

Freedom of Information - Implications for Schools

Briefing Note for Governors of all Schools

Background

The Freedom of Information (FOI) Act 2000 was introduced by the Department for Constitutional Affairs (formerly the Lord Chancellor's Department). The Act is being brought into force according to a timetable set by the Lord Chancellor.

The Act was introduced to promote greater openness and accountability across the public sector. It requires all public authorities, including all maintained schools, to have set out in an approved 'publication scheme' that details what information they hold, and where and how the information can be accessed by an interested individual. School publication schemes (in essence, a catalogue of information that a school undertakes to make available) were due to be in place by 29th February 2004, and are a FOI requirement. Maintained nursery schools had until 30th June 2004 to adopt a scheme. Last year schools were advised by the Governor and Management Support Service in a Briefing Note of this requirement, and a model publication scheme approved by the Information Commissioner was recommended.

For January 2005 any individual has the legal right to ask a school to have access to information held by that school, subject to the legal exemptions, and that the provision of that information is in compliance with the Data Protection Act (1998) and the Environmental Regulations (2004). There is a need to protect sensitive information in certain circumstances.

School Obligations under FOI

Schools are already used to dealing with various requests for information. Governors will need to ensure that from 1st January 2005 this meets FOI requirements. The DfES has produced guidance (see the further information section below), which is designed to help schools (i.e. governing bodies, head teachers and school staff) understand the requirements of the FOI Act and to handle requests for information under the Act, which is fully retrospective (subject to any retention guidance and policies). It recognises that schools already deal with a great variety and number of requests for information and offers a straightforward approach to compliance.

Schools are under a duty to provide advice and assistance to anyone requesting information.

The person enquiring is entitled to be told whether the school holds the information (the duty to confirm or deny) except where certain exemptions apply.

A well managed records and management information system is essential to help school meet requests.

There are prescribed time limits for responding to requests for information. Requests should be dealt with within 20 working days, excluding school holidays.

Wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence. A valid FOI request should be in writing, state the enquirer's name, and correspondence address, and describe the information requested.

Any expressions of dissatisfaction should be handled through the school's existing complaints procedure.

What Actions does the Governing body need to take?

School Governing Bodies are responsible for ensuring that a school complies with the FOI Act. From 1st January 2005 it will be more important than ever that a school decided its policies, and conducts its day-to-day operations in a way that stands up to public scrutiny.

Since requests for information can be directed to the school through anyone who works there, the Governing Body should ask itself whether all staff are aware of the FOI Act and how the school handles requests for information.


Governing Bodies may choose to charge a fee which must be calculated according to FOI regulations.

The Governing Body should:

1. Agree the FOI publication scheme and access policy if it has not already done so. The policy will need to set out how the school proposes to deal with requests, and state that all staff should be aware of the process. (The LEA recommends the model schemes as proposed by the Information Commissioner.)
2. Agree a charging policy for complying with requests. The new and more detailed guidelines from the DfES recommend that schools respond to the straightforward requests for free, and charge one when the costs are likely to be significant. Specific charges, where they are to be applied, should be detailed on the publication scheme. If information is to be provided free of charge this should also be noted on the scheme.
3. Delegate to the Head teacher the day-to-day responsibility for FOI Act Policy, and the provision of advice, guidance, publicity, and interpretation of the School's policy.
4. Consider delegating an individual with responsibility for FOI, to provide a single point of reference, co-ordinate FOI Act and related policies and procedures, take a view of possible sensitive areas, and consider what



- information and training staff may need. (A generic Powerpoint presentation is available on www.teachernet.gov.uk)
5. Consider arrangements for overseeing access to information, and delegation to the appropriate Governing Body Committee.
 6. Ensure that a well-managed records management and information system exists in order to comply with requests within 20 working days (excluding school holidays).
 7. Ensure a record of all refusals and reasons for refusals, as well as appeals, thus allowing the Governing Body to review its access policy on an annual basis, (It is recommended that this be considered during the Spring Term each year).

Further information regarding the application of the FOI Act can be found on the following sites:

- www.dfes.gov.uk/publications  An Annex on the DfES site provides links to more in-depth guidance and to additional sources of information, including two codes of practice, one on guidance to public authorities and the other on records management, for those who need or want a greater level of detail

A checklist of action, Powerpoint presentation, retention schedule and electronic copy of a summary leaflet (on which this briefing note is based) are also available for Governors.

The guidance complements that from the Department of Constitutional Affairs and the Information Commissioner - the independent authority responsible for administering and enforcing FOI.

- [National Archives website](http://www.nationalarchives.gov.uk)  - Schools may find that they wish to review their record management system to help respond to requests.
- <http://www.legislation.hmso.gov.uk/acts/acts2000/20000036.htm>  - provides details of the legislative framework.

Governing Bodies requiring more information on this topic should contact David Eccles, Principal Officer, Government and Management Support Service on



0161 342 3218 or



david.eccles@tameside.gov.uk

+