



## FREEDOM OF INFORMATION POLICY

As an educational provider, the Willow Learning Trust (WLT) has an obligation to publish a freedom of information statement, outlining how we will meet our duties under the Freedom of Information Act 2000 and associated regulations.

This policy outlines:

- How the WLT will respond to requests from individuals for access to information held about them.
- The WLT's policy and procedures for the release and publication of private data and public records.
- The WLT's policy and procedures for providing applicants with advice and assistance throughout the duration of their requests.

It also clarifies our position regarding the appropriate limit to the costs incurred by the WLT in obtaining any requested information, and on charging fees for its provision.

### 1. Legal framework

This policy has due regard to the following legislation:

- The General Data Protection Regulation (2018)
- The Freedom of Information Act 2000
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

This policy also has due regard to guidance, including, but not limited to, the following:

- ICO 'Model publication scheme' 2018
- ICO 'Duty to provide advice and assistance (section 16)' 2016

This policy will be viewed in conjunction with the following other WLT policies

- Data Protection Policy

### 2. Accepting requests for information

Requests under FoI can be addressed to anyone in the Trust; all staff need to be aware of the process for dealing with requests. All requests need to be forwarded to [DPOfficer@glenthorne.sutton.sch.uk](mailto:DPOfficer@glenthorne.sutton.sch.uk) or to FOI, c/o the Data Protection Officer, Willow Learning Trust, Glenthorne High School, Sutton Common Road, Sutton, SM3 9PS and not dealt with at a local level. Requests 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. The exemptions are listed in Appendix 1.

Requests for personal data are still covered by the GDPR. 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.

The FoI Act joins the General Data Protection Regulation (GDPR) 2018 and the Environmental Information Regulations as legislation under which anyone is entitled to request information from the Trust. Requests for personal data are still covered by the GDPR. 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, its Academies 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. All requests should be directed to the Trust DPO. If any element of a request to the Trust includes personal or environmental information, these elements must be dealt with under GDPR or EIR. Any other information is a request under FoIA, and must be dealt with accordingly.

The WLT will only accept a request for information which meets all of the following criteria:

- It is in writing
- It states the name of the applicant and an address for correspondence
- It describes the information requested

A request will be treated as made in writing if it meets all of the following requirements:

- It is transmitted by electronic means
- It is received in legible form
- It is capable of being used for subsequent reference

### **3. Publication scheme**

The WLT will meet its duty to adopt and maintain a publication scheme, which specifies the information which it will publish, on the WLT schools' websites, and whether the information will be available free of charge or on payment. The information will also include contact details to assist applicants with their requests.

### **4. General right of access to information held by the WLT**

Provided that the request complies with section 2 of this policy, the WLT will, no later than 20 school days from receipt of the request, comply with its duty to:

- Confirm or deny to any person making a request for information to the WLT, whether it holds information of the description specified in the request.
- Provide the documentation, if the WLT confirms that it holds the requested information.

The WLT will not comply with its duties as detailed above where:

- The WLT reasonably requires further information to meet a freedom of information request, has informed the applicant of this requirement, but was not subsequently supplied with that further information.
- The information 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.
- A request for information is exempt under section 2 of the Freedom of Information Act 2000.
- The cost of providing the information exceeds the appropriate limit.
- The request is vexatious.
- The request is a repeated request from the same person made within 60 consecutive working days of the initial one.

- A fee notice was not honoured.

Where information is, or is thought to be, exempt, the WLT will, within 20 working days, give notice to the applicant which:

- States the fact.
- Specifies the exemption in question.

The information provided to the applicant will be in the format that they have requested, where possible. Where it is not possible to provide the information in the requested format, the WLT will assist the applicant by discussing alternative formats in which it can be provided. If, under relevant disability and discrimination regulations, the WLT is legally obliged to provide the information in other forms and formats, it will do so.

## **5. The appropriate limit**

The WLT will not comply with any freedom of information request that exceeds the statutorily imposed appropriate limit of £450.

When determining whether the cost of complying with a freedom of information request is within the appropriate limit, the WLT will take account only of the costs reasonably expected to incur in relation to:

- Determining whether it holds the information.
- Locating the information, or a document which may contain the information.
- Retrieving the information, or a document which may contain the information.
- Extracting the information from a document containing it.
- Converting the information into any requested format.

Costs related to the time spent by any person undertaking any of the activities outlined in of this policy on behalf of the WLT, are to be estimated at a rate of £25 per person per hour.

Where multiple requests for information are made to the WLT within 60 consecutive working days of each other, either by a single person or by different persons who appear to be acting in collusion, the estimated cost of complying with any of the requests is to be taken to be the total costs to the WLT of complying with all of them.

## **6. Charging fees**

The WLT may, within 20 school days, give an applicant who has requested information from the WLT, a written notice stating that a fee is to be charged for the WLT's compliance.

Charges may be made for disbursements, such as the following:

- Photocopying;
- Postage and packaging;
- Costs directly incurred as a result of viewing information.

Fees charged will not exceed the total cost to the WLT of:

- Informing the person making the request whether we hold the information.
- Communicating the information to the person making the request.
- Providing the information in a requested format.

Where a fee is to be charged, the WLT will not comply with section 3 of this policy unless the requested fee is paid within a period of three months, beginning with the day on which the fees notice is given to the applicant. The WLT will not take into account any costs which are attributable to the time spent by persons undertaking any of the activities mentioned above.

When calculating the 20<sup>th</sup> working day in which to respond to a freedom of information request, the period beginning the day on which the fee notice is given to the applicant and ending with the day on which the fee is received, will be disregarded.

## **7. Means by which communication is to be made**

Where, on making a request for information, the applicant expresses a preference for communication by any one of the following means, the WLT will, as far as is practicable, give effect to that preference:

- The provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant.
- The provision to the applicant of a reasonable opportunity to inspect a record containing the information.
- The provision to the applicant of a digest, or summary of the information, in permanent form or in another form acceptable to the applicant.

## **8. Providing advice and assistance**

The WLT will meet its duty to provide advice and assistance, as far as is reasonable, to any person who proposes to make, or has made, requests for information to the WLT.

The WLT may offer advice and assistance in the following circumstances:

- If an individual requests to know what types of information the WLT holds and the format in which it is available, as well as information on the fees regulations and charging procedures.
- If a request has been made, but the WLT is unable to regard it as a valid request due to insufficient information, leading to an inability to identify and locate the information.
- If a request has been refused, e.g. due to an excessive cost, and it is necessary for the WLT to assist the individual who has submitted the request.

The WLT will provide assistance for each individual on a case-by-case basis; examples of how the WLT will provide assistance include the following:

- Informing an applicant of their rights under the Freedom of Information Act 2000
- Assisting an individual in the focus of their request, e.g. by advising of the types of information available within the requested category
- Advising an applicant if information is available elsewhere and how to access this information
- Keeping an applicant informed on the progress of their request
- Where there is an intention to publish the information in the future, the WLT will advise the applicant of when this publication is expected.
- If the request is not clear, the WLT will ask for more detail from the applicant in order to identify and locate the relevant information, before providing further advice and assistance. If the WLT is able to clearly identify the elements of a request, it will respond following usual procedures and will provide advice and assistance for the remainder of the request.
- If an applicant decides not to follow the WLT's advice and assistance and fails to provide clarification, the WLT is under no obligation to contact the applicant again.
- If the WLT is under any doubt that the applicant did not receive the advice and assistance, the WLT will re-issue it.

In order to provide assistance as outlined above, the WLT will engage in the following good practice procedures:

- Make early contact with an individual and keep them informed of the process of their request.

- Accurately record and document all correspondence concerning the clarification and handling of any request.
- Give consideration to the most appropriate means of contacting the applicant, taking into account their individual circumstances.
- Discuss with the applicant whether they would prefer to receive the information in an alternative format, in cases where it is not possible to provide the information requested in the manner originally specified.
- Remain prepared to assist an applicant who has had their request denied due to an exemption.

The WLT will give particular consideration to what level of assistance is required for an applicant who has difficulty submitting a written request.

In circumstances where an applicant has difficulty submitting a written request, the WLT will:

- Make a note of the application over the telephone and then send the note to the applicant to confirm and return – the statutory time limit for a reply would begin here.
- Direct the individual to a different agency that may be able to assist with framing their request.

**NB.** This list is not exhaustive and the WLT may decide to take additional assistance measures that are appropriate to the case.

## 9. Complaints

Any comments or complaints will be dealt with through the Trust's normal Complaints Procedure which is published on its website and on the websites of all its Academies. This sets out the complaints procedure and the timelines for dealing with and replying to complaints.

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 made in writing to the Information Commissioner's office. They can be contacted at:

<http://ico.org.uk/complaints>  
Helpline: 0303 123 111

## 10. Monitoring and review

This policy will be reviewed every 2 years, or in light of any changes to relevant legislation, by the Executive Headteacher and the Data Protection Officer.

The next scheduled review date for this policy is **May 2025**.

## Appendix 1

### Exemptions

Although decisions on disclosure should be made on a presumption of openness, the FOI Act recognises the need to preserve confidentiality and protect sensitive material in some circumstances.

A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry. Some are very specialised in their application (such as national security) and would not usually be relevant to schools. There are more than twenty exemptions, but the Trust/Academies are likely to use only a few of them.

There are two general categories of exemptions:

- **Absolute:** where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest; and
- **Qualified:** where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.

Full details of the exemptions can be found at the following website:

<https://www.legislation.gov.uk/ukpga/2000/36/contents>

There are eight absolute exemptions listed in the Act. Even where an absolute exemption applies:

- it does not mean that you can't disclose in all cases; it means that disclosure is not required by the Act. A decision could be taken to ignore the exemption and release the information taking into account all the facts of the case.
- there is still a legal obligation to provide reasonable advice and assistance to the enquirer.

Those which might be relevant to the Trust/Academies are detailed below:

- Information accessible to the enquirer by other means (Section 21)  
If information is reasonably accessible to the applicant by another route than the Act, it is exempt information. This is the case even if the enquirer would have to pay for the information under that alternative route. This exemption includes cases where you are required to give information under other legislation, or where the information is available via the Publication Scheme.
- Personal information (Section 40)  
Where enquirers ask to see information about themselves, this is exempt under the Act because it is covered by the GDPR. Consult your existing Trust/Academy Data Protection Policy.
- Information provided in confidence (Section 41)  
This relates to information obtained from a person if its disclosure would constitute a breach of confidence actionable by that, or another person.
- Prohibitions on disclosure (Section 44)  
Information is exempt where its disclosure is prohibited under any other legislation by order of a court or where it would constitute a contempt of court or where it is incompatible with any obligation.

With qualified exemptions, even if it is decided that an exemption applies, there is a duty to consider the public interest in confirming or denying that the information exists and in disclosing information.

The qualified exemptions which might be relevant to the Trust/Academies are listed below:

- Information intended for future publication (Section 22)  
If at the time the request was made, information is held with a view to publication, then it is exempt from disclosure if it is reasonable that it should not be disclosed until the intended

date of publication. This could apply, for instance, to statistics published at set intervals, for example annually or where information is incomplete, and it would be inappropriate to publish prematurely. Remember, you still have a legal duty to provide reasonable advice and assistance.

- Investigations and proceedings conducted by public authorities (Section 30)  
Information is exempt if it has at any time been held by the Trust/Academies for the purposes of criminal investigations or proceedings, such as determining whether a person should be charged with an offence or whether a charged person is guilty or investigations which may lead to a decision to institute criminal proceedings. The duty to confirm or deny does not apply to such information.
- Law enforcement (Section 31)  
Information which is not exempt under Section 30 Investigations and Proceedings, may be exempt under this exemption in the event that disclosure would, or would be likely to, prejudice the following among others:
  - the prevention or detection of crime
  - the apprehension or prosecution of offenders
  - the administration of justice
  - the exercise of functions such as ascertaining if a person has broken the law, is responsible for improper conduct, whether circumstances justify regulatory action, ascertaining a person's fitness or competence in relation to their profession, ascertaining the cause of an accident or protecting or recovering charities or its properties
  - 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.

The duty to confirm or deny does not arise where prejudice would result to any of these matters.

- Communications with the King (Section 37)  
Information is exempt if it relates to communications with the King, the Royal Family or Royal Household or if it relates to the award of honours. The duty to confirm or deny does not arise where this exemption applies.
- Health and Safety (Section 38)  
Information is exempt if its disclosure would, or would be likely to, endanger the safety or physical or mental health of any individual. The duty to confirm or deny does not arise where prejudice would result.
- Environmental information (Section 39)  
Information is exempt under FOI where it is covered by the Environmental Information Regulations. Environmental information can cover information relating to air, water, land, natural sites, built environment, flora and fauna, and health. It also covers all information relating to decisions or activities affecting any of these.
- Personal information (Section 40)  
Where an individual seeks information about themselves, GDPR powers apply. Where the information concerns a third party, it is exempt if its disclosure would contravene the GDPR, or its principles; or if the person to whom the information relates would not have a right of access to it because it falls under one of the exemptions to the GDPR. The duty to confirm or deny does not arise in relation to this information if doing so would be incompatible with any of the above.
- Legal professional privilege (Section 42)  
Legal professional privilege covers any advice given by legal advisers, solicitors and barristers. Generally, such information will be privileged. A school wishing to disclose the information will need to seek consent from the provider of the advice. This exemption covers all such information where 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.
- Commercial interests (Section 43)

Information is exempt if it constitutes a trade secret or would be likely to prejudice the commercial interests of any person or body (including the Academy). The duty to confirm or deny does not arise where prejudice would result to commercial interests but not where the information constitutes a trade secret.

In all cases, before writing to the enquirer, the person given responsibility for FOI by the Trust (the Trust DPO) will need to ensure that the case has been properly considered and that the reasons for refusal, or public interest test refusal, are sound.