

FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION REGULATIONS

As of 1 September 2016, Ochil Tower School will be designated a public authority and is therefore subject to The Freedom of Information (Scotland) Act 2002 (the Act/ FOISA). The FOISA legislation applies to information we hold and publish about the School and its educational activities. We welcome the opportunity to provide people with as much information as we can to promote transparency and support citizens' rights to access information about public bodies. Alongside the Act, the Environmental Information (Scotland) Regulations 2004 (the EIRs) provide a separate right of access to environmental information we hold.

In simple terms this legislation means that if someone contacts the school asking for information that we hold we are obliged to provide them with that information within 20 working days. However we do not have to give people information that we do not hold (i.e. create new information). There are some situations when the organisation does not have to provide information requested – these are called 'exemptions' and details can be found in our Freedom of Information School policy under FOISA section 28 and EIR regulation 11. Requesters do not have to give a reason for making an information request.

The Act requires Scottish public authorities to produce and maintain a publication scheme. This outlines what information Ochil Tower School routinely publishes. Public authorities are under a legal obligation to:

- publish the classes of information that they make routinely available
- tell the public how to access the information and what it might cost.

Our 'Guide to Information' document, which has the above information, can be accessed on the Ochil Tower School website.

Is every request for information a FOISA request?

No, but we must consider every request and make sure we respond appropriately. The person requesting the information does not have to quote the legislation or state that it is an FOI request. The legislation requires only that an FOI request must be in 'verifiable form', i.e. made by email, by letter (or even by recorded voicemail or equivalent). The requester's name and a return address (an email address is enough) are also needed. An EIR request can be made verbally. An FOI or EIR request is validly made no matter who receives it, across the whole school.

To identify what should be treated as an FOI request, a rule of thumb is that if a communication includes any simple words requesting any information mentioning **"freedom of information"**, **"environmental information"** **"FOI"** (or any words suggesting the enquirer has their FOI entitlements in mind), it should be dealt with formally as a FOI request. These should be forwarded immediately to Nicola Hart. The 20 working day time-limit for replying starts from whenever the request is received anywhere in the school, not when it was forwarded to Nicola, thus it is vital to send potential FOI requests on without delay.

If a communication including any request for information is something that any member of staff would expect to deal with as normal business, then you should please continue to do so as 'business as usual'. Please don't send 'business as usual' information requests on, although you are welcome to seek guidance from Nicola if you are unsure.

When responding to any request, if you think information should be withheld (especially if it relates to a person or people) then please contact Nicola Hart without delay. Such requests should be managed as formal FOISA requests to determine whether or not the information should be released,

to ensure the correct exemptions are applied, and to inform the public of their right to request a review/ make an appeal to the Commissioner.

Providing Advice and Assistance

Section 15 of the Act requires that a reasonable level of advice and assistance is provided to help applicants for information. The aim of providing advice and assistance is to help the enquirer identify precisely the information being sought, not to determine why they are asking for the information, or what they intend to do with it.

A person can apply to see their own personal data, but this would be granted to them as a **Subject Access Request**, under the Data Protection Act 1998. If you receive a request asking for access to personal information, please forward this on to Nicola Hart who will send the enquirer a copy of the Data Protection Policy and manage the request. The Data Protection Policy can be accessed on the Ochil Tower School website.

Environmental Information

Enquirers are entitled to request information relevant to the school's environment. The definition under the EIRs is very wide. This could be a request which asks for information which is at all relevant, or related, to the environment in any way. If you come across a request that you believe relates to the environment of the school, please forward it on to Nicola Hart without delay.

There are some differences between FOISA and EIR legislation, for example:

- Requests for information can be made orally under EIRs
- In some circumstances the period for responding to complex EIR requests can be extended to 40 working days
- The provision for charging fees is different and there is no upper limit
- EIRs have exceptions rather than exemptions

If you receive a verbal request for what you believe may be an EIR request, please capture as much detail as possible, including contact name and email address/ phone number before sending it on to Nicola Hart, who will contact the enquirer to confirm/ clarify the request. This is considered best practice by the Scottish Information Commissioner's Office.

What if an enquirer is not satisfied with the outcome of their request?

All responses to FOI queries will include details of what the requester can do if they are dissatisfied with the way their request has been handled. This includes the right to an internal review followed by the opportunity to appeal the decision to the Scottish Information Commissioner.

Do we charge for providing information?

There is no charge to view information already provided on our website. However, depending on the complexity of an enquiry we may charge to provide some information. Information on our charging structure for can be found in our 'Guide to Information' on the Ochil Tower School website.

How do we log requests?

All FOISA and EIR requests will be logged and tracked. This is to ensure that the process is managed consistently, statutory timescales are adhered to, and follow up of requests, particularly if a review has been requested, is simplified. A log of requests will also help us to notice any patterns

for similar requests which will inform the type of information we routinely publish. The logs are also used to report quarterly statistics to the Information Commissioner's Office.

Where can I find more information?

The Scottish Information Commissioner's Office is the regulator that supports the public's right to access information. Their website has detailed information and guidance on FOISA and the EIRs and can be accessed here: **www.itspublicknowledge.info**