

An FOI request should:

- Be in writing, including email or fax - (a);
- 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 - (b); and
- Not be covered by one of the other pieces of legislation.
  - a) Verbal enquires are not covered by the FOI Act. Such enquiries can be dealt with when the enquiry is fairly straightforward. However, for more complex enquiries, and to avoid disputes over what information was requested, we ask the enquirer to put the request in writing or email, when the request will become subject to the FOI.
  - b) In cases where the enquiry is ambiguous, we will attempt to assist the enquirer to describe more clearly the information requested. Where possible, establish direct contact. The aim is to clarify the nature of the

information requested and not to determine the aims or motivation of the enquirer. If we notify the enquirer that we need further information to enable us to answer, we do not have to deal with the request until the further information is received. The response time limit commences from the date the further information is received.

### **3. Does the CJSA hold the information?**

“Holding” the information means information relating to the business of the Academy which:

- The Academy has created, or
- The Academy has received from another body or person, or
- Is held by another body on the Academy’s behalf.

Information means both hard copy and digital information, including emails.

If the CJSA does not hold the information, we do not have to create or acquire it just to answer the enquiry, although a reasonable search should be made before denying that you have got the information the Academy might be expected to hold.

### **4. Has the information requested already been made public?**

If the information requested is already in the public domain, for instance through the Publication Scheme, we will direct the enquirer to the information and explain how to access it.

### **5. Is the request vexatious or manifestly unreasonable or repeated?**

The FOIA 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 CJSA.

We do 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. We do not need to consult where we are not going to disclose the information because we are 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 us to determine if information is exempt from disclosure, or
- The views of the third party may assist us to determine the public interest.

## **7. Does an exemption apply?**

The presumption of the legislation is that we will disclose information unless the Act provides a specific reason to withhold it. There are more than 20 exemptions. They are set out in Appendix 2 and are mainly intended to protect sensitive or confidential information.

Only where we have real concerns about disclosing the information should we refer to see whether an exemption might apply. Even then, where the potential exemption is a qualified exemption, we need to consider the 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 will be released. Appendix 3 contains guidance on conducting a public interest test.

## **8. 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 Data Protection Act. Individuals must make a “subject access request” under the Data Protection Act if they wish to access information about themselves.

## **9. 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 Data Protection Act. If a request is made for a document which contains personal information whose release to a third party would breach the Data Protection Act, 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.

## **10. What is the cost of providing the information requested?**

The Act allows governing bodies to charge for providing information. Details can be found in Appendix 4.

There is an exemption from the CJSA’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. We 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. We cannot take into account the time involved in determining whether the information is exempt.

If a request would cost less than the cost limit in force at the time of the request, the CJSA can only charge for the cost of informing the applicant whether the information is held, and communicating the information to the applicant. This may include photocopying, printing and postage.

If a request would cost more than the appropriate limit in force at the time of the request, the CJSA's policy is to refuse the request. In such a case, the enquirer would be contacted and asked if the request could be modified, in order to get the estimated costs below the limit. If the CJSA did decide to provide the information requested it has the right to charge based on the actual costs involved.

It should be considered whether calculating the cost of the fee outweighs the cost of providing the information. For relatively straightforward requests, the CJSA will consider responding free of charge.

If the CJSA makes the decision to charge, we will send the enquirer a fees notice and do not have to comply with the request until the fee has been paid. Appendix 4 gives more information on charging.

### **11. 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, or 60 working days following the date of receipt, whichever is the sooner. 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 we need more time to consider the public interest test, the CJSA 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 we have 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.

### **12. What action is required to refuse a request?**

If the information is not to be provided, the person dealing with the request must immediately contact the Principal to ensure that the case has been properly considered and the reasons for refusal are sound. 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 we are 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 (see Appendix 4);

- e) In the case of non-absolute exemptions, how we have applied the public interest test, specifying the public interest factors taken into account before reaching the decision (see Appendix 3);
- f) Reasons for refusal on vexatious or repeated grounds
- g) Details of the internal complaints procedure.

For monitoring purposes and in case of an appeal against a decision not to release the information or an investigation by the Information Commissioner, the responsible person must keep a record of all enquiries where all or part of the requested information is withheld and exemptions are claimed. The record must include the reasons for the decision to withhold the information. Records are to be retained for five years. There are no requirements to keep records where we have supplied the information requested.

### **13. What do we do if someone asks a follow up question?**

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

### **14. What do we do if someone complains?**

Any written expression of dissatisfaction (including email) - even if it does not specifically seek a review - should be forwarded to the Principal. 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 Principal's review should be communicated to the enquirer within 20 working days. The CJSA 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 CJSA have not been properly followed, the CJSA will review procedures to prevent any recurrence. When the outcome upholds the CJSA'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

## Exemptions

1. Although decisions on disclosure should be made on a presumption of openness, the FOIA recognises the need to preserve confidentiality and protect sensitive material in some circumstances.
2. The CJSa 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 cost limit (see Appendix 4)

### The duty to confirm or deny

3. A person applying for information has the right to be told if the information requested is held by the CJSa, and if that is the case to have the information sent (subject to any of the exemptions). This obligation is known as the CJSa's "duty to confirm or deny" that it holds the information. However, the CJSa does not have to confirm or deny if:
  - The exemption is an absolute exemption or
  - In the case of qualified exemptions, confirming or denying would itself disclose exempted information.

### Exemptions

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 CJSa. There are more than 20 exemptions but the CJSa is likely to use only a few of them.
5. 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.

### What are the Absolute Exemptions?

6. There are 8 absolute exemptions listed in the Act at the time of writing. Even where an absolute exemption applies:
  - It does not mean that we can't 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.
7. The absolute exemptions in the FOIA are set out below. Those most helpful to CJSAs are marked with an \*:
- 7.1. **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.
- 7.2. **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.
- 7.3. **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.
- 7.4. **Parliamentary Privilege** (section 34) - This exempts information if it is required for the purpose of avoiding an infringement of the Parliamentary privilege.
- 7.5. **Prejudice to the effective conduct of public affairs** (section 36) - This relates to the maintenance of the collective responsibility of Ministers.
- 7.6. **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.
- 7.7. **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.
- 7.8. **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.

#### What are the Qualified Exemptions?

8. 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 CJSAs are marked with an \*:
- 8.1. **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.
- 8.2. **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.

- 8.3. **National security** (section 24) - Information is exempt for the purposes of safeguarding national security.
- 8.4. **Defence (section 26)** - Information is exempt if its disclosure would prejudice the defence of the UK.
- 8.5. **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.
- 8.6. **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.
- 8.7. **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.
- 8.8. **Investigations and proceedings conducted by public authorities\***(section 30) - Information is exempt if it has at any time been held by the CJSa 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.
- 8.9. **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 CJSa 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.

- 8.10. **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.

- 8.11. **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 (e.g. Attorney General) and the operation of any Ministerial private office.
- 8.12. **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.
- 8.13. **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.
- 8.14. **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.
- 8.15. **Environmental information\*** (section 39) - Information is exempt under FOIA when it is covered by the Environmental Information Regulations.
- 8.16. **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.
- 8.17. **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 CJSA 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.
- 8.18. **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 CJSA. 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.

### **Confidentiality and Applying Exemptions**

9. When considering if an exemption to disclosure should apply, the CJSA will bear in mind that the presence of a confidential marking (e.g. Restricted, Confidential or Private) does not constitute an exemption and is not, in itself,

sufficient grounds on which to prevent disclosure. Each case must be considered on its merits.

### **Timing**

10. 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, the CJSA 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.

### **Next steps**

11. In all cases, before writing to the enquirer, the person given responsibility for FOI by the governing body 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 Chair of Governors or a Trust Member together with the Principal.

## Applying the Public Interest Test

1. Having established that a qualified exemption definitely applies to a particular case, the CJSA 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.

### Carrying out the test

2. It is worth noting that what is 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. Applying such a test depends to a high degree on objective judgement and a basic knowledge of the subject matter and its wider impact in the Academy and possibly wider. 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 CJSA?	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 CJSA 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 CJSA'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 CJSA's proper functioning and discourage openness in expressing opinions?
Is disclosure likely to reduce further	If a large amount of information on the topic has already been made available,

enquiries on the topic?	would further disclosure shed any more light or serve any useful purpose?
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3. Note also that:

- Potential or actual embarrassment to, or loss of confidence in, the CJSA, 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.
4. The CJSA 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 CJSA will decide how important each factor is in the circumstances on make an overall assessment. This assessment will be reviewed by the Principal. If the reviewer disagrees with the assessment, it will be referred to another reviewer.

**Decision for disclosure**

5. 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**

6. After carrying out the public interest test if it is decided that the exemption should still apply, the CJSA 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, the CJSA will contact the enquirer within the prescribed time limit stating that a particular exemption applies, but 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 prescribed time limit.

## Charging

Different charges apply for requests under the Data Protection Act.

### May we charge a fee?

1. FOI does not require charges to be made but the CJSa has discretion to charge applicants a fee in accordance with the Fees Regulations.

### What are the costs that may be taken into account?

2. The CJSa will take the following into account when calculating the estimated cost of complying with a request for information:

- the prescribed costs:

The CJSa may, for the purposes of its estimate, take into account only the costs it reasonably expects to incur in relation to the request in -

- a) determining whether it holds the information,
- b) locating the information, or a document which may contain the information,
- c) retrieving the information, or a document which may contain the information, and
- d) extracting the information from a document containing it.

- the disbursements

These are any costs directly and reasonably incurred by the CJSa in:

- a) informing the applicant whether it holds information of the description specified in the request
- b) communicating the information to the applicant

### Are there limits to the fee that can be charged?

3. Yes. If the CJSa chooses to charge a fee for complying with a request for information, it must not be more than the sum of the prescribed costs and the disbursements.

### What if the estimated costs exceed the cost limit of £450

4. If the estimated cost of complying exceeds the cost limit the CJSa is not required to comply with the request but may still choose to do so. The charge levied in such a case will be based upon the true costs to the CJSa.

### For all requests, the CJSa has regard to the following points:

5. The duty to provide advice and assistance to applicants. If the CJSa plans to refuse a request on grounds of cost it will contact the enquirer in advance to discuss whether they would prefer the scope of the request to be modified so that it would cost less than the limit.
6. The Regulations set out the maximum amount that can be charged. They do not set out a minimum charge nor prevent the CJSa from charging no fee. The CJSa will waive a fee for simple and straightforward requests.

### May the costs be aggregated where there are multiple requests?

7. Where two or more requests are made to the CJSa 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:

- a. The two or more requests referred to in that section are for information which is on the same subject matter or is otherwise related;
- b. The last of the requests is received by the CJSA by the twentieth working day following the date of receipt of the first of the requests, and
- c. It appears to the CJSA 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 CJSA inform the applicant of the fee?**

8. Where the CJSA intends to charge a fee for complying with a request for information, it 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. The format of the notice can be found in Appendix 5.
9. Where a fees notice has been given to the person making the request, the CJSA does not need to comply with the request unless the fee is paid within three months of the notice being received.

## Standard Letters

1. To inform the enquirer that the CJSA does not hold the requested information.
2. To inform the enquirer that the CJSA is transferring the request to another public body.
3. To seek clarification of a request.
4. To inform the enquirer that the information they requested is available via the CJSA Website.
5. To inform the enquirer that the information they requested is already publicly available.
6. To inform an enquirer of any charges to be made for complying with their request where the costs are less than the current cost limit. (Fees Notice)

**1. To inform the enquirer that the CJSA does not hold the requested information.**

**To be printed on CJSA Letterhead**

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

We have conducted a thorough search of our records and unfortunately we are unable to locate the information you requested. This may be because Crosshall Junior School has never held this information or that the information is older than the statutory requirements for retention and has been legally destroyed in accordance with our retention schedule.

Please contact me if you have any comments relating to how your request has been handled. If you are unhappy with the service that you have received in relation to your request and wish to make a complaint or request a review of our decision please write to me.

If you are not content with the outcome of your review or complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally the ICO cannot make a decision until you have exhausted our complaints procedure.

If you would like independent advice on your rights under either the Data Protection Act or Freedom of Information Act you may wish to contact the Information Commissioner's Office.

The Information Commissioner can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone: 01625 545 700, website: [www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely,

Julia Elliott  
Principal

## 2 To inform the enquirer the CJSA is transferring the request to another public body.

### To be printed on CJSA Letterhead

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

To the best of our knowledge, the requested information is not held within Crosshall Junior School. However, we believe that {Name and address of organisation} may hold the information that you require. We therefore need to transfer your request to them.

Please let me know as soon as possible if you have any objection to this transfer.

Please contact me if you have any comments relating to how your request has been handled. If you are unhappy with the service that you have received in relation to your request and wish to make a complaint or request a review of our decision please write to me.

If you are not content with the outcome of your review or complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally the ICO cannot make a decision until you have exhausted our complaints procedure.

If you would like independent advice on your rights under either the Data Protection Act or Freedom of Information Act you may wish to contact the Information Commissioner's Office.

The Information Commissioner can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone: 01625 545 700, website: [www.ico.gov.uk](http://www.ico.gov.uk)"

Yours sincerely,

Julia Elliott  
Principal

### 3. To seek clarification of a request.

#### To be printed on CJSA Letterhead

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

From the information described, we have been unable to identify the information you require.

Could you please give us more information relating to: {Include specific information we require, trying to ensure that terms that may be unfamiliar to the requestor are explained}.

The Freedom of Information Act 2000 prescribes the time frame in which we must deal with requests. We are not required to include any time whilst waiting for clarification of a request. We will endeavour to proceed with your request as soon as you supply the information required. If we have not received a reply to this letter within three months, we will treat this request as cancelled.

Please contact me if you have any comments relating to how your request has been handled. If you are unhappy with the service that you have received in relation to your request and wish to make a complaint or request a review of our decision please write to me.

If you are not content with the outcome of your review or complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally the ICO cannot make a decision until you have exhausted our complaints procedure.

If you would like independent advice on your rights under either the Data Protection Act or Freedom of Information Act you may wish to contact the Information Commissioner's Office.

The Information Commissioner can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone: 01625 545 700, website: [www.ico.gov.uk](http://www.ico.gov.uk)"

Yours sincerely,

Julia Elliott  
Principal

#### 4. To inform the enquirer that the information they requested is available via the CJSA website.

##### To be printed on CJSA Letterhead

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

The information which you requested is already available to the public via our website - [www.crosshalljunior.co.uk](http://www.crosshalljunior.co.uk) and therefore is exempt from disclosure under section 21 of the Freedom of Information Act. This means that we do not need to provide information under section 1 of the Act if that information is reasonably accessible to the applicant by other means. The thinking behind this exemption is that if there is another route by which someone can obtain information, there is no need for the Act to provide the means of access.

Please let me know if you do not have access to the internet or wish us to provide a hard copy of the information, in which case there may be a charge for its provision, depending on the cost to us.

Please contact me if you have any comments relating to how your request has been handled. If you are unhappy with the service that you have received in relation to your request and wish to make a complaint or request a review of our decision please write to me.

If you are not content with the outcome of your review or complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally the ICO cannot make a decision until you have exhausted our complaints procedure.

If you would like independent advice on your rights under either the Data Protection Act or Freedom of Information Act you may wish to contact the Information Commissioner's Office.

The Information Commissioner can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone: 01625 545 700, website: [www.ico.gov.uk](http://www.ico.gov.uk)"

Yours sincerely,

Julia Elliott  
Principal

## 5 To inform the enquirer that the information they requested is already publicly available.

### To be printed on CJSA Letterhead

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

The information which you requested is already publicly available. You can access the information *{insert description of how the enquirer can access the information}*.

Please let me know if I can be of any further assistance. If you still wish us to provide a hard copy of the information there may be a charge for its provision, depending on the cost to us.

The information which you requested is exempt from disclosure under section 21 of the Freedom of Information Act. This means that we do not need to provide information under section 1 of the Act if that information is reasonably accessible to the applicant by other means. The thinking behind this exemption is that if there is another route by which someone can obtain information, there is no need for the Act to provide the means of access.

Please contact me if you have any comments relating to how your request has been handled. If you are unhappy with the service that you have received in relation to your request and wish to make a complaint or request a review of our decision please write to me.

If you are not content with the outcome of your review or complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally the ICO cannot make a decision until you have exhausted our complaints procedure.

If you would like independent advice on your rights under either the Data Protection Act or Freedom of Information Act you may wish to contact the Information Commissioner's Office.

The Information Commissioner can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone: 01625 545 700, website: [www.ico.gov.uk](http://www.ico.gov.uk)"

Yours sincerely,

Julia Elliott  
Principal

## 6 To inform the enquirer of any charges to be made for complying with their request where the costs are less than the current cost limit

### To be printed on CJSA Letterhead

{Applicant Name}  
{Applicant Address}

{Date}

Dear {Name}:

Thank you for your request for information received on \_\_\_\_\_.

It is estimated that the staff time necessary to provide this information will be \_\_\_\_\_ hours which is less than the statutory ceiling for free searching time allowed under the Freedom of Information Act 2000 (The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004).

To proceed with your request we will require a fee of £\_\_\_\_\_ to cover the cost of photocopying and postage. There will be no charge for the time to find the information. Please make payment by cheque to Crosshall Junior School Limited. We will continue with the search on receipt of payment, however, if we have not received a reply within three months, we will consider the request cancelled.

Please contact me if you have any comments relating to how your request has been handled. If you are unhappy with the service that you have received in relation to your request and wish to make a complaint or request a review of our decision please write to me. I will arrange for your complaint to be investigated by the Principal of the Academy.

If you are not content with the outcome of your review or complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally the ICO cannot make a decision until you have exhausted our complaints procedure.

If you would like independent advice on your rights under either the Data Protection Act or Freedom of Information Act you may wish to contact the Information Commissioner's Office.

The Information Commissioner can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone: 01625 545 700, website: [www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely,

Julia Elliott  
Principal