

# ENVIRONMENTAL INFORMATION REGULATIONS POLICY

## ST. ILLTYD'S CATHOLIC HIGH SCHOOL



Date adopted January 17

Reviewed on \_\_\_\_\_

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**ST. ILLTYD'S CATHOLIC HIGH SCHOOL**  
**ENVIRONMENTAL INFORMATION REGULATIONS POLICY**

Approved by Governing Body on: 27<sup>th</sup> March 2017

Chair of Governors: \_\_\_\_\_

**Environmental Information Regulations Policy**

**1. Introduction**

St Illtyd's Catholic High School is committed to the principles of openness, transparency and accountability embodied in the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. This policy establishes our response to the regulations and a framework for managing requests.

**2. Scope**

This policy has been established to ensure that the school meets its legal obligations under the Environmental Information Regulations 2004 (EIR). The regulations apply to all recorded information held by the school, its staff and departments regardless of format, storage medium or age. Information held by the school includes not only information created by the school, but also information in the school's possession which originated from outside organisations or individuals, such as the LEA, other institutions, regulatory bodies or private companies.

The EIR joins the Data Protection Act and the Freedom of Information Act as legislation under which anyone is entitled to request information from the school.

Requests for personal data are still covered by the Data Protection Act (DPA). Individuals can request to see what information the school holds about them. This is known as a Subject Access Request, and must be dealt with accordingly.

Requests for information about anything other than the environment – such as air, water, land, the natural world or the built environment and any factor or measure affecting these – should be covered by the Freedom of Information Act. These requests that lie outside our publication scheme should be made in writing and the school's separate Freedom of Information Policy will apply.

This policy and the procedures which implement it will ensure that the school conforms to the regulations and associated codes of practice.

**4. Obligations and Duties**

The school recognises its duty to

- provide advice and assistance to anyone requesting information. We will respond to straightforward verbal requests for information, and will help enquirers to put more complex verbal requests into writing. Though requests

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do not have to be made in writing, they may be easier to process if presented in this manner.

- tell enquirers whether or not we hold the information they are requesting (the duty to confirm or deny), and provide access to the information we hold subject to exemptions that may apply.

## **5. Publication Scheme**

St Illtyd's Catholic High School has adopted the Model Publication Scheme for Schools approved by the Information Commissioner.

The Publication Scheme and the materials it covers will be readily available from the School office. It will also be published on our website [www.stillyds.org.uk](http://www.stillyds.org.uk)

## **6. Dealing with Requests**

The school will respond to all requests in accordance with the procedures laid down in Appendix A.

We will ensure that all staff are aware of the procedures.

## **7. Exceptions**

The Environmental Information Regulations contain a number of exceptions, which specify the circumstances in which public authorities can refuse to provide information. All exceptions are subject to the public interest test, except personal data. Some exceptions are not relevant to the school. The types of exception that would be applicable to the school are contained in Appendix B.

## **8. Public Interest Test**

Unless it is in the public interest to withhold information, it has to be released. We will apply the Public Interest Test before any qualified exemptions are applied.

For information on applying the Public Interest Test see Appendix 3.

## **9. Charging**

There is no provision within the EIR for cost limits to be imposed on requests, though if the request is sufficiently large it could be covered by the "Manifestly Unreasonable" exception.

## **10. Responsibilities**

The day to day responsibility for compliance with the EIR rests with the Headteacher. The School Business Manager will act to coordinate enquiries received and provide a point of reference for advice and training.

## **11. Complaints**

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Any comments or complaints will be dealt with through the school's normal complaints procedure, which is outlined on the school's website.

We will aim to determine all complaints within 20 working days of receipt. We will publish information on our success rate in meeting this target. The school will maintain records of all complaints and their outcome.

If on investigation the school's original decision is upheld, then the school has a duty to inform the complainant of their right to appeal to the Information Commissioner's office.

Appeals should be made in writing to the Information Commissioner's office. They can be contacted at:

FOI/EIR Complaints Resolution  
**Information Commissioner's Office**  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **Appendix A – Procedure for Dealing with Requests**

### **A1 - Verbal Requests**

If information is sought by telephone or in person, judge if the request is simple enough to deal with on the spot. If so, then the information should be provided immediately. If the request is more complex, then it should be noted and passed to the School Business Manager to action.

### **A2 - Written Requests**

Check that the information is held by the school. If not, then the enquirer must be informed where the information can be obtained from.

If the request is for the enquirer's own personal information, then it should be treated as a Subject Access Request under the Data Protection Act.

If the request is regarding non environmental issues, it should be completed under the Freedom of Information Act.

If it includes environmental information, then it is an EIR request. The request should be passed to the Headteacher or the School Business Manager, who will log the request and obtain a reference number for all future correspondence relating to the disclosure.

If the information is already in the public domain, then the enquirer should be provided with a copy or directed to where it can be obtained.

If there are concerns with releasing the information, then the responsible person will check to see if any of the exceptions outlined in Appendix B apply. Where necessary, the public interest test will be carried out. If this recommends a refusal to disclose, then a refusal letter will be issued to the enquirer. The refusal will include:

- the fact that the responsible person cannot provide the information requested
- which exceptions we are applying
- why the exceptions apply to this enquiry
- if necessary, how the public interest test has been applied, specifying the factors taken into account in coming to a decision.

The request, exceptions applied and public interest test results will be logged and recorded for a period of no less than 5 years where the information has been refused, should the enquirer decide to appeal to the Information Commissioner.

Where there are no concerns, then the information will be gathered by the person co-ordinating the request and sent to the enquirer. The covering letter should state the EIR request reference number, should the enquirer need to contact the school for any supplementary information related to the request.

As a school, we aim to respond to all EIR requests as soon as possible. However, in all cases we will meet the 20 working day deadline for responding to the enquirer. This time limit does not include school holiday periods. The time taken to respond to each EIR request will be recorded by the school.

## **Appendix B – Exemptions to Release of Information**

Although decisions on disclosure should be made on a presumption of openness, the EIR recognises the need to preserve confidentiality and protect sensitive material in some circumstances.

The school cannot withhold information in response to a valid request unless one of the following exceptions applies:-

### **B.1 Personal Data**

If the information requested includes third party personal data, then it can only be disclosed in accordance with Regulation 13.

### **B.2 Information not held when request received**

Information is only held by the school when it is in the school's possession and has been produced or received by the school, or is being held by another person on behalf of the school.

### **B.3 Manifestly Unreasonable**

The request should be obviously or clearly unreasonable, and this should be under no doubt. Volume and complexity alone are not sufficient grounds to make a request unreasonable.

### **B.4 Request too general**

Where a request is made in general terms and it is difficult to determine the information being requested, then the school does not have to disclose. Every effort will be made to work with the requestor to clarify the request.

### **B.5 Material being completed, unfinished documents and incomplete data**

Most work in progress is covered by this exception, however the status of the document must be considered. If refused, the requestor must be given an estimated time in which it will be completed.

### **B.6 Disclosure of internal communications**

The scope of this exception should be narrowed by application of the public interest test. This is unlikely to impact on the school, as it is designed for communication between government departments and ministers.

### **B.7 Adverse effect**

The school may refuse to disclose information if it would adversely effect one of the areas covered by the regulations.

### **B.8 International relations, defence, national security or public safety**

Public safety includes information where disclosure would adversely impact on the protection of the public, public buildings and other sites from accidents, acts of sabotage and where the health and safety of the public could be affected.

### **B.9 Intellectual property rights**

A request may be refused if the information is protected by intellectual property rights. This would include copyrights, patents, trademarks and protected designs of both the school and third parties.

**B.10 Confidentiality of the proceedings of the school, where this is provided by law**

This may include papers discussed at meetings that have been prepared exclusively for that purpose and are protected by a law on confidentiality. This does not apply to emissions.

**B.11 Confidentiality of commercial or industrial information, where provided by law to protect a legitimate economic interest**

This may cover information in relation to tendering or procurement processes, and apply to individuals, outside bodies or the school itself.

**B.12 Interests of a person who provided information, where**

- i) they were not under any legal obligation to supply;**
- ii) did not supply it in circumstances such that that or any other public body is entitled to disclose apart from EIR, and;**
- iii) has not consented to disclosure**

This covers the interests of a person who supplied information voluntarily, supplied it in the expectation that it would not be disclosed to a third party, and has not consented to disclosure. This could include survey responses or privately owned papers held by the school.

**B.13 Protection of the environment**

This would include situations where disclosure could lead to the damage of the environment, such as wildlife or vulnerable archaeological or historical sites.

**B.14 Information relating to emissions**

The phrase 'relating to emissions' suggests that information will not need to be directly concerning emissions to potentially fall within this exception. This would also include past, present and future emissions.

**Next Steps**

In all cases, before writing to the enquirer, the person responding to the EIR request will need to ensure that the case has been properly considered, and that the reasons for refusal, or public interest test refusal, are sound.

**Appendix C – Applying the Public Interest Test**

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Having established that an exception may apply to a particular case, a public interest test must be carried out to identify if the public interest in applying the exception outweighs the public interest in disclosing it. Therefore, unless it is in the public interest to withhold the information, it should be released. Although precedent and a developed case law will play a part, individual circumstances will vary and each case will need to be considered on its own merits.

### Carrying out the test

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

Factors that might be taken into account when weighing the public interest include:-

For Disclosure	Against Disclosure
Is disclosure likely to increase access to information held by the school?	Is disclosure likely to distort public reporting or be misleading because it is incomplete?
Is disclosure likely to give the reasons for a decision or allow individuals to understand decisions affecting their lives or assist them in challenging those decisions?	Is premature disclosure likely to prejudice fair scrutiny, or release sensitive issues still on the internal agenda or evolving?
Is disclosure likely to improve the accountability and transparency of the school in the use of public funds and help show it obtains value for money?	Is disclosure likely to cause unnecessary public alarm or confusion?
Is disclosure likely to contribute to public debate and assist the understanding of existing or proposed policy?	Is disclosure likely to seriously jeopardise the school's legal or contractual position?
Is disclosure likely to increase public participation in decision making?	Is disclosure likely to infringe other legislation, such as the Data Protection Act?
Is disclosure likely to increase public participation in political processes in general?	Is disclosure likely to create a controversial precedent on the release of information or impair your ability to obtain information in the future?
Is disclosure likely to bring to light information affecting public safety?	Is disclosure likely to adversely affect the school's proper functioning and discourage openness in expressing opinions?
Is disclosure likely to reduce further enquiries on the topic?	If a large amount of information on the topic has already been made available, would further disclosure shed any more light or serve any useful purpose?



Note also that:

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

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

### **For Disclosure**

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

### **Against Disclosure**

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

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