



FREEDOM OF INFORMATION ACT POLICY

RATIONALE

The Governing Body of Coppetts Wood Primary School and Children's Centre is responsible for ensuring that the school and Children's Centre comply with the Freedom of Information Act 2000.

Coppetts Wood Primary School and Children's Centre are committed to the Freedom of Information Act 2000, to the principles of accountability and the general right of access to information, subject to legal exemptions.

The Freedom of Information Act 2000 (FOIA) came into force on January 1 2005. Under the Act, any person has a legal right to ask for access to information held by Coppetts Wood Primary School and Children's Centre. They are entitled to be told whether the school or Children's Centre holds the information, and to receive a copy, subject to certain exemptions. The FOIA complements or supports the Data Protection Act 2018 which gives individuals access to personal information held on them by schools and the Environment Information Regulations 2004 (EIR), that gives access to information about the environment held by government and public authorities.

Requests for information, not routinely available to the public, will be dealt with in accordance with the statutory guidance. While the Act assumes openness, it recognises that certain information is sensitive. There are exemptions to protect this information.

The Act is fully retrospective, so any past records which the school or Children's Centre holds are covered by the Act. Coppetts Wood Primary School and Children's Centre retains records in accordance with the DfE Retention Schedule.

OBLIGATIONS AND DUTIES

Coppetts Wood Primary School and Children's Centre recognises its duty to:

- Comply with all relevant provisions in the FOIA 2000 and where relevant the EIR;
- provide advice and assistance to anyone requesting information under the FOI;

- respond on a request within the statutory response period of 20 working days following the receipt of a valid request
- tell enquirers whether or not we hold the information they are requesting (the duty to confirm or deny);
- where information is covered by a conditional exemption or other legislation, consider whether or not it is in the public interest to disclose the information, regardless of the exemption
- maintain a Publication Scheme that has been approved by the ICO containing details of information that the school makes available to the public

N.B. This policy does not cover Subject Access Requests. These requests are exempt from the FOI under section 40.

PROCEDURE FOR DEALING WITH REQUESTS

1. A request for information may be covered by one, or all, of three information rights:

- Data Protection enquiries are where the enquirer asks to see what personal information the school holds about the enquirer. If the enquiry is a Data Protection request, Coppetts Wood Primary School and Children's Centre Protection of Personal Data Policy will be followed.
- Environmental Information Regulations enquiries relate to air, water, land, natural sites, built environment, flora and fauna, health, and any decisions and activities affecting any of these. If the enquiry is about environmental information, we will follow the guidance on the DEFRA website www.defra.gov.uk/environment/pubaccess/index.htm.
- Freedom of Information enquiries are concerned with all other information and the reasoning behind decisions and policies. The request does not have to mention the Freedom of Information Act. All requests for information that are not data protection or environmental information requests are covered by the Freedom of Information Act and therefore under the procedure below.

2. A Freedom of Information request should:

- be in writing, which may include email or FAX;
- state the enquirer's name and correspondence address, email addresses are considered sufficient;
- describe the information requested. There must be enough information to be able to identify and locate the information. In cases where the enquiry is ambiguous Coppetts Wood Primary School and Children's Centre will assist the enquirer in clarifying the nature of the information requested. Where

additional information is requested the request does not need to be dealt with until further information has been received;

- not be covered by one of the other pieces of legislation.

PROCEDURE WHERE THE SCHOOL HOLDS THE INFORMATION

"Holding" information means information relating to the business of Coppetts Wood Primary School and Children's Centre that:

- the school has created, or
- 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.

A reasonable search is required before denying holding the information, however if Coppetts Wood Primary School and Children's Centre does not hold the information that will form the response to the enquiry.

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. Where Coppetts Wood Primary School and Children's Centre determine not to disclose the information due to exemptions, there is no need to consult with third parties. 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 you to determine if information is exempt from disclosure, or
- the views of the third party may assist you to determine the public interest.

Coppetts Wood Primary School and Children's Centre will comply with a request within 20 working days, excluding school holidays. Failure to comply could result in a complaint to the Information Commissioner. The response time starts from the time the request is received. Where Coppetts Wood Primary School and Children's Centre have asked the enquirer for more information to enable an appropriate response, the 20 days start time begins when this further information has been received.

Where Coppetts Wood Primary School and Children's Centre have supplied the information requested there are no requirements to keep records.

PROCEDURE FOR APPLYING AN EXEMPTION

Coppetts Wood Primary School and Children's Centre will disclose information unless the Freedom of Information Act provides a specific reason to withhold it. Certain information is subject to either absolute or qualified exemptions (see below for section on exemptions).

Only where there are real concerns about disclosing the information will an exemption be applied; however if the potential exemption is a qualified exemption, the public interest test will be conducted in order to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. As such, unless it is in the public interest to withhold the information, it will be released.

If a qualified exemption applies and Coppetts Wood Primary School and Children's Centre need more time to consider the public interest test, a response will be made within 20 days stating that an exemption applies but with an estimate of the date by which a decision on the public interest test will be made. This will be concluded within 10 working days.

Exemptions

Coppetts Wood Primary School and Children's Centre will make decisions on disclosure based on a presumption of openness. The Freedom of Information Act recognises the need to preserve confidentiality and protect sensitive material in some circumstances.

The Freedom of Information Act outlines a series of exemptions which allow the withholding of information in relation to an enquiry.

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;
- Qualified: where, even if an exemption applies, there is a duty to consider the public interest in disclosing information

Absolute Exemptions

There are 8 absolute exemptions listed in the Act. Even where an absolute exemption applies Coppetts Wood Primary School and Children's Centre:

- may make the decision to release the information, dependent upon the facts of the case;
- would provide reasonable advice and assistance to the enquirer.

The absolute exemptions in the Freedom of Information Act, which are relevant to Coppetts Wood Primary School and Children's Centre, are set out below:

1 Information accessible to the enquirer by other means (Section 21)

If information is reasonably accessible to the enquirer by route other than the Act, it is exempt information. This is the case even if the enquirer would have to pay for the information under that alternative route.

2 Personal information (Section 40)

Where enquirers ask to see information about themselves, this is exempt under the Freedom of Information Act because it is covered by the Data Protection Act.

3 Information provided in confidence (Section 41)

This relates to information obtained from a person if its disclosure would constitute a breach of confidence actionable by that, or another, person.

4 Prohibitions on disclosure (Section 44)

Information is exempt where its disclosure is prohibited under any other legislation by order of a court; where it would constitute a contempt of court; or where it is incompatible with any EC obligation.

Qualified Exemptions

With qualified exemptions, even if it is decided that an exemption applies, there is a duty to consider the public interest in confirming or denying that the information exists and in disclosing information. The qualified exemptions in the Freedom of Information Act, which are relevant to Coppetts Wood Primary School and Children's Centre, are set out below:

1 Information intended for future publication (Section 22)

If at the time the request was made, information is held with a view to publication, then it is exempt from disclosure if it is reasonable that it should not be disclosed until the intended date of publication.

2 Investigations and proceedings conducted by public authorities (Section 30)

Information is exempt if it has at any time been held by Coppetts Wood Primary School and Children's Centre for the purposes of criminal investigations or proceedings, such as determining whether a person should be charged with an offence or whether a charged person is guilty, or investigations which may lead to a decision to institute criminal proceedings.

3 Law enforcement (Section 31)

Information which is not exempt under Section 30 may be exempt under this exemption in the event that disclosure would, or would be likely to, prejudice the following:

- the prevention or detection of crime
- the apprehension or prosecution of offenders
- the administration of justice
- the exercise of functions such as ascertaining if a person has broken the law, is responsible for improper conduct, whether circumstances justify regulatory action, ascertaining a person's fitness or competence in relation to their profession, ascertaining the cause of an accident or protecting or recovering charities or its properties
- any civil proceedings brought by or on behalf of the school which arise out of an investigation carried out for any of the purposes mentioned above.

The duty to confirm or deny does not arise where prejudice would result to any of these matters.

4 Communications with the Queen (Section 37)

Information is exempt if it relates to communications with the Queen, the Royal Family or Royal Household or if it relates to the award of honours. The duty to confirm or deny does not arise where this exemption applies.

5 Health and Safety (Section 38)

Information is exempt if its disclosure would or would be likely to endanger the safety or physical or mental health of any individual. The duty to confirm or deny does not arise where prejudice would result.

6 Environmental information (Section 39)

Information is exempt under Freedom of Information Act where it is covered by the Environmental Information Regulations. Environmental information can cover information relating to: air, water, land, natural sites, built environment, flora and fauna, and health. It also covers all information relating to decisions or activities affecting any of these.

7 Personal information (Section 40)

Where an individual seeks information about themselves Data Protection Act powers apply. Where the information concerns a third party, it is exempt if its disclosure would contravene the Data Protection Act, or the data protection principles; or if the person to whom the information relates would not have a right of access to it because

it falls under one of the exemptions to the Data Protection Act. The duty to confirm or deny does not arise in relation to this information if doing so would be incompatible with any of the above.

8 Legal professional privilege (Section 42)

Legal professional privilege covers any advice given by legal advisers, solicitors and barristers. Generally such information will be privileged. A school wishing to disclose the information will need to seek consent from the provider of the advice. This exemption covers all such information where a claim to legal professional privilege can be maintained in legal proceedings. The duty to confirm or deny does not arise where to do so would involve the disclosure of such information.

9 Commercial interests (Section 43)

Information is exempt if it constitutes a trade secret or would be likely to prejudice the commercial interests of any person or body (including Coppetts Wood Primary School and Children's Centre). The duty to confirm or deny does not arise where prejudice would result to commercial interests but not where the information constitutes a trade secret.

Any presence of protective marking e.g. Restricted, Confidential and Secret would not constitute as an exemption and are not in itself sufficient grounds to prevent disclosure. Each case will be considered on its merits.

Where information has previously been withheld, it will not be assumed that any subsequent requests for the same information will also be refused. Sensitivity of information decreases with age and the impact of any disclosure will be different depending on when the request is received. Therefore, for each request, Coppetts Wood Primary School and Children's Centre will consider the harm that could result at the time of the request and, while taking into account any previous exemption applications, each case should be considered separately.

In all cases, before writing to the enquirer, the person given responsibility for Freedom of Information Act by Coppetts Wood Primary School and Children's Centre Governing Body will ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound. This person shall be nominated and known to the staff (the headteacher).

APPLYING THE PUBLIC INTEREST TEST

1. Having established that a qualified exemption(s) definitely applies to a particular case, Coppetts Wood Primary School and Children's Centre will then carry out a public interest test to identify if the public interest in applying the exemption

outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it will be released. Although precedent and a developed case law will play a part, individual circumstances will vary and each case will need to be considered on its own merits.

2. In most cases it will be relatively straightforward to decide where the balance of the public interest in disclosure lies. However, there will inevitably be cases where the decision is a difficult one. Applying such a test depends to a high degree on objective judgement and a basic knowledge of the subject matter and its impact on Coppetts Wood Primary School and Children's Centre, and possibly wider. Factors that might be taken into account when weighing the public interest include:

For Disclosure	Against Disclosure
Is disclosure likely to increase access to information held by Coppetts Wood Primary School and Children's Centre?	Is disclosure likely to distort public reporting or be misleading because it is incomplete?
Is disclosure likely to give the reasons for a decision or allow individuals to understand decisions affecting their lives or assist them in challenging those decisions?	Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving?
Is disclosure likely to improve the accountability and transparency of the school in the use of public funds and help to show that it obtains value for money?	Is disclosure likely to cause unnecessary public alarm or confusion?
Is disclosure likely to contribute to public debate and assist the understanding of existing or proposed policy?	Is disclosure likely to seriously jeopardise the school's legal or contractual position?
Is disclosure likely to increase public participation in decision-making?	Is disclosure likely to infringe other legislation e.g. Data Protection Act?
Is disclosure likely to increase public participation in political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair your ability to obtain information in the future?
Is disclosure likely to bring to light information affecting public safety?	Is disclosure likely to adversely affect the school's proper functioning and discourage openness in expressing opinions?
Is disclosure likely to reduce further enquiries on the topic?	If a large amount of information on the topic has already been made available, would further disclosure shed any more light or serve any useful purpose?

3. Coppetts Wood Primary School and Children's Centre accept that:

- potential or actual embarrassment to, or loss of confidence in Coppetts Wood Primary School and Children's Centre, staff or governors is NOT a valid factor;
- the fact that the information is technical, complex to understand and may be misunderstood may not of itself be a reason to withhold information;
- the potential harm of releasing information will reduce over time and should be considered at the time the request is made rather than by reference to when the relevant decision was originally taken;
- the balance of the public interest in disclosure cannot always be decided on the basis of whether the disclosure of particular information would cause harm, but on certain higher order considerations such as the need to preserve confidentiality of internal discussions;
- a decision not to release information may be perverse i.e. would a decision to withhold information because it is not in the public interest to release it, itself result in harm to public safety, the environment or a third party?

4. The designated staff member for Freedom of Information enquiries will record the answers to these questions and the reasons for the answers. Deciding on the public interest is not simply a matter of adding up the number of relevant factors on each side. Coppetts Wood Primary School and Children's Centre will decide how important each factor is in the circumstances and make an overall assessment.

For Disclosure

5. Where the balance of the public interest lies in disclosure, the enquiry will be dealt with and the information required will be made available. Where the factors are equally-balanced, the decision will usually favour disclosure.

Against Disclosure

6. After carrying out the public interest test if it is decided that the exemption should still apply, Coppetts Wood Primary School and Children's Centre will proceed to reply with a refusals notice.

PROCEDURE FOR REFUSING A REQUEST

If Coppetts Wood Primary School and Children's determine that the information is not to be provided, the person dealing with the request must immediately contact the person in the school and Children's Centre with delegated responsibility for Freedom

of Information to ensure that the case has been properly considered and the reasons for refusal are sound. If it is decided to refuse a request, a refusals notice will be sent, which will contain:

- i) the fact that the responsible person cannot provide the information asked for;
- ii) which exemption(s) that apply;
- iii) why the exemption(s) apply to this enquiry;
- iv) reasons for refusal if based on cost of compliance (see Charging)
- v) in the case of non-absolute exemptions, where Coppetts Wood Primary School and Children's Centre have applied the public interest test, the refusals notice will specify the public interest factors taken into account before reaching the decision
- vi) reasons for refusal on vexatious or repeated grounds
- vii) the internal complaints procedure.

Coppetts Wood Primary School and Children's Centre will keep a record of all enquiries where all or part of the requested information is withheld and exemptions are claimed. A record will be kept for:

- monitoring purposes
- in case of an appeal against a decision not to release information
- in case of an investigation by the Information Commissioner

The record will include the reasons for the decision to withhold the information. Records are retained for 5 years.

PROCEDURE FOR HANDLING A COMPLAINT

Any written, including email, expression of dissatisfaction will follow Coppetts Wood Primary School and Children's Centre Complaints Policy.

Where the original request has been reviewed and the determined outcome is that the information should be disclosed this will be done as soon as practicable. Where the outcome upholds the original decision or action, the applicant will be informed of their right to appeal to the Information Commissioner. The appeal should be made in writing to:

FOI Compliance Team (Complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

PROCEDURE WHERE THE INFORMATION IS ALREADY PUBLIC

If the information requested is already in the public domain, Coppetts Wood Primary School and Children's Centre will direct the enquirer to the information and explain how to access it.

PROCEDURE WHERE THE REQUEST IS VEXATIOUS, MANIFESTLY UNREASONABLE OR REPEATED

The Freedom of Information Act states that there is no obligation to comply with vexatious requests. This is taken to mean a request 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 or Children's Centre. Similarly, there is no obligation to comply with repeated identical, or substantially similar, requests from the same enquirer unless a reasonable interval has elapsed between requests.

PROCEDURE OF TRANSFERRING THE REQUEST TO ANOTHER BODY

If the information is held by another public authority, such as the London Borough of Barnet, Coppetts Wood Primary School and Children's Centre will check that they hold the information before transferring the request to them. The enquirer will be notified that the information is not held by the school or Children's Centre, and to whom we have transferred the request.

PROCEDURE FOR RELEASING DETAILS CONTAINING PERSONAL INFORMATION

Personal information requested by third parties is also exempt under the Freedom of Information Act where release of that information would breach the Data Protection Act. If a request is made for a document which contains personal information whose release to a third party would breach the Data Protection Act, the document may be issued by following the procedure for redaction:

- mask the passages not applicable for disclosure and photocopy;
- annotate in the margin next to blank passages the exemption and the section of the Data Protection Act under which the passage is exempt;
- include a covering letter with the redacted document explaining that relevant exemptions are annotated in the document and that the public interest test has been considered.

PROCEDURE FOR CHARGING

The Freedom of Information Act allows Coppetts Wood Primary School and Children's Centre Governing Body to charge for providing information.

The threshold for charging is £450. Staff costs will be calculated at £25 per hour. Costs will encompass determining if the information is held, locating and retrieving the information, and extracting the information from other documents. Coppetts Wood Primary School and Children's Centre will not charge for any costs involved in determining whether information is exempt.

If a request would cost less than £450 Coppetts Wood Primary School and Children's Centre will 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).

If a request would cost more than £450 Coppetts Wood Primary School and Children's Centre can determine to:

- turn the request down,
- answer and charge a fee,
- answer and waive the fee.

Coppetts Wood Primary School and Children's Centre will consider whether calculating the cost of the fee outweighs the cost of providing the information. Straightforward enquiries will be responded to free of charge and only charge where the costs are significant.

If Coppetts Wood Primary School and Children's Centre decide to charge the enquirer will be sent a notice of fees and the request will not be complied with until the fees are paid. Where the enquirer has been notified that a charge is to be made, the time period stops until payment is received and continues once payment has been received. The request will remain open for three months after the notice of fees has been issued to the enquirer.

Where two or more requests are made to Coppetts Wood Primary School and Children's Centre by individuals who appear to be working together, or as part of a campaign, the estimated cost will be taken as the total cost of complying with all the requests.

RESPONSIBILITIES

Coppetts Wood Primary School and Children's Centre has a nominated staff member responsible for handling Freedom of Information requests.

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Policy Reviewed: October 2017
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