

THOMAS MILLS HIGH SCHOOL

Information, Records and Copyright: Policy and Procedures

Vision Statement

We, the staff and governors, aspire to ensure that all our students, irrespective of ability and regardless of anyone's doubts, achieve their potential in full; and we aspire in this way to make Thomas Mills High School the best in the country.

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1. **Purpose and Scope.**

- 1.1 The Governing Body has adopted this policy statement in order to make clear how the School exercises its responsibilities and rights under the relevant legislation and to provide a consolidated guide to the many issues involved in the management (a) of information, (b) of records and (c) of copyright matters.
- 1.2 “Relevant legislation” in terms of this policy should be interpreted to mean the provisions relating to information and records management and to copyright in the following enactments:
 - (a) Data Protection Act 1998 (DPA);
 - (b) General Data Protection Regulations (GDPR) as set by the European Union and any subsequent UK Legislation to replace and/or amend said regulations.
 - (c) Section 537A of the Education Act 1996 and the Education (Individual Pupil Information) (Prescribed Persons) (England) Regulations 2009;
 - (d) Children Act 1989 and Education Act 2002;
 - (e) Freedom of Information Act 2000 (FOI);
 - (f) Environmental Information Regulations 2004 (EIR);
 - (g) Human Rights Act 1998;
 - (h) Equality Act 2010;
 - (i) Education (Independent School Standards) (England) Regulations 2010;
 - (j) Copyright, Designs and Patents Act 1988;
 - (k) related legislation/regulations and any amending legislation.
- 1.3 It is the policy of the Governing Body that all governors, staff and pupils must act in accordance with this document when dealing with the issues relating to it in order to safeguard the legal position of the School.
- 1.4 The policy does not form part of the formal contract of employment for staff or a formal offer of a place of study for pupils. However, the policy (except for Appendices A, C and D) will be included in the staff handbook and it is a condition of employment that employees abide by the rules and policies made by the School from time to time. Any failure to follow the policy can, therefore, result in disciplinary proceedings.

2. **Related Policies.**

In reading this Policy, reference should also be made as appropriate to the following:

- (a) Safeguarding Children Policy;
- (b) Online Safety Policy
- (c) Academy Complaints Procedure;
- (d) Equality of Opportunity Policy;
- (e) Disciplinary, Capability, Harassment and Grievance Procedures;
- (f) Handbook of Governance;
- (g) Constitution of Standing Committees.

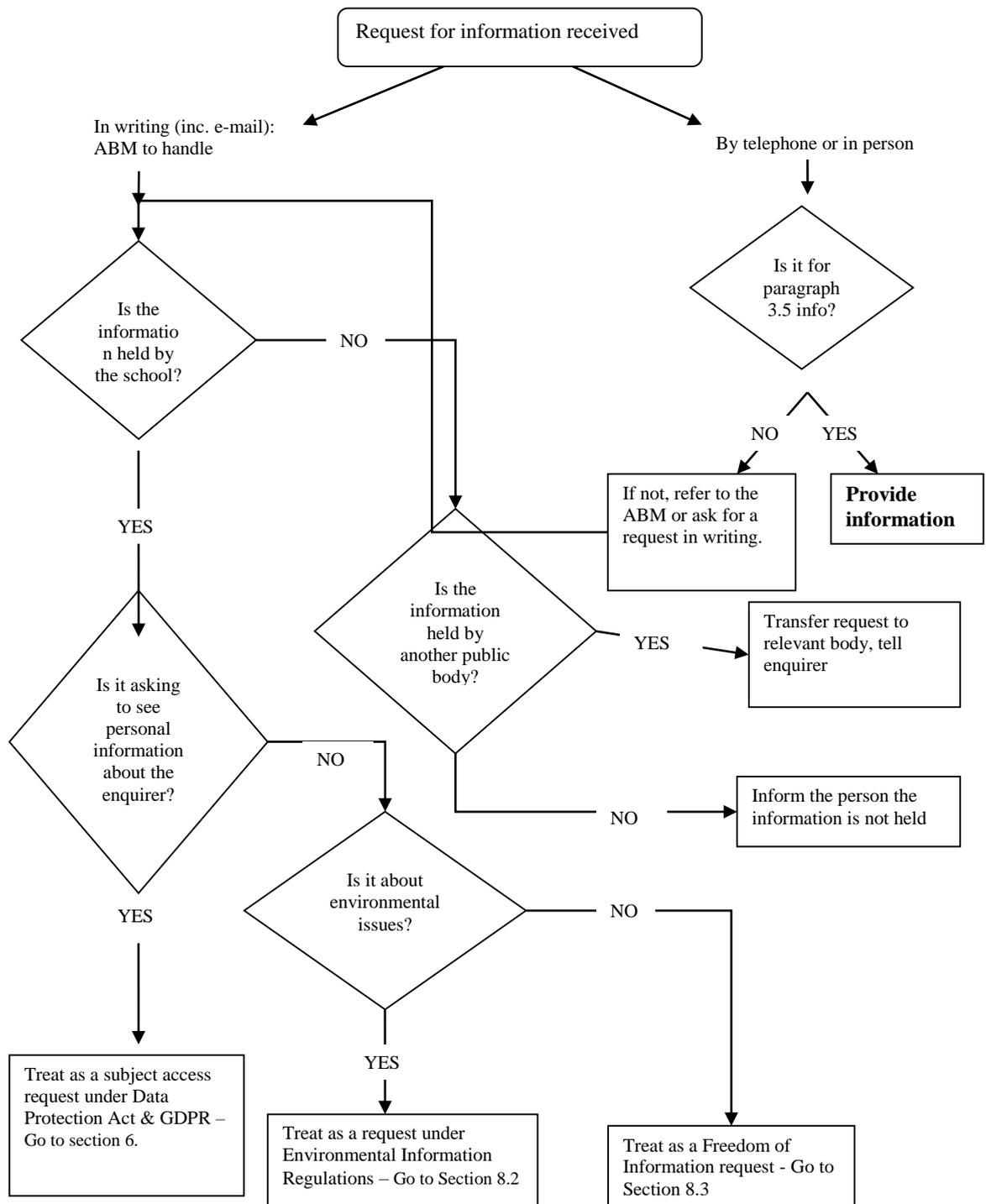
3. **General Responsibilities of Governors and Staff.**

- 3.1 Any governor or member of staff may from time to time receive informal requests for information from a third party. Receiving such a request imposes an automatic duty to provide advice and assistance. Failure to do so could involve the School in legal action and would make members of staff liable to disciplinary proceedings.
- 3.2 A third party cannot be expected to know what category of information they are requesting or which regulations relate to it. The School has a duty to help them through the maze. The advice which is to be offered by governors or members of staff is outlined in Section 5 below and in Appendix A.
- 3.3 All requests for information (other than for items listed in 3.5) should then be referred as soon as possible to the Academy Business Manager (ABM), who will help the applicants from that point in the process. If the original request was made verbally, a note should be made of the name of the person, contact details (e.g. telephone number) and nature of the request so that it can be passed on to the ABM who will deal with the

- request. Once the matter has been referred in this way, the governor or member of staff concerned has fully complied with their obligations.
- 3.4 It is particularly important that Governors do not express an opinion on the substance of a request in case they are involved in the complaints procedure at a later stage.
 - 3.5 The school office should (in answer to enquiries for general information) point out the documents generally available on the website or else issue the following documents upon request: copies of the School or Sixth Form Prospectus, Home-School Agreement, published Ofsted reports referring to the School and any document listed in the Appendix C. However, with the exception of prospectuses, a note should be made of the documents supplied, for monitoring purposes.
 - 3.6 People requesting information will be informed that a request under the DPA, GDPR or under the FOI must be made in writing. Depending on the relevant legislation the school could have as little as 30 days to disclose the information. As such all requests need to be passed to the ABM as soon as the request has been made.
 - 3.7 Once a person has made a verbal request for information on an environmental issue (to whomever and regardless of how informally the request was made) the School has only 20 working days from that day in which to make any information available. It is *particularly* important, therefore, that environmental information requests are referred the same day to the ABM.
 - 3.8 Governors and staff should bear in mind that all documents produced in the School are subject to one of these legal codes and, consequently, virtually no document can be regarded as wholly confidential or for internal use only. Every document should be written as a public document. It is incumbent on minute takers (and those who confirm minutes) and on people writing notes or documents of any kind to be careful in what they write and to try to ensure that nothing is recorded that might be actionable in law (e.g. personal opinions on individuals which cannot be substantiated in fact) or embarrassing to the School (or to innocent individuals) if it becomes known at a later date. If in doubt, the Headteacher, Deputy Head or ABM should be approached for advice.
 - 3.9 When there is a request for information under any of the legal codes referred to in this policy, the request covers information wherever it is held in the school and it will be necessary to produce within the time limits prescribed ALL documents that are relevant to the request, irrespective of who has been holding them. It is important, therefore, that documents which are part of a pupil's educational record are kept in the central filing system, child protection notes and records are held only by the Senior Designated Person and that copies of all other documents are held centrally or (if it is subject-specific) by the relevant Head of Department, who should ensure that it can be produced quickly and efficiently on request. All staff are required to search for documents speedily and efficiently when asked to do so by the ABM.
 - 3.10 Staff are responsible for ensuring that personal information regulated by the Data Protection Act, GDPR and other related regulations (for most staff this will be information held in respect of pupils):
 - (a) is kept securely;
 - (b) is not disclosed either orally or in writing or electronically or by any other means accidentally or otherwise to any unauthorised third party.
 - 3.10 Special care should be taken in attaching information by email. In the majority of cases information can be shared via the schools secure network. If in doubt about sharing information staff should consult the IT Manager or ABM.
 - 3.11 Staff should note that any unauthorised disclosure will usually be a disciplinary matter.

[continued overleaf...]

3.12 General Procedure to be Followed upon Receipt of an Information Enquiry.



3.13 No one may destroy or otherwise dispose of any record:

- (a) when an information request to which it is relevant has been received (there are no exceptions to this rule);
- (b) or at any other time except in accordance with Section 11 and the Retention Schedule.

To do so may render a member of staff liable to disciplinary action and *either* the Governing Body *or* the member of staff concerned *or* both to criminal proceedings for unlawful concealment, damage or destruction of records.

- 3.13 However, records that merely duplicate information recorded elsewhere, together with temporary notes (including telephone messages) with no long term significance and (because they may contain errors of fact) drafts of documents which have been superseded by a final agreed version are not subject to 3.12(b). In case of doubt about such items, staff should seek advice from the ABM.

4. **Specific Responsibilities of Designated Staff.**

- 4.1 The Headteacher is responsible for:
- (a) the oversight of the enforcement of this policy;
 - (b) ensuring that members of staff are adequately informed of their responsibilities in regard to this policy and the related policies;
 - (c) ensuring the School's compliance with Part 6 of the Education (Independent School Standards) (England) Regulations 2010;
 - (d) the processing of personal information held on members of staff (in consultation with the Data Protection Officer (DPO));
 - (e) making any decision regarding a request to release to the police or withhold from those normally entitled to it information that might hinder the prevention or detection of crime or the apprehension or prosecution of offenders (DPA, Section 29). The Headteacher should require any such request to be made in writing and, if deemed necessary, should seek legal advice before acting upon it;
 - (f) giving final approval before a request for information is refused for any reason and making decisions in other cases that may be referred to the Headteacher from time to time by the ABM.
- 4.2 The Deputy Head is the Senior Designated Person for child safeguarding matters and as such is responsible for holding relevant confidential records in accordance with the Safeguarding Children Policy. She may also act for the ABM in his absence on matters indicated in 4.4 below.
- 4.3 The Academy Business Manager (ABM) is the designated Data Protection Officer for GDPR and compliance officer for Freedom of Information and copyright issues and is responsible for:
- (a) the management of personal information held on all persons other than members of staff, in accordance with the Data Protection Act and other legal requirements, except for confidential safeguarding information.
 - (b) the management of information other than personal information, in accordance with the Freedom of Information Act and Environmental Information Regulations;
 - (c) timely referral to the Headteacher of any request which he/she feels should be refused or which raises issues which cannot be resolved and of requests under DPA Section 29;
 - (d) maintaining records of all requests and whether agreed or refused;
 - (e) advising the governors and senior managers on the annual review of this policy and, in particular, of Appendix C and Appendix E;
 - (f) ensuring all necessary School licences are in place;
 - (g) is responsible for the disposal of all financial records under the Retention Schedule.
 - (h) managing all copyright issues.
 - (i) Initially the ABM shall also carry out the duties of the Data Protection Officer as outlined in the GDPR and undertake the following duties:
 - (a) Responsibility for overseeing the implementation of this policy, monitoring our compliance with data protection law, and developing related policies and guidelines where applicable.
 - (b) They will provide an annual report of their activities directly to the Trustees and, where relevant, report to the Trustees their advice and recommendations on trust and school data protection issues.

- (c) The DPO is also the first point of contact for individuals whose data the school processes, and for the ICO.
 - 4.4 The Senior Teacher is the keeper of the School Archives (see Section 12).
 - 4.5 The Headteacher's P A is responsible for the disposal of records (other than financial, site and curriculum records listed below) under the Retention Schedule.
 - 4.6 The Site Manager is responsible for the disposal of site records under the Retention Schedule.
 - 4.7 Heads of Department are responsible for the disposal of the following curriculum items in the Retention Schedule: schemes of work; class record books and mark books; records of homework set; pupils' work.
 - 4.8 In exercising responsibilities for the disposal of information under the Retention Schedule members of staff must:
 - (a) ensure that the actions in the Schedule are carried out as prescribed;
 - (b) ensure that records identified for disposal are held securely until disposal takes place;
 - (c) review records and make disposal decisions in June each year.
 - 4.10 Those responsible for disposing of records are not required necessarily to carry out disposal in person, but if it is carried out by someone else they must assure themselves that the process is carried out in full accordance with the requirements of this Policy and of the Retention Schedule.
5. **General Guidance for Members of the Public.**
- 5.1 General guidance to persons making informal enquiries about information held by the School is given in Appendix A to this Policy.
 - 5.2 Governors or staff answering general enquiries (see paragraphs 3.1 and 3.2) should either refer to this when speaking to the person concerned, or offer to post, FAX or e-mail a copy to them, or direct them to the correct section of the school website.
6. **Data Protection Policy and Procedure, incorporating GDPR.**
- 6.1 This policy meets the requirements of the GDPR and the expected provisions of the DPA 2018. It is based on guidance published by the Information Commissioner's Office (ICO) on the GDPR and the ICO's code of practice for subject access requests.
 - 6.2 The policy also takes school specific guidance from the Department for Education's publication: Data protection: a toolkit for schools (Beta version), published 23rd April 2018.
 - 6.3 Given the changes made under GDPR, this policy will be reviewed as necessary during the school year, when the DPA 2018 receives Royal assent and at least termly during the 2018/19 academic year.
 - 6.4 During the next six months the following actions will be undertaken:
 - (a) Privacy notices will be updated and circulated to data subjects
 - (b) The school's strategies for obtaining consent reviewed
 - (c) Further data audits of the schools electronic systems
 - (d) Data impact assessments will be carried out alongside the ICT development plan
 - (e) Continue to raise awareness of changes to data subjects.
 - 6.5 The school needs to keep certain information about its employees, pupils and their parents to allow it to monitor performance, achievements and health and safety and seek to achieve its aims (as set out in the vision statement). In so doing, the school will comply with the terms of the Data Protection Act 1998 (DPA), the GDPR and any subordinate legislation, to ensure personal data is treated in a manner that is fair and lawful.
 - 6.6 In summary the following GDPR principles state that data must be: these state that personal data shall:-

- (a) be obtained and processed fairly and lawfully and shall not be processed until certain conditions are met;
 - (b) be obtained for a specified and lawful purpose and shall not be processed in any manner incompatible with that purpose (such purposes are stated in the school's data protection registration which can be viewed at the Information Commissioner's website
 - (c) be adequate, relevant and not excessive for that purpose;
 - (d) be accurate and kept up-to-date;
 - (e) not be kept for longer than is necessary for that purpose;
 - (f) be processed in accordance with the data subject's rights
 - (g) be kept safe from unauthorised access, accidental loss or destruction;
 - (h) not be transferred to a country outside the European Economic Area, unless that country has equivalent levels of protection for personal data.
- 6.7 Data Protection law is complex and the meaning of many of the terms used is often unclear to non-lawyers. Definitions of the main terms used are listed for reference purposes in Appendix B.
- 6.8 The school and all staff or others who process or use personal information on the school's behalf must ensure that they follow these principles at all times. In order to ensure that this happens, the school has adopted this data protection policy. Data protection statements will be included in the school prospectus and on any forms that are used to collect personal data.
- 6.9 The Academy Trust as a body corporate is the Data Controller under the 1998 Act. However, the Data Protection Officer will deal with day to day matters. Any member of staff, pupil or other individual who considers that the policy has not been followed in respect of personal data about himself or herself should in the first instance raise the matter informally with the Data Protection Officer.
- 6.10 The Data Protection Officer for Thomas Mills High School is the Academy Business Manager (ABM). The Deputy Head is able to act for the ABM in cases of absence.
- 6.11 Under section 537A of the Education Act 1996 the Governing Body may receive from and be required to provide to other "prescribed persons" (as listed in the Individual Pupil Information Regulations 2009) certain individual pupil information. This will be made clear in Privacy Notices.
- 6.12 Data Gathering.
- (a) All personal data relating to staff, pupils or other people with whom we have contact, whether held on computer or in paper files, are covered by GDPR
 - (b) Only relevant personal data may be collected and the person from whom it is collected is informed by a Privacy Notice of the intended use of the data and of any possible disclosures of that information which may be made.
 - (c) Where we collect data which is of a more sensitive nature (for example details of medical conditions which pupils have and which the school needs to know about), the school will obtain the explicit consent from the parents and/or pupils in respect of its holding of that information.
- 6.13 The school will issue regular reminders to staff and parents to ensure that personal data held is up-to-date and accurate.
- 6.14 Data Sharing. We will not normally share personal data with anyone else, but may do so where:
- (a) There is an issue with a pupil or parent/carer that puts the safety of our staff at risk
 - (b) We need to liaise with other agencies – we will seek consent as necessary before doing this

- (c) Our suppliers or contractors need data to enable us to provide services to our staff and pupils – for example, IT companies. When doing this, we will:
 - Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law
 - Establish a data sharing agreement with the supplier or contractor, either in the contract or as a standalone agreement, to ensure the fair and lawful processing of any personal data we share
 - Only share data that the supplier or contractor needs to carry out their service, and information necessary to keep them safe while working with us
- (d) We will also share personal data with law enforcement and government bodies where we are legally required to do so, including for:
 - The prevention or detection of crime and/or fraud
 - The apprehension or prosecution of offenders
 - In connection with legal proceedings
 - Where the disclosure is required to satisfy our safeguarding obligation
 - Research and statistical purposes, as long as personal data is sufficiently anonymised, or consent has been provided
- (e) We may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects any of our pupils or staff.
- (f) Personal data will only be disclosed to other organisations or individuals for whom consent has been given to receive the data, or to organisations that have a legal right to receive the data without consent being given (see also 6.6).
- (g) When requests to disclose personal data are received by telephone, it is the legal responsibility of the school to ensure that the school is entitled to disclose the data and that the organisation is who it says it is. Therefore, such requests should be referred to the ABM, who will normally ask for the request in writing.
- (h) A record should be kept of any personal data disclosed so that the recipient can be informed if the data is later to be found to be inaccurate.
- (i) Personal data will not be used in newsletters, websites or other media without the consent of the data subject.
- (j) Routine consent issues are incorporated into the school’s pupil and staff data gathering sheets to avoid the need for frequent similar requests for consent being made by the school. This will include information considered sensitive under the 1998 Act relating to particular health needs, such as allergies or medical conditions. The school will only use this information for the protection of the health and safety of the individual, but requires consent to process this data in the event of a medical emergency.
- (k) Therefore, any data gathering sheets that staff and pupils are required to complete will include a section requiring consent to process the applicant’s personal data. A refusal to sign such a form will prevent the application from being processed.

6.15 All staff are responsible for:

- a) Collecting, storing and processing any personal data in accordance with this policy
- b) Informing the school of any changes to their personal data, such as a change of address
- c) Contacting the DPO in the following circumstances:
 - With any questions about the operation of this policy, data protection law, retaining personal data or keeping personal data secure
 - If they have any concerns that this policy is not being followed

- If they are unsure whether or not they have a lawful basis to use personal data in a particular way
- they need to rely on or capture consent, draft a privacy notice, deal with data protection rights invoked by an individual, or transfer personal data outside the European Economic Area
- If there has been a data breach
- Whenever they are engaging in a new activity that may affect the privacy rights of individuals
- If they need help with any contracts or sharing personal data with third parties

6.16 Responsibility of Pupils and Parents.

- (a) Pupils and their parents should ensure that all personal information provided to the school is accurate and up-to-date. They should ensure that changes of address, etc, are notified to the school. The school cannot be held responsible for any errors unless the parent has informed the school of such changes.
- (b) Subject to the above, any errors discovered will be rectified and, if the incorrect information has been disclosed to a third party, any recipients informed of the corrected data.

6.17 Data Storage.

- (a) Staff are responsible for ensuring that any personal information held in respect of pupils is kept securely and is not disclosed either orally or in writing or electronically or by any other means accidentally or otherwise to any unauthorised third party.
- (b) Staff should note that any unauthorised disclosure will usually be a disciplinary matter.
- (c) Personal data should in respect of paper data, be stored in a secure and safe manner. It should be kept in a locked filing cabinet, drawer or safe where it is inaccessible to anyone who does not have legitimate reason to view or process that data;
- (d) Electronic data should be coded, encrypted or password protected both on a local hard drive and on a network drive that is regularly backed up and if a copy is kept on removal storage media, that media must itself be encrypted or password protected and kept in a locked filing cabinet, drawer or safe;
- (e) Computer work stations in administrative areas must be positioned so that they are not visible to casual observers waiting either in the office or waiting at reception.

6.18 Subject Access Requests.

- (a) Individuals have a right to make a 'subject access request' to gain access to personal information that the school holds about them. This includes:
 - Confirmation that their personal data is being processed
 - Access to a copy of the data
 - The purposes of the data processing
 - The categories of personal data concerned
 - Who the data has been, or will be, shared with
 - How long the data will be stored for, or if this isn't possible, the criteria used to determine this period

- The source of the data, if not the individual
 - Whether any automated decision-making is being applied to their data, and what the significance and consequences of this might be for the individual.
- (b) Subject access requests must be submitted in writing, either by letter or email to the DPO. They should include:
- Name of individual
 - Correspondence address
 - Contact number and email address
 - Details of the information requested
- (c) All people for whom the school holds personal information have a right under the 1998 Act to access certain personal data being kept about them either on computer or in certain files. If a governor or member of staff sees a written request from a data subject to see any or all personal data that the school holds about them, this should be treated as a subject access request and referred immediately to the ABM who will organise the School's response. The school will respond with 30 school days. There is no charge for this request.

6.19 Children and subject access requests

- (a) Staff should note that any unauthorised disclosure will usually be a disciplinary matter.
- (b) The GDPR gives all school pupils the right of access to their school pupil records. Requests to see or receive copies of records should be made in writing to the Head Teacher
- (c) Personal data about a child belongs to that child, and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request or have given their consent. For the purposes of the GDPR children aged 12 and above are deemed mature enough to understand their rights and the implications of a subject access request.
- (d) If pupils are incapable of understanding or exercising their own rights under the Data Protection Act (for instance because they are too young) parents can make subject access requests on their behalf.
- (e) Pupils may be asked for information to verify their identity if it is necessary, for instance in the case of former pupils who may not be currently known to the school. They may also be asked for information necessary to locate the data held about them. For instance, a former pupil may be asked to supply the dates between which he or she attended the school.
- (f) Only in exceptional cases will the school be able to withhold some of the information which is requested by a pupil. For example, information does not have to be disclosed by the school where that information might cause harm to the physical or mental health of the pupil or a third party. Also, information which may identify third parties (for example other pupils, although not teachers) is exempt from disclosure by the school. Information may also be withheld if in the particular case it would hinder the prevention

and detection of crime or the prosecution or apprehension of offenders to provide it.

- (g) If a pupil or parent feels that the school is ignoring the subject access request, is refusing to disclose the information or has not given full disclosure of the information, the matter may be referred to the Information Commissioner.

7 The Freedom of Information Act: Publication Scheme and Guide to Information.

- 7.1 The Governing Body of Thomas Mills High School has adopted the Model Publication Scheme produced by the Information Commissioner's Office (<http://www.ico.gov.uk>). A link to this document may be found on the School's website.
- 7.2 The Governing Body has also adopted the Guide to Information (see Appendix C).
- 7.3 This policy document, including the Guide to Information (together with most of the documents there listed) are made available on the School website.
- 7.4 The Senior Management Team (guided by the ABM) will review the Guide to Information annually when this Policy is due for renewal and recommend to the Governing Body any necessary amendments to keep it up to date.

8 Freedom of Information Policy, Procedure and Guidance.

8.9 It is the policy of the Governing Body that requests for the release of information under either the Freedom of Information Act 2000 (FOI) or the Environmental Information Regulations 2004 (EIR) are to be handled in accordance with the procedure and detailed guidance contained in this section.

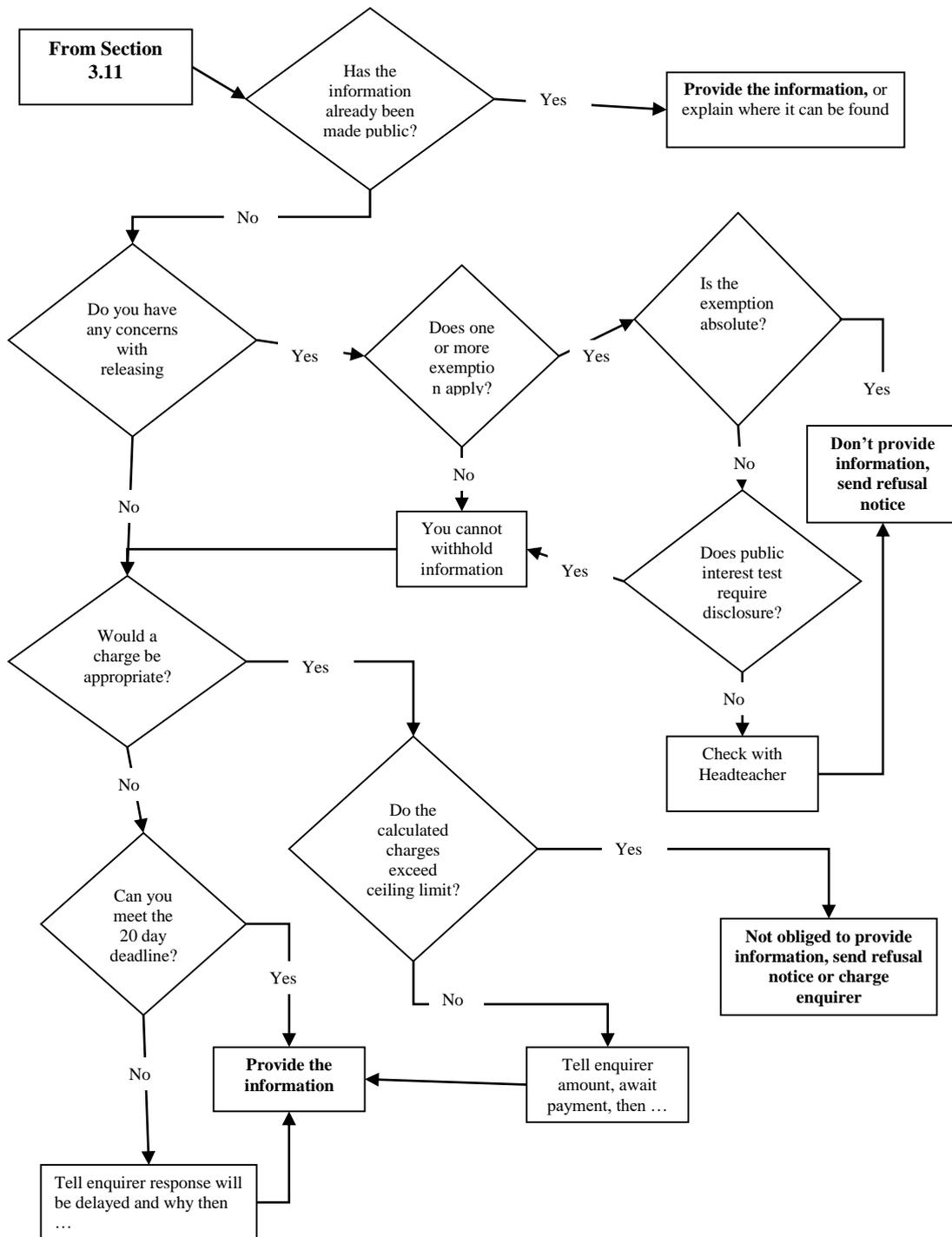
8.10 Procedure and Guidance in Handling Requests for Information under EIR (Environmental Information Regulations 2004).

- (a) Requests for information covered by EIR may be made either verbally or in writing and do not need to mention that they are environmental requests and thus covered by the EIR – that is a decision for the School (usually the ABM) to make.
- (b) The School has a duty to provide advice and assistance to applicants and generally does so in accordance with Section 2 of the Code of Practice made by the Secretary of State for the Environment, Food and Rural Affairs, to which the ABM must refer when handling requests. In order to comply with the requirements, all applicants will be supplied with a copy of Section 8.2 of this Policy as soon as their request has been identified as falling under the EIR – and offered any further assistance they may need.
- (c) Consideration must be given as to whether other laws may be relevant to the way advice and assistance is given in a particular case, e.g. the Disability Discrimination Act 1995 or the Equality Act 2010.
- (d) All valid requests must be dealt with as soon as possible and the required information supplied no later than 20 working days after it has been received.
- (e) If a request is too general to be processed, the ABM shall as soon as possible and not later than 20 working days after receipt of the request, ask the applicant to provide more particulars and shall assist him in doing so. Similarly, if the applicant does not describe the information sought in a way that enables the School to identify or locate it, or the request is ambiguous, the ABM shall, as soon as possible, offer assistance to the applicant in clarifying the request so that it can be processed, as described in Section 2 of the Code of Practice.

- (f) At no stage shall the applicant's motives for requesting the information be questioned or discussed, implicitly or explicitly, nor shall he be expected to provide precise names or descriptions for requested documents or file references.
- (g) If after the process described in 8.2(e) has been exhausted the applicant still fails to describe the information requested in a way that enables the School to identify and locate it, the ABM will write to the applicant to explain that the request cannot be taken any further and give details of the School's complaints procedure.
- (h) All valid requests must be dealt with regardless of cost, although reasonable fees (as specified in the Code of Practice) may be charged to the applicant. If the applicant indicates that he is not prepared to pay the charge requested by the School, the ABM shall decide if any relevant information may be released free of charge and, if so, release it.
- (i) If the information to be disclosed is subject to copyright protection, advice will be offered to the applicant in line with the provisions of 13.5 *below*.
- (j) The School may transfer a request for information to another public authority if it does not hold the information itself (in accordance with the Code of Practice), but the ABM will ensure that the applicant is consulted first and wishes this to happen. If the School holds part but not all of the information, the Deputy Head will ensure that relevant information that it does hold is released.
- (k) "Holding environmental information" includes holding a copy of a record produced or supplied by another person or body *or* holding a record on behalf of another person or body. In the latter case, the ABM should normally consult that person or body before releasing the record. However, if it is in the public interest to do so, such information may be released even if that person or body asks for it not to be. On such judgements, the ABM will consult the Headteacher as well as having regard to the Code of Practice.
- (l) Where the ABM becomes convinced that an exception applies under the Regulations so that the request for information should be refused, he will consult the Headteacher before a final decision is taken. The applicant will be notified in writing of the decision, upon which exception under the Regulations it is based and why the exception applies, and why the exception is not outweighed by the public interest in disclosure. They will also be advised in the same letter of their rights under the complaints procedure and appeals process.

[continued overleaf...]

8.11 Procedure for Considering Information Requests under FOI.



8.4 Guidance in Handling Requests for Information under FOI (Freedom of Information Act 2000).

- (a) Any request for any information the School “holds” (see 8.4(e), below) which is not covered by other legislation is a request under FOI and will be processed in accordance with 8.3 and 8.4 of this section of the Policy.
- (b) The School has a duty to provide advice and assistance to applicants and generally does so in accordance with the *Freedom of Information Act Guide for Maintained Schools* produced by the Department of Education, to which the ABM and (where necessary the Headteacher) must refer when handling requests. In order to comply with the requirements, all applicants will be supplied with a copy of Section 8.4 of this Policy

as soon as their request has been identified as falling under the FOI – and offered any further assistance they may need.

- (c) A request under FOI is only valid if it is in writing (including FAX and e-mail), gives the enquirer's name and correspondence or e-mail address and provides enough information to enable the School to identify and locate the information.
- (d) If the enquiry is ambiguous the ABM will contact the enquirer and offer assistance to clarify it so that the enquiry may be processed. If this is necessary, the time limit for the School to comply with the request (20 school working days) comes into effect only when the necessary further information is received.
- (e) "Holding information" under FOI means information (digital or in hard copy) relating to the business of the School which the School has created or has received from another body or person, or which is held by another body on the School's behalf.
- (f) If the School does not hold the information that is requested (including when the information has been already been disposed of in accordance with the Retention Schedule), the ABM will so inform the enquirer. The School is under no obligation to create or acquire information it does not hold solely to provide it to an enquirer and will not do so.
- (g) If the information is already in the public domain, the ABM will direct the enquirer to it and explain how it may be accessed.
- (h) In accordance with the law, the School reserves its right to refuse to comply with vexatious and manifestly unreasonable requests (i.e. ones that are designed to cause inconvenience, harassment or expense rather than to obtain information, or where it would require a substantial diversion of resources or otherwise undermine the work of the School in order to comply with them), and with repeated requests from the same applicant that are identical or substantially similar, unless there has been a reasonable interval between them. If the ABM thinks that this provision applies in a particular case, he will consult the Headteacher before refusing the request.
- (i) If information is held by another body on the School's behalf, the ABM will check with them that they do hold it and then transfer the request to them. He will so inform the enquirer without delay.
- (j) If it is necessary in accordance with DfE guidance to consult a third party before disclosing information which the School holds, the ABM shall ensure that this is done.
- (k) Absolute Exemptions.
The following are the categories of information relevant to a school which are absolutely exempt from disclosure (including the duty to confirm or deny whether the information is held) under FOI: where information is accessible to the enquirer by other means (even if there would be a charge for it); information related to proceedings in a court or tribunal or served on a public authority for the purposes of proceedings; information covered by DPA or EIR; information provided in confidence if its disclosure would constitute a breach of confidence actionable by the person who provided it or another person; and information that is prohibited from being disclosed under other legislation (including EU legislation).
- (l) Qualified Exemptions.
The following are the categories of information which might be relevant to a school and are exempt from disclosure under FOI unless there is a public interest in disclosing it: information intended for future publication; information held by the School relating to criminal investigations and proceedings conducted by public authorities; other information connected with law enforcement; information concerning communications with the Queen, the Royal Family or Royal Household and information relating to the award of honours; information that might prejudice the safety or mental or physical health of an individual; advice given by legal advisers, solicitors and barristers; information likely to prejudice the commercial interests of any person or body (including the School).
- (m) If the ABM thinks that information that has been requested is exempt either absolutely or with qualifications, he will consult the Headteacher before taking any further action.

The Headteacher will apply the public interest test to Qualified Exceptions in accordance with DfE guidance and, if necessary, after seeking legal advice.

- (n) If it is decided to refuse an information request, the applicant will be informed in writing and each letter must contain:
 - (i) the fact that the responsible person cannot provide the information asked for;
 - (ii) which exemption(s) the School is claiming apply;
 - (iii) why the exemption(s) apply to this enquiry (if it is not self-evident);
 - (iv) reasons for refusal if based on cost of compliance;
 - (v) in the case of qualified exemptions, how you have applied the public interest test, specifying the public interest factors taken into account before reaching the decision;
 - (vi) reasons for refusal on vexatious or repeated grounds;
 - (vii) details of the complaints procedure.
- (o) The School will apply fees but only in accordance with DfE guidance. A fees notice will be issued to an applicant as soon as they have been calculated and before information has been provided. In such cases, information will not be supplied until the fee has been paid and if that has not happened within three months it will not be supplied at all. However, if the charge as calculated exceeds the official DfE threshold the School is not obliged to supply the information and the Headteacher would need to decide whether he still wished to do so.
- (p) If the information to be disclosed is subject to copyright protection, advice will be offered to the applicant in line with the provisions of 13.5 *below*

9 Information Provided under the Education (Independent School Standards) (England) Regulations 2010.

In order to comply with Part 6 (*Provision of Information*) of the Regulations the Headteacher is responsible for implementing the following measures:

- (a) Parents of pupils and prospective pupils will be provided with the prescribed information;
- (b) The Chief Inspector, Secretary of State and independent inspectors will be provided on request with the prescribed information, including information reasonably requested for an inspection being conducted;
- (c) The “prescribed information” referred to in 9(a) and 9(b) *above* consists of the following:
 - i. the school’s address (which is also the registered office of the Academy Trust) and telephone number;
 - ii. the names of the Headteacher and the Chair of Governors, together with the latter’s address for correspondence;
 - iii. the information indicated in 9(d) and 9(e) *below*;
 - iv. the number of complaints registered under the Academy Complaints Procedure in the previous school year;
- (d) All policies (including the Safeguarding Children, Admissions, Behaviour, Health and Safety and Educational Visits Policies and the Academy Complaints Procedure) are published on the School’s website;
- (e) A statement of the school’s ethos and aims is included as sections 1 – 3 of the *Handbook of Governance*, which is also published on the School’s website;
- (f) The latest inspection report is made available via a link on the School’s website;
- (g) Written reports of each child’s progress and attainment in the main subject areas taught are provided to parents at least once a year;
- (h) Information necessary for carrying out an annual review of a statement on a registered child is provided to the responsible local authority.

10 Complaints.

- 10.9 Complaints against decisions made in respect of any aspect of the application of Data Protection or Freedom of Information policies will be dealt with under the Academy Complaints Procedure.
- 10.10 Under that procedure, complaints should be referred in the first instance to the Headteacher or (if the complaint is against a direct decision of the Headteacher) to the Chairman of Governors.
- 10.11 Complainants under this policy statement who are dissatisfied with the final outcome of the Academy Complaints Procedure are advised of their right of appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

11 Records Management Policy.

- 11.9 The Governing Body recognises that the efficient management of the School's records is necessary to comply with its legal and regulatory obligations and to contribute to the effective overall management of the institution. This section provides the policy framework through which this effective management can be achieved and audited.
- 11.10 The Records Management Policy applies to all records created, received or maintained by staff of the school in the course of carrying out its functions.
- 11.11 Records are defined as all those documents which facilitate the business carried out by the school and which are thereafter retained (for a set period) to provide evidence of its transactions or activities. These records may be created, received or maintained in hard copy or electronically.
- 11.12 A small number of records will eventually be retained for historical purposes in the School Archives (see Section 12).
- 11.13 The school has a corporate responsibility to maintain its records and record keeping systems in accordance with the regulatory environment. The person with overall responsibility for records management is the Headteacher.
- 11.14 The ABM will give guidance for good records management practice and will promote compliance with this policy so that information will be retrieved in an easy, appropriate and timely manner.
- 11.15 Individual staff and employees must ensure that records for which they are responsible are accurate and are maintained and disposed of in accordance with the Retention Schedule (see Appendix D), Section 4 and Section 12.
- 11.16 Provided that members of staff are managing record series using the Retention Schedule they cannot be found guilty of unauthorised tampering with files once a freedom of information request or a data subject access request has been made. Therefore, they can be confident about destroying information at the appropriate time and governors and senior managers will know that the School is not maintaining and storing information unnecessarily.

12 The School Archives.

- 12.9 The School Archives have been established to preserve records and other items of interest and importance in the history of the School, its predecessors and the locality.
- 12.10 Records are made available to view under controlled conditions for the purposes of historical research.
- 12.11 Items will only be accepted for the School Archives by the keeper of the Archives (the Senior Teacher) if, in his opinion, they fall into the description given in 12.1.
- 12.12 Pupil files and personnel files and other sensitive items are not preserved in the School Archives.
- 12.13 The protection of any personal data that may be included incidentally in the School Archives is ensured by having a Restricted Access section in which it is included. Access is then controlled rigorously by the Senior Teacher.
- 12.14 Items may only be sold or otherwise removed from the School Archives by the unanimous resolution of the School Trusts Committee, which also supervises Archives policy (*see also the Constitution of Standing Committees*).

13 **Copyright Policy.**

- 13.9 It is the policy of the Governing Body that copyright held by third parties should always be respected fully by the School and by all its employees.
- 13.10 The ABM is the Copyright Officer for the School and has responsibility for ensuring that this policy is applied rigorously.
- 13.11 The School purchases licenses from appropriate licensing bodies to allow the controlled use of certain copyright material (see Appendix E).
- 13.12 The ABM will keep these licences up to date and will revise the list in Appendix E annually before this Policy is due for renewal by the Governing Body.
- 13.13 Information that is disclosed as a result of a request for information under EIR or FOI may be subject to copyright protection. In such cases, the school will advise the applicant that if he wishes to use the document in a way that might infringe copyright (e.g. by making multiple copies of it) he will need permission from the copyright holder.
- 13.14 It is also the Governing Body's policy to assert the Academy Trust's own copyright in any literary, dramatic, musical or artistic work or film made in the course of an employee's work at the School, in accordance with Section 11 of the Copyright, Designs and Patents Act 1988.

14 **Review of this Policy Statement.**

This policy statement is subject to annual review by the Governing Body in accordance with the *Handbook of Governance*.

Given the changes made under GDPR, this policy will be reviewed as necessary during the school year and at least termly during the 2018/19 academic year.

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General Guidance on Making Enquiries to the School for Information

This fact sheet has been prepared to help you to make enquiries to the School for information. If it does not provide you with the help you need (e.g. it is still not clear to you what ‘category’ the information you want falls into) please telephone the School and ask to speak to the Academy Business Manager who will be pleased to advise you further.

The School holds a great deal of information in thousands of documents – and all of it has to be managed in accordance with strict legal regulations. Some of it is of a general and public nature and will be supplied on request to anyone (although there are some exceptions to the general rules and there may be a charge for it). Other information is personal – it relates to particular individuals – and this must normally be kept confidential, although the persons concerned usually have a right to see it. Lastly, some information is held in the School Archives – kept solely for the purposes of historical research.

Before we can deal with an enquiry, we need to know what sort of information you are seeking :

If you are seeking any kind of personal information on yourself or on someone else, or environmental or other information about the School’s operation **you should write (by post, FAX or e-mail) to the Headteacher.** ~~For personal information a statutory fee of up to £10 may be charged for this service (you will be advised of the fee, if any, in your case).~~ The school will reply to any request within 40 days of receipt of the letter or the fee (whichever is later). If your request is refused, reasons will be stated and you will be advised of your rights of complaint and appeal.

If you want “environmental information” held by the school (e.g. about car parking arrangements, recycling or school playing fields) you are not legally required to submit a written request, although it might help us to handle your enquiry if you did so. The school will reply to any such request within 20 school working days. If your request is refused, reasons will be stated and you will be advised of your rights of complaint and appeal. There may be a fee charged to cover the costs involved – we will advise you of this at the earliest possible stage in the process.

If you want access to any other kind of information the school will reply to any request within 20 school working days. If your request is refused, reasons will be stated and you will be advised of your rights of complaint and appeal. There may be a fee charged to cover the costs involved – if so a fees notice will be sent to you.

Some documents are already published – and freely available from the School on request. They are listed in the **Guide to Information under the Publication Scheme** – you will find a copy of this appended to the school policy and available on the school website.

Appendix B

Useful Definitions in Data Protection Law

Data	information processed by equipment (or intended to be processed by such equipment) <u>or</u> which is part of a relevant filing system <u>or</u> is an accessible record (including pupil records) <u>or</u> is other 'recorded information'
Data subject	an individual who is the subject of personal data held by the School
Personal data	any information that identifies a living individual, including expressions of opinion, except that (Durant v FSA, 2003) courts have ruled that "mere mention of a data subject does not necessarily amount to personal data" if the person's personal, family, business or professional privacy is not compromised (see also Schedule 2 and Sensitive Personal Data)
Processing data	carrying out any operation with data (i.e. obtaining, recording, holding, disclosing or disposing)
Recorded information	information recorded in any form, including structured information and unstructured information (where data is not organised by reference to individuals). Both must be disclosed on request
Refusal of Subject Access	may only be made if the information might cause physical or mental harm to the pupil or a third party; <u>or</u> if information cannot be disclosed without disclosing information relating to another pupil (N.B. the names of members of staff in such documents must be disclosed); <u>or</u> if documents are protected by legal professional privilege; <u>or</u> if disclosure would prejudice detection of a crime, etc.
Rights of Data Subjects	the right to be given a description of their own personal data held by the school, why it is being held and to whom it may be disclosed. Also, the data subject must be given within 40 days of a request, the information constituting the personal data and any information as to the source of the data
Schedule 2	regulates the processing of personal data which may be done <u>only</u> if one of the following apply: the data subject has consented to processing; processing is necessary to comply with a legal obligation on the School; processing is necessary to protect the 'vital interests' of the data subject; processing is necessary to perform certain public interests; processing is necessary to pursue the legitimate interests of the School (e.g. CCTV cameras to prevent theft or malicious damage, etc). In each case (except the first), the exception only applies where these interests outweigh the interests of the data subject
Schedule 3	sensitive personal data may only be processed if one of the Schedule 2 criteria (above) and one of the Schedule 3 criteria apply. Schedule 3 criteria include: the explicit (written) consent of the data subject; if it is absolutely necessary to protect the vital interests of the data subject or of a third party; for medical purposes; legal proceedings are pending; or for ethnic monitoring purposes
Sensitive Personal Data	racial or ethnic origin; political opinions; religious or similar beliefs; physical or mental health; trade union membership; or data referring to the commission or alleged commission of an offence (see also Schedules 2 and 3)
Subject Access Request	a written request for personal data from the data subject. A subject access request for 'structured/unstructured personal data' <u>must</u> contain a description of the data

Appendix C
Freedom of Information Act :
Guide to Information Available under the Publication Scheme (2012)

1. Who we are and what we do.

INFORMATION	FORMAT	COST
Memorandum and Articles of Association	Website	Free
School Prospectus and Sixth Form Prospectus	Website Hard copy on request	Free Free
List of Members of the Academy Trust and of Governing Body	Website	Free
Details of school session times and dates of school term and holidays	Website Hard copy issued to all families or available on request	Free Free
Location and contact information	Website Hard copy on request	Free Free
Last Ofsted Report	Website link Hard copy on request	Free Free

2. What we spend and how we spend it.

INFORMATION	FORMAT	COST
Annual Budget Plan and financial statements; capital funding; additional funding.	Hard copy on request	Free
Procurement procedures (see Financial Probity policy; Scheme of Management Delegation Policy; Best Value Statement; Finance Policy)	Website Hard copy on request	Free
Details of contracts that have gone through a formal tendering process	Hard copy on request	Free
Pay policy Staffing and grading structure	Website Hard copy on request	Free
Payment of Governors' Expenses Policy	Website	Free

3. What our priorities are and what we are doing.

INFORMATION	FORMAT	COST
Performance Management Policies for Teaching and Support Staff	Website	Free
Any current major proposals for the future of the school	Hard copy on request	Free
Safeguarding Children policy	Website Hard copy on request	Free Free
Summary of Examination Results for previous summer	Website	Free

4. How we make decisions.

INFORMATION	FORMAT	COST
Admissions Policy and arrangements	Hard copy on request	Free
Handbook of Governance	Website	Free
Minutes of AGMs and of Meetings of the Governing Body and its Committees	These are available to view in school by appointment	N/a

5. Our policies and procedures.

INFORMATION	FORMAT	COST
Policy on Charges and Remissions	Website Hard copy on request	Free Free
Health and Safety Policy	Website	Free
Risk Management Policy	Website	Free
Academy Complaints Procedure	Website Hard copy on request	Free Free
Disciplinary, Capability and Grievance Procedure	Website Hard copy on request	Free Free
Information, Records and Copyright Policy	Website	Free
Data Protection Policy	See Information, Records and Copyright Policy	
Retention Scheme for Documents	Website	Free
Publication Scheme on Information Available under FOI Act	See Information, Records and Copyright Policy	
Home-School Agreement	Website Hard copy on request	Free Free
Common Curriculum Policy	Website Hard copy on request	Free Free
Sex and Relationships Education Policy	Website Hard copy on request	Free Free
Special Educational Needs Policy	Website Hard copy on request	Free Free
Accessibility Plan	Hard copy on request	Free
Spiritual and Moral Education (inc. Collective Worship) Policy	Website	Free
Behaviour Policy	Website Hard copy on request	Free Free
Equality of Opportunity Policy	Website Hard copy on request	Free Free
Current staff vacancies	Web site	Free
Exam re-marks Policy	Website Hard copy on request	Free Free
Lettings Policy	Website Hard copy on request	Free Free
Environmental Policy	Website	Free
Community Cohesion Policy	Website Hard copy on request	Free Free

INFORMATION	FORMAT	COST
Educational Visits	Website	Free
Policy on Agreements and Contracts	Website	Free
Accounting Policies	Website	Free
Business Continuity Policy	Website	Free

6. Lists and Registers.

INFORMATION	FORMAT	COST
Curriculum circulars and statutory instruments sent to Headteacher/ Governing Body concerning the curriculum	A link to the government website can be provided	Free

7. Services we offer and other information.

INFORMATION	FORMAT	COST
“Outlook” – our published newsletter (Termly)	Hard copy on request	Free
“ <i>Think on These Things.</i> ” A School History	Hard copy on request	£5.00.
Charter of Values	Website	Free
Sixth Form Yearbook	Hard copy on request	Free
Courses Book for Year 10	Hard copy on request	Free
Courses Book for Year 9	Hard copy on request	Free
Courses Pack for Year 8	Hard copy on request	Free
School Calendar (annual publication)	Website Hard copy issued to all families or on request	Free Free
Pupil Log Books	Hard copy issued to all pupils	Free

Appendix D

The Retention Schedule

1. The Governing Body has adopted the Retention Schedule produced for use by schools by the Records Management Society of Great Britain.
2. The text of the Retention Schedule is available for consultation on the School's website as a separate document but is to be read as Appendix D of this policy statement.

Appendix E

Copyright Licences Currently Held by the School

The school holds a number of licences to allow the educational or (in some cases) public use of copyright material:

1. **Books, journals and periodicals:**

The C. L. A. Licence allows for copying from most books, journals and periodicals. It should be noted that there are limits as to how much may be copied and there are also a few publications that are not covered by the scheme.

2. **Videos and DVDs:**

(a) **The E. R. A. Licence** permits the non-commercial, educational use of recordings of most TV programmes, including recordings from BBC iPlayer and 4 on Demand.

(b) **The M. P. L. C. Licence** permits DVDs from certain specialist educational and entertainment producers (including Discovery Channel, National Geographic) to be shown.

(c) **The P. V. S. Licence** covers movies (in VHS or DVD format) from most major studios (including MGM, UA, Warner Bros, 20th Century Fox, Walt Disney, Pixar, Paramount, Universal, etc).

3. **Music:**

(a) **The P. R. S. Licence** permits the live performance of music still in copyright.

(b) **The P. P. L. Licence** allows for the public playing of recorded music.