FOI RESPONSE TEMPLATES

Response templates for Requests made under the Freedom of Information Act 2000. Use these standard responses as a basis for ensuring compliance with the law, providing additional information where highlighted

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1. Acknowledgement Template

Subject: FOI Acknowledgement Reference [insert reference number from your B1 reporting log]

Dear Sir/Madam,

Thank you for your recent request for information. Your request is covered by the Freedom of Information Act, under which we must respond within 20 working days (excluding school holidays).

We will determine and let you know whether we hold the information you have requested and consider whether we are able to release the information or if it is exempt from disclosure.

We do not usually charge for providing information to requestors as the provision of electronic copies is negligible; however under certain circumstances we may have to do so if providing the information costs more than £25. We will let you know before we do any work that would incur a charge.

Yours sincerely

2. Request for clarification Template

Dear….

Thank you for your recent request for information. In order for us to process your request we are seeking clarification to ensure an appropriate response.

Please would you clarify the following:

(Insert any questions where you are unclear what is being requested)

Your request will be placed on hold for 20 working days or until we receive clarification from you.

Yours Sincerely

3. Response Template

For use with all responses

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Response to Requests made under the Freedom of Information Act (2000)

Reference: [Insert Response Reference here]
Response Date : [Insert date]

I can confirm that we do hold this information. Please see our response(s) below where we have either provided the information or explained the legal basis relied upon to withhold it

Question 1 -

[Response Text]

Question 2 -

[Response Text]

Question 3 -

[Response Text]

Question 4 -

[Response Text]

Question 5 -

[Response Text]

If you are not satisfied with our response, you have the right to ask us to review our handling of your request. If this is the case, please contact us.

If you remain dissatisfied after the outcome of the review, you have the right to refer the matter to the Information Commissioner's Office (ICO). We will provide further details of this right in a review outcome letter

[Insert Organisation signature here]

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4. Refusals

Not held in a recorded format

Sometimes requester ask for information which is not held in a recorded form in your systems. For example, they may ask you to answer questions or ask you to offer opinions which are not recorded in any documentation you hold. Where that is the case, you can simply advise you do not hold the data, but we suggest you use the following wording to explain the context to them.

> Your question does not relate to recorded information held by the school. The Freedom of Information Act covers any recorded information that is held by a public authority; this includes printed documents, computer files, letters, emails, photographs, and sound or video recordings. The Act does not provide access to opinions or comments unless they are in a recorded form. There is no requirement to create new information to satisfy a request. We are therefore unable to provide a response to your request.

Use the following wording when refusing requests on the grounds that they exceed the cost limit or that they are vexatious or repeated requests.

Section 12: Cost of Compliance exceeds Appropriate Limit

The most commonly used exemption. Information must be provided free of charge, subject to a cost ceiling. For Local Authorities (including schools) it is £450 calculated at 18 hours of work at £25 per hour. You must explain in your response why it will take over 18 hours to provide the information. You must also include a 'refusal notice' in your response. Where two or more requests for information are made to the school by one person, or different persons who appear to be acting together; the estimated costs can be the total cost of complying with all of the requests. This applies where requests relate to the same or similar information and are made within a period of 60 working days. You are required to assist the requester to reframe their request to bring it under the cost limit. The template wording for the cost exemption is:

> I can confirm that we do hold this information, however from our preliminary assessment, we estimate that compliance with your request would exceed the appropriate costs limit under section 12 of the Freedom of Information Act 2000. This is currently £450. This limit is calculated 18 hours of work at a cost of £25 per hour.
>
> The information you have requested is not available because *Insert full details of why it would exceed the cost limit, e.g. Your request exceeds this cost limit because the information you have requested is not held in a reportable format and requires a manual interrogation of over 1000 records taking an estimated 3 minutes per record. This equates to 50 hours of work which exceeds the cost limit laid out in the Act'*
>
> This letter acts as a Refusal Notice in respect of your request.

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Under section 16 of the Act, it is our duty to assist those requesting information. The following options may help to refine your request so that it can be answered within the appropriate cost limit:

- Reducing the volume of information requested, for example by limiting the number of documents, records, or data fields sought
- Reducing the timeframe covered by the request to a shorter or more recent period
- Focusing on one specific topic, rather than multiple subjects.

Having read the request ensure these options are viable and add any others that may be appropriate. If, having assessed the request, you conclude that none of these options would succeed, you should instead include the following sentence:

- We can advise you that there is no way that you can reframe your request to bring it under the cost limit.

Please note that if you were to submit a series of smaller requests, we may still refuse to provide the requested data. Regulatory guidance states 'The Act recognises that freedom of information requests are not the only demand on the resources of a public authority. They should not be allowed to cause a drain on your time, energy, and finances to the extent that they negatively affect your normal public functions.

When calculating the costs of complying, we can aggregate (total) the costs of all related requests we receive within 60 working days from the same person or from people who seem to be working together.'

If you would like to submit a reframed request which falls below the cost limit, or if you would like advice and assistance, then please do not hesitate to contact us and we will provide further support.

Section 14: Vexatious Requests

Section 14 of the Freedom of Information Act 2000 (FOIA) allows public authorities to classify requests as vexatious. In such circumstances a public authority is not obliged to comply with the request. The purpose of this provision is to prevent abuse of the "right to know".

In our opinion your request(s) meet(s) the definition of a vexatious request under the Act by virtue of it being judged likely to cause a disproportionate or unjustified level of disruption, irritation or distress to fulfil it:

[EXPLAIN why you believe the request(s) meet the section 14 criteria and why? Refer to the points below if applicable]

- *Disproportionate burden*
- *Considering whether the purpose and value justifies the impact on the public authority*
- *Context and history of other requests/ complaints/ correspondence with the requestor or others acting in a campaign]*

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We have therefore decided to refuse your request under Section 14 of the FOIA and this is our refusal notice.

Section 14: Repeated Requests

Section 14 of the Freedom of Information Act 2000 (FOIA) allows public authorities to classify requests as repeated. In such circumstances a public authority is not obliged to comply with the request. The purpose of this provision is to prevent abuse of the "right to know".

This provision is being used as you have requested the same information from us previously and we have been clear that there is no further information held that would justify providing you with a new response.

[*DELETE as appropriate*]

We recommend resubmitting your request on [Date]. This is our estimate of when additional new information is likely to be held as [explain why]

There is no future planned activity on this matter to enable me to advise you of an appropriate date on which to resubmit your request in anticipation of further information being held.

This is our refusal notice under Section 14 of the FOIA.

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3. Exemptions

When withholding information under any of the provisions listed under sections 21 to 44 of the Act.

Section 21. Information accessible to applicant by other means.

I can confirm that we do hold this information; however the information is exempt from disclosure to you.

The exemption applicable to the information is:

Section 21 of the Act – Information available elsewhere.

The information you have requested is available at [insert web-link]

Section 22. Information intended for future publication.

I can confirm that we do hold this information; however, the information is exempt from disclosure to you.

The exemption applicable to the information is:

Section 22 of the Act - Information intended for future publication.

This exemption carries a public interest test, and I have set out below the factors I have considered when applying the exemption:

Factors in favour of disclosure

[consider the following (where appropriate)]:

- The efficiency and effectiveness of the Authority
- Transparency when spending public money
- Transparency over decision making
- Informing public debate

In favour of non-disclosure

- [consider the following (where appropriate)]:
- Accuracy of Information
- Consultation with 3rd Parties

Having considered the above factors I believe the public interest is in favour of upholding this exemption. This is our refusal notice in respect of your request.

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Section 22A. Research.

I can confirm that we hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information is:

Section 22A of the Act - Research information intended for future publication.

This exemption carries a public interest test, and I have set out below the factors I have considered when applying the exemption:

Factors in favour of disclosure

[consider the following (where appropriate)]:

- The efficiency and effectiveness of the Authority
- Transparency when spending public money
- Transparency over decision making
- Informing public debate

In favour of non-disclosure

[consider the following (where appropriate)]:

- Accuracy of Information
- Consultation with 3rd Parties

Having considered the above factors I believe the public interest is in favour of upholding this exemption. This is our refusal notice in respect of your request.

Section 30. Investigations and proceedings conducted by public authorities.

I can confirm that we do hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information is:

Section 30(1) of the Act - Investigations and proceedings conducted by public authorities. Section 30 is a class based qualified exemption and consideration must be given as to whether there is a public interest in maintaining the exemption which is greater than the public interest in disclosing it.

Public Interest Considerations Favouring Disclosure:

Disclosure of the requested information could demonstrate how public funds are being spent as part of our responsibilities in respect of this particular investigation. Releasing the information could satisfy the public that the investigation is being properly conducted.

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Public Interest Considerations Not Favouring Disclosure:

This is an ongoing investigation and disclosing information which has been received could prejudice the investigation. Disclosure of this information could identify any possible offences and could allow an individual(s) to assess whether they and/or their methods have or have not been identified. Armed with this knowledge, individuals may take steps to destroy evidence or avoid detection.

Public Interest Balancing Test:

Whilst there is public interest in this investigation and the enquiries that we are carrying out in order to identify any possible wrongdoing or offender(s), it is essential that the investigation process and any potential proceedings are not hindered by disclosure of information via a Freedom of Information request.

It is our opinion that the balance of the public interest test favours maintaining the exemption and this information should not be disclosed. This is our refusal notice in respect of your request.

Section 31. Law enforcement.

I can confirm that we do hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information you have requested is:

Section 31 of the Act – Prevention and Detection of Crime

This exemption carries a public interest test, and I have set out below the factors I have considered when applying the exemption:

Prejudice:
The prejudice to the commercial interests would relate to:
Would otherwise prejudice or be likely to prejudice the prevention or detection of crime (s31(1))

<Explain what harm would be caused by the disclosure of the information>

Factors in favour of disclosure

[consider the following (where appropriate)]:

- The efficiency and effectiveness of the Authority
- Customer care
- Transparency when spending public money
- Transparency over decision making
- Informing public debate
- Bringing to light information affecting public health and safety

In favour of non-disclosure

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[consider the following (where appropriate)]:

- Protecting society and public assets from criminal activity.
- Prejudicing criminal investigations
- Third parties who work with us may be discouraged from doing so if disclosures left them vulnerable to criminal activity.

Public Interest Balancing Test:

<Explain why you find in favour of non-disclosure>

Having considered the above factors I believe the public interest is in favour of upholding this exemption. This is our refusal notice in respect of your request.

Section 32. Court records, etc.

I can confirm that we hold this information, however we cannot provide it to you due to an exemption within the Act.

The exemption applicable to the information is:

Section 32 (Court Records):

Information contained in court records is exempt under Freedom of Information; this is an absolute exemption and does not require a public interest test. This is our refusal notice in respect of your request.

Section 33. Audit functions.

I can confirm that we do hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information is:

Section 33: Audit Functions

> (1) This section applies to any public authority which has functions in relation to— (a) the audit of the accounts of other public authorities, or (b) the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.
>
> (2) Information held by a public authority to which this section applies is exempt information if its disclosure would, or would be likely to, prejudice the exercise of any of the authority's functions in relation to any of the matters referred to in subsection (1).
>
> (3) The duty to confirm or deny does not arise in relation to a public authority to which this section applies if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the exercise of any of the

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authority's functions in relation to any of the matters referred to in subsection (1).

When using this exemption the Act requires that we demonstrate that there would be prejudice in disclosing the information and conduct a balancing exercise of the competing public interests in disclosing or not disclosing.

Prejudice:
The prejudice to the audit functions of the public authority would relate to:
Would, or would be likely to, prejudice the exercise of any of the authority's functions in relation to any of the matters referred to in subsection (1)". *<Explain what harm would be caused by the disclosure of the information>*

Public Interest Test:
The public interest in favour of disclosure would relate to:
- Efficiency and effectiveness of the Authority
- Informs public debate
- Provides transparency on the use of public money

The public interest against disclosure would relate to:
- Ensuring that auditors can effectively carry out their duties.
- Protecting the integrity of the audit.

Concluding argument

It is our opinion that the balance of the public interest test favours maintaining the exemption and this information should not be disclosed.

As such, it is my decision that there is no public interest in disclosing the information. This is our refusal notice in respect of your request.

Section 36. Prejudice to effective conduct of public affairs.

This applies where information includes situations where disclosure would inhibit free and frank advice and discussion. Example: withholding minutes from governor meetings discussing controversial topics, such as converting to an Academy, or making staff changes due to budgeting issues.

*PLEASE NOTE – This exemption can only be applied by a "qualified person". For a school, this is typically the **Chair of the Governing Body** for maintained schools, or the **Chair of the Board of Directors/Trustees** for academies. A record should be kept of their opinion on the matter.*

I can confirm that we hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information is:

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Section 36 - Disclosure Prejudicing the Effective Conduct of Public Affairs

S36(2)(c) applies to information which is exempt information if, in the reasonable opinion of a qualified person (in this case the *Chair of the Governing Body/ Chair of the Board of Directors/Trustees*) disclosure under the Act would, would or would be likely to prejudice the effective conduct of public affairs.

When using this exemption, the Act requires that we demonstrate that there would be prejudice in disclosing the information and conduct a balancing exercise of the competing public interests in disclosing or not disclosing.

Prejudice:

The prejudice to the effective conduct of public affairs would relate to:
Would otherwise prejudice or be likely to prejudice the effective conduct of public affairs (S.36(2)(c). *<Explain what harm would be caused by the disclosure of the information>*

Public Interest Test:

The public interest in favour of disclosure would relate to:

- Efficiency and effectiveness of the school
- Informs public debate
- Provides transparency on the use of public money

The public interest against disclosure would relate to:
Efficient & Effective Conduct of the Authority

- Inhibits the free and frank discussion required for robust decision making

Concluding argument

In this case there is a very strong factor favouring non-disclosure pertaining to the efficient and effective conduct of the school. As such, it is my decision that there is no public interest in disclosing the information. This is our refusal notice in respect of your request.

Section 38. Health and safety.

I can confirm that we do hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information is:

Section 38 of the Act – Health & Safety

This exemption carries a public interest test, and I have set out below the factors I have considered when applying the exemption:

Factors in favour of disclosure

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[consider the following (where appropriate)]:

- The efficiency and effectiveness of the Authority
- Customer care
- Transparency when spending public money
- Transparency over decision making
- Informing public debate
- Bringing to light information affecting public health and safety

In favour of non-disclosure

[consider the following (where appropriate)]:

- Endangering the physical or mental health of any individual
- Endangering the safety of any individual

Public Interest Balancing Test:

<Explain why you find in favour of non-disclosure>

Having considered the above factors I believe the public interest is in favour of upholding this exemption. This is our refusal notice in respect of your request.

Section 39. Environmental information.

Manage the response under the Environmental Information Regulations

Section 40. Personal information.

I can confirm that we do hold this information, however the information is exempt from disclosure to you. The information has been withheld due to an exemption in the Freedom of Information Act.

The exemption applicable to the information is:

Section 40(3)(a)(i) Personal data of third parties is exempt if disclosure would breach the principles of the Data Protection Act 2018.

We believe that providing you with the information would breach the following Data Protection principles:

- Data shall be fairly and lawfully processed

We are applying this exemption because

a) we do not have the consent of the person who is the subject of the information to disclose it to you,
b) we have not identified a legitimate interest for the school to disclose this information under the Act,

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c) disclosure does not meet any of the Article 6 or 9 conditions that would make it "necessary".

Disclosure under the Act is considered to be a disclosure to the world at large and is free from any duty of confidence. We believe that the release of the requested information would cause unwarranted interference to the rights and freedoms and legitimate interests of the data subject(s). Such a disclosure would in our view constitute a breach of Article 8 in the Human Rights Act (the right to privacy and family life). This is our refusal notice in respect of your request.

Section 41. Information provided in confidence.

I can confirm that we do hold this information. I consider the information exempt from disclosure to you under Section 41 of the Act – Information provided in confidence.

Section 41(1) Information Provided in Confidence - provides that information is exempt information if:

(a) it was obtained by the public authority from any other person (including another public authority), and
(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

The exemption is an absolute exemption and therefore this is a refusal notice in respect of your request.

Section 42. Legal professional privilege.

I can confirm that we do hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information is:

Section 42 of the Act Legal Professional Privilege

(1) Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.

(2)The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) in respect of which such a claim could be maintained in legal proceedings.

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Section 42 is a class based qualified exemption and consideration must be given as to whether there is a public interest in maintaining the exemption which is greater than the public interest in disclosing it.

Public Interest Considerations Favouring Disclosure:

[consider the following (where appropriate)]:

- The efficiency and effectiveness of the Authority
- Transparency when spending public money
- Transparency over decision making
- Informing public debate

Additional weight may be added to the above factor if the following issues are relevant in the particular case:

- large amount of money involved;
- large number of people affected;
- lack of transparency in the public authority's actions;
- misrepresentation of advice that was given;
- selective disclosure of only part of advice

Public Interest Considerations Not Favouring Disclosure:

[consider the following (where appropriate)]:

- Safeguarding openness in all communications between client and lawyer to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice.

Additional weight may be added to the above factor if the advice is:-

- recent;
- live;
- protects the rights of individuals.

Public Interest Balancing Test:

Whilst there is public interest in this investigation and the enquiries that we are carrying out in order to identify any possible wrongdoing or offender(s), it is essential that the investigation process and any potential proceedings are not hindered by disclosure of information via a Freedom of Information request.

It is our opinion that the balance of the public interest test favours maintaining the exemption and this information should not be disclosed.

Therefore we will not be complying with your request, and this is our refusal notice in respect of your request.

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Section 43. Commercial interests.

I can confirm that we do hold this information, however the information is exempt from disclosure to you.

The exemption applicable to the information you have requested is:

Section 43 of the Act – Commercial Interests

This exemption carries a public interest test, and I have set out below the factors I have considered when applying the exemption:

Prejudice:
The prejudice to the commercial interests would relate be likely to prejudice the commercial interests of any person (S.43(2))
<Explain what harm would be caused by the disclosure of the information>

Factors in favour of disclosure

[consider the following (where appropriate)]:

- The efficiency and effectiveness of the Authority
- Customer care
- Transparency when spending public money
- Transparency over decision making
- Informing public debate
- Bringing to light information affecting public health and safety

In favour of non-disclosure

[consider the following (where appropriate)]:

- There is a public interest in ensuring that companies are able to compete fairly, in an open market along with being able to trade competitively.
- Any reputational damage that disclosure might cause the public authority or third party.
- Companies may be discouraged from participating in the scheme if they felt it could result in the disclosure of information relating to their general business.
- Disclosing valuation detail may prejudice the ability to achieve best price for assets on the open market.

Public Interest Balancing Test:

<Explain why you find in favour of non-disclosure>

Having considered the above factors I believe the public interest is in favour of upholding this exemption. This is our refusal notice in respect of your request.

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Section 44. Prohibitions on disclosure.

I can confirm that we do hold this information, however it cannot be provided to you due to exemptions in the Freedom of Information Act.

The exemption applicable to the information is:

Section 44 of the Act - Prohibition on Disclosure

- is prohibited by or under any enactment
- is incompatible with any Community obligation, or
- would constitute or be punishable as a contempt of court

The legislation applicable to this exemption is *<name the legislation which directs non-disclosure>*
In such circumstances this is an absolute exemption, and this is our refusal notice in respect of your request.

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4. Internal Review

[Your Address]
[Complainant's Address/ email]

Our Ref: [Insert reference]
Date: [Insert Date]

Dear [Complainant's Name]

Your Review Outcome:

Thank you for your application to review our handling of your recent request for information reference *[Insert original request reference*] which was received by us on *[Date].*

Your review was conducted on *[Date]* by an impartial Officer and reached the following conclusions:

[Insert a description of the issues considered and the outcomes]

I trust this resolves the concerns raised over our handling of your request. However, if you are still not satisfied you have the right to refer the matter to the Information Commissioner who can be contacted online at FOI and EIR complaints | ICO or at the following address: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone 01625 454700. Please read their guidance on making a complaint.

Yours sincerely

[Name of Review Officer]

[Your Role]
[Your contact details]

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5. ICO Complaint Response

[Insert your address]

Our Ref: [Insert reference]
Date: [Insert Date]

Dear [Insert ICO Case Officer Name]

Your Reference: *[Insert ICO Case Reference]*

Thank you for your letter of *[Insert Date]* concerning the Commissioner's investigation into the Authority's response to a request for information made by *[Complainant's Name].*

[Include if a review was conducted]

Background to the complaint to the Information Commissioner

The background to the request for information is fully set out in the School's letter of *[Insert Date]* which was the response to *[Complainant's Name]* request for an internal review.

[Summary of issues covered in the review]

Your Questions

[Addressing each point by using the numbering in the ICO complaint]

Please let me know if I can assist further.

Yours sincerely,

[Name of Headteacher/Senior Manager]

[Your Role]
[Your contact details]

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