



The Crypt School Freedom of Information Policy

Lead person:	Headmaster
Support persons:	Compliance Officer
Governing Body Committee:	Full Board of Trustees

1. Introduction and scope

The Crypt School is committed to transparency in its dealings with the public. The underlying principle of this policy is that the public have a right to access to recorded information held by the School and that the School should seek to promote an open regime regarding access to such information, subject to the exemptions contained within the relevant legislation. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

This policy applies to all recorded information held by the School that relates to the business of the School. This includes

- Information created and held by the School
- Information created by the School and held by another organisation on our behalf
- Information held by the School provided by third parties, where this relates to a function or business of the School (such as contractual information) and
- Information held by the School relating to Governors where the information relates to the functions or business of the School

This policy does not cover personal written communications (such as personal e-mails sent by staff) and individuals' statutory right of access to their own personal data under data protection legislation (this is addressed in the School's Data Protection Policy).

2. Legal background

The Freedom of Information Act 2000 (FOIA) places two main obligations on the School:

- To publish proactively information held by the School that falls within the classes of information set out in its publication scheme;
- To respond to requests for recorded information, subject to certain exemptions.

The Environmental Information Regulations 2004 (EIR) provides a statutory right of access to "environmental information", as defined in these regulations.

The Information Commissioner enforces these information regimes.

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.

3. Timescales

For schools, the statutory timescale for compliance with FoIA and EIR Requests will be whichever is the shorter period;

- 20 working days following the date of receipt, excluding any day which is not a school day (this effectively equates to a period of 20 school days); **or**
- 60 working days following the date of receipt.

A 'school' day will be any day on which there is a session and the pupils are in attendance.

'Working days' exclude school holidays and 'inset' or training days where the pupils are not present.

4. Responsibilities

Overall responsibility for ensuring that the School meets the statutory requirements of the FoIA and EIR lies with the Trustees. They have delegated the day-to-day responsibility of implementation to the Headteacher. The Headteacher is assisted by the Compliance Officer. All School staff are responsible for ensuring that they handle requests for information in compliance with the provisions of the relevant legislation, taking advice from the Compliance Officer where necessary.

5. Requests for information

5.1 Procedures

All FOI requests and draft responses must be seen by the Headmaster. The Compliance Officer will coordinate responses to FOI requests. The School 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.

5.2 Charges

The two information regimes contain different provisions that permit charges to be made for responding to information requests. The School may charge a fee for complying with requests, as calculated in accordance with FoIA regulations. If a charge is to be made, the School will give written notice to the applicant before supplying the information requested.

The School may only charge for the cost of copying and transmitting information, not for any staff time where the cost of compliance with the request falls below the statutory "cost limit" (see next paragraph). However, should the School decide to respond on a voluntary basis to a request that exceeds the cost limit, it can charge for the staff time needed to do so.

Where the School estimates that the cost of locating the information will exceed the statutory threshold or "cost limit" of £450, it will consider whether or not to comply with the request. The School is not obliged to comply with such a request but may choose to do so.

5.3 Publication

Section 19 of the FoIA obliges the School to make information pro-actively available in the form of a “publication scheme”. This scheme lists categories of information that will routinely be made available without the need for a specific information request. The School indicates in the scheme where it wishes to charge for providing particular categories of information. The scheme is published on the School’s website:

<https://www.cryptschool.org/parents/parents-hub/freedom-of-information>

Whenever any information is provided in response to a recorded FoIA enquiry, the School 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 School’s website.

6. Withholding Information

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

Where an absolute exemption applies, the School can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where the School 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 School 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 School 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 School 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 School 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 School 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 School;
- 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 School’s Complaints Procedure 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 schools hold similar information. If this is considered likely, he/she may contact the relevant school(s) to

ensure that a consistent response is provided to the applicant.

The School 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’.

7. 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 release will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the Data Protection Act 2018 (DPA). Both the EIR and FoIA permit information to be withheld when its release would breach the provisions of the Data Protection Act (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. Therefore the release of third party personal information relating to living individuals will be considered in accordance with the data protection principles and, in particular, the “third party” provisions of the DPA.

Where appropriate, the School 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 School 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 School 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 School’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 School.

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 Compliance Officer will take advice from the Headteacher and Governing Body where necessary.

Where the third party is an organisation, rather than an individual, the provisions of DPA 2018 will not apply. The School will consider consulting the third party concerning the release of their information where:

- the views of the third party may assist the School 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 School to make a decision relating to where the public interest lies

Consultation will not be undertaken where:

- the School will not be disclosing the information due to some valid reason under the Act
- the School is satisfied that no exemption applies to the information and therefore cannot be withheld; or
- 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 School to comply with the statutory time limits dictated by the legislation.

The School 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.

8. Information held within contracts with the School

Any contractual information, or information obtained from organisations during the tendering process, held by the School are subject to the provisions of the FoIA and EIR. Whenever the School enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation.

The School can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where the School 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 School 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 School 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 School will make the final decision relating to the disclosure of the information.

The School 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 School’s policy on the use of exemptions.

9. Use of Artificial Intelligence (AI) to make requests and vexatious requests

AI tools can be helpful, but they can also introduce errors or create overly complex requests that increase the burden on public bodies and cost to the taxpayer.

When using AI to help draft an information request to the School, requesters are politely asked to make sure the final wording has been checked and reflects actual information needs.

Using AI to draft requests may result in an increased volume of requests, repetition of requests or an inappropriate tone. The School may consider refusing a request under section 14 of the FOIA (provision for vexatious requests), including in the following circumstances:

- The request is excessively burdensome on the School's resources, but is not covered by the section 12 cost limit.
- The requester is using AI to send repeated requests for substantially similar information.
- The requester is using AI to send requests intended only to disrupt the School's work or impact our resources.
- The requester is using AI to send requests which pursue matters that the School has already told the requester it considers closed.
- A group of requesters are using AI to send a high volume of related requests as part of a campaign.

10. Internal review procedure

If a requester is dissatisfied with the School's response, they may request a review under the School's FOI internal review procedure by writing to the Compliance Officer. A request for a review must be made in writing within 40 working days of the response being issued by the School. A review may be requested only by the original requester, for one or more of the following reasons:

- The School has refused to release information;
- The requester disagrees with the School's interpretation of their request;
- The requester believes the School holds more information than it has disclosed;
- The requester is still waiting for a response and is unhappy with the delay.

The written request for an internal review should state clearly why the requester is unhappy with the School's response. If the School requires clarification for an internal review request, the timescale to respond will not start until the clarification is provided.

The Compliance Officer will allocate the review to a member of the School's senior leadership team who did not deal with the original request. The reviewer will make a fresh decision based on all the available evidence that is relevant to the date of the request. Internal reviews will consider how the request was handled and the initial response, whether the relevant information was identified, and whether the School wishes to uphold the original exemptions or whether to apply a different or additional exemption(s).

The decision of the internal review should be communicated to the requester within 20 working days, in most cases. In exceptional circumstances where this is not possible, the Compliance Officer will write to inform the requester of the delay and a response will be issued within 40 working days, unless there are legitimate reasons why a longer extension is necessary.

Any responses issued by the School to a request for information will inform requesters how to ask for an internal review, as well as informing them of their right to complain to the Information Commissioner under section 50 of FOIA should they be unhappy following the review outcome.

10. Illegal actions

It is a criminal offence under any of the 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.

11. Review of the Policy

This policy is scheduled for review every 2 years.

Reviewed: June 2026

Approved by Headmaster: June 2026

Review schedule: 2 years

Next review: May 2028