



## Freedom of Information (FOI) Policy

### Policy Number - 11

#### Document Management Information

<b>Applicable to:</b>	All Staff, Pupils, Trustees, Members of the Trust and members of the public who may request information
<b>Dissemination:</b>	Trust website and the NET Frameworks and Policies for all staff Teams
<b>Linked policies:</b>	FOI Publication Scheme (11a – now separate document) Data Protection Policy Records Management Policy (new policy) Appropriate Data Policy
<b>Implementation:</b>	Trust wide through Trust Leaders
<b>Training:</b>	GDPR UK – Education (iHasco) – All Staff
<b>Review Frequency:</b>	3 years
<b>Policy Author:</b>	Data Protection Officer (DPO)
<b>Policy Lead:</b>	Director of Operations
<b>Approval by:</b>	Audit & Risk Committee
<b>Approval Date:</b>	29 November 2023
<b>Next Review Due:</b>	Autumn 2026

#### Revision History

Document version:	Description of Revision:	Date Approved:
1	Separated from Data Protection Policy (5) – this is now 11	29 November 2023

## CONTENTS

1. INTRODUCTION.....	3
2. SCOPE.....	3
3. WHAT IS A REQUEST UNDER FOI.....	3
4. REQUESTING INFORMATION .....	4
5. PROCEDURE FOR DEALING WITH A REQUEST .....	4
6. HOW YOU CAN RECEIVE THE INFORMATION .....	5
7. RESPONDING TO A REQUEST .....	5
8. VEXATIOUS REQUESTS.....	5
9. RECORD KEEPING .....	5
10. COMPLAINTS.....	5

## 1. INTRODUCTION

Nene Education Trust (the "Trust" including its schools/academies; 5Wells; Manor Sports and Leisure), along with all other Public Authorities, must comply with the Freedom of Information (FOI) Act. The Act was created as an initiative to increase openness and transparency in Government, with the Freedom of Information Act.

The Act obliges organisations covered by it to publish certain information about their activities and, additionally, to make any other information (with several statutory exceptions) available upon request. Please see the publication scheme on the Trust website.

This policy will be reviewed every 3 years, or where required to do so in line with changes to guidance, legislation or procedure.

## 2. SCOPE

This policy is intended to cover all records created during the business of the Trust.

This policy applies to all Trust staff, including temporary, casual or agency staff and contractors, consultants and suppliers working for, or on behalf of the Trust.

## 3. WHAT IS A REQUEST UNDER FOI

Any request for any information (not personal data) from the Trust is technically a request under the FOI, whether or not the individual making the request mentions FOI. However, the Information Commissioner's Office (ICO) has stated that routine requests for information (such as a parent/carer requesting a copy of a policy) can be dealt with outside of the provisions of the Act.

In all non-routine cases, if the request is simple and the information is to be released, then the individual who received the request can release the information but must ensure that this is done within the timescale set out below. A copy of the request should then be sent to the Data Protection Officer (DPO) with the proposed response.

All other requests should be referred in the first instance to the DPO, who may allocate another individual to deal with the request. This must be done promptly, and in any event within three working days of receiving the request.

When considering a request under FOI, you must bear in mind that release under FOI is treated as release to the general public, and so once it has been released to an individual, anyone can then access it, and you cannot restrict access when releasing by marking the information "confidential" or "restricted".

Please refer to the ICO guidance: [flowchart of request handling under foia.pdf \(ico.org.uk\)](https://ico.org.uk/for-organisations/guide-to-the-data-protection-act/foi/foi-flowchart).

### **What makes a valid request under the Act, it must:**

- Be in writing. This could be a letter or email. Requests can also be made via the web, or even on social networking sites such as Facebook or Twitter.
- Include the requester's real name. The Act treats all requesters alike, so you should not normally seek to verify the requester's identity. However, you may decide to check their identity if it is clear they are using a pseudonym or if there are legitimate grounds for refusing their request and you suspect they are trying to avoid this happening; for example, because their request is vexatious or repeated. Remember that a request can be made in the name of an organisation, or by one person on behalf of another, such as a solicitor on behalf of a client.
- Include an address for correspondence. This need not be the person's residential or work address – it can be any address at which you can write to them, including a postal address or an email address.
- Describe the information requested. Any genuine attempt to describe the information will be enough to trigger the Act, even if the description is unclear, or you think it is too broad or unreasonable in some way.

## 4. REQUESTING INFORMATION

The FOI Act 2000 provides public access to information held by public authorities. It does this in two ways:

- a) Public Authorities are obliged to publish certain information about their activities. Please see the Publication Scheme on the Trust website; and
- b) Members of the public are entitled to request information from Public Authorities.

Under the second provision of the Act, the right to request information; anyone may make a request in writing for recorded information held by the Trust, its schools or trading arms. A request for information must be made in writing to the Principal of each school or to the Chief Executive Officer (CEO) of the Trust.

Requests for information will be responded to as soon as possible, and in any event within 20 working days of receipt of the request. Requests for information that require the Trust to complete a public interest test will be met within 40 working days of receipt. A working day is one school day (one in which pupils are in attendance), subject to an absolute maximum of 60 calendar days to respond.

## 5. PROCEDURE FOR DEALING WITH A REQUEST

When a request is received that cannot be dealt with by simply providing the information, it should be referred in the first instance to the DPO, who may re-allocate to an individual with responsibility for the type of information requested.

- **Stage One:** The first stage in responding is to determine whether or not the Trust “holds” the information requested. The Trust will hold the information if it exists in computer or paper format. Some requests will require the Trust to take information from different sources and manipulate it in some way. Where this would take minimal effort, the Trust is considered to “hold” that information, but if the required manipulation would take a significant amount of time, the requestor should be contacted to explain that the information is not held in the manner requested and offered the opportunity to refine their request. For example, if a request required the Trust to add up totals in a spreadsheet and release the total figures, this would be information “held” by the Trust. If the Trust would have to go through a number of spreadsheets and identify individual figures and provide a total, this is likely not to be information “held” by the Trust, depending on the time involved in extracting the information.
- **Stage Two:** The second stage is to decide whether the information can be released, or whether one of the exemptions set out in the Act applies to the information. Common exemptions that might apply include (please note the sections mentioned in **italics** are qualified exemptions. This means that even if the exemption applies to the information, you also **must** carry out a public interest weighting exercise, balancing the public interest in the information being released, as against the public interest in withholding the information).
  - Section 40 (1) – the request is for the applicant's personal data. This must be dealt with under the subject access regime in the Data Protection Act (DPA), detailed in the Trust's Data Protection Policy.
  - Section 40 (2) – compliance with the request would involve releasing third party personal data, and this would be in breach of the DPA principles as set out in the Data Protection Policy.
  - Section 41 – information that has been sent to the Trust (but not the Trust's own information) which is confidential.
  - Section 21 – information that is already publicly available, even if payment of a fee is required to access that information.
  - **Section 22 – information that the Trust intends to publish at a future date.**
  - **Section 43 – information that would prejudice the commercial interests of the Trust and/ or a third party.**
  - **Section 38 – information that could prejudice the physical health, mental health or safety of an individual (this may apply particularly to safeguarding information).**
  - **Section 31 – information which may prejudice the effective detection and prevention of crime – such as the location of CCTV cameras.**
  - **Section 36 – information which, in the opinion of the chair of the board of trustees of the Trust, would prejudice the effective conduct of the Trust. There is a special form for this on the ICO's website to assist with the obtaining of the Chair's opinion.**

## 6. HOW YOU CAN RECEIVE THE INFORMATION

A requester can ask for the information in several different formats:

- paper or electronic copies of any documents
- audio format
- large print

Make sure you check the copyright status of the information you receive if you plan to reproduce it. It is your responsibility to check this. The Trust or any representative shall not be held liable for your failure to check this.

## 7. RESPONDING TO A REQUEST

When responding to a request where the Trust has withheld some or all of the information, the Trust must explain why the information has been withheld, quoting the appropriate section number and explaining how the information requested fits within that exemption. If the public interest test has been applied, this also needs to be explained. The letter should end by explaining to the requester how they can complain.

### **If your request is turned down - what can you do about it?**

Some sensitive information might not be available to members of the public. If this is the case, we will tell you why we have withheld some or all the information you requested.

We can turn down your request if we think it will cost more than £450 to deal with your request.

We might ask you to be more specific so we can provide the information you're looking for. If we do not provide you with the information you request, you should first contact us, asking us to review our decision. If you are still not satisfied, you can complain to the ICO: [www.ico.org.uk](http://www.ico.org.uk).

## 8. VEXATIOUS REQUESTS

The Act allows the Trust to refuse any requests that have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

Decisions on whether a request is vexatious will be taken by the CEO with the assistance of legal advice where necessary.

## 9. RECORD KEEPING

All FOI requests will be logged and tracked by the Trust. This will aid identification of repeat, similar, or vexatious requests.

## 10. COMPLAINTS

Applicants dissatisfied with the Trust's response to a request, including appeals against decisions to withhold information, may complain through the Trust's complaints procedure.

If, after exhausting the Trust's complaints procedure, you are still dissatisfied with the outcome, you may refer the matter to the ICO:

**Information Commissioner's Office, Wycliff House, Water Lane, Wilmslow, Cheshire, SK9 5AF.**

[www.ico.org.uk](http://www.ico.org.uk).