

Freedom of Information Policy



1. Rationale and Aim

Samuel Whitbread Academy (SWA) are committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 (FoIA) and the access provisions of the Data Protection Act 1998 (DPA). SWA will make every effort to meet its obligations under the respective legislation.

The underlying principle of this policy is that the public have a right to access recorded information held by SWA and that the Academy should seek to promote an open regime regarding access to information, subject to the exemptions contained within the relevant legislation.

2. Policy

The FoIA came fully into force on 1st January 2005. It provides the public with a statutory right of access to recorded information, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1st January 2005. Section 19 of the Act also obliges SWA to make information pro-actively available in the form of an approved “publication scheme” (see appendix A)

In addition, individuals currently have a statutory right of access to their own “personal data” under the DPA. See SWA Data Protection Policy.

The Environmental Information Regulations (EIR) provides a statutory right of access to “environmental information”, as defined in these regulations. The EIR came into force on 1st January 2005 and replaces the existing 1992 Regulations. The EIR are also fully retrospective. Any request for environmental information should be made under EIR.

The Government’s Information Commissioner enforces these three information regimes.

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 the purposes of 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 FoIA, EIR or DPA.

All information held by or on behalf of SWA is subject to FOIA including, for example, information held by a private contractor on behalf of SWA. SWA will therefore ensure that contracts will specify co-operation from contractors to ensure full responses to requests for information.

3. Procedure

Timescales

Freedom of Information requests should be dealt with within 20 working days, a working day excludes school holidays, weekends and bank holidays.

If a response will take longer than 10 working days to respond, SWA will send an acknowledgement to the person making the request. This acknowledgement does not allow the Academy to exceed the overall 20 working day deadline.

Requests for Data Protection (subject access requests) should be dealt with within 40 calendar days – see SWA Data Protection Policy.

If the public interest test applies to any request, then any response can take up to 40 days. The Information Commissioner has stated that 40 days is the maximum length of time that an authority should reasonably take to assess public interest.

SWA can only withhold information if the public interest in maintaining any exemption outweighs the public interest in disclosure. The public interest means the public good, not what is of interest to the public, and not the private interests of the requester.

In carrying out the public interest test SWA will consider the circumstances at the time of the request or within the normal time for compliance.

Requests for student education records should be dealt with within 20 working days.

Delegated Responsibilities

Overall responsibility for ensuring that SWA meet the statutory requirements of the FoIA, EIR and DPA lies with the Local Governing Body. The Local Governing Body have delegated the day to day responsibility for FoIA to the Academy Principal.

All requests under the FOIA will be passed to the staff who are responsible for ensuring that they handle requests for information in compliance with the provisions of the various Acts, taking advice from the Fol Officer where necessary.

Scope

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

- Information created and held by the Academy
- Information created by the Academy and held by another organisation on their behalf
- Information held by the Academy provided by third parties, where this relates to a function or business of the Academy (such as contractual information but this may be classified as confidential information or trade secrets and may come under a relevant exemption under the public interest principles); and
- Information held by the Academy relating to Governors where the information relates to the functions or business of the Academy

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

Requesting Information

The contact details for Fol requests are as follows:

Freedom of Information Officer (Principal)
Samuel Whitbread Academy
Shefford Road
Clifton
Beds
SG17 5QS

Telephone No. 01462 629900

E-mail SWA-Info@bemat.org.uk marked for the attention of the Freedom of Information Officer/Principal.

Enquiries concerning freedom of information requests may be received by anyone at SWA therefore all staff need to be aware of the process for dealing with requests (see appendix B). The Fol Officer should be made aware of all enquiries as soon as they are received.

SWA have a duty under both the FoIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information If:

- Further information is required from an applicant to identify, and locate the information requested, the 20 working day time limit will not start until the request has been clarified.
- SWA does not hold the requested information but can direct the applicant to the appropriate authority.
- Compliance with the request would exceed the cost limit, detailed in the paragraph below, the applicant may refine the request to bring it within the cost limit. The 20 working day limit will continue to run.

Collation of Information

Under the FoIA, SWA must, as far as reasonably practicable, provide the applicant with the requested information in their preferred format. This may include photocopies, a tape or even a verbal explanation of the information. If information is extracted and collated SWA must include all the requested data from the original that constitutes "information", including headings or logos.

The applicant can also request to inspect the information in person or receive a digest or summary of it. The costs and time taken to convert information into the preferred format can be taken into account when calculating the "appropriate limit" for costs relating to providing the information. Disbursements such as photocopying and postage costs can be charged even where the appropriate limit is not reached.

Charges

The three information regimes contain different provisions that permit charges to be made for responding to information requests. SWA may charge a fee for complying with requests, as calculated in accordance with FoIA regulations. If a charge is to be made, SWA will give written notice to the applicant to establish costs before supplying the information requested which must be agreed by the requestor.

SWA is not obliged to comply with a request for information if it estimates that the cost of doing so would exceed the appropriate limit (s 12). Additionally SWA may take in to account the costs of time wasted due to a misunderstanding of the nature of the request.

SWA will take account of the costs of determining if information is held, locating and retrieving the information and extracting the information from other documents. However, will not charge for the time taken in reaching decisions regarding whether information is covered by an exemption.

Where SWA estimates that the cost of locating the information will exceed the statutory threshold of £450, it will consider whether or not to comply with the request. SWA is not obliged to comply with such a request but may choose to do so. Staff costs will be calculated at £25 per hour (see appendix A – Publication Scheme, Schedule of Charges).

The Data Protection Act 1998 permits a charge of up to £10 to be made for responding to requests for personal data. There is a sliding scale of up to £50 for copies of educational records.

Publication

Section 19 of the FoIA obliges SWA to make information pro-actively available in the form of a 'publication scheme' – see appendix A. This scheme will list categories, or 'classes' of information that will routinely be made available without the need for a

specific information request. The scheme states what charges may be made in relation to providing particular information.

Whenever any information is provided in response to a recorded FoI enquiry, SWA will assess whether the information is suitable for wider publication.

Withholding Information

The Freedom of Information Act contains exemptions whereby information can be withheld. There are two categories; absolute and non-absolute but SWA may use the public interest principle if it is necessary to do so. SWA will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, SWA can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where SWA decides that the public interest is best served by withholding the information. Certain exemptions also contain a "prejudice test", which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption (see www.ico.org.uk for more information).

SWA 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 but, some information that may be classified as confidential, for example pricing or other trade secrets and other such information, may be redacted.

When considering withholding information under a non-absolute exemption SWA 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 Academy 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 Academy;
- 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 Local Governing Body and the right of appeal to the Information Commissioner's Office.

Where the FoI Officer plans to apply an exemption, he will consider whether other schools/academies hold similar information. If this is considered likely, he may contact the relevant schools/academies to ensure that a consistent response is provided to the applicant.

SWA will also refuse to supply information under the FoIA, where the request is considered "vexatious" or "repeated" and under the EIR, where the request is considered 'manifestly unreasonable'.

A vexatious request is one that goes over old ground already covered in a previous complaint which has now been closed and, could, include requests that are:

- Frivolous.
- Aimed at disrupting the work of BEMAT or an Academy;
- Aimed at causing distress to individuals.

A "repeated" request is one that is either identical, or substantially similar, to a previous request, from the same applicant(s) provided that there has not been a reasonable interval between the two (usually 6 months as a guide).

Releasing a third party's information

Where, in response to a request, information belonging to a third party (either an individual or other organisation, i.e. a third party supplier business) has to be considered for release, the staff member that received the request will seek input from the FoI Officer prior to 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 DPA. Both the EIR and FoIA permit information to be withheld when its release would breach the provisions of the DPA.

When the requested information relates to a living individual and amounts to "personal data" as defined in the DPA, its disclosure could breach the DPA. 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 "third party" provisions of the DPA.

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

Where the information relates to a staff member, the provisions of the DPA will still apply in many circumstances but the nature of the information will influence SWA's decision whether to release the information. Where the information relates to a matter clearly private to the individual, e.g. a disciplinary hearing, the information will almost certainly be withheld. However, where the information relates to the member of staff acting in their official capacity, e.g. an expenses claim, the information will normally be released.

As the DPA only relates to living individuals, the exemption relating to Data Protection under both the EIR and FoIA will not apply to information held about the deceased. Where the request might be controversial, the staff member will seek input from the FoI Officer who will take advice from the Local Governing Body where necessary.

Where the third party is an organisation, rather than an individual, the provisions of DPA 1998 will not apply. SWA will consider consulting the third party concerning the release of their information where:

- the views or consent of a third party is required or may assist SWA to decide whether an exemption under the Act applies to the information;
- if, after applying the public interest test, where the views of the third party may assist SWA to make a decision relating to where the public interest lies.
- if SWA fails to hear from the third party, whose consent may be required, within a reasonable period of time during the time limits, it may decide by taking all of the circumstances into consideration, that it would be in the public interest to release such information.

Consultation or a request for consent will not be undertaken where:

- SWA will not be disclosing the information due to some valid reason under the FOIA

- SWA is satisfied that no exemption applies to the information and therefore cannot be withheld; or
- 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 in order for SWA to comply with the statutory time limits dictated by the legislation.

SWA 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.

Complaints procedures

Whenever SWA withholds information under an exemption, or for any other reason, it will inform the applicant of their right to complain about the decision through SWA's complaints procedure and of the right of appeal to the Information Commissioner. Any complaint received will be dealt with in accordance with SWA's Complaints Policy. If the result of the complaint is that any decision to withhold information be overturned, this information will be supplied as soon as it is possible.

Logging Requests Received

Under section 8 of FOIA, all requests for information must:

- Be in writing (although requests made under the EIR do not need to be).
- State the name of the applicant and an address for correspondence; this can be an email address.
- Describe the information requested.

Note: All requests for information made to SWA are subject to the provisions of FOIA whether the request refers to FOIA or not.

The Freedom of Information Officer maintains a record of all requests received for monitoring purposes, noting:

- the date the request was received
- name and contact details of the person or organisation making the request
- the date the request was fulfilled or refused
- the reason for any exemption being applied
- the reason for any failure to meet 20 day deadline

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 FOIA and EIR contain specific provisions to make such action a criminal offence.

4. Monitoring and Evaluation

The effectiveness of this policy will be reviewed on a regular basis by the FOI Officer and any issues reported to the Local Governing Body.

5. Implementation and Review

This policy will be made known to all staff, parents/carers and Local Academy Governors, and published on the Academy website. Copies are also available upon request from each Academy Office. This policy will be reviewed twice yearly or as required.

6. Author and Date

Head of Projects, Resources, Operations & Finance – Sept 2015

Reviewed by Legal Team – November 2015

Approved by Directors – March 2016

Updated by Principal, SWA (RPR) – June 2016

7. Appendices

Appendix A – Freedom of Information Publication Scheme

Appendix B – Process map for dealing with requests

Appendix A - Freedom of Information Publication Scheme (SWA)

Information to be published	How the information can be obtained	Cost
Class 1 – Who we are and what we do (organisational information, structures, locations and contacts)	(hard copy and/or website)	
Who's who in the Academies	Website Hard copy available on request from each academy office	Nil
Who's who on the Board of Directors (BEMAT) and Local Academy Boards (Local Academy Governors) and the basis of their appointment	Website (BEMAT/academy) Hard copy available on request from each academy office	Nil
Articles of Association	Website (BEMAT/academy) Hard copy available on request from each academy office	Nil
Contact details for the Academy Principals and the Local Governing Body for each Academy (named contacts where possible)	Website Also available on request from each academy office	Nil
Academy prospectus	Website Hard copy available on request from each academy office	Nil
Annual report	Website Hard copy available on request from each academy office	Nil
Staffing structure	Website Hard copy available on request from each academy office	Nil

Academy session times and term dates	Website Also available on request from each academy office	Nil
Address of each Academy and contact details, including email address	Website Also available on request from each academy office	Nil
Class 2 – What we spend and how we spend it (Financial information relating to projected and actual income and expenditure, procurement, contracts and financial audit)	(hard copy and / or website)	
Current and previous financial year as a minimum	Website (BEMAT/academy) Hard copy available on request from each academy office	Nil
Annual budget plan and financial statements	Website (BEMAT/academy) Hard copy available on request from each academy office	Nil
Financial audit reports	Website (BEMAT/academy) Hard copy available on request from each academy office	Nil
Details of expenditure items over £2000 – published at least annually but at a more frequent quarterly or six-monthly interval where practical	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Procurement and contracts BEMAT has entered into, or information relating to / a link to information held by an organisation which has done so on its behalf	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Pay policy	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the	

	FOI Officer or 01462 629900.	
Staff allowances and expenses that can be incurred or claimed, with totals paid to individual senior staff members (Senior Leadership Team or equivalent, whose basic actual salary is at least £60,000 per annum) by reference to categories.	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Staffing, pay and grading structure. As a minimum the pay information should include salaries for senior staff (Senior Leadership Team or equivalent as above) in bands of £10,000; for more junior posts, by salary range.	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Governors' allowances that can be incurred or claimed, and a record of total payments made to individual governors.	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Class 3 – What our priorities are and how we are doing (Strategies and plans, performance indicators, audits and inspections and reviews)	(hard copy and / or website)	
Academy profile (if any) And in all cases: <ul style="list-style-type: none"> • Performance data supplied to the Government, or a direct link to the data • The latest Ofsted report – summary / full report • Post-inspection action plan 	Website Hard copy available on request from each academy office	Nil
Performance management policy and procedures adopted by the Directors and Local Academy Governors.	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Performance data or a direct link to it	Website Hard copy available on request from each academy office	Nil

BEMAT Academies' future plans; for example, proposals for and any consultation on the future of the Academy, such as a change in status	Website (BEMAT) Hard copy available on request from each academy office	Nil
Safeguarding and child protection	Website Hard copy available on request from each academy office	Nil
Class 4 – How we make decisions (Decision making processes and records of decisions)	(hard copy and / or website)	
Current and previous three years as a minimum		
Admissions policy/decisions (not individual admission decisions) – where applicable	Current policy and determined policy for following year published on website. Hard copy available on request from each academy office. For admission decisions contact Central Beds.	Nil
Agendas and minutes of meetings of the BEMAT Directors or Local Academy Bodies (NB this will exclude information that is properly regarded as private to the meetings)	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Class 5 – our policies and procedures (Current written protocols, policies and procedures for delivering our services and responsibilities)	(hard copy and / or website)	
Records management and personal data policies.	Website (BEMAT/academy) Hard copy available on request from each academy office	Nil
Charging regimes and policies	Website (BEMAT) Hard copy available on request from each academy office.	Nil

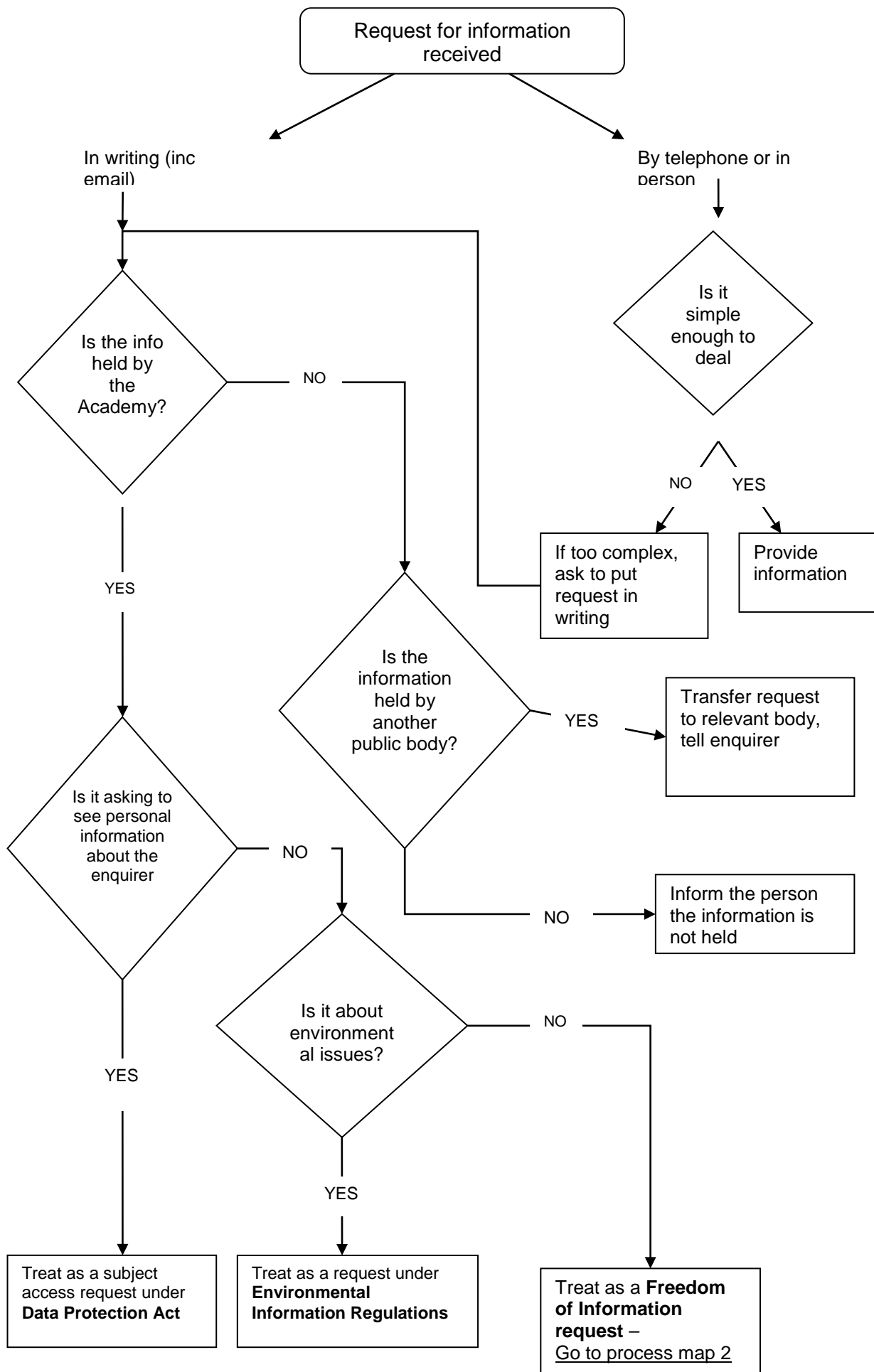
Class 6 – Lists and Registers Currently maintained lists and registers only (this does not include the attendance register)	(hard copy and / or website)	
Disclosure logs	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Asset register	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Any information BEMAT is currently legally required to hold in publicly available registers	Available upon request from Freedom of Information Officer SWA-Info@bemat.org.uk marked for the attention of the FOI Officer or 01462 629900.	
Class 7 – The services we offer (Information about the services we offer, including leaflets, guidance and newsletters produced for the public and businesses)	(hard copy and / or website)	
Current information only		
Extra-curricular activities	Website Hard copy available on request from each academy office.	Nil
After Academy clubs	Website Hard copy available on request from each academy office.	Nil
Services for which the Academy is entitled to recover a fee, together with those fees	Website Hard copy available on request from each academy office.	Nil

Academy publications, leaflets, books and newsletters	Website Hard copy available on request from each academy office.	Nil
Additional information This will provide schools with the opportunity to publish information that is not itemised in the lists above.		

Schedule of Charges

Type of Charge	Description	Basis of Charge
Disbursement cost	Photocopying/printing at 0.0069p per sheet (black & white)	Actual cost (nil cost if less than £10)
	Photocopying/printing at 0.0330p per sheet (colour)	Actual cost (nil cost if less than £10)
	Postage	Actual cost of Royal Mail standard 2 nd class
Statutory Fee	£25 per hour staff cost	In accordance with the relevant legislation
Other		

Appendix B – Process Map for Dealing with Requests (Map 1)



Appendix B – Process Map for Dealing with Requests (Map 2)

