



## **NICHOLAS POSTGATE CATHOLIC ACADEMY TRUST**

### **FREEDOM OF INFORMATION (FOI) POLICY**

**Adopted By: Trinity Catholic College & Sixth Form**

Policy Reviewed and Adopted by Board – Feb 2017

Date of Next Review: Feb 2020

Responsible Officer: DFCS

## **PART 1: SCOPE OF THIS POLICY**

1. This policy covers requests for information under the Freedom of Information Act 2000 (“**FOIA**”). It also covers enquiries relating to matters under the Environmental Information Regulations 2004, namely enquiries about air, water, land, natural sites, built environment, flora and fauna, and health, and any decisions and activities affecting any of these.

2. This policy does not cover enquiries or subject access requests under the Data Protection Act 1998 i.e. where the enquirer asks to see what personal information St Hilda’s Catholic Academy Trust (“the MAT”) or the academies run by MAT (the “Academies”) holds about them. These enquiries will be dealt with under our Data Protection Policy.

3. This policy outlines our approach to information requests, details of the Publication Scheme and how information requests will be handled. “Information” includes both hard copy and digital information, including email.

## **PART 2: GENERAL APPROACH TO FOI**

4. The MAT acknowledges that, under the FOIA, any person has a legal right to ask for access to information held by the MAT or its Academies. We recognise our duty to:

- provide advice and assistance to anyone requesting information
- tell enquirers whether or not we hold the information they are requesting unless exempted from this duty (the duty to confirm or deny)
- provide access to the information we hold, subject to legal exemptions, in accordance with the procedures laid down in Part 4 of this policy.

5. We recognise the presumption of openness that underlies the FOIA. We are committed to maintaining a well-managed records management and information system in order to comply efficiently with requests and we will adopt a straight-forward approach to meeting requests for information.

6. The Executive Board of the MAT is responsible for overseeing access to information and delegation to the appropriate Local Management Board or Academy. Day-to-day responsibility for the implementation of this FOIA policy and the provision of advice, guidance, publicity and interpretation of this policy is delegated to the Headteacher of each Academy and to the Director of Finance & Corporate Services (DFCS) of the MAT. We will also ensure that all members of staff are aware of this policy and know that all requests for information should be passed without undue delay to the Headteacher/DFCS (as applicable).

7. We acknowledge that wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence and we will take all reasonable steps to ensure that records that are subject to a request for information are not deleted or amended by anyone within the MAT.

### **PART 3: PUBLICATION SCHEMES**

8. Information which the Trust and its academies routinely make available to the public is included in our Publication Schemes. The Publication Schemes are based on the model scheme approved by the Information Commissioner.

9. The Executive Board of the Trust is responsible for collating and publicising its own Publication Scheme about the work of the Trust. A copy of the Publication Scheme is attached at Annex A.

10. The respective Publication Schemes and the materials covered in those schemes will be available from the Trust or academy offices and on the Trust or academies' websites (as applicable).

### **PART 4: REQUESTS FOR INFORMATION**

#### **Making a request for information**

11. The Trust and its academies will only deal with valid FOI requests for information under this policy. A valid FOI request must:

- be in writing (includes letter, email or fax)
- state the enquirer's name and correspondence address (includes email addresses)
- describe the information requested - there must be enough information to be able to identify and locate the information
- not be a request falling under the Data Protection Act (i.e. be a request for information about yourself or your child)

12. In order that your request can be dealt with as quickly and efficiently as possible, you should submit your request by letter to the Headteacher/DFCS (as applicable). This can be delivered by post or by hand at the reception desk.

#### **Timescales for responding to requests for information**

13. We will endeavour to deal with your request promptly and certainly within the legally prescribed limit of 20 school days i.e. excluding weekends and school holidays (This may be extended to 60 working days if this is shorter and the request is received on a non-school day).

14. The response time will start from the time the request is received. Where further information is required from you before we can deal with your request, we shall contact you as soon as practicable using the correspondence address provided. We do not have to deal with your request until the further information is received. Where a fee is to be made (see below), we are also not required to deal with your request until payment has been received. If you choose to pay any fee by cheque the fee will not be regarded as having been received until the day the cheque has cleared. The 20 school days countdown will only begin or restart once the further information and/or payment has been received.

15. If a qualified exemption applies (see below) and we need more time to consider the

public interest test, we will send you a response within 20 school days stating that an exemption applies and giving you estimate of the date by which a decision on the public interest test will be made. This will normally be within a further 10 working days.

### **Charges relating to requests for information**

16. We follow the Department for Education recommendation that academies should ordinarily charge for dealing with requests for information to recover the costs to academy resources that would otherwise support teaching and learning.

17. We are not required to comply with a request for information where we estimate that the cost of compliance will exceed £450. In estimating the cost of compliance, we are entitled to consider:

- Prescribed costs i.e. the costs we reasonably expect to incur in determining whether we hold the information; locating the information or a document containing it; retrieving the information or a document containing it; and extracting the information from a document containing it. This includes staff time at £25 per hour (excluding time needed to consider whether the information requested is exempt from disclosure or in redacting documents).
- Communication costs i.e. costs we expect to directly and reasonably incur in informing you whether we hold the information and communicating the information to you, including reproducing any document containing the information (e.g. printing or photocopying) or postage.

18. If our estimated cost of complying with your request does not exceed £450, we are entitled to charge the actual communication costs incurred by us, but not the prescribed costs.

19. If our estimated cost of complying with your request does exceed £450, we will advise you accordingly and advise what, if any, information can be provided for under £450 and/or suggest a narrowed version of your request that could be handled within this limit. Should you wish us to provide the information as initially requested, we are entitled to charge:

- the estimated costs of compliance with the request
- the actual communication costs; **and**
- staff time, at £25 per hour per person, spent on the activities included under communication costs

20. If a fee is payable, we will notify you as soon as practicable (the "fees notice"). The fee notice will state the amount we will charge and advise you how you can pay. If we do not receive payment within three months of issuing you with the fees notice, we are no longer obliged to respond to your request.

### **Right to refuse to comply with a request for information**

21. There are only four reasons we may refuse to comply with a valid request for information under the FOIA:

- The information is not held by us. Once we have received your request, we will

ascertain whether we hold the information requested. "Holding" information means information relating to the business of the Trust or an academy within it that we have created, received from another body or person, or is held by another body on our behalf. If, after reasonable enquiry, we are able to confirm that we do not hold the information requested, we will advise you accordingly using the correspondence address provided.

- The cost threshold is reached (£450). See 'Charges relating to requests for information' above.
- The request is considered vexatious or repeated. There is no obligation on us to comply with vexatious requests. This is a request designed to cause inconvenience, harassment or expense rather than to obtain information, and would require a substantial diversion of resources or would otherwise undermine our work.
- One or more of the exemptions apply. There are more than 20 exemptions (**see Annex B**). Where the potential exemption is a qualified exemption, we will also consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.

22. Each case will be considered on its merits and we will maintain records on any refusals made and the reasons for them. Records will be retained for 5 years in accordance with statutory guidance.

23. If we refuse to provide the information, we will notify you in writing, explaining:

- the fact that we cannot provide the information asked for
- which exemption(s) we believe apply
- why the exemption(s) apply to this enquiry (if it is not self-evident)
- reasons for refusal if based on cost of compliance
- in the case of qualified exemptions, how we have applied the public interest test, specifying the public interest factors taken into account before reaching the decision
- reasons for refusal on vexatious or repeated grounds
- our complaints procedure

### **The duty to confirm or deny**

24. A person applying for information has the right to be told if the information requested is held, and if that is the case to have the information sent (subject to any of the exemptions).

We do 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

### **Consultation with third parties**

25. Consultation with 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 us to determine if information is exempt from disclosure, or
- the views of the third party may assist us to determine the public interest test

## **Redaction**

26. If a request is made for a document which contains exempt information (for example, it contains personal information about a third party whose release to a third party would breach the Data Protection Act), the document may be issued by blanking out the relevant exempt information. This process is known as redacting.

27. The general procedure for redaction is:

- the exempt information will be masked and then photocopied so nothing shows through;
- an annotation will be provided in the margin against each redaction, stating which exemption and section of the Act applies

## **5: COMPLAINTS**

28. Any comments or complaints will be dealt with through our normal complaints procedure.

29. If on investigation our original decision is upheld, then you have the right to appeal to the Information Commissioner's Office. Appeals should be made in writing to the Information Commissioner's Office. They can be contacted at:

Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **ANNEX A**

### **Publication scheme for St. Hilda's Catholic Academy Trust**

#### **1. Introduction: what is a Publication Scheme and why has it been developed**

1. This Publication Scheme commits us to make information available to the public as part of our normal business activities.

This Scheme commits the Trust to:

- proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the Trust and falls within the classes of information below
- specify the information which is held by us and falls within the classes of information below
- proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme
- 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
- review and update on a regular basis the information we make available under this scheme
- produce a schedule of any fees charged for access to information which is made proactively available
- make this publication scheme available to the public

2. The classes of information include:

- **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 by law and other lists and registers

relating to the functions of the Trust

· **The services we offer** - Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

3. 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 it is difficult to access for similar reasons

## **2. The method by which information published under this Publication Scheme will be made available**

1. Where it is within our capability, information will be provided on individual academy websites, where specific to that academy, or if Trust related on our website:

<http://sthildasacademy.co.uk/>

2. Where it is impracticable to make information available on the website, this Scheme sets out how information can be obtained. Where you cannot or do not wish to access the information via the specified means, you should contact the Trust (see below) to discuss an alternative means of viewing the information. In exceptional circumstances information may be available only by viewing in person. You should contact the Trust (see below) to make an appointment to view the information which we will endeavour to accommodate within a reasonable timescale.

3. Information will be provided in the language in which it is held or in such other language that is legally required. If we are legally required to translate the information, we 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.

## **3. Charges which may be made for information published under this Scheme**

1. The purpose of this Scheme is to make the maximum amount of information readily available at minimum inconvenience and cost to the public. Material which is published and accessed on a website will be provided free of charge. Charges may be made for actual disbursements incurred such as:

- Photocopying
- Postage and Packaging
- The costs directly incurred as a result of viewing information

2. Charges may also be made for information provided under this Scheme where they are legally authorised, they are justified in all the circumstances and are in accordance with a published schedule of fees in this Publication Scheme. If a charge is to be made,

confirmation of the payment due will be given before the information is provided. Payment will be requested prior to provision of the information.

#### **4. Written Requests**

1. Information held by us 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.

#### **5. Contact details**

1. If you require a paper version of any information, or want to ask whether information is available please contact us:

Jim Farquhar at [farquhar.j@trinitycatholiccollege.org.uk](mailto:farquhar.j@trinitycatholiccollege.org.uk)

Director of Finance & Corporate Services  
St. Hilda's Catholic Academy Trust  
Trinity Catholic College  
Saltersgill Avenue  
Middlesbrough  
TS4 3JW

To help us process requests quickly, any correspondence should be clearly marked "Publication Scheme Request".

## **Annex B Exemptions**

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

Even when an exemption applies:

- we will still provide you with reasonable advice and assistance, including suggesting an amended version of your request
- we can decide to ignore the exemption and release the information taking into account all the facts of the case

### **ABSOLUTE EXEMPTIONS**

Those which are most likely to be used are marked with an \*:

1. **\*Information accessible to the enquirer by other means\*** (Section 21) If information is reasonably accessible to the enquirer by a route other than the FOIA, it is exempt information. This is the case even if the enquirer would have to pay for the information under that alternative route. This exemption will include cases where the information is available via the Publication Scheme or under other legislation, such as the Data Protection Act 1998.
2. **\*Personal information\*** (Section 40) (see also the qualified exemption part of Section 40). Where enquirers ask to see information about themselves, this is exempt under the Act because it is covered by the Data Protection Act.
3. **\*Court records\*** (Section 32) (see also the qualified exemption under Section 30 concerning investigations and proceedings conducted by public authorities). This applies to information related to proceedings in a court or tribunal or served on a public authority for the purposes of proceedings.
4. **\*Information provided in confidence\*** (Section 41). This relates to information obtained from a person if its disclosure would constitute a breach of confidence actionable in law by that, or another, person.
5. **\*Prohibitions on disclosure\*** (Section 44) Information is exempt where its disclosure is prohibited under any other legislation by order of a court or where it would constitute a contempt of court or where it is incompatible with any EC obligation.

**6. Information dealing with security matters** (Section 23) (see also qualified exemption under Section 24 on national security). This applies to information directly or indirectly supplied by, or relating to, bodies dealing with security matters such as GCHQ, MI5, MI6, Special Forces and the National Criminal Intelligence Service.

**7. Parliamentary Privilege** (Section 34). This exempts information if it is required for the purpose of avoiding an infringement of the Parliamentary privilege.

**8. Prejudice to the effective conduct of public affairs** (Section 36) (see also the qualified exemption part of Section 36). This relates to the maintenance of the collective responsibility of Ministers.

### **QUALIFIED EXEMPTIONS**

Where a qualified exemption applies, there is an additional duty to consider the public interest in confirming or denying that the information exists and in disclosing information (see below).

Those which are most likely to be used are marked with an \*:

1. **\*Personal information\*** (Section 40) (see also the absolute exemption part of Section 40) Where the information concerns a third party, it is exempt if its disclosure would contravene the Data Protection Act 1998, 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 1998. 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.

2. **\*Legal professional privilege\*** (Section 42) Legal professional privilege covers any advice given by legal advisers, solicitors and barristers especially with regard to potential litigation. Generally such information will be privileged. 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.

3. **\*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. This could apply for instance to statistics published at set intervals, for example annually or where information is incomplete and it would be inappropriate to publish prematurely. Note the following:-

- the intended publication does not have to be by the school, it can be by another person or body on behalf of the school
- the date of publication does not have to be known, it could be at some future date (although it is recommended that some idea of a likely date is given)
- the duty to confirm or deny does not apply if to do so would involve the disclosure of any of the relevant information

4. **\*Investigations and proceedings conducted by public authorities\*** (Section 30) Information is exempt if it has at any time been held by us 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. The duty to confirm or deny does not apply to such information.

5. **\*Law enforcement\*** (Section 31) Information which is not exempt under Section 30 Investigations and Proceedings, may be exempt under this exemption in the event that disclosure would, or would be likely to, prejudice the following among others:

- 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 us or on our behalf 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.

6. **\*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.

7. **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 the MAT or its Academies).

8. **\*Environmental information\*** (Section 39) Information is exempt under FOI 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. However, such requests will normally be dealt with under similar principles to those set out in the policy.

9. **Audit Functions** (Section 33) Information is exempt if its disclosure would, or would be likely to, prejudice the exercise of an authority's functions in relation to the audit of the accounts of other public authorities. It does not apply to internal audit reports.

10. **Formulation of government policy** (Section 35) Information held is exempt information if it relates to the formulation or development of government policy, ministerial communications, advice by Law Officers (e.g. Attorney General) and the operation of any Ministerial private office.

11. **National security** (Section 24) (see also absolute exemption 23) Information is exempt for the purposes of safeguarding national security.

12. **Defence** (Section 26) Information is exempt if its disclosure would prejudice the defence of the UK.

13. **International relations** (Section 27) Information is exempt if its disclosure would or would be likely to, prejudice relations between the UK and any other state, international organisation.

14. **Relations within UK** (Section 28) Information is exempt if its disclosure would or would be likely to, prejudice relations between any administration in the UK i.e. the Government, Scottish Administration, Northern Ireland Assembly, or National Assembly of Wales.

15. **The economy** (Section 29) Information is exempt if its disclosure would, or would be likely to, prejudice the economic or financial interests of the UK

16. **Prejudice to the conduct of public affairs** (Section 36) (excluding matters covered by the absolute exemption part of Section 36) Information likely to prejudice the maintenance of the convention of the collective responsibility of Ministers or likely to inhibit the free and frank provision of advice or exchange of views.

17. **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.

### **3. PUBLIC INTEREST TEST**

1. Having established that a qualified exemption(s) definitely applies to a particular case, we are then required to carry out a public interest test to identify whether the public interest in applying the exemption outweighs the public interest in disclosing it. Unless it is in the public interest to withhold the information, we are required to release it.

2. What is in the public interest is not necessarily the same as that which may be of interest to the public. It may be irrelevant that a matter may be the subject of public curiosity.

3. Factors that might be taken into account when weighing the public interest include:

#### For disclosure

1. Is disclosure likely to increase access to information held by us?
2. 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?
3. Is disclosure likely to improve our accountability and transparency in the use of public funds and help to show that we obtain value for money?
4. Is disclosure likely to contribute to public debate and assist the understanding of existing or proposed policy?
5. Is disclosure likely to increase public participation in decision-making?
6. Is disclosure likely to increase public participation in political processes in general?
7. Is disclosure likely to bring to light information affecting public safety?
8. Is disclosure likely to reduce further enquiries on the topic?

### Against disclosure

9. Is disclosure likely to distort public reporting or be misleading because it is incomplete?
10. Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving?
11. Is disclosure likely to cause unnecessary public alarm or confusion?
12. Is disclosure likely to seriously jeopardise our legal or contractual position?
13. Is disclosure likely to infringe other legislation e.g. Data Protection Act?
14. Is disclosure likely to create a controversial precedent on the release of information or impair our ability to obtain information in the future?
15. Is disclosure likely to adversely affect our proper functioning and discourage openness in expressing opinions?
16. 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?

17. In considering the above, we acknowledge that:

1. potential or actual embarrassment to, or loss of confidence in, to the MAT and its Academies, staff or governors is NOT a valid factor
2. the fact that the information is technical, complex to understand and may be misunderstood may not of itself be a reason to withhold information
3. the potential harm of releasing information will reduce over time and will therefore be considered at the time the request is made rather than by reference to when the relevant decision was originally taken
4. 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
5. 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?
6. Where the balance of the public interest lies in disclosure or the factors are equally balanced, we will normally favour disclosure and the information requested made available