

# Swift Academies

## Freedom of Information Policy

**Accepted by:** Board of Directors March 2018

**Approving Body :** Board of Directors

**Committee :** Standards

**Review Cycle:** 3 years

**Last reviewed:** March 2018

**Date for next review:** March 2021

### 1. Background

The Freedom of Information Act 2000 (FOIA) was introduced to promote greater openness and accountability across the public sector. It establishes a general right of access to information held by all public authorities, including schools and is intended to promote a culture of openness and accountability amongst public sector bodies, and therefore facilitate better public understanding of how public authorities carry out their duties.

This policy aims to ensure that the Trust and its schools comply with the FOIA and that its spirit is reflected in our practice. This policy has been prepared through reference to guidance issued to academies by the Department of Education:

[Academies and Freedom of Information: Departmental Advice to Academies - January 2014](#)

The Trust has adopted the model publication scheme as approved by the Information Commissioner. Compliance with the FOIA is overseen by the Information Commissioner's Office (ICO), the independent body with responsibility for regulation of both the Freedom of Information Act 2000 and the Data Protection Act 1998. The FOIA is retrospective which means that it applies to all information held by the Trust.

This publication scheme commits the Trust and its schools to make information available to the public as part of our normal business activities. The information covered is included in the classes of information described in **Section 4** below, where this information is held.

The Scheme commits the Trust:

- To proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the Trust and falls within the classifications below.
- To specify the information which is held by the Trust and falls within the classifications below.
- To proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme.
- To produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public.
- To review and update on a regular basis the information the Trust makes available under this scheme.

- To produce a schedule of any fees charged for access to information which is made proactively available.
- To make this publication scheme available to the public.
- To publish any dataset<sup>1</sup> held by the Trust and its' schools that has been requested, and any updated versions it holds, unless the authority is satisfied that it is not appropriate to do so; to publish the dataset, where reasonably practicable, in an electronic form that is capable of re-use; and, if any information in the dataset is a relevant copyright work and the public authority is the only owner, to make the information available for re-use under a specified licence<sup>2</sup>.

## 2. Right to request information

There is a legal right for any person to make a request to the Trust for access to information held by the Trust. The Trust is under a duty to provide advice and assistance to anyone requesting information. Enquirers do not have to say why they want the information and the request does not have to mention FOIA. **The request must be in writing, which includes fax or email.**

The enquirer is entitled to be told whether the Trust holds the information (this is known as the duty to confirm or deny) and, if so, to have access to it. Access can include providing extracts of a document or a summary of the information sought, or access to the original document. However, the FOIA recognises the need to preserve confidentiality of sensitive information in some circumstances and sets out a number of exemptions.

There are only four reasons for not complying with a valid request for information under FOIA:-

- the information is not held
- the cost threshold is reached (£450)
- the request is considered vexatious or repeated
- one or more of the exemptions apply

## 3. Exemptions

The presumption of the legislation is that information will be disclosed unless there is a specific reason to withhold it. The FOI Act states that public authorities have the ability to withhold information requested if it is covered by one of the following exemptions:

- Section 21: the requested information is already in the public domain
- Section 22: the requested information is intended for future publication
- Section 36: the requested information would inhibit advice, a frank debate or prejudice the effective conduct of public affairs
- Section 42: the requested information includes legal advice
- Section 43: the requested information is commercially sensitive

However, only where there are real concerns about disclosing the information will the Trust look to see whether an exemption might apply. Even then, where the potential exemption is a qualified

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<sup>1</sup> The term 'dataset' is defined in section 11(5) of the Freedom of Information Act.

<sup>2</sup> The terms 'relevant copyright work' and 'specified licence' are defined in section 19(8) of that Act

exemption, the Trust will consider the public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it.

Consequently, information will be released unless it is in the public interest to withhold. **Appendix A** contains advice on conducting a public interest test.

Further explanation of the exemptions can be found on the below link:

- [Ministry of Justice](#)
- [Information Commissioner Office](#)

#### **4. Classes of Information**

##### **a. Who we are and what we do**

Organisational information, locations and contacts, constitutional and legal governance.

##### **b. What we spend and how we spend it**

Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.

##### **c. What our priorities are and how we are doing**

Strategy and performance information, plans, assessments, inspections and reviews.

##### **d. How we make decisions**

Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.

##### **e. Our policies and procedures**

Current written protocols for delivering our functions and responsibilities.

##### **f. Lists and Registers**

Information held in registers required by law and other lists and registers relating to the functions of the authority.

##### **g. The Services we Offer**

Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

The classes of information will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.

- Information in draft form.
- Information that is no longer readily available as it is contained in files that have been placed in archive storage, or is difficult to access for similar reasons.

## **5. Personal Information in compliance with the FOIA**

Personal information is exempt from release under FOIA. However, if the person making the FOI request is the subject of that personal information, they are entitled to have this personal information made available to them under the terms of the Data Protection Act (DPA). Therefore, when responding to FOI requests, the Trust will not withhold personal data if the requestor would be entitled to have this personal information made available to them in response to a Subject Access Request made under the DPA.

## **6. Process and time limit to respond to requests**

Compliance with a request must be prompt and within the legally prescribed limit of 20 working days, excluding non-school days. Where the 20th day to respond to a request is during a non-school day<sup>3</sup>, the Trust will have up to 60 days to respond<sup>4</sup>. Where we have asked the enquirer for more information to enable us to answer, the 20 days start time begins when this further information has been received.

If a qualified exemption applies and you need more time to consider the public interest test, you should reply within the 20 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. This should be within a “reasonable” time – in practice, it is recommended by the Department that normally this should be within 10 working days.

Where you have notified the enquirer that a charge is to be made, the time period stops until payment is received.

**Appendix B** provides a process map for responding to requests for information.

## **7. The method by which information published under this scheme will be made available**

The primary method by which all information on the Trust and its schools will be made available will be through the Trust and school websites:

All financial information that is to be published statutorily will be done through the Trust website only.

Where information is not published on the websites, there are two further access methods. The first is to make an information request in writing (by email or letter) to the Trust or its schools. This is outlined in **Section 10**. The second: in exceptional circumstances some information may be

<sup>3</sup> School day is defined in section 579(1) of the Education Act 1996 and in relation to a school, means any day on which at that school there is a school session.

<sup>4</sup> Freedom of Information (Time for Compliance with Request) Regulations 2010, available to view at <http://www.legislation.gov.uk/uksi/2010/2768/contents/made>

available only by viewing in person. Where this manner is specified an appointment to view the information will be arranged within a reasonable timescale.

Information will be provided in the language in which it is held or in such other language that is legally required. Where the Trust and its schools are legally required to translate any information, we will do so.

Obligations under Equalities legislation and any other legislation to provide information in other forms and formats will be adhered to when providing information in accordance with this scheme

## **8. The Process for submitting a request**

1. Any person can submit a written request for information held by the Trust or its schools;
2. There is a time limit of 20 working days (excluding school holidays) to respond to requests;
3. There is a right of appeal if an enquirer is unhappy with the way the request has been handled, initially through the Trust Complaints Policy and then to the Information Commissioner;
4. The Trust and its schools will charge at the current rate for photocopying, with an additional administration charge for requests requiring extensive staff time and costs;
5. The Trust and its schools will operate by the safeguard in the Act whereby any 'manifestly unreasonable' request or one where the information is already in the public domain or the cost in time or labour is excessive need not to be complied with;
6. Requests for information can be received by any member of staff;
7. Decisions relating to items 4 and 5 above will be taken by the Chief Executive Officer of the Trust;

## **9. Charges which may be made for Information published under this scheme**

The purpose of this scheme is to make the maximum amount of information readily available at minimum inconvenience and cost to the public. Charges made by the Trust for routinely published material will be justified and transparent and kept to a minimum.

Material which is published and accessed on a website will be provided free of charge.

Charges may be made for information subject to a charging regime specified by Parliament.

Charges may be made for actual disbursements incurred such as:

- photocopying
- postage and packaging
- the costs directly incurred as a result of viewing information

Charges may also be made for information provided under this scheme where they are legally authorised, they are in all the circumstances, including the general principles of the right of access to information held by public authorities, justified and are in accordance with a published schedule or schedules of fees which is readily available to the public.

Charges may also be made for making datasets (or parts of datasets) that are relevant copyright works available for re-use. These charges will be in accordance with either regulations made under Section 11B of the Freedom of Information Act or other enactments.

If a charge is to be made, confirmation of the payment due will be given before the information is provided. Payment may be requested prior to provision of the information.

## **10. Written Requests**

The Board of Directors has delegated day to day responsibility for FOIA to the Chief Executive Officer in order to provide a single point of reference and to coordinate FOIA and related policies and procedures including staff training.

Information held by the Trust that is not published under this Scheme can be requested in writing, when its provision will be considered in accordance with the provisions of the Freedom of Information Act. Requests should be made by post to:-

Mr D. Judson  
Chief Executive Officer  
Hurworth School  
Croft Road  
Hurworth-on-Tees  
Darlington  
DL2 2JG

Or via email to enquiries [@swiftacademies.org.uk](mailto:enquiries@swiftacademies.org.uk)

It should be noted that requests for information can be directed to the Academy concerned or the Trust through anyone who works for us, therefore the Chief Executive Officer is responsible for raising staff awareness of the FOIA.

## **Monitoring**

All requests for information received under the Freedom of Information Act will be reported to the Trust Business Manager who will maintain a central register. Each request will be monitored to ensure compliance with statutory timescales. The register will include refusals and reasons for refusals.

The Resources Committee will receive regular reports on requests received and compliance. Local Governing Bodies will include details of the FOIA requests via the Head of School Report on a termly basis.

## **11. What do I do if someone complains?**

Any written (including email) expression of dissatisfaction, even if it does not specifically seek a review, will be handled through the Trust's existing complaints procedure. Wherever practicable, the review should be handled by someone not involved in the original decision.

When the original request has been reviewed and the outcome is that the information should be disclosed this will be done as soon as practicable. When the outcome is that procedures have not been properly followed, the Trust and Academy will review procedures to prevent any recurrence. When the outcome upholds the Academy's original decision or action, the applicant will be informed of their right to appeal to the Information Commissioner. The appeal should be made in writing to:

The Case Reception Unit  
Customer Service Team  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **12. Guide to Information Available**

The following tables provide a guide to the information available from Swift Academies

## Freedom of Information

### Guide to information available from Swift Academies under the publication scheme

Information to be published	How the information can be obtained	Charge
<b>Who we are and what we do (Organisational information, structures, locations and contacts)</b>  This will be current information only		
Academy Funding Agreement	Trust Website	
Academy Order (if applicable)	Hard copy	Photocopying & printing plus postage
Articles of Association	Trust Website	
School staff and structure – names of key personnel	School websites /Hard copy	Photocopying & printing plus postage
Director / Local Governing body – names and contact details of the Directors / governors and the basis of their appointment	Trust & school websites	
Location and contact information – address, telephone number and website	Trust & school website	
Contact details for the CEO/Head Teacher/Head of Schools and the Local Governing Bodies	School websites	
School Prospectus (where available)	School websites	Photocopying & printing plus postage
School Session times and term dates	School websites	
Public examination results - a link to the data on the Department for Education's website	School websites	

Information to be published	How the information can be obtained	Charge
<p><b>What we spend and how we spend it</b> (Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit)</p> <p>This should be a minimum of current and the previous two years financial years (accounts that have been filed with the Charity Commission and Companies House).</p>	Trust Website	
Annual budget plan and financial statements	Hard copy	Photocopying & printing plus postage
Capital funding – details of capital funding allocated to the school along with information on related building projects and other capital projects	Hard copy	Photocopying & printing plus postage
Additional funding – Income generation schemes and other sources of funding.	Hard copy	Photocopying & printing plus postage
Procurement and contracts – details of procedures used for the acquisition of goods and services. Details of contracts that have gone through a formal tendering process.	Hard copy	Photocopying & printing plus postage
Staffing and grading structure	Hard copy	Photocopying & printing plus postage
Pay policy – a statement of the Academy’s policy on procedures regarding teachers’ pay.	Trust and school websites	
Directors / Governors’ allowances – Details of allowances and expenses that can be claimed or incurred.	Trust and school websites	

Information to be published	How the information can be obtained	Charge
<p><b>What our priorities are and how we are doing</b> (Strategies and plans, performance indicators, audits, inspections and reviews)</p> <p>Current information should be published.</p>	Hard copy	Photocopying & printing plus postage
<p>School profile</p> <ul style="list-style-type: none"> <li>• Government supplied performance data</li> <li>• OFSTED report – summary and full report</li> </ul>	School websites	
Performance management information	Hard copy	Photocopying & printing plus postage
Academy's future plans (Trust Development Plan) – any major proposals on safeguarding and promoting the welfare of children.	Trust website / hard copies	
Child protection – policies and procedures on safeguarding and promoting the welfare of children.	Trust and school websites	

Information to be published	How the information can be obtained	Charge
<p><b>How we make decisions</b> (Decision making processes and records of decisions)</p> <p>Current and previous three years as a minimum</p>		
<p>Admissions policy - arrangements and procedures and right of appeal – include information on application numbers and number of successful applicants by each oversubscription criteria.</p>	School websites	
<p>Governing body meeting agendas, papers and minutes – information that is properly considered to be private should be excluded.</p>	Hard copy	Photocopying & printing plus postage

Information to be published	How the information can be obtained	Charge
<p><b>Our policies and procedures</b> (Current written protocols, policies and procedures for delivering our services and responsibilities)</p> <p>Current information only</p>		

<p>School policies including:</p> <ul style="list-style-type: none"> <li>• Charging and remissions policy</li> <li>• Health and Safety and risk assessments</li> <li>• Accident Reporting</li> <li>• Complaints procedure</li> <li>• Staff/Director/Governor Codes of Conduct</li> <li>• Discipline and grievance policies</li> <li>• Pay policy</li> <li>• Home-School Agreement</li> </ul>	<p>Some on Trust &amp; school websites others by request Hard copy</p>	<p>Photocopying &amp; printing plus postage</p>
<p>Pupil and curriculum policies, including:</p> <ul style="list-style-type: none"> <li>• Curriculum</li> <li>• Sex education</li> <li>• Special Education Needs</li> <li>• Accessibility</li> <li>• Collective worship</li> <li>• Pupil Behaviour &amp; Bullying</li> <li>• Uniform</li> </ul>	<p>Some on Trust &amp; school websites others by request</p>	<p>Photocopying &amp; printing plus postage</p>
<p>Records management and personal data policies</p> <ul style="list-style-type: none"> <li>• Data Protection Policy</li> <li>• Information Security Policy</li> <li>• Acceptable Use Policy</li> <li>• Use of Photographic &amp; Video Images Policy</li> <li>• Freedom of Information Publication Scheme</li> </ul>	<p>School websites</p>	

<p>Equality and diversity (Policies, schemes, statements, procedures and guidelines relating to equal opportunities)</p> <ul style="list-style-type: none"> <li>• Equality objectives &amp; monitoring information</li> <li>• Recruitment &amp; Selection policy</li> </ul>	School websites	
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<b>Information to be published</b>	<b>How the information can be obtained</b>	<b>Charge</b>
<p><b>Lists and Registers</b></p> <p>Currently maintained lists and registers only (this does not refer to attendance registers)</p>	Hard copy	
Asset register	Hard copy	Photocopying & printing plus postage
Register of Racist Incidents	Hard copy	Photocopying & printing plus postage
Register of Complaints	Hard copy	Photocopying & printing plus postage

Information to be published	How the information can be obtained	Charge
<b>The services we offer</b> (Information about the services we offer, including leaflets, guidance and newsletters produced for the public and businesses)  Current information only		
Extra-curricular activities	Hard copy and school websites	Photocopying & printing plus postage
Out of school clubs	Hard copy and school websites	Photocopying & printing plus postage
School publications	Hard copy and school websites	Photocopying & printing plus postage
Services for which the Academy is entitled to recover a fee, together with those fees	Hard copy	Photocopying & printing plus postage
Leaflets, booklets and newsletters	Hard copy and school websites	Photocopying & printing plus postage

Charges:- £1 per document plus postage and standard 2<sup>nd</sup> class rate. Documents can be collected so as to avoid postage charges. We would normally request payment prior to the release of information.



## Appendix A

### Applying the Public Interest Test

#### Background

1. Having established that a qualified exemption(s) definitely applies to a particular case, you must then carry out a public interest test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it has to be released. Although precedent and a developed case law will play a part, individual circumstances will vary and each case will need to be considered on its own merits.

#### Carrying out the test

2. It is worth noting that what is in the public interest is not necessarily the same as that which may be of interest to the public. It may be irrelevant that a matter may be the subject of public curiosity. In most cases it will be relatively straightforward to decide where the balance of the public interest in disclosure lies. However, there will inevitably be cases where the decision is a difficult one. Applying such a test depends to a high degree on objective judgement and a basic knowledge of the subject matter and its wider impact on the Trust and possibly wider. Factors that might be taken into account when weighing the public interest include:-

<b>For Disclosure</b>	<b>Against Disclosure</b>
Is disclosure likely to increase access to information held by the Trust?	Is disclosure likely to distort public reporting or be misleading because it is incomplete?
Is disclosure likely to give the reasons for a decision or allow individuals to understand decisions affecting their lives or assist them in challenging those decisions? Is disclosure likely to improve the accountability and transparency of the Trust in the use of public funds and help to show that it obtains value for money?	Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving? Is disclosure likely to cause unnecessary public alarm or confusion?
Is disclosure likely to contribute to public debate and assist the understanding of existing or proposed policy? Is disclosure likely to increase public participation in decision-making? Is disclosure likely to increase public participation in political processes in general?	Is disclosure likely to seriously jeopardise the Academy's legal or contractual position? Is disclosure likely to infringe other legislation e.g. Data Protection Act? Is disclosure likely to create a controversial precedent on the release of information or impair your ability to obtain information in the future?

Is disclosure likely to bring to light information affecting public safety?	Is disclosure likely to adversely affect the Academy's proper functioning and discourage openness in expressing opinions?
Is disclosure likely to reduce further enquiries on the topic?	If a large amount of information on the topic has already been made available, would further disclosure shed any more light or serve any useful purpose?

Note also that:

- potential or actual embarrassment to, or loss of confidence in, the Trust, staff or governors is NOT a valid factor
- the fact that the information is technical, complex to understand and may be misunderstood may not of itself be a reason to withhold information
- the potential harm of releasing information will reduce over time and should be considered at the time the request is made rather than by reference to when the relevant decision was originally taken
- the balance of the public interest in disclosure cannot always be decided on the basis of whether the disclosure of particular information would cause harm, but on certain higher order considerations such as the need to preserve confidentiality of internal discussions
- a decision not to release information may be perverse i.e. would a decision to withhold information because it is not in the public interest to release it, itself result in harm to public safety, the environment or a third party?

You will need to record the answers to these questions and the reasons for those answers. Deciding on the public interest is not simply a matter of adding up the number of relevant factors on each side. You need to decide how important each factor is in the circumstances and go on to make an overall assessment.

### **For Disclosure**

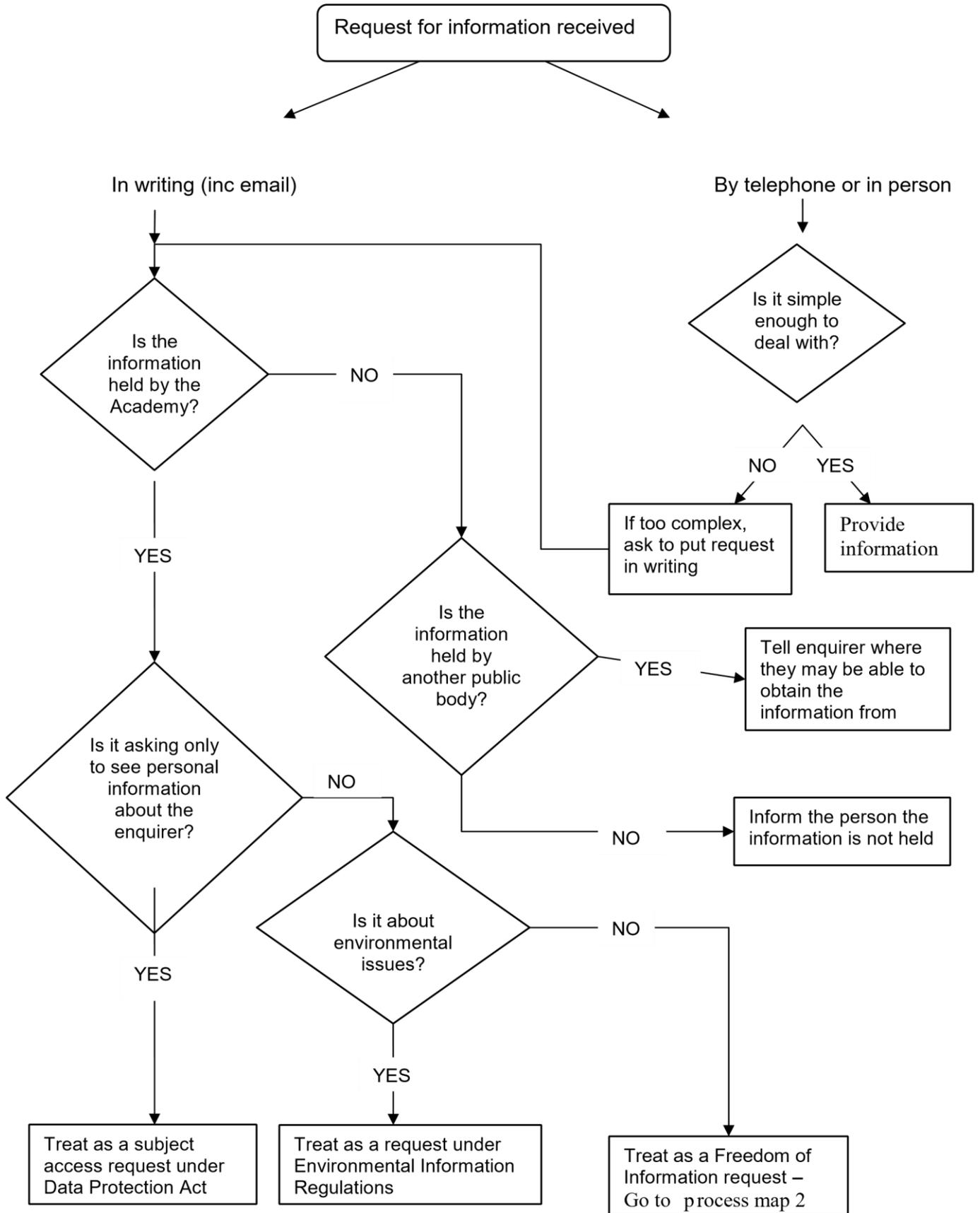
Where the balance of the public interest lies in disclosure, the enquiry should be dealt with and the information required should be made available. Where the factors are equally-balanced, the decision should usually favour disclosure (but see 3<sup>rd</sup> bullet point above).

## **Against Disclosure**

After carrying out the public interest test if it is decided that the exemption should still apply, proceed to reply to the request.

There will be occasions when it has been decided that a qualified exemption applies but consideration of the public interest test may take longer. In such a case, you must contact the enquirer within 20 working days stating that a particular exemption applies, but including an estimate of the date by which a decision on the public interest test will be made. This should be within a “reasonable” time – in practice, it is recommended this decision is made and communicated within the 20 days but where not possible it is suggested that no more than 10 working days beyond the 20 days should be allowed.

## PROCESS MAP FOR RESPONDING TO REQUESTS



**PROCESS MAP FOR HANDLING FOI ENQUIRIES**

