

MANCHESTER HEALTH ACADEMY

FREEDOM OF INFORMATION POLICY

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Approval History

Approved By:	Date of Approval	Version Approved	Comments
	May 2013	V1	
Finance & Audit Committee	4 July 2016	V2	

Revision History

Revision Date	Previous Revision Date	Rev	Summary of Changes	Changes Marked	Owner/Editor
June 2016		V2	Policy re-written and put into new policy format	N	LS

1. Purpose

Manchester Health Academy is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 (FoIA) 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.

2. Scope

- 2.1 This policy applies to all **recorded** information held by the Academy that relates to the business of the Academy. This includes:
- Information created and held by the Academy
 - Information created by the Academy and held by another organisation on our behalf
 - Information held by the Academy provided by third parties, where this relates to a function or business of the Academy (such as contractual information)
 - Information held by the Academy relating to Governors where the information relates to the functions or business of the Academy
- 2.2 The FoIA joins the Data Protection Act (DPA) and the Environmental Information Regulations (EIR) as legislation under which anyone is entitled to request information from the Academy.
- 2.3 Requests for personal data are still covered by the Data Protection Act (DPA). Individuals can request to see what information the Academy holds about them. This is known as a Subject Access Request, and must be dealt with accordingly.
- 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 Academy or on Academy 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.
- 2.5 If any element of a request to the Academy includes personal or environmental information, these elements must be dealt with under DPA or EIR. Any other information is a request under FoIA, and must be dealt with accordingly.

3. Responsibility

- 3.1 Overall responsibility for ensuring that the Academy meets the statutory requirements of the FoIA lies with the Governors. The Governing Body however delegates the day-to-day responsibility for compliance with the FoIA to the Principal.
- 3.2 The Principal is assisted by the Business and Marketing Manager who will act as co-ordinator and provide a point of contact for advice and training.
- 3.3 All Academy staff are responsible for ensuring that they handle request for information in compliance with this policy.

4. Our Approach

4.1 Manchester Health Academy recognises its duty to:

- Provide advice and assistance to anyone requesting information under the Act.
- Tell enquirers whether or not we hold the information they are requesting, and provide access to the information we hold in accordance with this policy.

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

4.3 Whenever the Academy enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation. The Academy will therefore only agree to enter into confidentiality clauses where the information is confidential in nature and where it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

4.3 The Academy will respond to straightforward FoI enquiries free of charge, and will only seek to charge wherever the costs are significant.

5. Background

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

5.2 The information which the Academy routinely makes available to the public is included in the Publication Scheme. Requests for other information should be dealt with in accordance with the statutory guidance. While the Act assumes openness, it recognises that certain information is sensitive. There are therefore exemptions to protect this information.

5.3 The Act is fully retrospective, so that any past records which the Academy holds are covered by the Act. A Retention Schedule, produced by the Records Management Society of Great Britain, guides schools on how long they should keep school 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.

6. Dealing with Requests

6.1 Requests under FoIA can be addressed to anyone in the Academy; so all 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. 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 collect data, if it is not already held, in specific response to a FoI enquiry.

- 6.2 There is a time limit of 20 days, excluding school holidays, for responding to the request. However where the enquirer has been notified that a charge is to be made, the time period stops until payment is received and then continues again once payment is received.

7. Publication Scheme

Section 19 of the FoIA obliges the Academy to make information pro-actively available in the form of a 'publication scheme'. This scheme lists categories, or 'classes' of information that is routinely made available without the need for a specific information request. The Academy indicates in the scheme where we wish to charge for providing particular categories of information, and the scheme is published on the Academy website.

8. Exemptions to release of information

- 8.1 The Academy cannot withhold information in response to a valid request UNLESS one of the following applies:
- An exemption to disclosure; or
 - The information sought is not held; or
 - The request is considered vexatious or repeated; or
 - The cost of compliance exceeds the threshold
- 8.2 The FoIA contains more than 20 exemptions whereby information can be withheld. There are two categories; absolute and qualified. Where an absolute exemption applies, the Academy can automatically withhold information. However where the exemption is qualified, the information can only be withheld where the Academy decides that the public interest is best served by withholding the information.
- 8.3 If it is decided to refuse a request, a refusal notice will be sent detailing the reasons for refusal.
- 8.4 The Academy 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.

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, careful consideration must be made 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 provisions of the DPA. The nature of the information requested will therefore influence the Academy's decision whether to release the information, and decisions will be made on a case by case basis.

10. Charging

- 10.1 The Academy will make the maximum amount of information readily available at minimum inconvenience and cost to the public.

- 10.2 The Academy may charge a fee for complying with requests. Charges made by the Academy for routinely published material will be justified and transparent and kept to a minimum. If a charge is to be made, the Academy will give written notice to the applicant before supplying the information requested. Payment may be requested prior to the provision of the information.
- 10.3 The Academy may charge for the cost directly incurred in determining whether we hold information of the description specified in the request, costs incurred in locating and retrieving the information, and the cost of copying and transmitting information. Costs will however not be charged for the time taken in reaching decisions regarding whether information is covered by an exemption.
- 10.4 Material which is published and accessed on a website will be provided free of charge.
- 10.5 The general charge for photocopying, printing and faxing or emailing information as an attachment is 10p per sheet. Postage charges will be at the appropriate rate. Staff costs will be calculated at a rate of £25 per hour.
- 10.6 Where the Academy estimates that the cost of locating the information will exceed the statutory threshold of £450, it will consider whether or not to comply with the request. The Academy is not obliged to comply with such a request but may choose to do so.

11. Complaints

- 11.1 Any comments or complaints should be made using the Academy's Complaints Procedure. Wherever practicable, the review should be handled by someone not involved in the original decision.
- 11.2 When the original decision has been reviewed and the outcome is that the information should be disclosed, this should be done as soon as is reasonably practicable.
- 11.3 If however on investigation the Academy'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. Appeals should be made in writing to:

The Case Reception Unit
Customer Service team
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

12. Related Documents

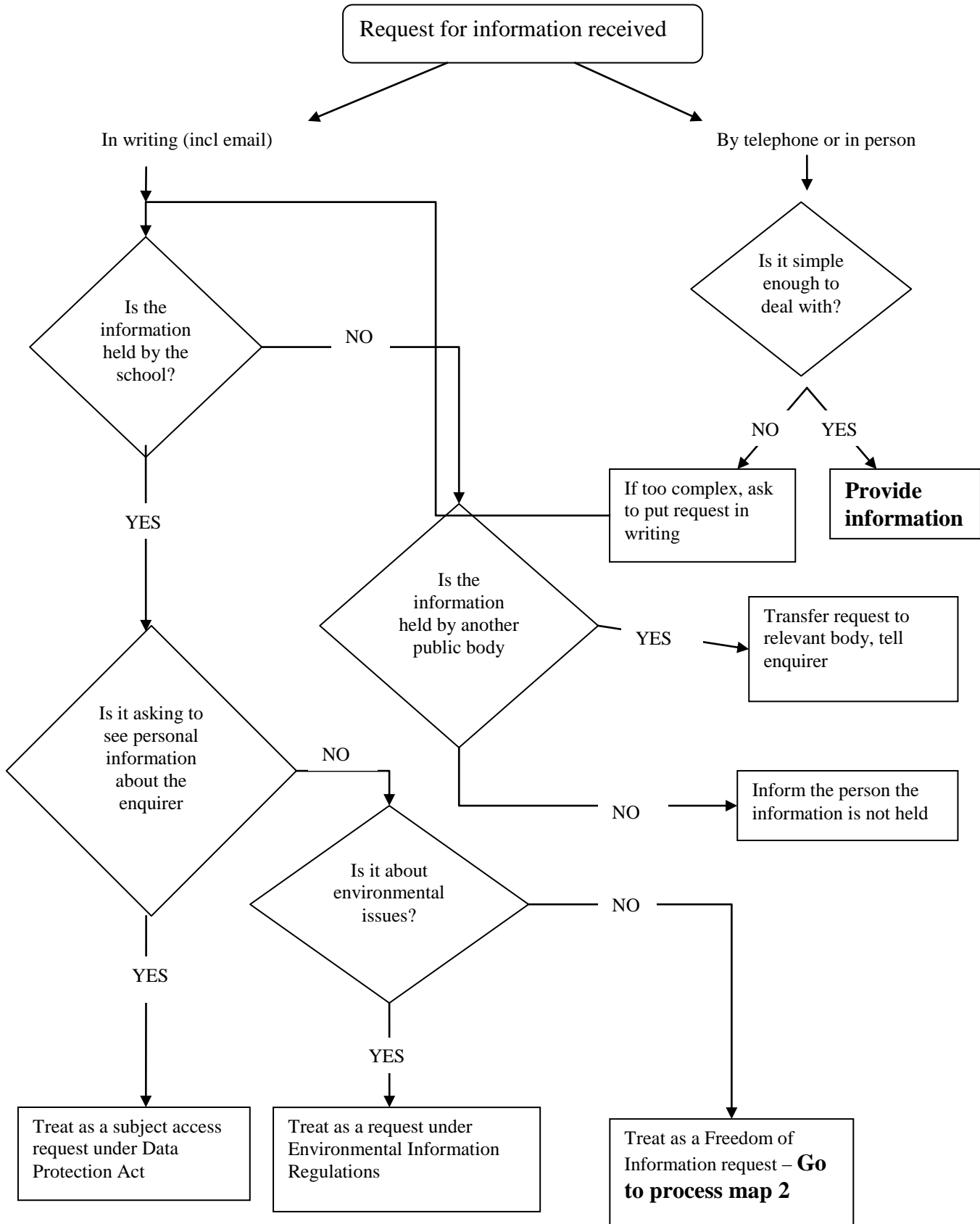
Complaints Procedure
Data Protection Policy

See also:

DoE Academies and freedom of information: Departmental advice for academies –
January 2014

Appendix 1

Process Map 1 for Dealing with Requests



Process Map 2 for Dealing with Requests

