FREEDOM OF INFORMATION (FOI) POLICY

Date Agreed:	**April 2025**
Review Date:	**April 2027**
Type of Policy:	**DCAT Non - Statutory Policy**

Revision Number	Date Issued	Prepared by	Approved	Personalised by school	Comments
5	April 2025	JS, JW, Handsam	Audit & Risk		Handsam (DPO) Reviewed Policy
4	May 2023	JS, JH Handsam			Handsam (DPO) Reviewed Policy
3	May 2021	DCAT	Trust Board		DPO/JUDICIUM
2	June 2020	CF	DC		JUDICIUM
1		SJP/DC	DCAT		DPO

Type of Policy	*Tick* ✓
DCAT Statutory Policy	
DCAT Non-statutory Policy	✓
DCAT Model Optional Policy	
Academy Policy	
Local Authority Policy	

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Introduction

Our **vision** for our Trust is we exist to:

Help every child achieve their God-given potential

Our **aims** are clear. We aim to be a Trust in which:

Developing the whole child means pupils achieve and maximise their potential

Continued development of staff is valued and improves education for young people

All schools are improving and perform above national expectations

The distinct Christian identity of each academy develops and is celebrated

Our work as a Trust is underpinned by shared **values**. They are taken from the Church of England's vision for Education and guide the work of Trust Centre team. They are:

Aspiration
I can do all things through Christ who strengthens me
(Philippians 4 vs 13).

Wisdom
Listen to advice and accept discipline, and at the end you will be counted among the wise
(Proverbs 19 vs 20)

Respect
So in everything do to others what you would have them do to you
(Matthew 7 vs 12)

Our vision of helping every child achieve their God-given potential is aligned with the Church of England's vision for education and is underpinned by the Bible verse from John: *I have come that they may have life, and have it to the full*.

1. Policy Aims

The Freedom of Information Act 2000 gives individuals the right to access official information from public bodies. Under the Act, any person has a legal right to ask for access to information held by the Trust or any of its Schools. They are entitled to be told whether the Trust holds the information, and to receive a copy, subject to certain exemptions. While the Act assumes openness, it recognises that certain information is sensitive. There are exemptions to protect this information.

Public Authorities should be clear and proactive about the information they will make public. For this reason, a publication scheme is available on the Trust website.

For staff members, this policy does not form part of any individual's terms and conditions of employment with the Trust and is not intended to have contractual effect.

This policy should be used in conjunction with the Trust's Data Protection Policy in addition to the list of related policies listed at the end of this policy.

The Trust is the registered Data Controller, however, most information requested through a Freedom of Information or Subject Access Request will be stored at School level and therefore the terms "Trust" and "School" should be interchangeable throughout this policy.

2. Requests

Requests under Freedom of Information should be made to dpo@dcat.academy. However, the request can be addressed to anyone in the Trust; so all staff need to be aware of the process for dealing with requests.

If the request relates to a single school or to multiple academies within the Trust, the responsibility for co-ordinating the request lies with the DPO. The Headteachers or the GDPR Lead within each school will be involved in the request and will also be required to provide information to the DPO.

To help us process your request please mark up any correspondence with ***'FREEDOM OF INFORMATION REQUEST'.***

Requests for information that are not data protection or environmental information requests will be covered by the Freedom of Information Act: -

2.1 Data Protection enquiries (or subject access requests) are requests where the enquirer asks to see what personal information the Trust/School holds about the enquirer. If the enquiry is a Data Protection request, the Trust's Data Protection Policy should be followed.

2.2 Environmental Information Regulations enquiries are those 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, School playing fields, car parking etc. If the enquiry is about environmental information, the Trust will follow the guidance on the Department for Environment, Food and Rural Affairs (DEFRA) website.

Freedom of Information requests to the Trust must be made in writing, (including email), and should include the real name of the applicant and correspondence address (email addresses are allowed), and state what information is required. There must be enough information in the request to enable the Trust to identify and locate the information. If this information is covered by one of the other pieces of legislation (as referred to above), it will be dealt with under the relevant policy/procedure related to that request. For further information please see the Information Commissioners Office (ICO) website – "What makes a request valid"

If the request is ambiguous and/or the Trust require further information to deal with your request, the Trust will request this further information directly from the individual making the request.

We will do our upmost to reply to any request promptly. In any case, we will meet the legally prescribed limit of 20 school days or 60 working days if this is shorter. The response time starts from the time the request is received. Where we need to ask you for more information to enable us to answer, the 20 days' start time begins when this further information has been received.

If a qualified exemption applies and we need more time to consider the public interest test, we will reply within the 20 days stating that an exemption applies and include an estimate of the date by which a decision on the public interest test will be made. Where we have notified you that a charge is to be made, the time period stops until payment is received.

If making a request, there is no requirement to mention the Act, nor to give a reason as to why the information is requested. The Trust has a duty to respond to all requests, telling the enquirer whether the information is held, and supplying any information that is held, except where exemptions apply. There is a time limit of 20 working days excluding school holiday periods for responding to the request.

3. Information

Provided all requirements are met for a valid request (which includes questions) to be made, the Trust will provide the information that it holds (unless an exemption applies). For further information please see the ICO's website – "Can a question be a valid request"

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

- That the Trust or School has created, or;
- That the Trust or School has received from another body or person, or;
- Held by another body on the Trust or School's behalf.

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

If the information is held by another public authority, such as the Local Authority, the Trust will first check with them they hold it, then transfer the request to them. If this applies, the Trust will notify the enquirer that they do not hold the information and to whom they have transferred the request. The Trust will continue to answer any parts of the enquiry in respect of information it does hold.

When the Trust does not hold the information, it has no duty to create or acquire it; just to answer the enquiry, although a reasonable search will be made before confirming whether the information requested is held by the Trust.

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

The requester has the right to be told if the information requested is held by the Trust (subject to any of the exemptions). This obligation is known as the Trust's "duty to confirm or deny" that it holds the information. However, the Trust does not have to confirm or deny if: -

- The exemption is an absolute exemption; or
- In the case of qualified exemptions, confirming or denying would itself disclose exempted information.

4. Vexatious Requests

There is no obligation on the Trust to comply with vexatious requests. A vexatious request is one 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 Trust or individual School.

In addition, the Trust do not have to comply with repeated identical or substantially similar requests from the same applicant unless a "reasonable" interval has elapsed between requests.

5. Fees

The Trust may charge the requester a fee for providing the requested information. This will be dependent on whether the staffing costs in complying with the request exceeds the "threshold." The threshold is currently £450 with staff costs calculated at a fixed rate of £25 per hour (therefore 18 hours' work is required before the threshold is reached).

If a request would cost less than the threshold, then the Trust will 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).

When calculating costs/threshold, the Trust can take account of the staff costs/time in determining whether the information is held by the Trust or School, locating and retrieving the information, and extracting the information from other documents. The Trust will not take account of the costs involved with considering whether information is exempt under the Act.

If a request would cost more than the appropriate limit, (£450) the Trust may turn the request down, answer and charge a fee or answer and waive the fee.

If you make a request and the Trust intends to make a charge, you will receive a notice of fees. The Trust will not comply with the request until the fee has been paid. More details on fees can be found on the ICO website.

If the Trust intends to turn down a request for cost reasons, or charge a high fee, it will contact the applicant in advance to discuss whether they would prefer the scope of the request to be modified so that, for example, it would cost less than the appropriate limit.

Where two or more requests are made to the Trust by different people who appear to be acting together or as part of a campaign, the estimated cost of complying with any of the requests may be taken to be the estimated total cost of complying with them all.

6. Time Limits

The Trust will ensure that compliance with a request will be prompt and within the time limit of 20 working days (excluding School holiday periods). The Trust recognises that a failure to comply could result in a complaint to the Information Commissioner. The response time starts from the time the request is received.

Where the Trust has asked the enquirer for more information to enable it to answer, the 20 working days' start time begins when this further information has been received.

If some information is exempt this will be detailed in the Trust's response.

If a qualified exemption applies and the Trust will need more time to consider the public interest test, the Trust will reply in 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 will be within a "reasonable" time.

Where the Trust has notified the enquirer that a charge is to be made, the time period stops until payment is received.

7. Third Party Data

Consultation with 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.

Consultation will be necessary where:

- 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;
- The views of the third party may assist the Trust to determine if information is exempt from disclosure; or
- The views of the third party may assist the Trust to determine the public interest test.

Personal information requested by third parties is also exempt under this policy where release of that information would breach the Data Protection Act. If a request is made for a document (e.g. Local Governing Body minutes) which contains personal information whose release to a third party would breach the Data Protection Act, the document may be issued by redacting out the relevant personal information as set out in the redaction procedure.

8. Exemptions

The presumption of the Freedom of Information Act is that the Trust will disclose information unless the Act provides a specific reason to withhold it. The Act recognises the need to preserve confidentiality and protect sensitive material in certain circumstances.

The Trust may refuse all/part of a request, if one of the following applies: -

1) There is an exemption to disclosure within the act;
2) The information sought is not held;
3) The request is considered vexatious or repeated, or;
4) The cost of compliance exceeds the threshold.

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 Academies.

There are two general categories of exemptions: -

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

9. Absolute Exemptions

There are eight absolute exemptions set out in the Act. However, the following are the only absolute exemptions which will apply to the Trust: -

- Information accessible to the enquirer by other means (for example by way of the Trust's Publication Scheme);
- National Security/Court Records;
- Personal information (i.e. information which would be covered by the Data Protection Act);
- Information provided in confidence.
- Information covered under Section 44 – prohibitions on disclosure

If an absolute exemption exists, it means that disclosure is not required by the Act. However, a decision could be taken to ignore the exemption and release the information taking into account all the facts of the case if the Trust felt necessary to do so.

10. Qualified Exemptions

If one of the below exemptions apply (i.e. a qualified disclosure), The Trust has a duty to consider the public interest in confirming or denying that the information exists and in disclosing information.

The qualified exemptions under the Act which would be applicable to the Trust are: -

- Information requested is intended for future publication (and it is reasonable in all the circumstances for the requester to wait until such time that the information is actually published);
- Reasons of National Security;
- Government/International Relations;
- Release of the information is likely to prejudice any actual or potential legal action or formal investigation involving the Trust/School;
- Law enforcement (i.e. if disclosure would prejudice the prevention or detection of crime, the prosecution of offenders or the administration of justice);
- Release of the information would prejudice the ability of the Trust/School to carry out an effective audit of its accounts, resources and functions;
- For Health and Safety purposes;
- Information requested is Environmental information;
- Information requested is subject to Legal professional privilege; and
- For "Commercial Interest" reasons.

Where the potential exemption is a qualified exemption, the Trust will consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.

In all cases, before responding to the enquiry, the Trust may seek specialist or legal advice to ensure that it complies with the Act, that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound.

11. Refusal

If it is decided to refuse a request, the Trust will send a refusals notice, which must contain:

- The fact that the responsible person cannot provide the information asked for;
- Which exemption(s) apply;
- Why the exemption(s) apply to this enquiry (if it is not self-evident);
- Reasons for refusal: and
- The Trust's complaints procedure.

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 will keep a record of all enquiries where all or part of the requested information is withheld and exemptions are claimed. The record will include the reasons for the decision to withhold the information.

12. Complaints / Appeals

Any written (including email) expression of dissatisfaction should be handled through the Trust's existing complaints procedure. Wherever practicable the review should be handled by someone not involved in the original decision.

The Trust Board 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.

If the outcome is that the Trust's original decision or action is upheld, then the applicant can appeal to the Information Commissioner. The appeal can be made via live chat or telephone call **0303 123 1113,** the ICO website or in writing to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113

13. Related Policies

Staff should refer to the following policies:

- Data Protection Policy
- CCTV Policy
- Privacy Notices