



FREEDOM OF INFORMATION POLICY

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Autumn 2017

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Autumn 2022



HENLOW CHURCH OF ENGLAND ACADEMY



FREEDOM OF INFORMATION POLICY

What is freedom of information?

A general right of access to information held by public authorities

The Freedom of Information Act came into force on 1st January 2000 and gives individuals and companies the right to ask public authorities whether they hold certain information and, if they do, the right to be given that information. FOIA does not deal with the collection and use of personal data, which is governed by the Data Protection Act 1998.

Who must disclose information?

All UK public authorities

FOIA applies to all public authorities in England, Wales and Northern Ireland. The list of public authorities that are subject to FOIA includes government departments, local authorities, educational institutions (including academies), publicly-owned companies and other public bodies.

What information is accessible under FOIA?

All information held by public authorities

The public may ask to see any information held by public authorities and it must be disclosed unless an exemption applies. Therefore, a wide variety of information is therefore accessible under FOIA, including contracts for the supply or purchase of goods or services, responses to regulatory enquiries and health and safety information as FOIA is retrospective, an applicant can ask to see any information that is held by Henlow Church of England Academy at the time of the request, even if it was obtained before FOIA came into force.

If a company holds information on behalf of Henlow Church of England Academy, that information is regarded as held by Henlow Church of England Academy and is subject to FOIA.

Henlow Church of England Academy may not disclose information if other legislation prohibits its release.

What information is exempt from disclosure?

FOIA sets out specific exemptions to the public right of access

The exemptions fall into two categories:

- **Absolute exemptions** – where the only question is whether the exemption applies.
- **Qualified exemptions** – where there is a duty to disclose the information, unless the public interest test applies. Under this test, Henlow Church of England Academy must consider whether, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In certain circumstances, an exemption will require Henlow Church of England Academy to neither confirm nor deny that it has the requested information. For example, if someone requests information about the number of complaints made about an individual, a response stating that information relating to the request is held but will not be disclosed will itself disclose personal information (that complaints have been made against the individual). Therefore, in these circumstances, the relevant exemption allows Henlow Church of England Academy to “neither confirm or deny” that it holds the information.

Common exemptions

The exemptions that need to be considered most often under FOIA are for:

- **Information accessible by other means:** Although the requirements to provide advice and assistance will mean that Henlow Church of England Academy will need to direct the applicant to the appropriate source of information. This exemption is absolute.
- **Information that relates to the formulation of government policy:** This exemption is only available to central government bodies. This exemption is qualified.
- **Information that, if disclosed, would inhibit the free and frank provision of advice or exchange of views within public authorities:** This exemption can only be applied by the “qualified person” at Henlow Church of England Academy.
- **Personal information that is subject to data protection law:** Although Henlow Church of England Academy may redact a document, so that it can be disclosed without the personal information.
- **Information supplied and held under a legal duty of confidence:** Where disclosure would constitute an actionable breach of confidence. This exemption is absolute.

- **Trade secrets and other commercially sensitive information:** Where disclosure is likely to prejudice the commercial interests of any person (including Henlow Church of England Academy itself). This exemption is qualified. In general, very strong arguments against disclosure are needed to justify this exemption when considering the public interest.

How must Henlow Church of England Academy comply with FOIA

Information must be disclosed within specified time limits

Henlow Church of England Academy must comply with a request within 20 working days of receiving it or, if the public interest test applies, within such time as is reasonable in the circumstances. Henlow Church of England Academy does not have to comply with a request, if the cost of doing so would exceed the “appropriate limit” specified by regulations.

Henlow Church of England Academy may refuse requests that are vexatious, for example, because they are frivolous or aimed at causing disruption or distress. Similarly, Henlow Church of England Academy does not have to respond repeatedly to the same or similar requests from an applicant.

How FOIA enforced and who can appeal?

The Information Commissioner enforces FOIA and promotes good practice

If Henlow Church of England Academy refuses to disclose the information requested, the applicant can appeal to the Information Commissioner. If he decides that Henlow Church of England Academy has failed to comply with FOIA, he can issue an enforcement notice requiring compliance if he considers it is in the public interest. The applicant or Henlow Church of England Academy may appeal to the Information Tribunal against the notice and appeals from the Tribunal to the High Court on points of law are also allowed. If Henlow Church of England Academy then fails to comply with an enforcement notice, the Information Commissioner may certify this failure to the court, who may deal with Henlow Church of England Academy as if it had committed a contempt of court.

Third parties have no right to appeal or be given notice of disclosure

Third parties who provide information to public authorities have no rights in the enforcement and appeal process under FOIA. They also have no right to receive notice before their information is disclosed. Contracts between public authorities and third parties will often provide for notice to be given and, where practical, the third parties' views to be taken into account.