



The Societas Trust

Freedom of Information Policy

Date of Policy	2019
Reviewed and Agreed by	The Directors' Board
Review Date	2 July 2020
Next Review Date	Summer 2021

It is the responsibility of the Directors' Board to ensure procedures are in place to ensure that The Societas Trust and its academies ("The Trust") handle information requests covered by the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR) in accordance with the provisions laid out therein and that the Trust satisfies the standards set out in the Lord Chancellor's Code of Practice on satisfying public authorities obligations under the FoIA, produced under section 45 of that Act.

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1 Introduction

The Societas Trust is committed to transparency in its dealings with the public and fully embraces the aims of the following legislation which is regulated by the Information Commissioners Office (ICO)

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

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.

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

- Cabinet Office (2018) Freedom of Information Code of Practice
- ICO (2013) Definition document for the governing bodies of maintained and other state-funded schools in England”
- ICO (2015) Model Publication Scheme
- ICO (2016) Duty to provide advice and assistance (section 16)
- ICO (2015) Time limits for compliances under the Freedom of Information Act (Section 10)

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.

Separate guidance, in the form of operating procedures, has been given to staff in the staff handbook on how to handle information requests received under the FoIA regime

2 Background

The FoIA applies to all public authorities and came fully into force on 1st January 2005. It provides the public with a statutory right of access to recorded information held by authorities, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1st January 2005. Section 19 of the Act also obliges the Trust to make information pro-actively available in the form of an approved “publication scheme”.

In addition, individuals currently have a statutory right of access to their own “personal data” under the GDPR Data Protection Act by making a subject access request. Individual access rights to personal data are extended by the FoIA through amendments to the access provisions of the GDPR.

The EIR provides a statutory right of access to “environmental information”, as defined in these regulations. The EIR came into force on 1st January 2005 and replaces the existing 1992 Regulations. The EIR are also fully retrospective.

The Government’s Information Commissioner enforces these three information regimes as set out in the DPA 2018.

Each regime contains certain categories of exempt information, where information can be withheld. Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this policy, the “public” is defined as any individual or organisation anywhere in the world and an “information request” refers to any request for recorded information made under the FoIA, EIR or DPA.

3 Timescales

Freedom of Information requests should be dealt with within 20 working days, excluding school holidays. In contrast, Requests under the GDPR Data Protection (subject access requests) should be dealt with within 30 calendar days. This deadline can be extended by a further 2 months where there are a number of requests or the request is complex. In this case, the individual making the request should be contacted within a month of receipt of the request explaining why the extension is necessary.

Requests for pupil education records should be dealt with within 15 Trust days.

Where a fee is charged, the timeframe within which the school has to respond to the request begins from the day the fee is received.

4 Delegated responsibilities

Overall responsibility for ensuring that the Trust meets the statutory requirements of the FoIA, EIR and DPA 2018 lies with the Data Protection Officer, Mr J Lovatt, CEO. This responsibility is delegated to the Governors and the Chair of Governors has overall responsibility for information management issues at academy level. They in turn delegated the day-to-day responsibility of implementation to the headteacher/principal.

The **headteacher/principal** is assisted by **(name of staff)** who currently fulfils the role of ‘Fol officer’. They can be contacted on **another@Trust.org.uk**. All academy staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the Fol officer where necessary.

5 Scope

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

This policy does not cover personal written communications (such as personal e-mails sent by staff). The Trust’s GDPR Data Protection Policy establishes the standards regarding the use of “personal data” (as defined in the Data Protection Act 2018).

6 Requesting information

6.1 Procedures

Practical procedures for handling information enquiries in line with the relevant legislation will be produced and copies can be obtained from the academy's FoI Officer.

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

- It is in writing – a request will be treated as made in writing if it is
 - a) Transmitted by electronic means
 - b) It is received in legible form
 - c) It is capable for being used for subsequent reference
- It states the name of the applicant, not a pseudonym and an address for correspondence
- It adequately describes the information requested
- Where a request is submitted in a foreign language, the Trust will not obtain a translation of the request. The applicant will need to provide their request in English

The Trust has a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information. Although no such duty exists under the Data Protection Act 2018, the same level of care will be provided.

6.2 Charges

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

6.3 Publication

Section 19 of the FoIA obliges the Trust to make information pro-actively available in the form of a "publication" scheme. The Trust has adopted the Model publication scheme provided by the ICO. This applies to all its academies and can be found on the Trust's website (see FoI Publication Scheme).

The Trust plans to review this scheme regularly. Whenever any information is provided in response to a recorded FoIA enquiry, the Trust will assess whether the

information is suitable for wider publication. In general, there will be a presumption in favour of publishing such information on the Trust's website.

7 Withholding Information

The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories; absolute and non-absolute. The Trust will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, the Trust can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where the Trust decides that the public interest is best served by withholding the information. Certain exemptions also contain a "prejudice test", which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

The Trust will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption.

The Trust will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a "public interest" exemption is being considered, the Trust will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption the Trust will take into account whether the release of the information would:

- promote further understanding of current issues of public debate;
- promote the accountability of decisions taken by the Trust and the spending and allocation of public money;
- bring to light matters of public safety;
- allows the public to understand and challenge decisions made by the Trust;
- be otherwise in the public interest.

Where information is withheld under an exemption in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision through the academy's Governing Body and the right of appeal to the Information Commissioner's Office.

Where a staff member plans to apply an exemption, he/she will consider whether other academies hold similar information. If this is considered likely, he/she may contact the relevant academy/ies to ensure that a consistent response is provided to the applicant.

The Trust will also refuse to supply information under the FoIA, where the request is considered "vexatious" or "repeated" and under the EIR, where the request is considered 'manifestly unreasonable'.

8 Releasing a third party's information

Where, in response to a request, information belonging to a third party (either an individual or other organisation) has to be considered for release, the staff member that received the request will seek input from the Fol officer prior to the release of the information.

The release of third party information will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the DPA. ,

When the requested information relates to a living individual and amounts to “personal data” as defined in the DPA, its disclosure could breach the DPA. Both the EIR and FoIA permit information to be withheld when its release would breach the “third party” provisions of the Data Protection Act 2018.

Where appropriate, the Trust will contact the individual to ask for permission to disclose the information. If consent is not obtained, either because it was not considered appropriate to approach the third party or the third party could not be contacted or consent is refused. The Trust will then consider if it is reasonable to disclose the information, taking into account:

- any duty of confidentiality owed to the third party
- the steps taken to seek consent
- whether the third party is able to give consent and
- any express refusal of consent

The decision to disclose third party information will also take into account the impact of disclosure on the third party, relative to the impact on the applicant of withholding the information. Where the third party has been acting in an official, rather than private capacity, the Trust will be minded to disclose the information, although decisions will be made on a case by case basis.

Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence the Trust’s decision whether to release the information. Where the information relates to a matter clearly private to the individual, e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. an expenses claim, the information will normally be released. The exemption relating to the release of a third party’s personal data will not be used to withhold information about administrative decisions taken by the Trust.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the FoI officer who will take advice from the Governing Body where necessary.

Where the third party is an organisation, rather than an individual, the provisions of DPA 1998 will not apply. The Trust will consider consulting the third party concerning the release of their information where:

- the views of the third party may assist the Trust to decide whether an exemption under the Act applies to the information and
- in the event of the public interest test being applied, where the views of the third party may assist the Trust to make a decision relating to where the public interest lies

Consultation will not be undertaken where:

- the Trust will not be disclosing the information due to some valid reason under the Act

- the Trust is satisfied that no exemption applies to the information and therefore cannot be withheld and
- the views of the third party will have no effect on the decision e.g. where there is other legislation preventing disclosure

Where input from a third party is required, the response time for the request remains the same. Therefore, it will be made clear to the third party at the outset that they have a limited time for their views to be provided and that where responses are not immediate, the decision to disclose may have to be made without their input in order for the Trust to comply with the statutory time limits dictated by the legislation.

The Trust will endeavour to inform individuals and organisations submitting information that the information might be released following an information request and, where appropriate, will provide the supplier of the information opportunity to request confidentiality or supply reasons as to why the information should be treated confidentially.

9 Information held within contracts with the Trust

Any contractual information, or information obtained from organisations during the tendering process, held by the Trust are subject to the provisions of the FoIA and EIR. Whenever the Trust enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation. A standard form of wording will be included in contracts to cover the impact of FoIA and EIR in relation to the provision of information held in contracts.

The Trust can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where the Trust intends to include non-disclosure provisions in a contract, it will agree with the contractor a schedule of the contract that clearly states which information should not be disclosed.

The Trust will only agree to enter into confidentiality clauses where the information is confidential in nature and that it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FoIA may be relevant, relating to commercial interests. This exemption is subject to a “public interest” test. Whenever the Trust has to consider the release of such information, it will contact the relevant organisation to obtain its opinions on the release of the information and any exemptions they may think relevant. However, the Trust will make the final decision relating to the disclosure of the information.

The Trust can also withhold information contained in contracts where any of the other exemptions listed in the FoIA or EIR are appropriate, although information will only be withheld in line with the Trust’s policy on the use of exemptions. All future contracts should contain a clause obliging contractors to co-operate fully and in a timely manner where assistance is requested in responding to an FoIA or EIR request.

10 Complaints procedure

Whenever the Trust withholds information under an exemption, or for any other reason, it will inform the applicant of their right to complain about the decision through the Trust’s complaints procedure and of the right of appeal to the Information Commissioner. Any

complaint received will be dealt with in accordance with the Trust's complaints procedure as detailed in its Complaints Policy. If the result of the complaints is that any decision to withhold information be overturned, this information will be supplied as soon as it is possible.

11 Requests made under the Data Protection Act 2018

The Data Protection Act 2018 entitles an individual to his or her 'personal data', as defined in that Act, where the information is held on an automated system, such as a computer and also manual files, where they amount to what the DPA describes as an "accessible record" or in a structured filing system, defined in the DPA as a "relevant filing system".

The parental right to receive information pertaining to the "educational record" of their child should continue to be administered under the Education (Pupil Information) (England) Regulations 2000. Whenever a request for personal data is received and is not covered by these regulations, the request will be administered in accordance with the relevant section of **the academy's FoIA operating procedures / this policy (delete as appropriate).**

Whenever a request is made under the DPA for personal data, the Trust will provide the applicant with the relevant information contained within files relating to that individual that is accessible under both the DPA and FoIA, subject to any exemptions.

Where it is not possible to remove third party information without rendering the response useless to the individual, the provision of third party information will be considered in line with section 7 of this policy regarding the disclosure of third party information.

The DPA contains the provision for numerous types of exemption. Therefore, whenever a member of staff is considering applying an exemption, he/she will seek the opinion of the FoI officer.

12 Illegal actions

It is a criminal offence under any of the three information regimes for members of staff to alter, deface or remove any record (including e-mails) following receipt of an information request. Both the FoIA and EIR contain specific provisions to make such action a criminal offence.

13. Review

This policy will be reviewed in line with the Trust Policy Review Register on an Annual basis

Further information can be found at:

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

14. Guide to Information

In compliance with the FOIA 2000, please find details of the type of information published and how the information can be obtained and associated costs attributed

Information to be published	How the information can be obtained	Cost
Class 1: Who we are and what we do		
Our organisational information, structures, locations and contacts	Hard copy or website	£
Who's who in the school	<u>School website: URL</u>	<u>Free</u>
Who's who on the governing board, and the basis of their appointment		
Articles of Association		
Contact details for the headteacher		
Contact details for the governing board		
The school prospectus		
The school's annual report		
The school's staffing structure		
School session times and term dates		
The school's address		
The school's contact details		
The school's email address		
The school website		
The names of key personnel		
Class 2: What we spend and how we spend it		
Our financial information concerning the school's projected and actual income and expenditure, procurement, contracts and financial audit – including the current and previous financial year	Hard copy or website	£
Annual budget plan and financial statements		
Capital funding		
Financial audit reports		
Details of expenditure items over £5000 including costs, supplier and transaction information		
Procurement and contracts the school has entered into, or information relating to information held by an organisation which has entered into procurement or contracts on the school's behalf, for example, the LA		

The Pay policy		
Staff allowances and expenses that can be incurred or claimed, with totals paid to individual senior staff members by reference to		
The staffing, pay and grading		
Governors' allowances that can be incurred or claimed, and a record of total payments made to individual governors		
Class 3: What our priorities are and how we are doing		
Our strategies and plans, performance indicators, audits, inspections and reviews	Hard copy or website	£
The school profile		
Performance data supplied to the government		
The latest Ofsted summary		
The latest Ofsted full report		
The latest post-inspection action plan		
The performance management policy and procedures		
The latest performance data		
The school's future plans		
The safeguarding and child protection policies and procedures		
Class 4: How we make decisions		
Our decision-making processes and records of the decision we have made – including the current year and the previous three years	Hard copy or website	£
Admissions policy		
Information pertaining to general admissions decisions		
The governing board and its committees' agendas and meeting minutes		
Class 5: Our policies and procedures		
Our current written protocols, policies and procedures for delivering our services and responsibilities	Hard copy or website	£
Charging and Remissions Policy	Website	
Code of Conduct for Governors	Website	
Code of conduct for Adults*	Website	
Complaints Policy	Website	
Confidential Reporting*	Website	

Data protection Policy GDPR	Website	
Data Retention Policy	Website	
Debt Recovery	Website	
Directors Allowances	Website	
Disciplinary Policy*	Website	
Entitlement for pupils with SEND	Website	
Equality	Website	
E Safety	Website	
Finance Policy and Procedures	Website	
Flexible Working Policy	Website	
Formal Meetings*	Website	
Freedom of Information Policy	Website	
FOI Publication Scheme	Website	
Grievance *	Website	
Health and Safety	Website	
Induction of Newly Qualified Teachers	Website	
Information Security	Website	
Investigations*	Website	
Local Government Pension Scheme Discretions	Website	
Long Service Award	Website	
Maternity Adoption and Paternity	Website	
Medical Conditions Policy	Website	
Mobile Phone and Camera Policy	Website	
Pay Policy*	Website	
Preventing Extremism and Radicalisation Safeguarding (Stoke LA)	Website	
Professional Learning Framework	Website	
Pupil Attendance Policy**	Website	

Restrictive Physical Intervention**	Website	
Restrictive Physical Intervention Incident Report	Website	
Risk Management Policy	Website	
Safeguarding and Child Protection Staffordshire LA	Website	
Safeguarding and Child Protection Stoke LA	Website	
School Closures	Website	
Sex and Relationships Education	Website	
Social Networking*	Website	
Supporting Staff Attendance Procedure*	Website	
Teacher Appraisal*	Website	
Time Off	Website	
TU Recognition Agreement*	Website	
NB * denotes policies and procedures also reviewed on an annual cycle with the Trade Unions ** denotes policies and procedures that individual academies can either adopt or adapt		
Information about the services we offer including, leaflets, guidance and newsletters produced for the public and businesses – current information only	Hard copy or website (Some information may only be available by inspection)	£
Extra-curricular activities		
Out of school clubs		
Services for which the school is entitled to recover a fee (and details of the fees)		
School publications, leaflets, books and newsletters		
Additional information		

Schedule of charges

This schedule of charges provides a breakdown of how we have determined our charges.

Type of charge	Description	Basis of charge
Disbursement cost	Photocopying/printing charged at 10p per sheet (black and white)	The actual cost incurred by the school
	Photocopying/printing charged at 25p per sheet (colour)	The actual cost incurred by the school
	Postage	Actual costs of Royal Mail standard 2 nd class
Statutory fee		In accordance with the relevant legislation [Quote the actual statute.]
Other		

FOI Request Evidence Log					
Date of Request	Format – email or writing	Location – where is correspondence stored	Requester	Repeated Request? Yes/No	Comments

