



Freedom of Information Policy

Our Vision

Formation - Inspiration - Transformation

Our Mission

We develop individual excellence, embrace opportunities and build strong communities with Gospel Values at the heart.

Our Values

Respect - Innovation - Courage - Trust

HFCMAT

Document Management

Policy name:	HFCMAT Freedom of Information Policy		
Approved by:	Audit, Risk & Resources Committee	when:	Autumn 2025
Review by:	Operations Manager	when:	Autumn 2026
File location:			
Version control	New Autumn 2023		

Explanatory Notes

Governing bodies are responsible for ensuring that Trusts comply with the Freedom of Information Act 2000 (FoIA). Some aspects, such as charging, are at the discretion of the governing body.

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1. Introduction

HFCMAT is committed to the Freedom of Information Act 2000 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. The Trust will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right to access to recorded information held by the Trust and that the Trust should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

2. Background

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

The information which the Trust routinely makes available to the public is included in the Publication Scheme. 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 exemptions to protect this information.

The Act is fully retrospective, so that any past records which the Trust holds are covered by the Act. The DfE has issued a Retention Schedule produced by the Records Management Society of Great Britain, to guide Trusts on how long they should keep Trust 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 under FOI can be addressed to anyone in the Trust; so all staff need to be aware of the process for dealing with requests – see point 10. 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 in specific response to an FOI enquiry. There is a time limit of 20 working days excluding Trust holidays for responding to the request.

3. Scope

The FOI Act joins the Data Protection Act (2018) and the Environmental Information Regulations (2004) as legislation under which anyone is entitled to request information from the Trust.

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

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

Requests for personal data are still covered by the Data Protection Act (DPA). Individuals can request to see what information the Trust 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). They also cover issues relating to Health and Safety. For example, queries about chemicals used in the Trust or on Trust 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 FOI, but unlike FOI requests, they do not need to be written and can be verbal.

If any element of a request to the Trust includes personal or environmental information, these elements must be dealt with under DPA or EIR. Any other information is a request under FOI, and must be dealt with accordingly

4. Obligations and Duties

The Trust recognises its duty to:

- provide advice and assistance to anyone requesting information. We will respond to straightforward verbal requests for information and will help enquirers to put more complex verbal requests into writing so that they can be handled under the Act.
- tell enquirers whether or not we hold the information they are requesting (the duty to confirm or deny) and provide access to the information we hold in accordance with the procedures laid down in Appendix 1.

5. Publication Scheme

HFCMAT has adopted the Model Publication Scheme for Trusts approved by the Information Commissioner.

The Publication Scheme and the materials it covers will be readily available in *Appendix 5*. It will also be published on our website.

6. Dealing With Requests

We will respond to all requests in accordance with the procedures laid down in Appendix 1.

We will ensure that all staff are aware of the procedures.

7. Exemptions

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

When we wish to apply a qualified exemption to a request, we will invoke the public interest test procedures to determine if public interest in applying the exemption outweighs the public interest in disclosing the information.

We will maintain a register of requests where we have refused to supply information, and the reasons for the refusal. The register will be retained for 5 years.

8. Public Interest Test

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

For information on applying the Public Interest Test see Appendix 3.

9. Charging

The three information regimes contain different provisions that permit charges to be made for responding to information requests. The Governing Body may charge a fee for complying with requests, as calculated in

accordance with FOI regulations. If a charge is to be made, the Trust will give written notice to the applicant before supplying the information requested.

The Trust will only charge for the cost of copying and transmitting information, not for time taken in reaching decisions regarding whether information is covered by an exemption.

Where the Trust 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 Trust is not obliged to comply with such a request but may choose to do so.

Further information with regards to charging can be found in Appendix 4.

10. Responsibilities

Directors have delegated the day-to-day responsibility for compliance with the FOI to the Headteacher.

Freedom of Information enquiries should be sent in writing to the Headteacher/ Operations Manager

All FOI requests which come into the Trust must be reported to the Headteacher/ Operations Managers who, along with the Business Support Lead , will be responsible for evaluating and co-ordinating the response.

11. Complaints

Any comments or complaints will be dealt with through the Trust's normal complaints procedure.

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

Appeals should be to the Information Commissioner's office. They can be contacted at:

<https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>

Appendix 1: Procedure for Dealing with Requests

Note: This Appendix is adapted from the DfES Guide for Maintained Trusts on Full Implementation from January 2005, with the exception of paras 17 – 21 which have been changed to reflect amended guidance.

1. To handle a request for information the governing body or delegated person will need to ask themselves a series of questions. These are set out below and shown on pages **11-12** as process maps.

Is it a FOI request for information?

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

a. Data Protection enquiries (or subject access requests) are ones where the enquirer asks to see what personal information the Trust holds about the enquirer. If the enquiry is a Data Protection request, we will follow our existing Trust DPA guidance.

b. 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 could therefore include enquiries about recycling, phone masts, Trust playing fields, car parking etc. If the enquiry is about environmental information, we will follow the guidance on the IC's website or the DEFRA website.

c. FOI enquiries are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the FOI Act. All requests for information that are not data protection or environmental information requests are covered by the FOI Act.

Is this a valid FOI request for information?

3. An FOI request should:

a. be **in writing**, including email or FAX;

b. **state the enquirer's name and correspondence address** (email addresses are allowed);

c. **describe the information requested** – there must be enough information to be able to identify and locate the information¹; and

d. not be covered by one of the other pieces of legislation.

4. Verbal enquiries are not covered by the FOI Act. Such enquiries can be dealt with where the enquiry is relatively straightforward and can be dealt with satisfactorily. However, for more complex enquiries, and to avoid disputes over what was asked for, we will ask the enquirer to put the request in writing or email, when the request will become subject to FOI.

Does the Trust hold the information?

5. "Holding" information means information relating to the business of the Trust:

a. the Trust has created, or

b. the Trust has received from another body or person, or

c. held by another body on the Trust's behalf.

6. Information means both hard copy and digital information, including email.

7. If the Trust 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 we have got information the Trust might be expected to hold.

¹ In cases where the enquiry is ambiguous, we will assist the enquirer to describe more clearly the information requested. Where possible, we will 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 starts from the date this is received.

Has the information requested already been made public?

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

Is the request vexatious or manifestly unreasonable or repeated?

9. The Act 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 a substantial diversion of resources or would otherwise undermine the work of the Trust². This, however, does not provide an excuse for bad records management.

Can the Trust transfer a request to another body?

10. If the information is held by another public authority, such as our local authority, we will first check with them that they hold it, then transfer the request to them. We must notify the enquirer that we do not hold the information and to whom we have transferred the request. We will answer any parts of the enquiry in respect of information our Trust does hold.

Could a third party's interests be affected by disclosure?

11. Consultation of third parties may be required if their interests could be affected by release of the information requested, 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 will be applying for an exemption.

12. Consultation will be necessary where:

- i. 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;
- ii. the views of the third party may assist us to determine if information is exempt from disclosure, or
- iii. the views of the third party may assist us to determine the public interest.

Does an exemption apply?

13. 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.

14. Only where we have real concerns about disclosing the information will we look 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 has to be released. Appendix 3 contains guidance on conducting a public interest test.

What if the request is for personal information?

15. 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, therefore, continue to make a 'subject access request' under the Data Protection Act if they wish to access such information.

What if the details contain personal information?

16. Personal information requested by third parties is also exempt under the FOI Act where release of that information would breach the Data Protection Act. If a request is made for a document (e.g. Governing Body minutes) which contains personal information whose release to a third party would breach the Data

² It is not intended to include otherwise valid requests in which the applicant may make complaints or vent frustrations. In addition, 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.

Protection Act, the document may be issued by blanking out the relevant personal information as set out in the redaction procedure. The procedure for redaction is here³.

How much can we charge?

17. The Act allows governing bodies to charge for providing information. For further information, see Appendix 4.

18. The first step is to determine if the threshold (currently £450) would be exceeded. Staff costs should be calculated at £25 per hour. We can take account of the costs of determining if the information is held, locating and retrieving the information, and extracting the information from other documents. We cannot take into account the costs involved in determining whether information is exempt.

19. If a request would cost less than the appropriate limit, (currently £450) we can only charge for the cost of informing the applicant whether the information is held and communicating the information to the applicant (e.g. photocopying, printing and postage costs).

20. If a request would cost more than the appropriate limit, (£450) we can turn the request down, answer and charge a fee, or answer and waive the fee. If we decide to charge a fee, and do not have other powers to do so, we can charge on the basis of the costs outlined in Appendix 4.

21. We may wish to consider whether calculating the cost of the fee outweighs the cost of providing the information. In practice, we will aim to respond to straightforward enquiries free of charge and charge where the costs are significant.

22. If we are going to charge, we must 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.

Is there a time limit for replying to the enquirer?

23. Compliance with a request must be prompt and certainly within the legally prescribed limit of 20 working days, excluding Trust holidays⁴. Failure to comply could result in a complaint to the Information Commissioner. The response time starts from the time the request is received. Where we have asked the enquirer for more information to enable us to answer, the 20 working days start time begins when this further information has been received.

24. If a qualified exemption applies and we need more time to consider the public interest test, we should reply within the 20 working days 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 that normally this should be within 10 working days.

25. Where we have notified the enquirer that a charge is to be made, the time period stops until payment is received and then continues again once payment has been received.

What action is required to refuse a request?

26. If the information is not to be provided, the person dealing with the request must immediately contact the person in the Trust with delegated responsibility for FOI to ensure that the case has been properly considered and the reasons for refusal are sound. If it is decided to refuse a request, we need to send a refusals notice, which must contain

³ The procedure for redaction is:

i) mask the passages which are not to be disclosed and photocopy; (ii) annotate in the margin against each blank passage, the exemption and section of the Act under which this passage is exempt; (iii) 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.

On no account must we use a computer to rewrite the document or email and simply delete the exempted passages so that the resulting document appears as though they did not exist. The one circumstance where this would be permissible would be where the only redacted parts are personal information such as people's names and the covering letter explains this.

⁴ An order to this effect is to be made under section 10(4) of the Act and took effect from 1 January 2005.

- a. the fact that the responsible person cannot provide the information asked for;
- b. which exemption(s) we are claiming apply;
- c. why the exemption(s) apply to this enquiry (if it is not self-evident);
- d. 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. the internal complaints procedure.

27. 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 should be retained for 5 years. There are no requirements to keep records where we have supplied the information requested.

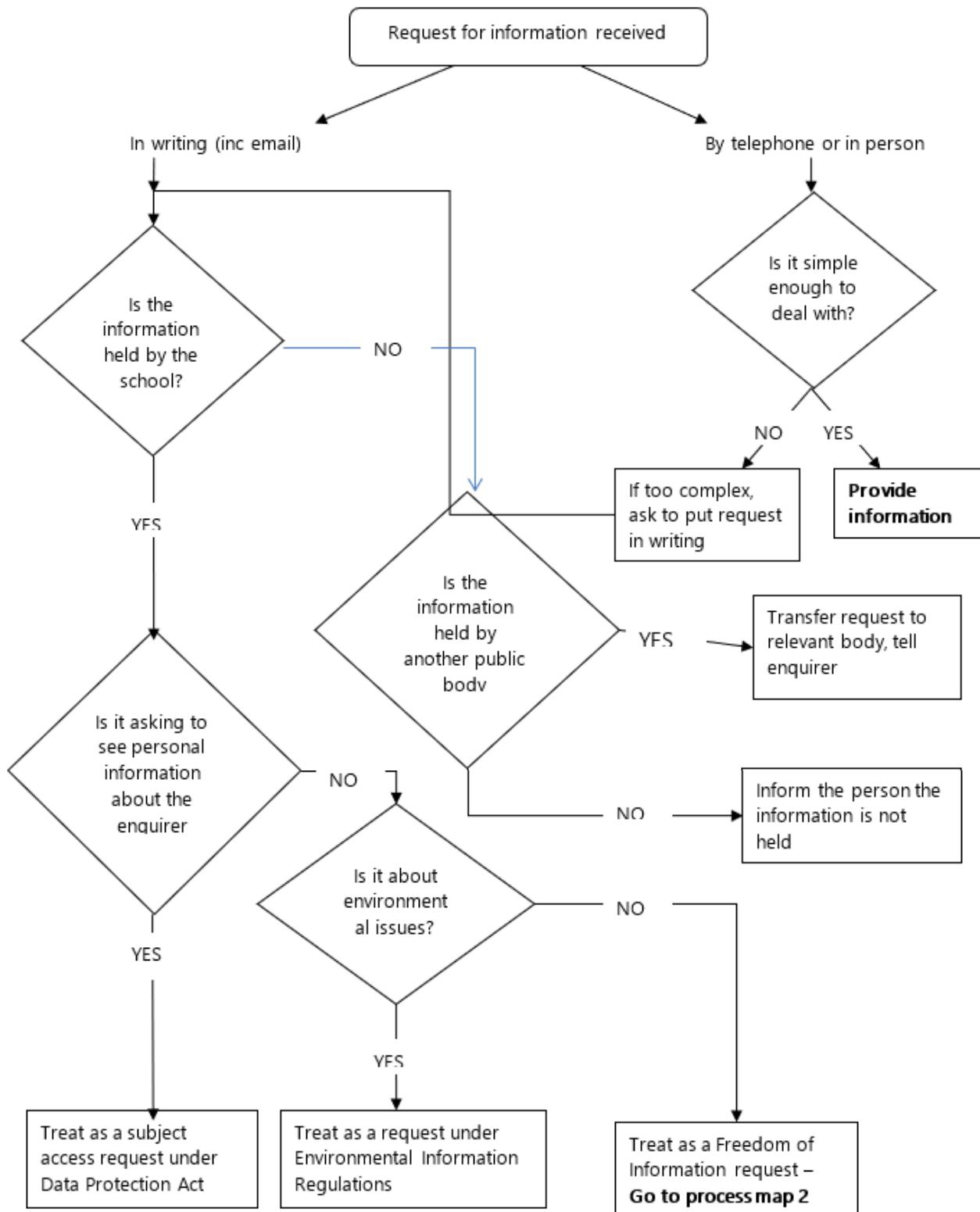
What do we do if someone complains?

28. Any written (including email) expression of dissatisfaction - even if it does not specifically seek a review – should be handled through the Trust's existing complaints procedure which should be fair and impartial. The procedure should be clear and non-bureaucratic. Wherever practicable, the review should be handled by someone not involved in the original decision. The Governing Body should set and publish a target time for determining complaints and information on the success rate in meeting the target. The Trust should maintain records of all complaints and their outcome.

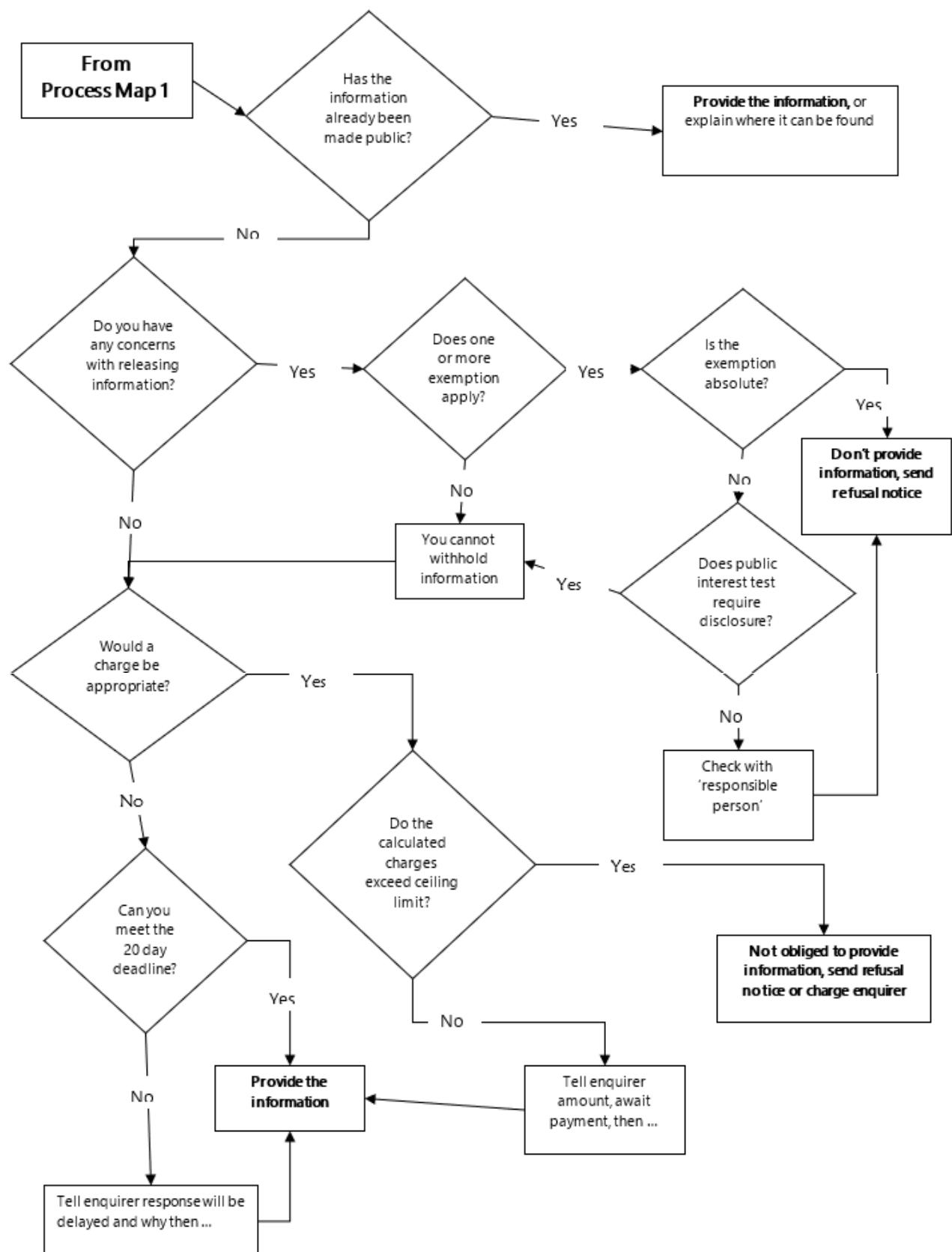
29. When the original request has been reviewed and the outcome is that the information should be disclosed, this should be done as soon as practicable. When the outcome is that procedures within the Trust have not been properly followed, the Trust should review procedures to prevent any recurrence. When the outcome upholds the Trust's original decision or action, the applicant should 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

Process Map 1 for Dealing with Requests



Process Map 2 for Dealing with Requests



Model publication scheme

Freedom of Information Act

This model publication scheme has been prepared and approved by the Information Commissioner. It may be adopted without modification by any public authority without further approval and will be valid until further notice.

This publication scheme commits an authority to make information available to the public as part of its normal business activities. The information covered is included in the classes of information mentioned below, where this information is held by the authority. Additional assistance is provided to the definition of these classes in sector specific guidance manuals issued by the Information Commissioner.

The scheme commits an authority:

- To proactively publish or otherwise make available as a matter of routine information, including environmental information, which is held by the authority and falls within the classifications below.
- To specify the information which is held by the authority and falls within the classifications below.
- To proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme.
- To produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public.
- To review and update on a regular basis the information the authority makes available under this scheme.
- To produce a schedule of any fees charged for access to information which is made proactively available.
- To make this publication scheme available to the public.
- To publish any dataset held by the authority that has been requested, and any updated versions it holds, unless the authority is satisfied that

it is not appropriate to do so; to publish the dataset, where reasonably practicable, in an electronic form that is capable of re-use; and, if any information in the dataset is a relevant copyright work and the public authority is the only owner, to make the information available for re-use under the terms of the Re-use of Public Sector Information Regulations 2015, if they apply, and otherwise under the terms of the Freedom of Information Act section 19.

The term 'dataset' is defined in section 11(5) of the Freedom of Information Act. The term 'relevant copyright work' is defined in section 19(8) of that Act.

Classes of information

Who we are and what we do.

Organisational information, locations and contacts, constitutional and legal governance.

What we spend and how we spend it.

Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.

What our priorities are and how we are doing.

Strategy and performance information, plans, assessments, inspections and reviews.

How we make decisions.

Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.

Our policies and procedures.

Current written protocols for delivering our functions and responsibilities.

Lists and registers.

Information held in registers required by law and other lists and registers relating to the functions of the authority.

The services we offer.

Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

The classes of information will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.

- Information in draft form.
- Information that is no longer readily available as it is contained in files that have been placed in archive storage, or is difficult to access for similar reasons.

The method by which information published under this scheme will be made available

The authority will indicate clearly to the public what information is covered by this scheme and how it can be obtained.

Where it is within the capability of a public authority, information will be provided on a website. Where it is impracticable to make information available on a website or when an individual does not wish to access the information by the website, a public authority will indicate how information can be obtained by other means and provide it by those means.

In exceptional circumstances some information may be available only by viewing in person. Where this manner is specified, contact details will be provided. An appointment to view the information will be arranged within a reasonable timescale.

Information will be provided in the language in which it is held or in such other language that is legally required. Where an authority is legally required to translate any information, it will do so.

Obligations under disability and discrimination legislation and any other legislation to provide information in other forms and formats will be adhered to when providing information in accordance with this scheme.

Charges which may be made for information published under this scheme

The purpose of this scheme is to make the maximum amount of information readily available at minimum inconvenience and cost to the public. Charges made by the authority for routinely published material will be justified and transparent and kept to a minimum.

Material which is published and accessed on a website will be provided free of charge.

Charges may be made for information subject to a charging regime specified by Parliament.

Charges may be made for actual disbursements incurred such as:

- photocopying
- postage and packaging
- the costs directly incurred as a result of viewing information

Charges may also be made for information provided under this scheme where they are legally authorised, they are in all the circumstances, including the general principles of the right of access to information held by public authorities, justified and are in accordance with a published schedule or schedules of fees which is readily available to the public.

Charges may also be made for making datasets (or parts of datasets) that are relevant copyright works available for re-use. These charges will be in accordance with the terms of the Re-use of Public Sector Information Regulations 2015, where they apply, or with regulations made under section 11B of the Freedom of Information Act, or with other statutory powers of the public authority.

If a charge is to be made, confirmation of the payment due will be given before the information is provided. Payment may be requested prior to provision of the information.

Written requests

Information held by a public authority that is not published under this scheme can be requested in writing, when its provision will be considered in accordance with the provisions of the Freedom of Information Act.

Model publication scheme
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