BROOK SCHOOL

A Small School on a Big Adventure

Approved by:	Brook Governing Body	**Date:**	September 26th, 2024
Last reviewed on:			
Next review due by:	November 2025		

Responsibility: It is the responsibility of the Governors to ensure procedures are in place to ensure that the school handles information requests covered by the Freedom of Information Act 2000 (FoI), the Data Protection Act 2018 (DPA 2018) and the UK General Data Protection Regulation 2018 (UK 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 FoI, produced under section 45 of that Act.

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1. Introduction

Brook Community Primary School ("the School", "we" or "us") is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 ("FoI") and the access provisions of the United Kingdom General Data Protection Regulation (UK GDPR) and Data Protection Act, 2018 (DPA, 2018) (Together as "Data Protection Laws"). The School will make every effort to meet its 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 has a right to access to recorded information held by the School and that it should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

2. Background

The FoI applies to all public authorities since 1st January, 2005. It gives the public the right to access recorded information held by authorities within twenty working days, with some exceptions. The Act covers all relevant information, not just those created after 1st January, 2005. Section 19 also requires the School to proactively provide information through an approved "publication scheme."

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

The FoI Act empowers individuals to request information from the school. Requests for personal data are covered by the data protection laws. Individuals can request to see what information the school holds about them. This is known as a Subject Access Request and must be dealt with accordingly. The School holds a separate Data Privacy Policy.

The EIR gives individuals the right to access "environmental information" as defined in these regulations. This includes information about air, water, land, nature, buildings, plants, animals, health, and any decisions or actions that impact them. This could cover topics like recycling, phone towers, school grounds, and parking etc.

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 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 FoI, EIR, or United Kingdom General Data Protection Regulation (UKGDPR).

3. Scope

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

- Information created and held by the School;
- Information created by the School and held by another organisation on our behalf;
- Information held by the School provided by third parties, where this relates to a function or business of the School (such as contractual information) and;
- Information held by the School relating to Governors where the information relates to the functions or business of the School.

This policy does not cover personal written communications (such as personal e-mails sent by staff). The School's Data Protection Policy establishes the standards regarding the use of "personal data"

4. Timescales

Freedom of Information requests should be dealt with within 20 working days, excluding school holidays. Data subject access requests under the data protection laws should be dealt with within one calendar month. Requests for pupil education records should be dealt with within 15 school days.

5. Delegated responsibilities

Overall responsibility for ensuring that the School meets the statutory requirements of the FoI, EIR, and the data protection laws lies with the Governors and the Chair of Governors has overall responsibility for information management issues. They have delegated the day-to-day responsibility of the implementation to the Headteacher.

The Headteacher currently fulfils the role of 'FoI Officer'. All School staff is 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.

6. Requesting information

6.1 Procedures

Practical procedures for handling information inquiries in line with the relevant legislation will be produced and copies can be obtained from the School's FoI Officer.

The School has a duty under both the FoI 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 privacy regulations, the same level of care will be provided.

Requests must be in writing, which includes email or fax submissions, and must include the enquirer's name and contact details, with email addresses accepted. They must describe the requested information clearly to facilitate identification and location. Request must not be covered by other legislation.

The FOI Act does not cover verbal inquiries. Simple verbal inquiries may be addressed promptly, but complex ones should be submitted in writing or via email to be subject to FOI regulations.

If the information requested is already in the public domain, for instance through our Publication Scheme or on our website, the School will direct the enquirer to the information and explain how to access it.

If the information is held by another public authority, such as our local authority, the School will first check with them that they hold it, then transfer the request to them. It must notify the enquirer that we do not hold the information and to whom we have transferred the request. The School will answer any parts of the enquiry with respect to the information it holds.

6.2 Charges

The three information regimes contain different provisions that permit charges to be made for responding to information requests. Charges will be made only where permitted by the applicable laws. The Governing Body may charge a fee for complying with requests, as calculated in accordance with FoI regulations. If a charge is to be made, the School will give written notice to the applicant before supplying the information requested.

The School 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.

If finding the information costs more than £450, the School will decide whether to fulfil the request. It's not required to do so but may choose to.

6.3 Publication

Section 19 of the FoI obliges the School to make information proactively 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 School will indicate in the scheme where it wishes to charge for providing particular categories of information. The scheme is published on the School's website.

The School plans to review this scheme regularly. Whenever any information is provided in response to a recorded FoI enquiry, the 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 School's website.

7. Withholding Information

The Freedom of Information Act 2000 contains 23 exemptions whereby information can be withheld. There are two categories; absolute and non-absolute. The School will only withhold information if it falls within the scope of one or more of these exemptions.

If there's an absolute exemption, the School can withhold the information without further consideration. But if it's a non-absolute exemption, the School can only withhold the information if it believes it's in the public interest to do so. Some exemptions also have a "prejudice test," meaning the information can only be withheld if revealing it would harm the interest protected by the exemption.

The School 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.

The School will only use an exemption if it believes it might harm the protected interest. Also, when considering a "public interest" exemption, it will only hold back information if it can show it's best for the public interest. When considering withholding information under a non-absolute exemption the 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 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 the School's Governing Body and the right to appeal to the Information Commissioner's Office.

Where a staff member plans to apply for 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.

A request that aims to cause inconvenience, harassment, or significant expense instead of seeking information, and would demand a large amount of time or resources, or disrupt the operations of the school could be rejected.

For data subject access requests, the School can refuse to comply with the request if it is manifestly unfounded, or manifestly excessive, or when an exemption under Schedules 2-4 of the DPA 2018 applies (including exam scripts and exam marks; confidential data; child abuse data; education data if processed by a court; education data that could cause serious harm if disclosed).

If it is decided to refuse a request, the School will send refusal notices, containing:

- the fact that the responsible person cannot provide the information asked for;
- which exemption(s) we are claiming 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 non-absolute 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
- the internal complaints procedure.

The person in charge must keep records of all requests where information is withheld, along with reasons for the decision. These records should be kept for 5 years. No records are needed for requests where information has been provided.

8. 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 who received the request will seek input from the FoI Officer before 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 data protection laws. Both the EIR and FoI permit information to be withheld when its release would breach the provisions of the data protection laws.

When the requested information relates to a living individual and amounts to "personal data" as defined in the data protection laws., its disclosure could breach them. 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 relevant exemptions of the UK GDPR (Article 15) and the DPA 2018 (Schedules 2-4).

Where appropriate, the School 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 a private capacity, the School will be minded to disclose the information, although decisions will be made on a case-by-case basis.

If the information is about a staff member, the provisions of the data protection laws still apply in many cases. But whether the School releases the information depends on its nature. If it's clearly private, like a disciplinary hearing, it's likely to be kept confidential. But if it's related to the staff member's official duties, like an expenses claim, it's usually shared. The School won't use the exemption for withholding information about administrative decisions made by the School regarding a third party's personal data.

Since the data protection laws concern living individuals, exemptions under EIR and FoI don't apply to data about deceased individuals. If there's a controversial request, the staff will consult the DPO, who may involve the Governing Body if needed. If the third party is an organisation,

not an individual, UK GDPR rules don't apply. The School may consult the organisation before releasing its information when:

- the views of the third party may assist the School in deciding 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 in making a decision relating to where the public interest lies.

Consultation will not be undertaken where:

- The school will not be disclosing the information due to some valid reason under the FoI;
- The school is satisfied that no exemption applies to the information and therefore cannot be withheld;
- 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 for the 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.

9. Information held within contracts with the School

Any contract details or data gathered from organisations during bidding that the School holds must follow FoI and EIR rules. When making contracts, the School will aim to block terms that prevent sharing information beyond what the law allows. A standard contract clause will address how FoI and EIR affect information in contracts.

The School may keep contract details private if sharing them could break a confidentiality agreement. If non-disclosure terms are needed, the School and the contractor will agree on a contract schedule that clearly lists what information must stay private.

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

If information isn't protected by a confidentiality agreement, another exemption under FoI, regarding commercial interests, might apply. This exemption depends on what's in the public's best interest. When deciding whether to release this information, the School will ask the relevant organisation for their input on any applicable exemptions. However, the School will ultimately decide whether to disclose the information.

The School can keep contract details private if other exemptions under FoI or EIR apply, but only following the School's exemption policy. In new contracts, contractors will agree to help promptly if the School needs information to respond to FoI or EIR requests.

10. Complaints procedure

Whenever the School decides to keep information private, it will tell the requesters that they can complain through the School's complaints process and appeal to the Information Commissioner. Complaints will be handled following The School's Complaints Policy. If the complaint leads to overturning the decision, the information will be provided promptly.

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

11. Requests made under the Data Protection Laws

The data protection laws grant individuals the right to access and receive a copy of their 'personal data', where the information is held on an automated system, such as a computer and manual files.

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

Whenever a request is made under the data protection laws for personal data, the School will provide the applicant with the relevant information contained within files relating to that individual that is accessible under both the data protection laws and FoI, subject to any exemptions i.e. Safeguarding or Prevent concerns.

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 7 of this policy regarding the disclosure of third-party information.

The data protection laws contain the provisions for numerous types of exemptions. Therefore, whenever a member of staff is considering applying for an exemption, he/she will seek the opinion of the FoI officer.

12. 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 FoI and EIR contain specific provisions to make such an action a criminal offence.

13. Review of the Policy

This policy is scheduled for review by December 2025. Comments from staff, parents, and members of the public on this policy and its implementation are welcome and can be addressed to:

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Name of the school: Brook Community Primary School

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