Tutshill C of E Primary School

Woolaston Primary School

Forest Edge Federation

Governing Board

Freedom of Information Policy

Signed: _____

Chair of the Governing Board

Date: **September 2024**

Review: **September 2026**

It is the responsibility of the Governing Board to ensure procedures are in place to ensure that the Tutshill C of E Primary School and Woolaston Primary School handle information requests covered by the Freedom of Information Act 2000 (FoIA), the Data Protection Act 2018 (GDPR) and the Environmental Information Regulations 2004 (EIR) in accordance with the provisions laid out therein and that the school satisfies the standards set out in the Lord Chancellor's Code of Practice on satisfying public authorities obligations under the FoIA, produced under section 45 of that Act.

Introduction
The governing board is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 and the access provisions of the Data Protection Act. Both Schools will make every effort to meet their obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this policy is that the public have a right of access to recorded information held by the Schools and that they should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

Separate guidance, in the form of operating procedures, has been given to staff in the staff handbook on how to handle information requests received under the FoIA regime.

Background
The Freedom of Information Act applies to all public authorities and came fully into force on 1st January 2005. It provides the public with a statutory right of access to recorded information held by authorities, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1st January 2005. Section 19 of the Act also obliges both Schools to make information pro-actively available in the form of an approved "publication scheme".

In addition, individuals have a statutory right of access to their own "personal data" under the DPA. Individual access rights to personal data are extended by the Freedom of Information Act through amendments to the access provisions of the Data Protection Act.

The EIR provides a statutory right of access to "environmental information", as defined in these regulations. The EIR came into force on 1st January 2005 and replaces the existing 1992 Regulations. The EIR are also fully retrospective.

The Government's Information Commissioner enforces these three information regimes.

Each regime contains certain categories of exempt information, where information can be withheld. Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this policy, the "public" is defined as any individual or organisation anywhere in the world and an "information request" refers to any request for recorded information made under the FoIA, EIR or DPA.

Timescales
For schools the statutory timescale for compliance with FoIA and EIR Requests will be whichever the shorter period is;

- 20 working days following the date of receipt, excluding any day which is not a school day (this effectively equates to a period of 20 school days); **or**
- 60 working days following the date of receipt.

A 'school' day will be any day on which there is a session and the pupils are in attendance.

'Working days' exclude school holidays and 'inset' or training days where the pupils are not present.

Requests for Data Protection (subject access requests) should be dealt with within 1 calendar month. Requests for pupil education records should be dealt with within 15 school days.

Roles and Responsibilities – actions of key staff
Overall responsibility for ensuring that both schools meet the statutory requirements of the FoIA, EIR and DPA lies with the Governing Board and the Chair of Governors has overall responsibility for information management issues. They have delegated the day-to-day responsibility of implementation to the Executive Headteacher.

The Interim Executive Headteacher is assisted by School Business Manager who currently fulfils the role of 'FoI officer'. Staff at both schools are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the FoI officer where necessary.

Scope
This policy applies to all recorded information held by the Schools that relates to the business of the School. This includes:

- Information created and held by Tutshill C of E Primary School and Woolaston Primary School
- Information created by both schools and held by another organisation on our behalf
- Information held by both schools provided by third parties, where this relates to a function or business of the schools (such as contractual information) and
- Information held by both Schools relating to Governors where the information relates to the functions or business of Forest Edge Federation.

This policy does not cover personal written communications (such as personal e-mails sent by staff). Both Schools' Data Protection Policy establishes the standards regarding the use of "personal data" (as defined in the DPA).

Requesting information
<u>Procedures</u>
Practical procedures for handling information enquiries in line with the relevant legislation will be produced and copies can be obtained from either Schools' FoI Officer.

Both schools have a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information. Although no such duty exists under the DPA, the same level of care will be provided.

<u>Charges</u>
The three information regimes contain different provisions that permit charges to be made for responding to information requests. The Governing Board may charge a fee for complying with requests, as calculated in accordance with FoIA regulations. If a charge is to be made, the relevant School will give written notice to the applicant before supplying the information requested.

The schools will only charge for the cost of copying and transmitting information, not for time taken in reaching decisions regarding whether information is covered by an exemption.

Where the relevant School estimates that the cost of locating the information will exceed the statutory threshold of £450, it will consider whether or not to comply with the request. Neither

School is not obliged to comply with such a request but may choose to do so.

Publication
Section 19 of the FoIA obliges both Schools to make information pro-actively available in the form of a "publication scheme". This scheme will list categories, or "classes" of information that will routinely be made available without the need for a specific information request. The relevant School will indicate in the scheme where it wishes to charge for providing particular categories of information. The scheme is published on individual School's website.

Whenever any information is provided in response to a recorded FoIA enquiry, the relevant School will assess whether the information is suitable for wider publication. In general, there will be a presumption in favour of publishing such information on the Individual Schools' websites.

Withholding Information
The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories: absolute and non-absolute. The relevant School will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, the relevant School can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where the relevant School decides that the public interest is best served by withholding the information. Certain exemptions also contain a "prejudice test", which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

Both Schools will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption.

Either School will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a "public interest" exemption is being considered, the relevant School will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption the relevant School will take into account whether the release of the information would:

- promote further understanding of current issues of public debate
- promote the accountability of decisions taken by the relevant School and the spending and allocation of public money
- bring to light matters of public safety
- allows the public to understand and challenge decisions made by the School
- be otherwise in the public interest.

Where information is withheld under an exemption in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision through Forest Edge Federation's Governing Board and the right of appeal to the Information Commissioner's Office.

Where a staff member plans to apply an exemption, he/she will consider whether other schools hold similar information. If this is considered likely, he/she may contact the relevant school(s) to ensure that a consistent response is provided to the applicant.

The relevant School will also refuse to supply information under the FoIA, where the request is considered "vexatious" or "repeated" and under the EIR, where the request is considered 'manifestly unreasonable'.

Releasing a third party's information
Where, in response to a request, information belonging to a third party (either an individual or other organisation) has to be considered for release, the staff member that received the request will seek input from the FoI officer prior to the release of the information.

The release of third-party information will be considered carefully to prevent actions for breach of confidence or, in the case of living individuals, breaches of the DPA. Both the EIR and FoIA permit information to be withheld when its release would breach the provisions of the DPA.

When the requested information relates to a living individual and amounts to "personal data" as defined in the DPA, its disclosure could breach the DPA. Therefore, the release of third-party personal information relating to living individuals will be considered in accordance with the data protection principles and, in particular, the "third party" provisions of the DPA.

Where appropriate, the school in question will contact the individual to ask for permission to disclose the information. If consent is not obtained, either because it was not considered appropriate to approach the third party or the third party could not be contacted or consent is refused, the school will then consider if it is reasonable to disclose the information, taking into account:

- any duty of confidentiality owed to the third party
- the steps taken to seek consent
- whether the third party is able to give consent and
- any express refusal of consent

The decision to disclose third party information will also take into account the impact of disclosure on the third party, relative to the impact on the applicant of withholding the information. Where the third party has been acting in an official, rather than private capacity, the relevant school will be minded to disclose the information, although decisions will be made on a case by case basis.

Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence the relevant School's decision whether to release the information. Where the information relates to a matter clearly private to the individual, e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. an expenses claim, the information will normally be released. The exemption relating to the release of a third party's personal data will not be used to withhold information about administrative decisions taken by the relevant School.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the FoI officer who will take advice from the Governing Body where necessary.
Where the third party is an organisation, rather than an individual, the provisions of DPA 2018 will not apply. The relevant School will consider consulting the third party concerning the release of their information where:

- the views of the third party may assist the relevant School to decide whether an exemption under the Act applies to the information and
- in the event of the public interest test being applied, where the views of the third party may assist the school to make a decision relating to where the public interest lies.

Consultation will not be undertaken where:

- The relevant School will not be disclosing the information due to some valid reason under the Act
- The relevant School is satisfied that no exemption applies to the information and therefore.
  cannot be withheld; or
- the views of the third party will have no effect on the decision e.g. where there is other legislation preventing disclosure.

Where input from a third party is required, the response time for the request remains the same. Therefore, it will be made clear to the third party at the outset that they have a limited time for their views to be provided and that where responses are not immediate, the decision to disclose may have to be made without their input in order for the relevant School to comply with the statutory time limits dictated by the legislation.

The school will endeavour to inform individuals and organisations submitting information that the information might be released following an information request and, where appropriate, will provide the supplier of the information opportunity to request confidentiality or supply reasons as to why the information should be treated confidentially.

Information held within contracts with Tutshill CofE Primary School and Woolaston Primary School

Any contractual information, or information obtained from organisations during the tendering process, held by the relevant School are subject to the provisions of the FoIA and EIR. Whenever the school enters into contracts, it will seek to exclude contractual terms forbidding the disclosure of information beyond the restrictions contained in the legislation. A standard form of wording will be included in contracts to cover the impact of FoIA and EIR in relation to the provision of information held in contracts.

Either School can withhold contractual information where its disclosure under either the FoIA or EIR could be treated as actionable breach of confidence. Where the School intends to include non-disclosure provisions in a contract, it will agree with the contractor a schedule of the contract that clearly states which information should not be disclosed.

The relevant School will only agree to enter into confidentiality clauses where the information is confidential in nature and that it is confident that the decision to restrict access to the information could be justified to the Information Commissioner.

Where information is not covered by the exemption relating to information accepted in confidence, a further exemption specifically under FoIA may be relevant, relating to commercial interests. This exemption is subject to a “public interest” test. Whenever the relevant School has to consider the release of such information, it will contact the relevant organisation to obtain its opinions on the release of the information and any exemptions they may think relevant. However, the relevant School will make the final decision relating to the disclosure of the information.

The school concerned can also withhold information contained in contracts where any of the other exemptions listed in the FoIA or EIR are appropriate, although information will only be withheld in line with the relevant School’s policy on the use of exemptions. All future contracts should contain a clause obliging contractors to co-operate fully and in a timely manner where assistance is requested in responding to an FoIA or EIR request.

Complaints procedure

Whenever the School involved withholds information under an exemption, or for any other reason, it will inform the applicant of their right to complain about the decision through the Forest Edge Federations’ complaints procedure and of the right of appeal to the Information Commissioner. Any complaint received will be dealt with in accordance with Forest Edge Federation complaints

procedure as detailed in its Complaints Policy. If the result of the complaint is that any decision to withhold information be overturned, this information will be supplied as soon as it is possible.

Requests made under the Data Protection Act
The Data Protection Act entitles an individual to his or her 'personal data'.

The parental right to receive information pertaining to the "educational record" of their child should continue to be administered under the Education (Pupil Information) (England) Regulations 2000. Whenever a request for personal data is received and is not covered by these regulations, the request will be administered in accordance with the relevant section of the school involved FoIA operating procedures.

Whenever a request is made under the DPA for personal data, the relevant School will provide the applicant with the relevant information contained within files relating to that individual that is accessible under both the DPA and FoIA, subject to any exemptions.

Where it is not possible to remove third party information without rendering the response useless to the individual, the provision of third-party information will be considered in line with section of this policy regarding the disclosure of third-party information.

The DPA contains the provision for numerous types of exemption. Therefore, whenever a member of staff is considering applying an exemption, he/she will seek the opinion of the FoI officer.

Illegal actions
It is a criminal offence under any of the three information regimes for members of staff to alter, deface or remove any record (including e-mails) following receipt of an information request. Both the FoIA and EIR contain specific provisions to make such action a criminal offence.

Relationship to other policies
Health & Safety Policy
Safeguarding Policy

Health and Safety
Refer to Health & Safety Policy

Equality / Inclusion
The schools recognise that they have to make special efforts to ensure that all groups prosper regardless of their sex or gender, age, sexual orientation, marital or parental status or other family circumstance, race, ethnic or national origin, colour, creed, disability, it includes those with special educational needs; those who have difficulties accessing the school or services; those who speak English as an additional language; those who have frequent moves and lack stability leading to time out of school (e.g. children in care);those who as children are caring for others; who come from homes with low income and/or inadequate home study space; those who experience bullying, harassment or social exclusion; those with low parental support or different parent expectations; those with emotional, mental and physical wellbeing needs; those who exhibit challenging behaviour and those who come from ethnic minority groups including travellers, refugees and asylum seekers.