

HULL SCHOOLS

POLICY & GUIDANCE ON THE FREEDOM OF INFORMATION ACT 2000

1. INTRODUCTION

- 1.1 The School recognises that compliance with The Freedom of Information Act 2000 (FOIA) is essential to promote public trust in public authorities and the school will endeavour to make information publicly available.
- 1.2 Further guidance on the legislation and Codes of Practice are available from the Information and Security Officer (telephone 616017), the Information Governance Team, Legal Services, Hull City Council, and The Information Commissioners Office.
- 1.3 The Policy and Guidelines cover all requests for information, except
 - a) requests from individuals for their own personal data – referred to as Subject Access Requests. These should be handled under The Personal Data Handling Policy and Guidance, in compliance with The Data Protection Act 1998
 - b) normal business process or routine requests - in other words requests for information or services that the school would expect to receive as part of day to day operations.
- 1.4 Each Headteacher/Senior Management member must ensure that all employees have received the relevant training. Evidence of training needs to be retained by the school.

2.0 SUMMARY OF THE LEGISLATION – THE FREEDOM OF INFORMATION ACT 2000

- 2.1 Anyone from anywhere can request information from public organisations.
- 2.2 All information **held** by the organisation should be considered **public information** unless one of the 23 **exemptions** (reasons to withhold information) applies. This covers all forms of **recorded** information including e-mails, CCTV and camera images, diaries and notes, tapes and audio. The following summary points apply to requests made under the Freedom of Information Act:
 - There is no need to state the act in any request – consequently any request for information can be considered an FOIA request

- The request can be made in written form (hard copy or electronic) or in accordance with the Environmental Information Regulations, verbally (see note 4.1)
- The request must state name and address (for correspondence purposes)
- The request requires no explanation, reason or justification
- The request must be **accepted** by **anyone** in the organisation who receives it (see 5.5)
- Schools must provide the information within **20** working days
- The request must clearly describe the information required (if further clarification is required the 20 days does not begin until this is received).
- Requests costing up to £450 to retrieve are free.

2.3 Requests up to £450 are free but schools can charge for disbursements (see 4.14) i.e. photocopying, printing and posting costs. The Act does not require the public organisation to satisfy information requests costing more than £450. The formula for calculating the £450 is based on a £25 hourly rate for finding, sorting, editing or redacting* the material requested. Time taken for considering the application of exemptions or the public interest test is not included.

* Definition: Redaction is done when a public record contains sensitive, private, or confidential information that is to be taken out of the document, or redacted, in a way that does not distort the meaning of the record.

2.4 To enable the investigation of complaints, evidence of information withheld must be retained along with the reasons for doing so. Complaints are handled through the school's complaints procedure, if the complainant is not satisfied with the school and governing body's response the request is referred to The Information Commissioner's Office (ICO). The ICO may overturn any decision that has been made by a public organisation.

2.5 There are 23 exemptions - see Appendix A.

2.6 **Information** is exempt not **documents**, consequently schools cannot usually apply an exemption to a whole document to withhold it. Instead, schools must go through the document line by line to determine which exemptions apply to which information.

3. PUBLICATION SCHEMES

3.1 Each public organisation has to maintain and, from time to time review, a scheme for the publication of information (a "publication scheme") which specifies the classes of information it publishes or intends to publish, the manner of publication and whether a fee is payable. A Publication Scheme is in essence a guide to the information that the school routinely publishes.

3.2 A Publication Scheme is something which public bodies are required by law under the Freedom of Information Act 2000 to produce and operate. The School's Publication Scheme *can* be sited on the school's web site.

3.3 The purpose of the Publication Scheme is to ensure that a significant amount of information is available, without the need for a specific request. If the information requested is in the Publication Scheme then applicants should be redirected to this. There is no need to collate information on receipt of an

individual request for information, if it is available through the Publication Scheme.

4. Request Processing Arrangements

- 4.1 Under the Environmental Information Regulations 2005 verbal requests for information must be accepted. Therefore it is appropriate for schools to similarly process verbal requests in order to accommodate requests from individuals who have English as a second language, are visually impaired or have low levels of literacy. It is possible to accommodate this procedure under the Freedom of Information Act using the FOI Request form at Appendix B

5. GENERAL

All third parties must be informed of the implications of The Freedom of Information Act 2000 in that any information held by the School or by them on behalf of the School, could be made public as a result of a request – see Appendix C.

All employees must ensure that 'out of office messages' are put onto email during anticipated periods of absence. These out of office messages must include the email address (for external and internal email) of an alternative recipient. This is to assist in the dealing of information requests received via email within the deadline.

All employees should avoid entering into confidentiality clauses on behalf of the School unless this is unavoidable.

All employees should encourage requests for information to be supplied on the form at Appendix B. The information booklet 'Accessing Information from Hull City Council' and the printed request forms should be available in public areas.

All written or email requests for information must be accepted by the employee to whom they are submitted. Applicants should not be told to submit their request to another area of the school once submitted, however they may be redirected for help or assistance.

An acknowledgement of receipt of the request must be sent immediately if the request may take more than a few days to supply. See Appendix D.

All responses must contain details of the school complaints procedure. A standard text for responses should be used as in Appendix E.

Requests must be immediately referred to the Information and Security Officer, the Information Management and Research Manager, or the Information Governance Team within the Council Legal Services, if:

- they appear contentious or politically sensitive
- they can not be supplied within 20 days and are not covered by the school publication scheme

- are estimated to be beyond the ceiling of £450, equivalent to 18 hours to retrieve (fees regulations)
- it is believed that information should be withheld

The Children & Young People's Services Information and Security Officer can be contacted on 616017. The Information Governance Team can be contacted on tel: 615167 or by e-mail on information@hullcc.gov.uk .

Information which is the subject of an information request must not be deleted or disposed of after the receipt of a request. This could lead to prosecution under the Act. Information should be deleted or disposed of in accordance with The Record Retention Guidelines.

- 5.10 The application of exemptions and the withholding of information is a specialist role requiring access to legal guidance and the experience of the Information Governance Team within Legal Services, Hull City Council. For these purposes the Information and Security Officer is a member of this team, specialising in the Children & Young People's Services area.
- 5.11 All information requests must be monitored and recorded fully. This is in order to trace proceedings for each request and aid subsequent investigations if a complaint arises. For this reason it is recommended that requested information records are retained for 5 years from the date of receipt.
- 5.12 The school is not obliged to satisfy requests chargeable at more than the ceiling of £450 specified in the fees regulations. However the school will enter into discussions with the applicant and endeavour to supply at least part of the request. The Freedom of Information Act 2000 places upon public authorities (schools) the duty "to advise and assist" a requestor seeking information. If, for example, the school is requested for a policy that has been placed on the school's website, then the school has a duty to advise the requestor on its location (in this case the web address). Internet access can be gained at local libraries if the requestor does not have direct access from home or via friends or business.

Discussions with the applicant will need to consider:

- if the requester is willing to pay the full cost of recovery of the data
- extending the deadline
- if the resource requirements can reasonably be met
- how much information can be supplied for the ceiling cost
- if the collation of the information required may jeopardise the normal operations of the School because of the resources required.

- 5.13 The minimum disbursement charge for a Freedom of Information request is £5. This means that a disbursement fee will be charged when the request involves in excess of 20 printed or photocopied sheets at 25p per sheet. A minimum of £2.50 postage will be charged for those requests that require postage.
- 5.14 Employees not complying with this policy or legislation will be dealt with as appropriate under the school's Disciplinary Procedure. Non-compliance

may be deemed an act of gross misconduct. In the event of non-compliance by an agency worker or casual worker, his/her work with the school may be terminated. A contract may also be terminated if the employee is an employee of a contractor.

- 5.15 There are two types of exemptions that can be applied to Freedom of Information Act requests: Absolute and Qualified. Absolute exemptions are not subject to the public interest test. Qualified exemptions require the public body i.e. the school, to consider whether the public interest in maintaining the exemption from communicating information outweighs the public interest in communicating it.

List of Appendices:

Appendix A	Exemptions
Appendix B	Information Request Form
Appendix C	Summary for Third parties
Appendix D	Text for acknowledgement letter
Appendix E	Dealing with Information Requests - Checklist
Appendix F	Text for response letter
Appendix G	Dealing with Information Requests - flowchart

APPENDIX A

EXEMPTIONS

The Public Interest test is applied to Qualified exemptions but not Absolute exemptions. The number in the first column refers to the appropriate section of the Freedom of Information Act 2000.

	Reason for Exempt Information (those unlikely to be used by schools are shaded)	Public Interest Test
21	Information accessible to applicant by other means Although this is written as an exemption it does not mean that the applicant cannot obtain the information. It means that the authority should direct the applicant to its publication scheme or other public organisation and provide advice and assistance to enable them to access the information.	Absolute
22	Information intended for future publication This applies where the authority plans to publish the information in the future and it is reasonable not to disclose it till then.	Qualified
23	Information supplied by, or relating to, bodies dealing with security matters This applies to information supplied by or relating to one of the security bodies listed in the section.	Absolute
24	National Security This applies to information which is neither derived from, nor relates to, any of the security bodies listed under s. 23.	Qualified
25	Certificates (issued) under 23 and 24 A certificate issued by a Minister of the Crown certifying that exemption from the duty to communicate information, or to confirm or deny, is required for the purpose of safeguarding national security.	Qualified
26	Defence This applies to information which may adversely affect:- (a) the defence of the British Islands or of a colony, or (b) the capability, effectiveness or security of any relevant forces	Qualified
27	International relations This applies to information which may adversely affect:- (a) relations between the UK and any other State (b) relations between the UK and any international organisation or court (c) the interests of the UK abroad (d) the promotion of protection by the UK of its interests abroad	Qualified
28	Relations within the United Kingdom This applies to information which may adversely affect relations between any administration in the UK and any other such administration.	Qualified
29	The economy This applies where disclosure of information may adversely affect:- (a) the economic interests of the UK or of any part of the UK (b) the financial interests of any administration of the UK	Qualified
30	Investigations and proceedings conducted by public authorities This exemption covers information relevant to criminal investigations and proceedings and information obtained from confidential sources for criminal or civil proceedings.	Qualified

31	Law enforcement This extends the s. 30 exemption to a wider range of law enforcement functions. For example information which will prejudice the prevention or detection of a crime, concerning the assessment or collection of any tax or duty, or relating to regularity and enforcement activity.	Qualified
32	Court records etc This includes information in documents served for the purposes of legal proceedings, filed with a court or held by a person conducting an enquiry or arbitration. This exemption leaves unchanged the normal rule for obtaining court records.	Absolute
33	Audit functions Applies to public authorities which have audit functions in relation to other public authorities or the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions. Disclosure of information which would be likely to prejudice the exercise of these functions is exempt.	Qualified
34	Parliamentary privilege This preserves Parliament's sole power to control its own business, in relation to the disclosure of information.	Absolute
35	Formulation of government policy etc Information held by a government department or by the National Assembly for Wales is exempt where it relates to:- (a) the formation or development of government policy (b) Ministerial communications (c) a request for provision or the provision of advice by any of the Law Officers (d) the operation of any Ministerial private office	Qualified
36	Prejudice to the effective conduct of public affairs This exemption can only be applied by a 'qualified person'. The Monitoring Officer and Chief Executive have been designated qualified persons for the purposes of this section.	Qualified
37	Communications with Her Majesty etc and honours A public organisation is exempt to communicate information where it relates to communications with:- (a) Her Majesty, other members of the Royal Family or Royal Household (b) The conferring by the Crown of any honour or dignity.	Qualified
38	Health and Safety This exemption applies to information which would endanger the physical or mental health of any individual or endanger the safety of any individual.	Qualified
39	Environmental information This section operates as a gateway to the revised Environmental Information Regulations (EIRs) which define an access to environmental information which is in some respects more open than that defined in the FOI Act. For practical purposes the revised EIRs and the FOI Act are quite closely aligned.	Qualified

40	<p>Personal information</p> <p>This section simply acts as a gateway to the Data Protection Act, which applies to requests from individuals for their own personal data. The Freedom of Information Act exemption does not mean that the authority does not have to comply with the request. What it means is that a decision on disclosure must be made under the provisions of the Data Protection Act as a Subject Access Request.</p> <p>Requests for information about someone else will be made under the FOI Act. Disclosure should not be made if this would breach any of the data protection principles in the DP Act.</p>	<p>Absolute</p> <p>Qualified</p>
41	<p>Information provided in confidence</p> <p>This applies if releasing the information would amount to an actionable breach of confidence at the time the request is made. This means that you need to understand and apply the common law test for breach of confidence which includes an inherent public interest test.</p> <p>The public organisation should only accept information in confidence from third parties if it is 'necessary' to obtain that information in connection with any of the authority's functions.</p>	<p>Absolute</p>
42	<p>Legal professional privilege</p> <p>A public organisation is exempt from the duty to communicate information where a claim to legal professional privilege could be maintained in legal proceedings. While information relating to ongoing litigation would almost never be disclosed, there may be a public interest in disclosing general legal advice, for example, about interpretation of a statute.</p>	<p>Qualified</p>
43	<p>Commercial interests</p> <p>Disclosure of information is prohibited when it would or be likely to prejudice the commercial interests of any person (including the public organisation holding it). The disclosure of a 'trade secret' would be information of commercial value which is protected by the law of confidence. It first requires a 'prejudice' test to be satisfied. If that is satisfied, the authority must then apply the public interest test.</p>	<p>Qualified</p>
44	<p>Prohibitions on disclosure</p> <p>This applies to information the disclosure of which may lead to prosecution under any other legislation (eg The Human Rights Act), or if disclosure would be in contempt of court.</p>	<p>Absolute</p>

APPENDIX B

APPLICATION FOR INFORMATION

Please complete the information below (in capitals):

1. Your Personal Details

Title (Mr, Mrs, Ms, Dr, Rev.)	First Name
Last Name	
Address	
	Postcode
Daytime Telephone Number	

2. Locating the information

Please give a detailed description below of the information you require from us. This will help us complete your request as quickly as possible.

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To help us retrieve the necessary records, please explain why you are requesting this information.

3. Fee

The fee depends on the cost of retrieval of the information and you will be advised whether a fee is payable as soon as possible after receipt of your application. In any case, you will be required to pay for the costs of photocopying/printing and postage where these amount to at least £5.00. The information will not be issued until the fee/charge has been paid.

4. Declaration

I would like the reply to this request to be:

Please tick

Sent to my home address	
Collected from the school (I will bring evidence to confirm my identity)	

Signature	Date
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FOR OFFICE USE ONLY

Fee receipt number:	Date received: / /
Request acknowledgement sent: / /	Date responded: / / (within 20 days of receipt)

Please send this form to: Hull Trinity House School, Prince's Dock Street, Kingston upon Hull, HU1 2JX

APPENDIX C

SUMMARY FOR THIRD PARTIES ON THE IMPLICATIONS OF THE FREEDOM OF INFORMATION ACT 2000

CONTRACTS, COMMERCIALY SENSITIVE INFORMATION AND CONFIDENTIALITY CLAUSES.

This guidance is to assist third party contractors in appreciating the possible implications of the Freedom of Information Act 2000 when supplying services to public organisations.

From January 2005, public organisations must respond within 20 days to written requests for information from anyone. Information may be withheld if it is considered to be confidential, personal, a trade secret or may harm your commercial interests. These categories are some of the many exemptions under which information need not be made public. Careful consideration of all the circumstances in a case would need to be given before deciding to withhold information for any of these reasons.

The Act is completely retrospective and covers all information held by schools, irrespective of when it was created. To this end all existing contracts schools have with third parties may be the subject of requests for information under the Act, as well as any new contracts.

The Act applies to public organisations, however private organisations may be affected indirectly if they have any links with public organisations. In particular you need to be aware that any information you have provided, and provide in the future, to schools will be subject to the Act. Unless an exemption from the act applies schools will be obliged to disclose the information to the public in the event of a request.

If there is any information your organisation would prefer not to be made public then you will need to discuss this with us as soon as possible. You may prefer to do this before supplying us with the information as negotiations on disclosure may affect your decision to tender or to supply information to us. If we currently hold information you have pre-supplied that is not now required then it may be possible to arrange for the disposal or deletion of some information before a request is received. Information cannot be disposed of or deleted after the receipt of a request for it.

We may withhold information according to our interpretation of the legal definition of confidentiality, personal information, trade secret or harming your commercial interests. These decisions will be based on recent case law and government guidance and will be made in consultation with you if possible. However, there is a complaints procedure, handled by the government office, under which these decisions may be reconsidered.

We will consult with you whenever possible on requests for information that may impact on your organisation. However, should we be unable to contact anyone we may have to release the information to ensure that we remain within the 20 day deadline. We will always inform you of any information we have had to release under the Act.

Non public authority contractors, whose service provision is a function of the school, may be required to comply with the Act in relation to this function.

Further detailed guidance on contracts with third parties, in particular confidentiality clauses, and the implications of THE FREEDOM OF INFORMATION ACT 2000 are available on the

Council Web www.hullcc.gov.uk site under Information Governance. Please also see The Information Commissioners Office web site using the link from our web site or www.informationcommissioner.gov.uk.

APPENDIX D

STANDARD TEXT FOR ACKNOWLEDGEMENT LETTER

The school acknowledges receipt of your request received on ##### which is being processed according to The Freedom of Information Act 2000/The Environmental Information Regulations 2005. You will be informed as soon as possible of any charges that may be associated with your request.

The legislation allows the school 20 working days to respond, in this case in advance of #####. There are, however, some circumstances under which this deadline may be extended and if this is the case the school will endeavour to inform you at the earliest opportunity.

APPENDIX E

DEALING WITH INFORMATION REQUESTS

SIMPLE CHECK LIST

If you receive a request:

1. Accept the request. If it is verbal, transfer the information of the request onto the form (if feasible). Pass the form on to the Headteacher or Administrative Officer/School Manager.
 2. If the request is from the **MEDIA** then notify the local authorities. Confirm receipt with the requestor.
 3. Check whether the information can be supplied from the Publication Scheme by accessing the detailed version on the schools website. If so, go to point 5 below. Advise and assist the requestor by informing them of the location of the information (for example, on the school's website).
 4. If it
 - appears contentious or politically sensitive
 - can not be supplied from your school / unit
 - may involve more than 2.4 days (18 hours) employee time to retrieve the information
 - may relate to any of the exemptions or you think information should be withheld.
 - may involve more than 40 sheets of printing or photocopying
- then forward the request to the Information and Security Officer (616017) or The Information Governance Team (615167). You must confirm this by telephone.
5. Send an acknowledgement letter.
 6. Send the response within 20 working days of receipt of request. Include details of your school's complaints policy for reference.

APPENDIX F

STANDARD TEXT FOR RESPONSE LETTER

Freedom of Information Act 2000 – Information Request

With reference to your recent Freedom of Information request received on ##### regarding ##### please find enclosed the information.

Please note that this information is subject to copyright and supply of the information to you under the Freedom of Information Act does not confer an automatic right to re-use it in a way that would infringe copyright. You are free to use it for your own purposes, including any non-commercial research or private study you are carrying out and for purposes of news reporting.

We hope that you will be satisfied with our response and should you require any further information then please don't hesitate to contact us.

Yours sincerely,

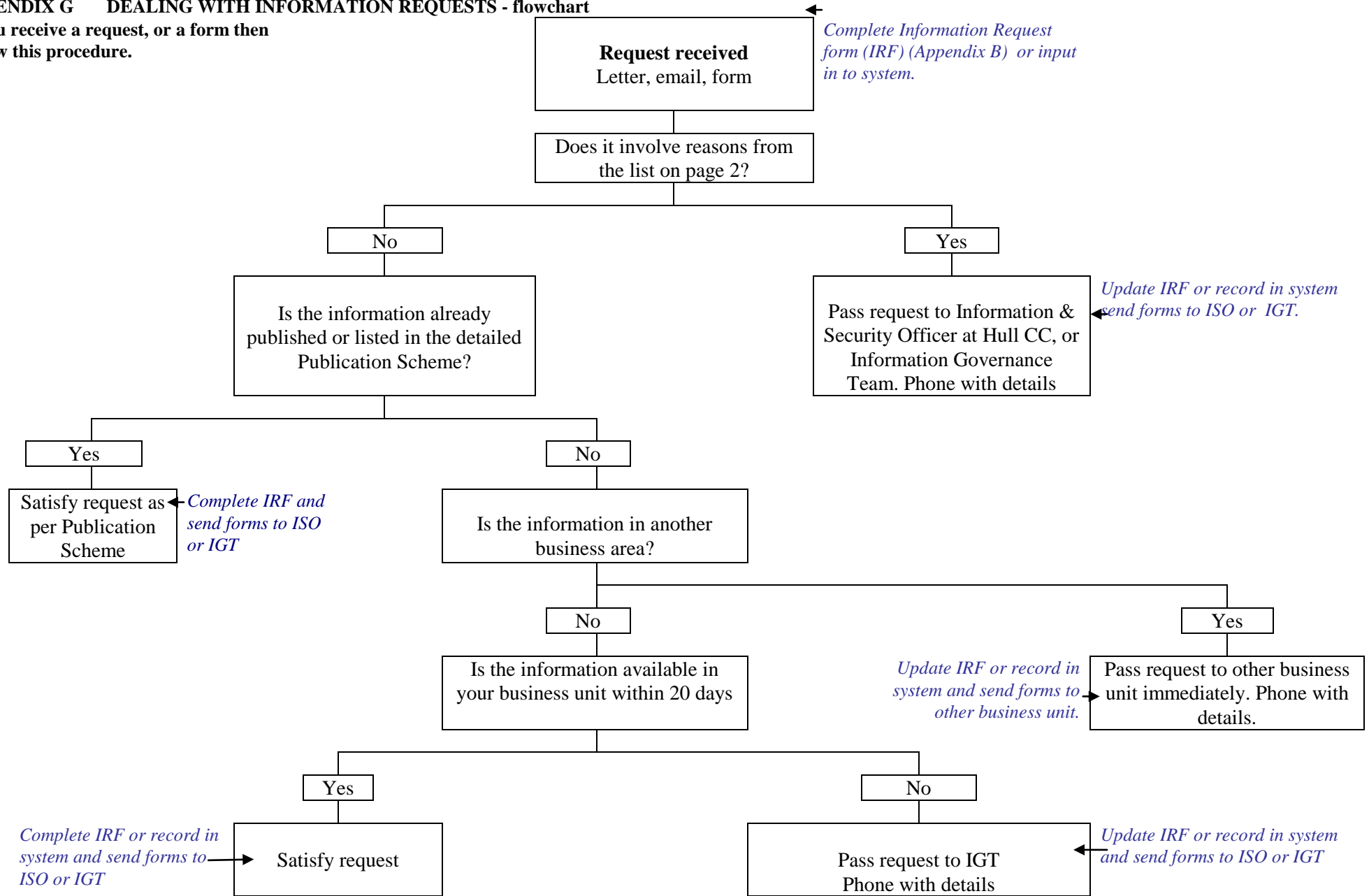
**< Role / area of responsibility
School name and address details >**

We are required to advise you that if you wish to complain about our response in any way, then this should initially be done through our internal complaints procedure. Please contact **<contact & school address - Chair of governing body>** to register your complaint. If you are not satisfied with the outcome of our internal complaints procedure then you may take your complaint to the Information Commissioners Office, the government body established to enforce the legislation. Their details are Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone 01625 545 700, Email: mail@ico.gsi.gov.uk, web site www.informationcommissioner.gov.uk.

Our Freedom of Information Policy, which includes our charging policy, is available on request and from the school web site **<www.???.>**. Also available is a booklet on 'Accessing Information from Hull City Council' which explains how to request information and your rights (according to the Data Protection Act 1998 and The Freedom of Information Act 2000).

APPENDIX G DEALING WITH INFORMATION REQUESTS - flowchart

If you receive a request, or a form then follow this procedure.



**REASONS TO PASS ON AN INFORMATION REQUEST TO
INFORMATION & SECURITY OFFICER (ISO) OR INFORMATION GOVERNANCE TEAM (IGT)**

- appear contentious or politically sensitive
- can not be supplied from your school / unit and is not covered by the publication scheme
- may involve more than 2 days employee time to retrieve the information
- may involve resource implications for the school
- are issues of particular interest to the public at this time
- may relate to any of the exemptions listed below.
- jeopardise the delivery of a service
- cannot be found or is not available within 20 days
- there may be a public interest in withholding the information
- If the request is from the **PRESS or JOURNALISTS** then refer this to the **ISO or IGT**.

Exemptions:

Most relevant for Schools/Councils:

- Information intended for future publication (s22)
- Information relating to investigations and proceedings (s30)
- information likely to prejudice economic interests (s29)
- Information relating to law enforcement (s31)
- Court records (s32)
- Audit information (s33)
- Prejudicial to the effective conduct of public affairs (s36)
- Would be likely to endanger the Health & Safety of any individual (s38)
- Contains personal data or may enable the identification of an individual (s40)
- Information provided in Confidence (s41)
- Legal professional privilege (s42)
- May prejudice the commercial interests of any person (s43)
- Information on which there may be other legal prohibitions on disclosure (s44)

Others:

- information supplied by or relating to security bodies (s23)
- information whose exemption is needed to safeguard national security (s24)
- information likely to prejudice national defence or the armed forces (s26)
- information likely to prejudice the UKs international relations or interests (s27)
- information likely to prejudice relations between UK administrations (s28)
- parliamentary privilege (s34)
- formulation of government policy (s35)
- communication with Her Majesty & honours (s37)

FREEDOM OF INFORMATION ACT

Your Access to Information

Introduction

The Freedom of Information Act gives you the legal right to request information held by the school, subject to a number of exemptions. This guide explains how you can obtain information that may be held by the school. It describes your right of access to such information and includes a form you can use to ask for this information. Please note that the guide does not cover personal information, which is covered by the Data Protection Act and covered by separate guidance; nor does it cover requests for information that the school expects to process in its day to day operation.

The school recognises that compliance with the Freedom of Information Act is essential to promote public trust in public authorities, and operates in a culture of openness and accountability. For more information about the information made available by the school, see our Publication Scheme.

Your Right to Information under the Freedom of Information Act

The Freedom of Information Act gives you the right to apply for a copy of public information, which covers all information held by the college unless exempted by the Act – see appendix for full list of exemptions.

In order to help you, we will need to ask you for:

- ◆ a request in writing (you can use the form attached);
- ◆ your name and address;
- ◆ information sufficient to allow us to find the information you want.

We are entitled to ask reasonable questions to identify what information you require and to help locate where the data may be held. Please ask us for help if you are not sure how to complete this form.

Applying for Information

To make a request for information under the Freedom of Information Act, please use the attached form and send it to the school.

Collecting your Information

On the application form you are given the option to collect your information from the school. If you take this option, we will either telephone or write to you and tell you when and where the information can be collected.

Complaints

If you have reason to complain about the school's response, this should initially be done through the school's complaints procedure. If you are unhappy with the outcome, you may appeal to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

