



LEARNING TRUST

Freedom of Information and Subject  
Access Requests

## **Freedom of information policy**

The right under the Freedom of Information Act (FOI) and the Environmental Information Regulations (EIR) to request information held by public authorities, known as "the right to know", came into force for Academies on 1st January 2011.

### **Fee Regulations**

The method of calculating charges within this policy is in accordance with the Freedom of Information and Data Protection (appropriate limits and fees) Regulations 2004.

### **Estimating the costs of processing requests; (section 4(3) of the FOI regulations)**

When estimating the cost of complying with a written request for Information, the GEMS Learning Trust will take into account the staff time involved in the following activities:

- Determining whether the information is held.
- Locating the information or a document that may contain the information.
- Retrieving and extracting the information, or a document that may contain the Information.

The cost of the above activities will be calculated by applying an hourly rate of £25 per person, (section 4(4) of the FOI regulations.)

When calculating the costs to process requests, the GEMS Learning Trust cannot take account of the time taken to consider whether information is exempt under the Act.

### **Where the cost to process a request is below £450**

Where the cost of complying with a written request for information is estimated to be below £450, there will be no charge unless the disbursement costs (printing copying and postage) exceed £5. Where disbursement costs exceed £5, the applicant will be issued with a fees notice and must pay the costs within a period of three months before the Trust can comply with the request. Disbursements costs applied by the Trust are shown below.

### **Where the cost to process a request exceeds £450**

In accordance with the Freedom of Information and Data Protection (appropriate Limits and Fees) Regulations 2004, the Trust is not obliged to respond to a written request for information, where it estimates that the cost of complying with the request would be in excess of £450 (which equates to 18 hours of work at £25 per hour).

- Staff costs (£25 per hour) involved in determining whether the Trust holds the information.
- Staff costs (£25 per hour) of locating, retrieving and extracting the information.
- Disbursement and staff costs (£25 per hour) incurred in informing the applicant that the information is held.
- Disbursement and staff costs (£25 per hour) incurred in communicating the information to the applicant.
- In all cases the costs must be 'reasonable'.

## **Campaign requests**

If the Trust receives two or more related requests within a period of 60 consecutive working days, from a person or different persons who appear to be acting in concert or in pursuance of a campaign, the costs of complying with the individual requests will be aggregated.

## **Disbursements**

Photocopies:

- Black & White 50p per sheet (additional cost for producing A3)
- Colour 80p per sheet (additional cost for producing A3)

Prints from a PC:

- Black & White 50p per page (additional cost for producing A3)
- Colour 80p per page (additional cost for producing A3)

Postage:

- Actual cost of Royal Mail standard 2nd class

The Trust will not charge for providing information in an alternative format if the Disability Discrimination Act (DDA) covers the person requesting it, unless the original document was a priced publication. In this case, the charge for the alternative format will not exceed the cost of original publication.

## **Notifying charges**

Where charges apply, the GEMS Learning Trust will notify the estimated charge to the applicant before doing any charged work.

Where there is a significant difference between the estimated and the actual charge, the GEMS Learning Trust will notify the applicant.

Where charges apply, the Trust will require payment before compiling and supplying information.

If a charge is not paid within the specified time limit of 3 months, the information will not be supplied.

## **Subject Access Requests for data**

Under the GDPR, individuals, referred to here as Data Subjects, are permitted to request personal information held by the Trust about them. These requests for information are referred to as subject access requests.

Subjects wishing to access their data must complete a Subject Access Request form available at the school.

Subject Access Requests differ from freedom of information requests. In brief, article 15 of the GDPR gives a data subject the right to obtain:

- confirmation that their data is being processed;
- access to their personal data; and
- other supplementary information.

The supplementary information is the same as under section 7 of the DPA (for example, information about the source and recipients of the data) but now includes, among other things, details of international transfers, other data subject rights, the right to lodge a complaint with the Information Commissioner's Office (ICO) and the envisaged retention period for the data.

### **Fees for Subject Access Requests**

An appropriate fee will be charged for further copies of the same information requested by data subjects and when a request is manifestly unfounded or excessive, particularly if it is repetitive. The fee is based on the administrative cost of providing the information.

### **Time limit for Subject Access Requests**

Under GDPR the requested information from data subjects must be provided without delay and at the latest within one month of receipt. This can be extended by a further two months where the request is complex or where there are numerous requests. If this is the case, the data subject will be contacted within one month of the receipt of the request to explain why the extension is necessary.

All refusals will be issued in writing, setting out the reasons and the right of the data subject to complain to the ICO and to seek a judicial remedy.

### **Format of responses**

Where the data subject makes a SAR by electronic means, and unless otherwise requested by the data subject, the information will be provided in a commonly used electronic format. Before providing the information, the data controller will verify the identity of the person making the request using 'reasonable means'.

### **Access and data portability**

Data subjects will receive their personal data in a structured, commonly used and machine-readable format. You are permitted to request it to be transmitted to another data controller.

Unlike the subject access right, the data portability right does not apply to all personal data held by the data controller concerning the data subject.

First, it has to be automated data. Paper files are not included.

Second, the personal data has to be knowingly and actively provided by the data subject.

Third, the personal data has to be processed by the data controller with the data subject's consent or pursuant to a contract with them.

In contrast, the subject access right applies to all personal data about a data subject processed by the data controller, regardless of the format it is held in, the justification for processing or its origin.

It is important to note that both rights do not require data controllers to keep personal data for longer than specified in their retention schedules or privacy policies. Nor is there a requirement to start storing data just to comply with a request if received.

### **Complaints**

If the applicant does not agree with the proposed fee, they can appeal through the GEMS Learning Trust's complaints procedure.

### **Monitoring and Review**

<b>This policy will be reviewed annually or as required by changes in legislation</b>		
January 2015 written	By: J. Croft	
Next Review: January 2016	By: J Croft	
Next Review: January 2017	By: J. Croft	
Next Review: January 2018	By: J. Croft	In response to changes in the GDPR and Subject Access Request