

ACCESS TO UNPUBLISHED INFORMATION POLICY



Learning Together, Achieving Forever
Dysgu Ynghyd, Cyflawni o Hyd

Access to Unpublished Information Policy

GUIDING PRINCIPLES

St Martin's School values its information as a critical asset for effective service delivery. The School aims to make as much information as possible available for consultation and fully embraces the objectives set out in the Freedom of Information Act 2000 and the access provisions of the Data Protection Act 2018.

St Martin's School is committed to:

- openness and transparency in the way the School conducts its business to help improve public education services and empower members of its community (encouraging partner organisations engaged in public service to do the same);
- making as much information available as possible without copyright, patent or other control restrictions to foster innovation within the education sector and support the well-being of its community. This is subject to terms of the Open Government Licence;
- respecting principles of privacy and confidentiality whilst making available information that is in the public interest. The disclosure of this information is always done in line with laws governing the release of information;
- providing a prompt, courteous and comprehensive response to requests for information. The school aim to present information clearly and in a format that takes account of different needs of individual making the request;
- providing a right of complaint where an individual is not satisfied with the response received.

SCOPE OF POLICY

This policy outlines St Martin's School's commitment to making unpublished information available in accordance with principles of open government and with the law, which includes:

- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- Education (Pupil Information) (Wales) Regulations 2004
- The Pupil Information (Wales) Regulations 2011
- Digital Economy Act 2017
- Protection of Freedoms Act 2012
- Re-use of Public Sector Information Regulations 2015
- INSPIRE Regulations 2009
- Data protection law including the 1998 Act, the new 2018 Act, and the General Data Protection Regulations 2016

This policy does not cover Governing Body members' rights of access to information, as these rights are covered by the Governing Body Policy.

This policy does not cover the sharing of personal information with other organisations in order to deliver services to individuals. Provisions within data protection legislation, together with agreements such as the Wales Accord on Sharing Personal Information (WASPI), would cover this activity.

PRINCIPAL INFORMATION ACCESS LAWS

The principal laws that cover access to unpublished public sector information are described below. These laws change from time to time, and the school adapts to these changes to ensure full compliance with the law.

There are cases where an applicant requests information which needs to be considered under more than one information access law. If this occurs, applicants will be advised of which information is being considered under which law and the relevant timescales.

FREEDOM OF INFORMATION ACT 2000 (FOI)

The FOI Act is a general right of access to unpublished information. Once in receipt of a request made in writing, the School has a duty to confirm or deny whether information is held, and supplying the information if it is held. These requests are responded to within 20 working days, excluding school holiday periods, unless an exemption applies and the request takes longer to complete.

The FOI Act also imposes a duty for the school to proactively publish certain categories of information. To fulfil this duty, the School has adopted the Information Commissioner's Model Publication Scheme for Local Government. The Publication Scheme can be found on our website. However, the information listed can be located in a variety of places as outlined in the Scheme (e.g. via the School's website or the finance office).

ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR)

Information that is classed as 'environmental information' must be dealt with under EIR, rather than FOI. The definition of environmental information is very broad ranging, and can include information on the state of the environment (e.g. flooding; on measures that affect the environment such as policies and legislation; and on the state of human health and safety, the food chain, cultural/built structures, air pollution, etc.)

Requests can be made verbally as well as in writing. In some circumstances exceptions may apply where the public interest is against disclosure of information; and whilst the timescale is usually 20 working days, it can be extended in certain circumstances.

DATA PROTECTION LAW (DPA)

A great deal of the information that the school holds is personal and special category data. FOI does not make this information available to the public.

The School takes its legal duty to protect personal information of individuals very seriously.

Any request for information that contains personal data will be carefully considered with reference to data protection law. This includes the 1998 Act (DPA), the General Data Protection Regulation 2016 (GDPR), the new UK Data Protection Act 2018, as well as the common law duty of confidentiality and the Human Rights Act 1998.

Individuals have the right to make a Subject Access Request under data protection law if they want access to information that is held about themselves, or about a child if they can provide proof of Parental Responsibility. Any third party personal data will be redacted from the information, unless the School receive explicit consent from the individual.

ROUTINE REQUESTS FOR INFORMATION

Examples of a routine request could be a request for a copy of a document produced by a service area or a request for opening hours or details of service. The School will not fully engage FOI, EIR or DPA procedures, but will seek to comply with the statutory deadlines.

Making a request for information

The School would encourage any individual seeking to make a request for information from the school to follow the guide on the Information Commissioner's website at www.ico.org.uk. In line with the Section 45 Code of Practice under FOI, the School will provide applicants with advice and assistance in making requests for information.

In most cases requests for information should be made to the School in writing (including email), but requests for environmental information can be made verbally. The request for information must include the following:

- a name and address to which a reply may be sent;
- sufficient detail for the School to identify what information is required. If a request does not contain enough detail, clarification will be sought from the applicant;
- in the case of a Subject Access Request, proof of identification and Parental Responsibility is also required.

Applicants may express a preference for how the information is to be supplied and where reasonably practicable the School will comply with the stated preference or provide an explanation if this is not possible.

WITHHOLDING INFORMATION

There are 23 exemptions laid out in the Freedom of Information Act whereby information can be withheld. The School will only withhold information if it falls within the scope of one or more of these exemptions.

The School can automatically withhold the information where an absolute exemption applies. However, where the exemption is non-absolute the information can only be withheld where the School decides that the public interest is best served by withholding the information.

The School 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.

When considering withholding information under a non-absolute exemption the School 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 School 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 School;
- be otherwise in the public interest

Where information is withheld under an exemption, the reason behind the decision will be made clear to the applicant with the exemption under which the information is being withheld cited for transparency. The applicant will also be given details of the right to challenge the decision through the School's Governing Body and the right of appeal to the Information Commissioner's Office (ICO).

Staff will consider whether other schools hold similar data when planning to apply an exemption. If this is considered likely, staff may contact the relevant school(s) to ensure that a consistent response is provided to the applicant.

The School can refuse to supply information under the FOI Act where the request is considered "vexatious" or "repeated", or 'manifestly unreasonable' under the EIR.

THIRD PARTY INFORMATION THAT DOES NOT CONTAIN PERSONAL DATA

If non-personal information is requested from the School that relates to a third party, for example a supplier or a partner organisation, the request will be considered with reference to exemptions available under FOI/EIR law, many of which are subject to a public interest test, to judge whether disclosure would be in the public interest.

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 and the data protection principles. However, the final decision rests with the School.

The School will consider if it is reasonable to disclose third party information by taking into account the following:

- 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 further take into account the impact disclosure would have on the third party individual(s) involved, alongside the impact on the applicant if withholding the information. Where the third party has been acting in an official, rather than private capacity, the School will be minded to disclose the information. However, decisions will be made on a case by case basis.

Where appropriate, the School will endeavour to contact third party individual(s) 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, then release of that third party information will be refused.

Contracts/agreements in place between the School and partner organisations will include terms outlining the School's legal responsibilities to consider disclosure of information upon receipt of a request.

Charging for Information

The School aims to make as much information as possible available free of charge. If there are charges for School publications, or information listed in the Publication Scheme, these charges will be advertised in advance.

The law enables a charge to be made in certain circumstances when responding to a request for unpublished information. For example, if it takes a significant amount of time to locate, retrieve or extract information to answer a request, or to cover the costs of communicating information to the applicant (e.g. for photocopying, printing, and postage).

If a charge applies, it will be calculated in accordance with the law and guidance from the Information Commissioner. This will also be explained to the applicant in advance.

There is no charge for FOI, EIR, and Subject Access Requests under the General Data Protection Regulations 2016.

EQUALITIES AND WELSH LANGUAGE

The vast majority of information published by the School is available bilingually in line with Welsh Language Standards. If a request is made for unpublished information in Welsh, the information will be provided in the format in which it was originally produced, but the covering letter will be sent in Welsh.

The School will make every effort to make information available in other formats. In some cases a charge will apply, and this would be explained to applicants in advance.

COMPLAINTS

The Section 45 FOI Code of Practice requires the School to provide advice and assistance to people seeking information, to state the basis for any refusal of a request for information, and to provide advice on how to make a complaint.

Advice on how to make an Information Request Complaint can be obtained from the Information Governance Lead, Mrs T Blackwood, the Deputy Information Governance Leads Mr D Furtak and Mrs C Coakley or the Headteacher Mr L Jarvis, St Martin's School, Hillside, Caerphilly, CF83 1UW or 02920 858050.

The applicant has a further statutory right of complaint to the Information Commissioner if they remain unsatisfied after the internal Information Request Complaint has been dealt with.

RELATED POLICIES AND RESOURCES

Data Protection Policy

Data Retention Policy

Information Commissioner website www.ico.org.uk

APPENDIX 1: Which access regime is applicable?

