



# Freedom of Information Policy

May 2020

To be reviewed May 2023

**FREEDOM OF INFORMATION POLICY**

## **Introduction**

The Freedom of Information Act 2000 gives individuals the right to access official information from public bodies. Under the Act, any person has a legal right to ask for access to information held by the school. They are entitled to be told whether the school holds the information, and to receive a copy, subject to certain exemptions. While the Act assumes openness, it recognises that certain information is sensitive. There are exemptions to protect this information.

This policy does not form part of any individual's terms and conditions of employment with the School and is not intended to have contractual effect.

This policy should be used in conjunction with the school's Internet Use Policy and Data Protection Policy.

## **Requests**

Requests under Freedom of Information should be made to the Bursar (Lisa Purcell). However the request can be addressed to anyone in the School; so all staff need to be aware of the process for dealing with requests.

Requests for information that are not data protection or environmental information requests will be covered by the Freedom of Information Act: -

***Data Protection enquiries (or subject access requests)*** are requests where the enquirer asks to see what personal information the school holds about the enquirer. If the enquiry is a Data Protection request, the School's Data Protection Policy should be followed.

***Environmental Information Regulations enquiries*** are those which relate to air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these. These could therefore include enquiries about recycling, phone masts, school playing fields, car parking etc. If the enquiry is about environmental information, follow the guidance on the Department for Environment, Food and Rural Affairs (DEFRA) website.

Freedom of Information requests must be made in writing, (including email), and should include the enquirers name and correspondence address (email addresses are allowed), and state what information they require. There must be enough information in the request to be able to identify and locate the information. If this information is covered by one of the other pieces of legislation (as referred to above), they will be dealt with under the relevant policy/procedure related to that request.

If the request is ambiguous and/or Wentworth requires further information in order to deal with your request, Wentworth will request this further information directly from the individual making the request. Please note Wentworth will not have to deal with the request until the further information is received. Therefore, the time limit starts from the date that Wentworth receives all information required in order to deal with the request.

The requester does not have to mention the Act, nor do they have to say why they want the information. There is a duty to respond to all requests, telling the enquirer whether or not the information is held, and supplying any information that is held, except where exemptions apply. There is a time limit of **20 working days excluding school holidays for responding to the request.**

### **Information**

Provided all requirements are met for a valid request to be made, Wentworth will provide the information that it holds (unless an exemption applies).

"Holding" information means information relating to the business of the school:

- That the school has created; or
- That 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 information is held by another public authority, such as the Local Authority, first check with them they hold it, then transfer the request to them. If this applies, Wentworth will notify the enquirer that they do not hold the information and to whom they have transferred the request. However, Wentworth will continue to answer any parts of the enquiry in respect of information it does hold.

When Wentworth does not hold the information, **it has no duty** to create or acquire it; just to answer the enquiry, although a reasonable search will be made before confirming whether Wentworth has the information requested.

If the information requested is already in the public domain, for instance through the Publication Scheme or on the School's website, Wentworth will direct the enquirer to the information and explain how to access it.

The requester has the right to be told if the information requested is held by Wentworth (subject to any of the exemptions). This obligation is known as the school's "duty to confirm or deny" that it holds the information. However, the school does not have to confirm or deny if:-

- The exemption is an absolute exemption; or
- In the case of qualified exemptions, confirming or denying would itself disclose exempted information.

### **Vexatious Requests**

There is no obligation on the School to comply with vexatious requests. A vexatious request is one 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. This however does not provide an excuse for bad records management.

In addition, Wentworth does not have to comply with repeated identical or substantially similar requests from the same applicant unless a "reasonable" interval has elapsed between requests.

### **Fees**

Wentworth may charge the requester a fee for providing the requested information. The charge will only be the cost of photocopying if required and additional time taken to acquire the information if onerous. The charging will be one of the following:

No charge (where information is readily available and can be emailed).

Administrative cost including photocopying £10.00

Where requests exceed 18 hours of time, Wentworth withholds the right to reject the request or charge a fee of £450.00

If Wentworth is going to charge they will send the enquirer a fees notice. Wentworth will not have to comply with the request until the fee has been paid. More details on fees can be found on the Information Commissioner's Office (ICO) website.

If planning to turn down a request for cost reasons, or charge a high fee, Wentworth will contact the applicant in advance to discuss whether they would prefer the scope of the request to be modified so that, for example, it would cost less than the appropriate limit.

Where two or more requests are made to the School by different people who appear to be acting together or as part of a campaign ; the costs will be determined as above.

### **Time Limits**

Compliance with a request must be prompt and within the time limit of 20 working days (excluding school holidays). Failure to comply could result in a complaint by the requester to the Information Commissioner. The response time starts from the time the request is received.

Where Wentworth has asked the enquirer for more information to enable it to answer, the 20 working days start time begins when this further information has been received.

If some information is exempt this will be detailed in the School's response.

If a qualified exemption applies and the School need more time to consider the public interest test, the School will reply in 20 working 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; (reasonable time will be within a further 20 days).

Where Wentworth has notified the enquirer that a charge is to be made, the time period stops until payment is received.

### **Third Party Data**

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.

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 the School to determine if information is exempt from disclosure; or
- The views of the third party may assist the School to determine the public interest test.

Personal information requested by third parties is also exempt under this policy 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 as set out in the redaction procedure.

### **Exemptions**

The presumption of the Freedom of Information Act is that Wentworth will disclose information unless the Act provides a specific reason to withhold it. The Act recognises the need to preserve confidentiality and protect sensitive material in certain circumstances.

Wentworth may refuse all/part of a request, if one of the following applies: -

- 1) There is an exemption to disclosure within the act;
- 2) The information sought is not held;
- 3) The request is considered vexatious or repeated; or
- 4) The cost of compliance exceeds the threshold.

A series of exemptions are set out in the Act which allow the withholding of information in relation to an enquiry. Some are very specialised in their application (such as national security) and would not usually be relevant to schools.

There are two general categories of exemptions:-

- 1) Absolute:** where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest; and
- 2) Qualified:** where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.

### **Absolute Exemptions**

There are eight absolute exemptions set out in the Act. However the following are the only absolute exemptions which will apply to Schools: -

- Information accessible to the enquirer by other means (for example by way of the School's Publication Scheme);
- National Security/Court Records;
- Personal information (i.e. information which would be covered by the Data Protection Act);
- Information provided in confidence.

If an absolute exemption exists, it means that disclosure is not required by the Act. However, a decision could be taken to ignore the exemption and release the information taking into account all the facts of the case if it is felt necessary to do so.

### **Qualified Exemptions**

If one of the below exemptions apply (i.e. a qualified disclosure), there is also a duty to consider the public interest in confirming or denying that the information exists and in disclosing information.

The qualified exemptions under the Act which would be applicable to Wentworth are: -

- Information requested is intended for future publication (and it is reasonable in all the circumstances for the requester to wait until such time that the information is actually published);
- Reasons of National Security;
- Government/International Relations;
- Release of the information is likely to prejudice any actual or potential legal action or formal investigation involving the School;
- Law enforcement (i.e. if disclosure would prejudice the prevention or detection of crime, the prosecution of offenders or the administration of justice);
- Release of the information would prejudice the ability of the School to carry out an effective audit of its accounts, resources and functions;
- For Health and Safety purposes;
- Information requested is Environmental information;
- Information requested is subject to Legal professional privilege; and
- For "Commercial Interest" reasons.

Where the potential exemption is a qualified exemption, Wentworth will consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.

In all cases, before writing to the enquirer, the person given responsibility by the School for dealing with the request will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound. Where there may be ambiguity regarding this, the Bursar will liaise with the headteacher, before a decision is made.

### **Refusal**

If it is decided to refuse a request, Wentworth will send a refusals notice, which must contain

- The fact that the responsible person cannot provide the information asked for;
- Which exemption(s) apply;
- Why the exemption(s) apply to this enquiry (if it is not self-evident);
- Reasons for refusal; and
- The School's 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.

### **Complaints/ Appeals**

Any written (including email) expression of dissatisfaction will be handled through the Wentworth's existing complaints procedure. Wherever practicable the review should be handled by someone not involved in the original decision.

If the outcome is that the School's original decision or action is upheld, then the applicant can appeal to the Information Commissioner. The appeal can be made via their website or in writing to:

Customer Contact  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF