In handling a request for information the delegated person will ask these questions.

**Is it a FOI request for information?**

A request for information may be covered by one, or all, of three information rights:

* + *Data Protection enquiries* (or subject access requests) are ones where the enquirer asks to see what personal information the school holds about the enquirer. If the enquiry is a Data Protection request, follow your existing school DPA guidance.
  + *Environmental Information Regulations enquiries* are ones which relate to air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these.
  + *FOI enquiries* are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the FOI Act. All requests for information that are not data protection or environmental information requests are covered by the FOI Act.

**Is this a valid FOI request for information?**

An FOI request should:

* be **in writing**, including email or FAX;
* **state the enquirer’s name** **and correspondence address** (email addresses are allowed);
* **describe the information requested** - there must be enough information to be able to identify and locate the information; and
* not be covered by one of the other pieces of legislation.

Verbal enquiries are not covered by the FOI Act. Such enquiries can be dealt with where the enquiry is relatively straightforward and can be dealt with satisfactorily. However, for more complex enquiries, and to avoid disputes over what was asked for, the school will ask the enquirer to put the request in writing or email, when the request will become subject to FOI.

**Does the school hold the information?**

“Holding” information means information relating to the business of the school:

* the school has **created**, or
* the school has **received from another** body or person, or
* **held by another** body **on** the **school’s behalf**.

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

If the school does not hold the information, the school will not create or acquire it just to answer the enquiry, although a reasonable search should be made before denying that you have got information the school might be expected to hold.

**Has the information requested already been made public?**

If the information requested is already in the public domain, for instance in the Publication Scheme or on your website, direct the enquirer to the information and explain how to access it.

**Is the request vexatious or manifestly unreasonable or repeated?**

The Act states that there is no obligation to comply with vexatious requests. This is taken to mean a request 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 school. The delegated person will check with the Headteacher in these circumstances.

**Can the school transfer a request to another body?**

If the information is held by another public authority, such as your local authority, first check with them they hold it, then transfer the request to them. You must notify the enquirer that you do not hold the information and to whom you have transferred the request. You should answer any parts of the enquiry in respect of information your school does hold.

**Could a third party’s interests be affected by disclosure?**

Consultation of 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. You do not need to consult where you are not going to disclose the information because you will be applying an exemption.

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 you to determine if information is exempt from disclosure, or
* the views of the third party may assist you to determine the public interest.

**Does an exemption apply?**

The presumption of the legislation is that you will disclose information unless the Act provides a specific reason to withhold it. There are more than 20 exemptions. Those that apply to schools are set out in eLIM FOI Exemptions and are mainly intended to protect sensitive or confidential information.

Where the school has real concerns about disclosing the information it will look to see if an exemption applies. If the school feels an exemption applies it will also check to see if it within the public interest to release some or all of the data. This document eLIM FoI Public Interest Test contains guidance on conducting a public interest test.

**What if the request is for personal information?**

Personal information requested by the subject of that information is exempt under the FOI Act as such information is covered by the Data Protection Act. The school will inform the enquirer that they should make a ‘subject access request’ under the Data Protection Act if they wish to access such information.

**What if the details contain personal information?**

Personal information requested by third parties is also exempt under the FOI Act where release of that information would breach the Data Protection Act. If a request is made for a document (e.g. 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 blanking out the relevant personal information.

**How much can we charge?**

The school will respond to straightforward enquiries free of charge and charge where the costs are significant according to the details given in eLIM FoI Charging.

If there is a charge the enquirer will be sent a fees notice and the school will not have to comply with the request until the fee has been paid.

**Is there a time limit for replying to the enquirer?**

Compliance with a request must be prompt and within the legally prescribed limit of 20 working days, excluding school holidays. 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 school has asked the enquirer for more information to enable the school to answer, the 20 days start time begins when this further information has been received.

If a qualified exemption applies and the school needs more time to consider the public interest test, you should reply within the 20 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 should be within a “reasonable” time – in practice, it is recommended by the Department that normally this should be within 10 working days.

Where the school has notified the enquirer that a charge is to be made, the time period stops until payment is received and then continues again once payment has been received.

**What action is required to refuse a request?**

If the information is not to be provided, the person in the school with delegated responsibility for FOI to ensure that the case has been properly considered and the reasons for refusal are sound. If it is decided to refuse a request, you need to send a refusals notice, which must contain

i) the fact that the responsible person cannot provide the information asked for;

ii) which exemption(s) you are claiming apply;

iii) why the exemption(s) apply to this enquiry (if it is not self-evident);

iv) reasons for refusal if based on cost of compliance (eLIM FoI Charging)

v) in the case of non-absolute exemptions, how you have applied the public interest test, specifying the public interest factors taken into account before reaching the decision (eLIM FoI Public Interest Test)

vi) reasons for refusal on vexatious or repeated grounds

vii) the internal 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 must keep a record of all enquiries where all or part of the requested information is withheld and exemptions are claimed. The record must include the reasons for the decision to withhold the information. Records should be retained for 5 years. There are no requirements to keep records where you have supplied the information requested.

**What do I do if someone complains?**

Any written (including email) expression of dissatisfaction - even if it does not specifically seek a review – should be handled through the school’s existing complaints procedure.