



# Freedom of Information Scheme Policy

Policy Type:	Data Protection
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# Freedom of Information Scheme Policy

## 1. Statement of Intent

The James Montgomery Academy Trust (JMAT) as an educational provider, has an obligation to publish a freedom of information statement, outlining how we will meet our duties under the Freedom of Information Act 2000 and associated regulations. The development and effective implementation of this policy fulfils that requirement.

More specifically, this policy outlines:

- How our schools will respond to requests from individuals for access to information held about them.
- Our school's policy and procedures for the release and publication of private data and public records.
- Our school's policy and procedures for providing applicants with advice and assistance throughout the duration of their requests.

It also clarifies our position regarding the appropriate limit to the costs incurred by the school in obtaining any requested information, and on charging fees for its provision.

## 2. Legal framework

This policy has due regard to the following legislation:

- The Data Protection Act 1998
- The Freedom of Information Act 2000
- The Freedom of Information and GDPR 2018

This policy also has due regard to guidance, including, but not limited to, the following:

- Information Commissioner's Office 'Model publication scheme' 2016
- Information Commissioner's Office 'Duty to provide advice and assistance (section 16)' 2016
- Ministry of Justice 'Lord Chancellor's Code of Practice on the management of records issued under section 46 of the Freedom of Information Act 2000' 2009

This policy will be viewed in conjunction with the Data Protection Policy

## 3. Requests

Requests under Freedom of Information should be made to the headteacher. 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 the school require further information in order to deal with your request,

the school will request this further information directly from the individual making the request. Please note that the school do not have to deal with the request until the further information is received. Therefore, the time limit starts from the date that the school 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.**

#### **4. Information**

Provided all requirements are met for a valid request to be made, the school 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 / Academy Trust, first check with them they hold it, then transfer the request to them. If this applies, the school will notify the enquirer that they do not hold the information and to whom they have transferred the request. The school will continue to answer any parts of the enquiry in respect of information it does hold.

When the school 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 the school 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, the school 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 the school (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.

#### **5. 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, the school do not have to comply with repeated identical or substantially similar requests from the same applicant unless a “reasonable” interval has elapsed between requests.

#### **6. Fees**

The school may charge the requester a fee for providing the requested information. This will be dependent on whether the staffing costs in complying with the request exceeds the “threshold.” The threshold is currently £450 with staff costs calculated at a fixed rate of £25 per hour (therefore 18 hours’ work is required before the threshold is reached).

If a request would cost less than the threshold, then the school can only charge for the cost of informing the applicant whether the information is held, and communicating the information to the applicant (e.g. photocopying, printing and postage costs).

When calculating costs/threshold, the school can take account of the staff costs/time in determining whether

the information is held by the school, locating and retrieving the information, and extracting the information from other documents. The school will not take account of the costs involved with considering whether information is exempt under the Act.

If a request would cost more than the appropriate limit, (£450) the school can turn the request down, answer and charge a fee or answer and waive the fee.

If the school are going to charge, they will send the enquirer a fees notice. The school do not have to comply with the request until the fee has been paid. More details on fees can be found on the ICO website.

If planning to turn down a request for cost reasons, or charge a high fee, you should 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 estimated cost of complying with any of the requests may be taken to be the estimated total cost of complying with them all.

## **7. 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 the school 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.

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

## **8. 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.

## **9. Exemptions**

The presumption of the Freedom of Information Act is that the school 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.

The school may refuse all/part of a request, if one of the following applies:

- There is an exemption to disclosure within the act;

- The information sought is not held;
- The request is considered vexatious or repeated; or
- 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:

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

### 9.1 Absolute exemptions

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

- 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.

### 9.2 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 the school 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, the school 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.

## **10. Refusal**

If it is decided to refuse a request, the school 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 policy and 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.

## **11. Complaints / appeals**

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

The Governing Body should set and publish a target time for determining complaints and information on the success rate in meeting the target. The school should maintain records of all complaints and their outcome.

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

# Freedom of Information Act

## Model Publication Scheme



This model publication scheme has been prepared and approved by the Information Commissioner. It may be adopted without modification by any public authority without further approval and will be valid until further notice.

This publication scheme commits an authority to make information available to the public as part of its normal business activities. The information covered is included in the classes of information mentioned below, where this information is held by the authority. Additional assistance is provided to the definition of these classes in sector specific guidance manuals issued by the Information Commissioner.

The scheme commits an authority:

- To proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the authority and falls within the classifications below.
- To specify the information which is held by the authority and falls within the classifications below.
- To proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme.
- To produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public.
- To review and update on a regular basis the information the authority makes available under this scheme.
- To produce a schedule of any fees charged for access to information which is made proactively available.
- To make this publication scheme available to the public.
- To publish any dataset held by the authority that has been requested, and any updated versions it holds, unless the authority is satisfied that it is not appropriate to do so; to publish the dataset, where reasonably practicable, in an electronic form that is capable of re-use; and, if any information in the dataset is a relevant copyright work and the public authority is the only owner, to make the information available for re-use under the terms of the Re-use of Public Sector Information Regulations 2015, if they apply, and otherwise under the terms of the Freedom of Information Act section 19. The term 'dataset' is defined in section 11(5) of the Freedom of Information Act. The term 'relevant copyright work' is defined in section 19(8) of that Act.

## Classes of information

### **Who we are and what we do.**

Organisational information, locations and contacts, constitutional and legal governance.

### **What we spend and how we spend it.**

Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.

### **What our priorities are and how we are doing.**

Strategy and performance information, plans, assessments, inspections and reviews.

### **How we make decisions.**

Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.

## **Our policies and procedures.**

Current written protocols for delivering our functions and responsibilities.

## **Lists and registers.**

Information held in registers required by law and other lists and registers relating to the functions of the authority.

## **The services we offer.**

Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

The classes of information will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.
- Information in draft form.
- Information that is no longer readily available as it is contained in files that have been placed in archive storage, or is difficult to access for similar reasons.

## **The method by which information published under this scheme will be made available**

The authority will indicate clearly to the public what information is covered by this scheme and how it can be obtained.

Where it is within the capability of a public authority, information will be provided on a website. Where it is impracticable to make information available on a website or when an individual does not wish to access the information by the website, a public authority will indicate how information can be obtained by other means and provide it by those means. In exceptional circumstances some information may be available only by viewing in person. Where this manner is specified, contact details will be provided. An appointment to view the information will be arranged within a reasonable timescale.

Information will be provided in the language in which it is held or in such other language that is legally required. Where an authority is legally required to translate any information, it will do so.

Obligations under disability and discrimination legislation and any other legislation to provide information in other forms and formats will be adhered to when providing information in accordance with this scheme.

## **Charges which may be made for information published under this scheme**

The purpose of this scheme is to make the maximum amount of information readily available at minimum inconvenience and cost to the public. Charges made by the authority for routinely published material will be justified and transparent and kept to a minimum.

Material which is published and accessed on a website will be provided free of charge.

Charges may be made for information subject to a charging regime specified by Parliament.

Charges may be made for actual disbursements incurred such as:

- photocopying
- postage and packaging
- the costs directly incurred as a result of viewing information

Charges may also be made for information provided under this scheme where they are legally authorised, they are in all the circumstances, including the general principles of the right of access to information held by public authorities, justified and are in accordance with a published schedule or schedules of fees which is readily available to the public.

Charges may also be made for making datasets (or parts of datasets) that are relevant copyright works available for re-use. These charges will be in accordance with the terms of the Re-use of Public Sector Information Regulations 2015, where they apply, or with regulations made under section 11B of the Freedom of Information Act, or with other statutory powers of the public authority.



If a charge is to be made, confirmation of the payment due will be given before the information is provided. Payment may be requested prior to provision of the information.

## Written requests

Information held by a public authority that is not published under this scheme can be requested in writing, when its provision will be considered in accordance with the provisions of the Freedom of Information Act.

[Model publication scheme Version 1.2](#)

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