

Freedom of Information Policy



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Responsible Officer:	Chief Corporate Services Officer

Trust Ethos, Mission, Vision and Values



The Trust believes in the transformational power of education for each individual and that this is enhanced through collaborative working between the academies.



Working together, transforming lives

Contents

Para	
1	Policy Statement
2	Scope and Principles
3	Environmental Information Requests
4	Data Protection Officer
5	Conditions of Processing
6	Handling Requests
7	Exemptions
8	Public Interest Test
9	Charges
10	Individual Responsibilities
11	Complaints
12	Publication Scheme
	Appendix: Process maps

Where the word 'Trust' is used in this document it refers to Archway Learning Trust.

Where the word 'Advisory Board' is used it refers to the Academy Advisory Board (AAB) of an individual academy within the Trust.

Where appropriate the AABs of individual academies will publish details of the procedures and practices to implement Trust policies.

The term 'Trust Executive Leadership Team' (ELT) comprises of the Chief Executive Officer, Deputy Chief Executive Officer, Chief Finance Officer, Chief Operating Officer, Chief Corporate Services Officer, Chief People Officer and Director of Teaching & Learning.

Where the word 'users' is used it refers to staff, future staff issued with ICT access and/or hardware, AAB members, volunteers and regular visitors.

Where the phrase 'Senior Leader' is used, this refers to the ELT, Principals, Headteachers or Business Services Director within the Trust.

Where the phrase 'Principal' is used, this also refers to Headteachers.

Related Policies and Procedures

- Data Protection Policy
- Biometric Policy
- Charging Policy
- Health, Safety and Security Policy
- ICT Acceptable Use Policy
- Code of Conduct
- Safeguarding Policy
- Social Media Policy
- Privacy Notices
- Publication Scheme
- Records Management – Retention & Destruction Policy

1. Policy Statement

- 1.1.** This policy applies to all requests seeking information under the Freedom of Information Act 2000 (FOIA) as well as requests seeking information relevant to the Environmental Information Regulations (EIR) 2004, specifically relating to queries about the environment which may include land, air, natural environment, flora and fauna and any activity relating to environmental health.
- 1.2.** Requests for personal information under the UK General Data Protection Regulation (GDPR) 2018 are not covered within this policy. Enquires about requests for personal information relevant to a specific data subject or, referred to as a 'Subject Access Request' will be dealt with under the Data Protection Policy which can be found on the Trust's website. Similarly requests about processing of a specific individual's biometric data will be dealt with under the Biometric Information Policy also found on the Trust's website.
- 1.3.** The Trust is committed to being open and transparent about how it collects and uses information necessary to function as an Academy Trust which is defined in this policy as well as the Publication Scheme also available on the Trust website.

2. Scope and Principles

- 2.1.** The Freedom of Information Act 2000 (FOIA) joins the UK General Data Protection Regulations and the Environmental Information Regulations as legislation providing the public with rights enabling them to request information from the Trust.
- 2.2.** Under the FOIA, any person has a legal right to ask for access to information held by the Trust. They are entitled to be told if the Trust holds the information or not and to receive a copy of held information, subject to certain exemptions. The Trust is obliged to provide advice and assistance to applicants making requests under the FOIA.
- 2.3.** The Act is fully retrospective, so historic records held by the Trust holds are covered. The Trust has a Retention Schedule based on that recommended by the Information & Records Management Society of Great Britain (IRMS), which provides guidance as to how long the Trust should keep records.
- 2.4.** Requests received under the FOIA may be addressed to any employee of the Trust or its academies. However, staff receiving these requests should refer them to the Data Protection Officer (DPO) via the email address DPO@archwaytrust.co.uk who will assess whether the request falls under FOIA, how it is to be dealt with and by whom.
- 2.5.** For request that include personal data or environmental information; these elements will be handled under GDPR or EIR.
- 2.6.** The Trust has a duty to respond to all requests made under FOIA, informing applicants whether or not information is held and supplying relevant information subject to exemptions.
- 2.7.** The FOIA does not provide for the Trust to create new information in order to respond to a request. Compiling data from multiple held sources however is expected where possible to extract requested information and present it in the form of a list or schedule for example.

3. Environmental Information Requests

3.1. Requests relating to the environment – such as land, air, natural environment, flora and fauna and any factors or measures relevant to these topics are covered by the Environmental Information Regulations. The EIR also applies to Health and Safety. For example, queries about chemicals used in the Trust, its Academies or on Academy land, phone masts, car parks etc. would all be covered by the EIR.

3.2. Requests under EIR are dealt with in the same way as those under FOI, but unlike FOI requests, they can be made verbally and any such request should be directed to the Data Protection Officer.

4. Data Protection Officer

4.1. We are required to appoint a Data Protection Officer (“DPO”) for Archway Learning Trust. Our DPO can be contacted at DPO@archwaytrust.co.uk.

4.2. The DPO is responsible for ensuring compliance with data protection legislation and this policy. For queries about this policy or if concerned that the policy has not been followed, such queries should be referred in the first instance to the DPO.

5. Conditions of processing

5.1. The Trust will process valid FOI requests as per this policy; a valid request under FOI must:

5.1.1. Be in writing, which includes letter, email or fax;

5.1.2. State the applicant’s name and correspondence address (email address is valid);

5.1.3. Describe requested information with enough detail to identify and locate the information; *and*

5.1.4. Not be covered by another piece of legislation;

5.2. Is the request vexatious or manifestly unreasonable or repeated? The FOIA confirms there is no obligation to comply with vexatious requests meaning requests designed to disrupt, harass or cause expense rather than obtain information and where processing would involve substantial diversion of resources or would otherwise undermine the work of the Trust. The Trust does not have to comply with repeated identical or substantially similar requests from the same applicant unless a reasonable interval has elapsed between requests.

5.3. Could a third party’s interests be affected by disclosure? Consultation of third parties is required if their interests may be affected by the release of information and where consultation may influence disclosure. The Trust does not need to consult where applying an exemption to withhold information relevant to third party interests. Consultation is needed where:

5.3.1 Disclosure 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;

5.3.2 Third party views may assist in determining whether data is exempt from disclosure; or

5.3.3 Third party views may assist the Trust in determining public interest related to disclosure.

6. Handling requests

6.1. The Trust has an obligation to respond to requests promptly and to fulfil the request within 20 working days after it is acknowledged and made 'live' counting the first working day after the request is received as the first day of this time period and not counting working days that are not a school day in relation to academies.

6.2. In cases where the Trust is unable to respond to a request due to ambiguity or lack of clear meaning, clarification will be sought from the applicant. Where the applicant has been asked for clarification, the 20 day time period will start from the date the necessary clarity is gained. Assistance will be provided to the applicant where the Trust requires clarification.

6.3. In cases where a qualified exemption applies and the Trust needs more time to consider public interest in disclosure, it will reply within the prescribed time limit to explain that an exemption may apply and include a date by which a decision on the public interest test will be made. This should be done in a "reasonable" time, specifically within an additional 20 working days.

6.4. Where the Trust notifies an applicant about a charges applying, such as in response to photocopying, printing and/or postage; the time period stops until payment is received.

7. Exemptions

7.1. There are two categories of exemptions. Specifically **Absolute** and **Qualified**:

7.2. Absolute exemptions apply where there is no requirement to confirm or deny whether information is held or consider a public interest test. Absolute exemptions relevant to the Trust are:

7.2.1 Information accessible by other means (section 21) - If information is reasonably available to an applicant without needing to make an FOI, it is exempt information. This applies even if an applicant would have to pay for the information via the alternative route. This exemption includes information requiring disclosure via other legislation or where information is available via the Publication Scheme;

7.2.2 Court records (section 32) - Where information is held in relation to court proceedings or a particular matter relating to the court this will be exempt;

7.2.3 Personal information (section 40) - Where an applicant asks for information about an individual, this is exempt and is covered under GDPR. If a request is made for a document which contains personal information whose release to a third party would breach the UK GDPR legislation, the document may be disclosed with redactions applied to the relevant personal information;

7.2.4 Information provided in confidence (section 41) – Where information is given by a legal entity and disclosure would constitute a breach of confidence actionable in court by that legal person;

7.2.5 Prohibitions on disclosure (section 44) – Information is exempt where disclosure would constitute or lead to punishment as a contempt of court;

7.3. Qualified exemptions require the Trust to consider the public interest in disclosure of requested information. Exemptions relevant to the Trust are:

7.3.1 Information intended for future publication (section 22) - Where requested information is held with a view to publish, it may be exempt where 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;

7.3.2 Investigations and proceedings conducted by public authorities (section 30) - Information is exempt if it has been held at any time for the purposes of criminal investigations or proceedings, such as determining whether a person should be charged with an offence, whether a charged person is guilty or investigations that may lead to a decision to initiate criminal proceedings. The duty to confirm or deny does not apply to such information;

7.3.3 Law enforcement (section 31) - Information not exempt under section 30 may be exempt in the event that disclosure would, or would be likely to, prejudice:

- The prevention or detection of crime;
- The apprehension or prosecution of offenders;
- The administration of justice;
- Exercises to determine if a person has broken the law or is responsible for misconduct, whether circumstances justify regulatory action, ascertaining a person's professional competence or to ascertain the cause of an accident;
- Any civil proceedings brought by or on behalf of the Trust which arise out of an investigation carried out for any of the purposes mentioned above.

This list is not exhaustive and the duty to confirm or deny does not arise where prejudice would result to any of these matters.

7.3.4 Health and Safety (section 38) - Information is exempt if disclosure would be likely to endanger the safety, physical or mental health of any individual. The duty to confirm or deny does not arise where prejudice would result;

7.3.5 Environmental information (section 39) - Information is exempt under FOIA where relevant to the Environmental Information Regulations;

7.3.6 Legal professional privilege (section 42) – applies to advice given by legal advisers, solicitors or barristers as generally classed as privileged advice. If the Trust intends to disclose advice it will seek consent from the adviser. The exemption covers all information in which 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;

7.3.7 Commercial interests (section 43) - Information is exempt if relevant to trade secrets as per s.43 (1) or where likely to prejudice the commercial interests of any person or body as per s.43 (2) including the Trust. The duty to confirm or deny does not arise where commercial interests are prejudiced as per s.43.2.

7.4. For exempt information within documents requiring disclosure the Trust will redact or remove information. An explanation of exemptions relevant to FOI requests will be provided at the point of response and in the case of qualified exemptions, how the public interest test has been considered.

7.5. If a document is sought in a specific format; the Trust will attempt to apply redactions to reduce changes to the document itself and so that exempt information is evident by the redaction marks applied.

7.6. Personal information requested by the data subject is exempt under the FOI Act as such requests are covered by the GDPR. Individuals must seek a 'subject access request' where seeking access to information about themselves.

8. Public Interest Test

8.1. For "qualified" exemptions the Trust must consider whether the public interest in disclosing information outweighs the interests in maintaining an exemption.

8.2. Factors relevant to public interest considerations include:

For Disclosure	Against Disclosure
Is disclosure likely to increase access to information held by the Trust?	Is disclosure likely to distort public reporting or be misleading because it is incomplete?
Is disclosure likely to promote public understanding in how decisions affect them or assist in challenging these decisions?	Is premature disclosure likely to prejudice fair scrutiny, or disclose sensitive issues on the internal agenda as an emerging topic?
Is disclosure likely to promote transparency of the Trust in its use of public funds and to help 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 jeopardise the Trust'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. GDPR legislation?
Is disclosure likely to bring to light information affecting public safety?	Is disclosure likely to impact the Trust's function and discourage open expression?
Is disclosure likely to reduce further enquiries on the topic?	Is disclosure likely to shed more light on a topic or serve any useful purpose?

8.3. The Trust will record Public Interest considerations and rationale for decision making and will determine the weight of relevant factor in each case to make an overall assessment.

9. Charges

9.1. The Trust is not required to comply with request for information where the cost to comply is estimated to exceed the cost limit (currently £450). The first step therefore is to determine if the cost limit would be exceeded.

9.2. Staff costs are calculated at £25 per hour, regardless of the staff member assigned to undertake this work. The cost limit will be exceeded if more than 18 work hours are required. The Trust can take into account the time taken to determine if information is held, time needed to locate and retrieve information and/or extract the information from systems. However the Trust cannot take into account any time needed to determine whether information is exempt.

10. Individual responsibilities

- 10.1.** The Chief Executive of the Trust is responsible for ensuring compliance with the FOIA.
- 10.2.** The day to day responsibility for compliance with the FOIA has been delegated to the Trust's Data Protection Officer (DPO).

11. Complaints

- 11.1.** Where the Trust receives a complaint in relation to its handling of FOI requests, these will be managed by the Data Protection Officer (DPO) who will investigate how the request was managed. The DPO will make a decision on whether the request has been appropriately completed or, in cases where a request is refused, the basis on which refusal has been made.
- 11.2.** Decision making in response to complaints will be communicated to the complainant within 20 working days from the complaint being received. Where the Trust's response 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:

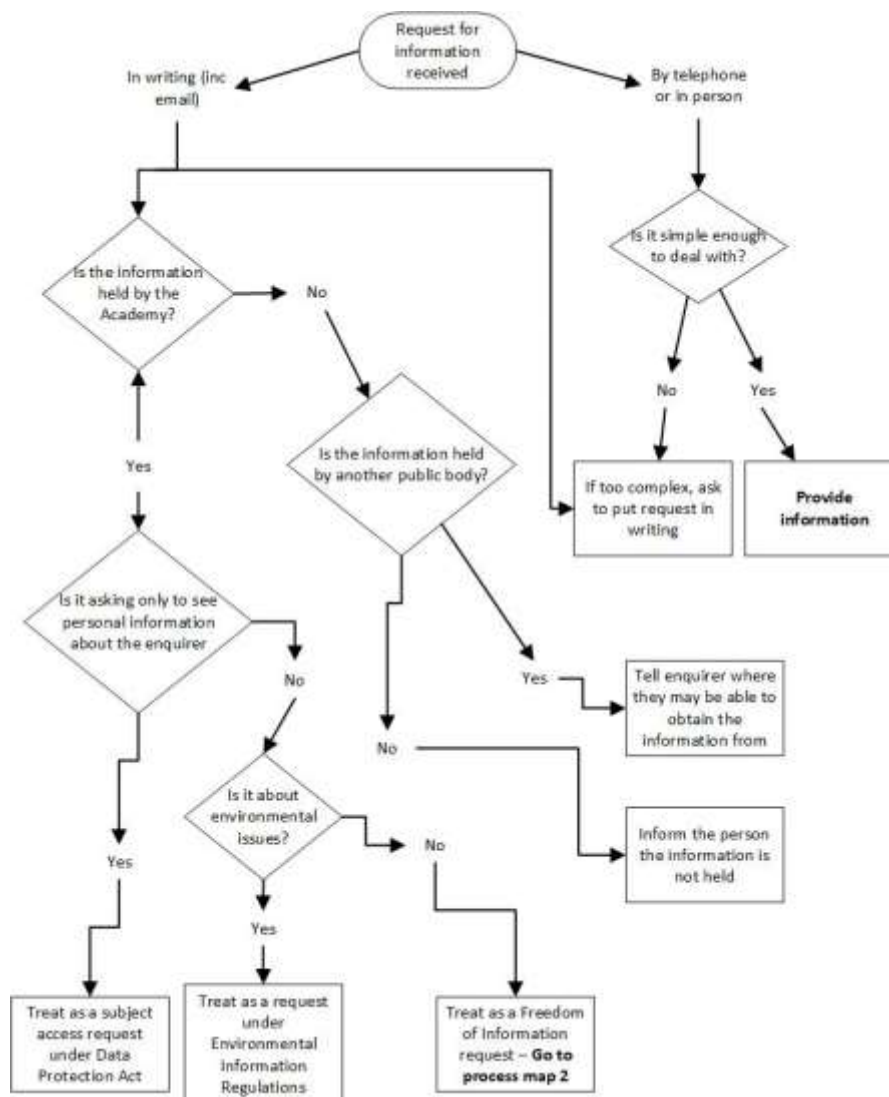
FOI/EIR Complaints
Resolution, Information
Commissioner's Office
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF

12. Publication scheme

- 12.1.** As a public authority, the Trust is committed to complying with the Freedom of Information Act 2000, the Environmental Information Regulations 2004, principles of accountability and the public's general right of access to information, subject to exemptions defined in law.
- 12.2.** Information which is routinely made available for public view is included in the Trust's Publication Scheme.
- 12.3.** The Publication Scheme and the materials it covers will be readily available from the Trust's website.

Appendices:

1. PROCESS MAP FOR RECEIVING REQUESTS FOR INFORMATION



Note: Verbal requests for information which fall under the Environmental Information Regulations will be accepted. However applicants will be asked to put them in writing if their request is unclear. Requests under the DPA and FOIA must be in writing.

2. PROCESS MAP FOR HANDLING FOI ENQUIRIES

