



SILS FREEDOM OF INFORMATION POLICY



Introduction

The Freedom of Information Act 2000 gives individuals the right to access official information from public bodies. Under the Act, any person has a legal right to ask for access to information held by the school. They are entitled to be told whether SILS holds the information, and to receive a copy, subject to certain exemptions. While the Act assumes openness, it recognises that certain information may be sensitive, and there are exemptions to protect this information.

This policy does not form part of any individual's terms and conditions of employment with SILS. It is not intended to have contractual effect; and it operates in conjunction with the school's Data Protection Policy.

Requests

At SILS requests under Freedom of Information should be made to the Headteacher, and all staff should be aware of the process for dealing with requests.

Requests for information that are not data protection or environmental information requests will be covered by the Freedom of Information Act: -

Data Protection enquiries (or subject access requests) are requests where the enquirer asks to see what personal information the school holds about the enquirer. If the enquiry is a Data Protection request, the School's Data Protection Policy will be followed.

Freedom of Information requests must be made in writing and should include the enquirer's name, correspondence address, and what information is required. The school will expect to have enough information in the request to be able to identify and locate the information. Where the requested information may be covered by other pieces of legislation, they will be dealt with under the relevant policy or procedure related to that request.

Where the request is ambiguous and/or SILS require further information in order to deal with the request, the school will request further information directly from the individual making the request. In this instance, the school does not have to deal with the request until further information is received, and the time limit for response will only commence from the date that SILS receives all information required.

The school will aim to fulfil its duty to respond to all requests, telling the enquirer whether or not the information is held, and supplying any information that is held, except where exemptions apply, within the time limit of 20 working days excluding school holidays for responding to the request.

Information

Provided all requirements are met, SILS will provide the information that it holds (unless an exemption applies).

“Holding” information means information relating to the business of the school:

- That SILS has created; or
- That SILS 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.

If the information is held by another public authority, such as the Local Authority, the school will check that they hold it, after which we will transfer the request to them. If this applies, we will notify the enquirer that SILS does not hold the information and to whom we have transferred the request. SILS will continue to answer any parts of the enquiry in respect of information it does hold.

When SILS does not hold requested information, it has no duty to create or acquire it. Where the information requested is already in the public domain or on the School’s website www.silsschools.org we will direct the enquirer to the information.

Vexatious Requests

There is no obligation on SILS to comply with vexatious requests. A vexatious request is one 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. This however does not provide an excuse for bad records management.

In addition, SILS does not have to comply with repeated identical or substantially similar requests from the same applicant unless a “reasonable” interval has elapsed between requests.

Fees

SILS may charge the requester a fee for providing the requested information, depending on whether the staffing costs in complying with the request exceed the threshold (calculated at a fixed rate of £25 per hour for 18 hours’ work). SILS does not have to comply with the request until the fee has been paid. More details on fees can be found on the ICO website.

Time Limits

SILS will aim to comply with requests promptly and within the time limit of 20 working days (excluding school holidays). Where SILS have asked the enquirer for more information, the 20 working days will begin when this further information has been received.

If some information is exempt this will be detailed in the School’s response. Where a qualified exemption applies and SILS need more time to consider the public interest test, the school will reply within 20 working days stating that an exemption applies but include an estimate of the date by which a decision on the public interest test will be made.

Third Party Data

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.

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 the school to determine if information is exempt from disclosure; or
- The views of the third party may assist the school to determine the public interest test.

Personal information requested by third parties is also exempt under this policy where release of that information would breach the Data Protection Act. If a request is made for a document (e.g. Governing Body minutes) which contains personal information whose release to a third party would breach the Data Protection Act, the document may be issued by blanking out or redacting the relevant personal information.

Exemptions

The presumption of the Freedom of Information Act is that SILS will disclose information unless the Act provides a specific reason to withhold it. The Act recognises the need to preserve confidentiality and protect sensitive material in certain circumstances.

SILS may refuse all/part of a request, if one of the following applies: -

- 1) There is an exemption to disclosure within the act;
- 2) The information sought is not held;
- 3) The request is considered vexatious or repeated; or
- 4) The cost of compliance exceeds the threshold.

Two categories of exemptions which allow the withholding of information in relation to an enquiry are:-

- 1) Absolute:** where there is no requirement to confirm or deny that the information is held, disclose the information or consider the public interest; and
- 2) Qualified:** where, even if an exemption applies, there is a duty to consider the public interest in disclosing information.

Absolute Exemptions

Of the eight absolute exemptions in the Act, the following will or may apply to the School: -

- Information accessible to the enquirer by other means (e.g. via the School's Publication Scheme);
- National Security/Court Records;
- Personal information (i.e. information which would be covered by the Data Protection Act);
- Information provided in confidence.

Where an absolute exemption exists, it means that disclosure is not required by the Act. In these instances, the Headteacher may decide to ignore the exemption and release the information taking into account all the facts of the case if it is felt necessary to do so.

Qualified Exemptions

If one of the below exemptions apply (i.e. a qualified disclosure), there is also a duty to consider the public interest in confirming or denying that the information exists and in disclosing information.

The qualified exemptions under the Act which would be applicable to SILS are: -

- Information requested is intended for future publication (and it is reasonable in all the circumstances for the requester to wait until such time that the information is actually published);
- Reasons of National Security;
- Government/International Relations;
- Release of the information is likely to prejudice any actual or potential legal action or formal investigation involving the School;
- Law enforcement (i.e. if disclosure would prejudice the prevention or detection of crime, the prosecution of offenders or the administration of justice);
- Release of the information would prejudice the ability of SILS to carry out an effective audit of its accounts, resources and functions;
- For Health and Safety purposes;
- Information requested is Environmental information;
- Information requested is subject to Legal professional privilege; and
- For "Commercial Interest" reasons.

Where the potential exemption is a qualified exemption, SILS will consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.

In all cases, before writing to the enquirer, the Headteacher or person given responsibility for dealing with the request will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound.

Refusal

If it is decided to refuse a request, the school will send a refusals notice, including:

- The fact that the responsible person cannot provide the information asked for;
- The exemption(s) that apply;
- Why the exemption(s) apply to this enquiry (if it is not self-evident);
- Reasons for refusal; and
- The School's complaints procedure.

For monitoring purposes, the school will keep a record of all enquiries, including where all or part of the requested information is withheld and exemptions are claimed.

Complaints / Appeals

Any written (including email) expression of dissatisfaction will be dealt with through the School's complaints procedure; and wherever practicable the review will be handled by someone not involved in the original decision.

SILS will maintain records of all complaints and their outcome.

If the outcome is that the School's original decision or action is upheld, then the applicant can appeal to the Information Commissioner at: ICO, Wycliffe House, Water Lane, Wilmslow. SK9 5AF

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