



# **Whitstable Junior School**

## **Freedom of Information Statement & Data Protection Act**

Governors' Committee Responsible: Resources

Policy Originator: Headteacher

Status: Statutory

Review Period: 2 Years

Date approved: January 2023

Next review date: January 2025

## **Whitstable Junior School Freedom of Information Statement**

The Governing Body of Whitstable Junior School is fully committed to providing appropriate information under the classes specified in the Freedom of Information Act. In pursuance of this, the Governing Body has adopted the Model Publication Scheme formulated by the Information Commissioner.

A guide to the information available from Whitstable Junior School has been developed which also includes advice on how the information can be obtained and the cost for this information. The Model Publication Scheme and the Information Guide both are part of this Policy

This policy will be reviewed every two years or when required by law and regulation, whichever is the earlier.

### **The Freedom of Information Act 2000 provides public access to all recorded information that we hold.**

It does this in two ways:

1. public authorities are obliged to publish certain information about their activities via a **publication scheme (see details below)**; and
2. members of the public are entitled to request information from public authorities.

Public authorities include government departments, local authorities, the NHS, state schools and police forces. However, the Act does not necessarily cover every organisation that receives public money. For example, it does not cover some charities that receive grants and certain private sector organisations that perform public functions.

Recorded information includes printed documents, computer files, letters, emails, photographs, sound and video recordings and even post-it notes, with the exemption of information that is on someone's head.

The Act is retrospective, so there is a right of access to information created, received or recorded before 2000 when the Act became law. Individuals of any age or nationality, as well as corporate bodies or pressure groups can request information under the Act. A requester may ask for any information that is held by a school but, this does not mean we are always obliged to provide the information. In some cases, there will be a good reason why you should not make public some or all of the information requested.

### **General Data Protection Regulation**

GDPR has replaced the Data Protection Act 1998 (DPA) and represents the biggest change to data protection law for 20 years. With some GDPR breaches carrying fines of up to 4% of global annual turnover or 20 million Euros (approx £17 million), now is the time to start planning. Individuals have stronger rights to be informed about how organisations use their personal information.

For the first time in data protection law, the GDPR will introduce the requirement of "accountability". In basic terms, accountability means that organisations will not only be

required to comply with data protection requirements, but also that they must demonstrate that they comply. The big difference around GDPR is that it's very much focused around being able to prove compliance.

Many of the GDPR's main concepts and principles are much the same as those in the old Data Protection Act, however, there are new elements and significant enhancements, so you will have to do some things for the first time and some things differently.

The Information Commissioner's Office (ICO) are the UK's independent authority set up to uphold information rights and they are committed to helping organisations improve their practices and prepare for the GDPR.

## **The Data Protection Act 2018**

The UK's third generation of data protection law. [The new Act](#) aims to modernise data protection laws to ensure they are effective in the years to come.

The DPA 2018 has a part dealing with processing that does not fall within EU law, for example, where it is related to immigration. It applies GDPR standards but it has been amended to adjust those that would not work in the national context.

It also has a part that transposes the EU Data Protection Directive 2016/680 (Law Enforcement Directive) into domestic UK law. The Directive complements the General Data Protection Regulation (GDPR) and Part 3 of the DPA 2018 sets out the requirements for the processing of personal data for criminal 'law enforcement purposes'.

National security is also outside the scope of EU law. The Government has decided that it is important the intelligence services are required to comply with internationally recognised data protection standards, so there are provisions based on Council of Europe Data Protection Convention 108 that apply to them.

There are also separate parts to cover the ICO and their duties, functions and powers plus the enforcement provisions. The Data Protection Act 1998 is being repealed so it makes the changes necessary to deal with the interaction between FOIA/EIR and the DPA.

### Publication scheme

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The following guidance is produced by the Information Commissioner's Office (ICO) specifically for schools:

- [Template guide to information \(publication scheme\) for schools \(DOC, 219.5 KB\)](#)
- [How to complete the Model Publication Scheme \(PDF, 157.0 KB\)](#)
- [Freedom of Information Act Definitions \(PDF, 155.6 KB\)](#)

### If you receive a request for information

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Anyone has a right to request information from a public authority. You have two separate duties when responding to these requests:

- to tell the applicant whether you hold any information falling within the scope of their request; and
- to provide that information.

You normally have 20 working days (from date of receipt) to respond to a request.

For a request to be valid under the Freedom of Information Act it must be in writing, but those requesting do not have to mention the Act or direct their request to a designated member of staff. It is good practice to provide the contact details of your freedom of information officer or team, if you have one, but you cannot ignore or refuse a request simply because it is addressed to a different member of staff. Any letter or email to a public authority asking for information is a request for recorded information under the Act. This doesn't mean you have to treat every enquiry formally as a request under the Act. It will often be most sensible and provide better customer service to deal with it as a normal customer enquiry under your usual customer service procedures, for example, if a member of the public wants to know whether a school has a space for their child. The provisions of the Act need to come into force only if:

- you cannot provide the requested information straight away; or
- the requester makes it clear they expect a response under the Act.

When you receive a request, read it carefully to make sure you know what is being asked for. You must not simply give the requestor information you think may be helpful; you must consider all the information that falls within the scope of the request, so identify this first. Always consider contacting the applicant to check that you have understood their request correctly.

You should read a request objectively. Do not get diverted by the tone of the language the requester has used, your previous experience of them (unless they explicitly refer you to this) or what you think they would be most interested in.

If you can't answer the request because you are not sure what is being requested, you must contact the requester as soon as possible for clarification.

You do not have to deal with the request until you have received whatever clarification you reasonably need. However, you must consider whether you can give the requester advice and assistance to enable them to clarify or rephrase their request. For example, you could explain what options may be available to them and ask whether any of these would adequately answer their request.

The time for compliance will not begin until you have received the necessary clarification to allow you to answer the request.

The Act only covers recorded information you hold. When compiling a response to a request for information, you may have to draw from multiple sources of information you hold, but you don't have to make up an answer or find out information from elsewhere if you don't already have the relevant information in recorded form.

If you don't have the information the requester has asked for, you can comply with the request by telling them this, in writing. If you know that the information is held by another public authority, you could transfer the request to them or advise the requester to redirect their request.

Before sending the information in answer to a request, you should double check that you have included the correct documents and that the information you are releasing does not contain unnoticed personal data or other sensitive details which you did not intend to disclose.

This might be a particular issue if you are releasing an electronic document. Electronic documents often contain extra hidden information or 'metadata' in addition to the visible text of the document. For example, metadata might include the name of the author, or details of earlier draft versions. In particular, a spreadsheet displaying information as a table will often also contain the original detailed source data, even if this is not immediately visible at first glance.

## Time scales for responding

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Your main obligation under the Act is to respond to requests promptly, with a time limit acting as the longest time you can take. Under the Act, most public authorities may take up to 20 working days to respond, counting the first working day after the request is received as the first day. For schools, the standard time limit is 20 school days, or 60 working days if this is shorter.

Working day means any day other than a Saturday, Sunday, or public holidays and bank holidays; this may or may not be the same as the days you are open for business or staff are in work.

The time allowed for complying with a request starts when your organisation receives it, not when it reaches the freedom of information officer or other relevant member of staff.

What if the information is inaccurate?

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The Act covers recorded information, whether or not it is accurate. You cannot refuse a request for information simply because you know the information is out of date, incomplete or inaccurate. To avoid misleading the requester, you should normally be able to explain to them the nature of the information, or provide extra information to help put the information into context.

You can refuse a request if:

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- it would cost too much (over £450) or take too long (over 18 hours) to deal with the request;
- the request is vexatious;
- the request repeats a previous request from the same person.
- In addition, the Freedom of Information Act contains a number of exemptions that allow you to withhold information from a requester. In some cases it will allow you to refuse to confirm or deny whether you hold the information.

Some exemptions relate to a particular type of information, for instance information relating to government policy. Other exemptions are based on the harm that would arise or would be likely to arise from disclosure, for example, if disclosure would likely to prejudice a criminal investigation or prejudice someone's commercial interests.

There is also an exemption for personal data if releasing it would be contrary to the Data Protection Act.

If you are refusing all or any part of a request, you must send the requester a written refusal notice. You will need to issue a refusal notice if you are either refusing to say whether you hold information at all, or confirming that information is held but refusing to release it.

What must be included in a refusal notice?

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You must refuse requests in writing promptly or within 20 working days (or the standard time for compliance) of receiving it.

In the refusal notice you should:

- explain what provision of the Act you are relying on to refuse the request and why;
- give details of any internal review (complaints) procedure you offer or state that you do not have one; and

- explain the requester's right to complain to the ICO, including contact details for this.

For more detail on the above go to the [Guide to Freedom of Information](#) from the Information Commissioner's Office.

### The Information Commissioner's Office (ICO)

The ICO has a general duty to investigate complaints from members of the public who believe that an authority has failed to respond correctly to a request for information. The ICO complaints process gives a school an opportunity to reconsider its actions and put right any mistakes without taking any formal action.

If the complaint is not resolved informally, they can issue a decision notice. If they consider a school has breached the Act, the decision notice will say what the school should do to put things right.

The ICO also has powers to enforce compliance if a school fails to adopt the publication scheme or have not published information as they should.

You may be breaching the FOI Act if:

- you fail to respond adequately to a request for information;
- you fail to adopt the model publication scheme, or do not publish the correct information; or
- you deliberately destroy, hide or alter requested information to prevent it being released.

This last point is a criminal offence that individuals and public authorities can be charged with under the Act.

### Records Management Policy

**Under section 46** of the Freedom of Information Act 2000, the Code of Practice states that every authority should have a [Records Management Policy](#) in place.

The [Information Management Toolkit \(DOCX, 233.1 KB\)](#) helps schools manage records to meet the code of practice.