



## **Freedom of Information Policy**

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**Cathedral Schools Trust**

# Freedom of Information Policy

It is the responsibility of all Cathedral Schools Trust employees and volunteers to familiarise themselves with the contents of all Trust policies and any amendments hereafter.

## Changes

| Version | Date     | Amended by   | Recipients   | Purpose  |
|---------|----------|--------------|--|--|
| 1       | 17032021 | CST Trustees | Members of CST, every Trustee, each Local Governor, all Cathedral Schools Trust employees and volunteers and others at the discretion of the Chairman of the Trustees of CST. CST Website updated. | Annual review - school contact details updated |
| 2       |          |              |  |  |
| 3       |          |              |  |  |

## Alterations

This Policy may be altered, added to or repealed by a majority resolution of the Trustees of CST in a general meeting.

## Approvals (Biennial Review)

| Version | Date     | Approved by  |
|---------|----------|--------------|
| 1       | 17032021 | CST Trustees |
| 2       |          |              |
| 3       |          |              |
|         |          |              |

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## **1 Introduction**

It is the responsibility of the trustees of Cathedral Schools Trust (CST) to ensure procedures are in place to ensure it handles information requests covered by the Freedom of Information Act 2000 (FoIA), the UK GDPR and the Environmental Information Regulations 2004 (EIR) in accordance with the provisions laid out therein and that they comply with 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.

CST is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 and the access provisions of the Data Protection Act 1998. They will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right to access to recorded information held by CST 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, have 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 1<sup>st</sup> 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 1<sup>st</sup> 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 UK GDPR.

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

The Government's Information Commissioner enforces these three 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. 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 UK GDPR.

### **3 Timescales**

Freedom of Information requests should be dealt with within 20 working days, excluding school holidays.

### **4 Delegated responsibilities**

Overall responsibility for ensuring that CST meets the statutory requirements of the FoIA, EIR and UK GDPR lies with the trustees and the chair of the Trust has overall responsibility for information management issues. They have delegated the day-to-day responsibility of implementation to their head teachers.

The head teacher/principal/executive principal or their delegated person currently fulfils the role of 'Fol officer'. All academy/free school 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 CST that relates to the business of its academies/free school. This includes:

- Information created and held by the academy/free school
- Information created by the academy/free school and held by another organisation on their behalf
- Information held by the academy/free school provided by third parties, where this relates to a function or business of the academy/free school (such as contractual information) and
- Information held by the academy/free school relating to Governors/Trustees/Members where the information relates to the functions or business of the academy/free school.

This policy does not cover personal written communications (such as personal e-mails sent by staff). The CST's Data Protection Policy establishes the standards regarding the use of "personal data" (as defined in the UK GDPR).

### **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 School's Fol Officer.

CST 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 UK GDPR, the same level of care will be provided where possible.

## **6.2 Charges**

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

CST 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 CST 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. CST is not obliged to comply with such a request but may choose to do so.

## **6.3 Publication**

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

CST plans to review this scheme regularly. Whenever any information is provided in response to a recorded FoIA enquiry, CST will assess whether the information is suitable for wider publication. In general, there will be a presumption in favour of publishing such information on CST’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. CST will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, CST can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where CST 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.

CST 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.

CST 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, CST 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 CST 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 CST 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 CST;
- 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 trustees 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.

CST 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 FoI 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 UK GDPR. Both the EIR and FoIA permit information to be withheld when its release would breach the provisions of the UK GDPR.

When the requested information relates to a living individual and amounts to "personal data" as defined in the UK GDPR, its disclosure could breach the UK GDPR. 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 UK GDPR.

Where appropriate, CST 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. CST will then consider if it is reasonable to disclose the information, taking into account:

- the circumstances surrounding the information;
- 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, CST 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 UK GDPR will still apply in many circumstances but the nature of the information will influence CST'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 CST.

As the UK GDPR 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 Trust's board where necessary.

Where the third party is an organisation, rather than an individual, the provisions of UK GDPR will not apply. CST will consider consulting the third party concerning the release of their information where:

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

Consultation will not be undertaken where:

- CST will not be disclosing the information due to some valid reason under the Act
- CST 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 CST to comply with the statutory time limits dictated by the legislation.

CST 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 CST**

Any contractual information, or information obtained from organisations during the tendering process, held by CST are subject to the provisions of the FoIA and EIR. Whenever CST 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.



CST can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where CST 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.

CST 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 CST 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, CST will make the final decision relating to the disclosure of the information.

CST 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 CST’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 a FoIA or EIR request.

## **10 Complaints procedure**

Whenever CST withholds information under an exemption, or for any other reason, it will inform the applicant of their right to complain about the decision through CST’s complaints procedure and of the right of appeal to the Information Commissioner. Any complaint received will be dealt with in accordance with CST’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 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.

## **12 Review of the Policy**

This policy is scheduled for a biennial review.