**Freedom of Information Policy**

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1. **Introduction**

This policy supports the legislative framework for responding to requests for information under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIR).

1. **Aim**

The aims of the policy are to ensure access to information held by schools in Scotland in order to promote greater openness, provide increased transparency of decision making and to build public trust and confidence. These aims will be balanced against the need to ensure the confidentiality of some information relating to some areas, such as personal privacy, confidentiality and commercial sensitivity where disclosure would not be in the public interest.

1. **Publication Scheme**

The company has produced a Publication Scheme as required by the FOISA (insert link). The Scheme sets out the classes of information already available to the public, details of how the information can be obtained, its location and whether there is a charge for providing the information. All information available through the Publication Scheme is exempt from the FOISA. The Publication Scheme is kept under review so that any new classes of information to be made available to the public are included.

1. **Deciding when requests should be formally logged**

Where possible requests for information will be dealt with in the normal course of business; however it is accepted that some requests will require a more formal approach. This guidance note sets out what the triggers will be for engaging the official process for dealing with requests for information under the above legislations.

It is important to recognise, at an early stage, when requests for information should be entered into the company’s system for managing requests. This is to ensure that the company can comply with the request within the statutory time periods and to enable sufficient monitoring and auditing of the company’s compliance.

Examples of types of requests which should be formally logged are:

1. Written requests that consciously engage any or all of the information access regimes, for example, requests which specifically mention the legal right of access.
2. Requests which may result in information being withheld for any reason under an exemption or exception from the right of access
3. Requests that are not processed because the company estimates the cost of compliance would exceed the £600 legal limit.
4. Requests that are not processed because the company considers the request to be vexatious or repeated.
5. Where the company requires further information from the applicant in order to identify and locate the information requested.
6. Requests on which company staff seek legal advice before responding.

5. **The process for handling requests for information**

**5.1 Receiving requests**

On receipt of any request for information the company will acknowledge within 48 hours, allocate to the service and aim to provide the information within 10 working days of receipt of the request. If the information requested cannot be provided within 10 working days, a reply must be sent no later than (the statutory limit) of 20 working days after receiving the request.

**5.2 Responding to requests**

If the information is held by the company but is not provided, the reply should explain why not, quoting a statutory exemption and the reasoning behind it. If confirming or denying will itself provide information which is exempt, then the company does not have to confirm or deny that it holds information.

**5.3 Seeking clarification**

If the information requested is not described in a way which would enable the company to identify and locate it, or the request is ambiguous, the company will seek clarification and the 20 working day request period may be put on hold.

The company will not require the applicant to provide reasons for requesting the information as this is irrelevant to the decision. Often however, if reasons are provided, it can assist staff to process the request more easily.

**5.4 Providing advice and assistance**

The company has a duty to provide advice and assistance to applicants, to enable the request to be properly made, so far as it would be reasonable to expect the company to do so. The company will provide reasonable assistance to help the applicant to clarify the nature of the information sought and contact will be made to clarify the request at the earliest opportunity. Such advice and assistance might include directing the applicant where there might find the information or providing a description of the type of information held and suggesting the form of words of a question what would elicit the information.

If a person is unable to articulate their request in writing the company will provide advice to help them make their request.

Whilst the company will make every effort to provide assistance to enable the applicant to submit a successful request, if they still fail to provide enough detail to enable the information to be identified and located, the obligation to comply with the request will end unless further information to enable the request to be determined is provided.

**5.5 Requests which are similar, repeated or vexatious**

The Company is not obliged to comply with requests which are substantially similar to a request received from a person where a reasonable interval has not elapsed between the previous request and the current request. Nor is it obliged to comply with requests which are vexatious.

**5.6 Refusing requests**

A request for information may only be refused if an exemption under FOISA applies. If information is refused, a Refusal Notice will be issued giving reasons for the refusal and setting out details of what to do if the recipient of the Notice is not satisfied with the way the company has dealt with the request.

**6. Charging fees**

If the information requested is not contained within the Publication Scheme, the company may only charge a fee as laid down in the Freedom of Information (Fees for Required Disclosure)(Scotland) Regulations 2004 and the Freedom of Information (Fees for Required Disclosure under Section 13)(Scotland) Regulations 2004. Fees will be charged in line with the Charging Schedule which can be access at via this link: (insert link)

No fee may be charged unless the cost of meeting the request exceeds £600. The company may however charge for disbursements (such as photocopying, printing and postage costs), particularly if the request is voluminous. If the photocopying costs in meeting a request are high, perhaps because of the volume of information requested, the company may meet its obligations under the FOISA by allowing the applicant to inspect the material or by providing a summary of the information requested. The company will however take into account the applicants preferred method of access to the information requested and will seek to provide the information in the way requested, where practical.

If the company estimates that the cost of compliance would exceed the appropriate limit (currently £600) the Company is not obliged to comply with the request. However, the company may consider on a discretionary basis what information could be provided within the appropriate limit. If, however, a fee is due but is not paid, the company can refuse to supply the information.

Under EIR a charge can be made provided that it does not exceed the costs reasonably attributable to the supply of the information. The company will ensure that charges are based on the costs of retrieval and production of the information and in any case will calculate and advise the applicant of any fee due before the request is met. Any fees will be based on the officer time spent in retrieving the information (but excluding the time spent in deciding whether the information should be made available), plus any expenses in providing the information, such as photocopying.

**7. Transferring requests for information to another public company**

If the company receives a request for information which it does not hold, but knows is held by another public authority, it will provide as much assistance as possible to the applicant in transferring their request to the company which holds the information. This may be by simply directing them to the appropriate public authority.

If the company holds any of the information that has been requested it will treat that part of the request as an FOISA request and process it accordingly. At the earliest opportunity the company will inform the applicant of the information it does not hold and provide reasonable assistance to enable them to locate it elsewhere.

**8.** **Consultation with third parties**

The company recognises that disclosure of information may affect the legal rights of a third party. As such consultation with the affected third party may be undertaken in order to assist the company in determining whether an exemption under the Act applies to the information requested, or the views of the third party may assist the company in determining whether it is in the public interest to disclose or withhold the requested information.

If the consent of a third party is required prior to disclosure of information, the company will, at the earliest opportunity, seek to consult with that third party with a view to seeking their consent to the disclosure, unless such a consultation is not practical.

A third party’s refusal to consent to disclosure of information does not necessarily mean that information will not be disclosed. If the cost of consultation with the third party is disproportionate, consultation may not be undertaken. The company will not undertake consultation if it does not intend to disclose the information because of another exemption, or where the views of the third party would have no effect on the decision of the company because no exemption applies.

Unless an exemption is provided for in the FOISA there will be a requirement to disclose that information in response to a request.

**9. Refusal of request**

If the company relies on an exemption to refuse a request for information the applicant will be notified of the appropriate exemption and why it applies. If the reasoning behind the exemption, or the exemption itself, would result in the disclosure of information which would itself be exempt, then the company may not provide that reason.

If the company decides that the public interest in disclosing the information is outweighed by the public interests in withholding it, then this will be stated in the refusal letter together with the public interest factors which have been considered and which form a material part of the decision. If a document contains exempt information, the company will not refuse access to the whole document unless it is absolutely necessary to do so in order to ensure that exempt information is not disclosed. Where part of a document is exempt, normally only that part of the document containing the exempt information will be withheld.

**10. Complaints**

Any person who is unhappy with the way in which the company has handled their request for information may request for an internal review to be carried out by emailing: (insert email address). The Information Commissioner is unlikely to investigate any complaint about the company’s handling of an information request unless the internal review procedure has been exhausted.

A complaint may be made about the company’s failure to release information in accordance with its Publication Scheme, about requests that have not been properly handled, or where there is dissatisfaction with the outcome of a request.

If, following a complaint, the decision is made to release information, this will be done as soon as is practicable and notification of intended disclosure, if it is not accompanied by the information requested, will be made at the earliest opportunity.

If the decision to refuse disclosure is upheld or the internal complaints procedure is exhausted and the applicant is still dissatisfied, they will be made aware of their right to apply for a review to the Scottish Information Commissioner at:-

The Information Commissioner

Kinburn Castle

Doubledykes Road

St Andrews

Fife

KY16 9DS

Email: enquiries@itspublicknowledge.info