

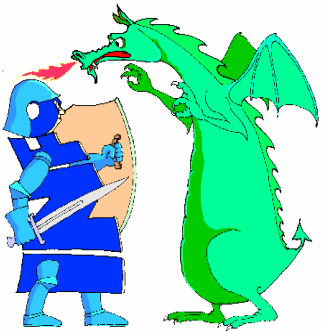
COMPARISON TABLE DPA & FOI

| Issue   | Data Protection  | Freedom of Information   |
|---|--|--|
| Who can apply for information?                                | Only the data subject, which is the living individual to whom the particular data relate.  | Anyone anywhere can apply for information. This can include limited companies or persons who are overseas.   |
| Who can a request be made to?                                 | Any data controller that is a person or organization within the public or private sector who determines the manner and purpose of the processing as long as the controller is subject to UK law. | Any public authority listed in the FOIA.   |
| Can the board ask for proof of the identity of the applicant? | Yes, it must do so as the data controller is under an obligation not to disclose information to an unauthorized third party.   | No, the applicant must give a name and an address for correspondence but in most cases the identity of the applicant is irrelevant. However if special circumstances apply for example the applicant is suspected of making vexatious or repeat applications then the identity of the applicant may be relevant. Also, the identity of the applicant may be relevant when making a request for a review to a public authority. |
| How must an application be made?                              | In writing, this means in a form which gives rise to a permanent record although this may be by e-mail or other electronic mechanism.  | In writing, this means in a form which gives rise to a permanent record although this may be by e-mail or other electronic mechanism.  |

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| What information can be requested?                                   | All the information which relates to the data subject and which falls with the definition of data in the DPA.   | Any recorded information held by or on behalf of the board/school.   |
| Can a fee be charged?  | Yes. Generally a fee of up to £10 can be charged.   | Yes. We can charge a fee in accordance with FOI Fees Regulations.  |
| When is the fee payable?   | When the request is made or prior to the information being provided.  | If we decide to charge a fee we must advise the applicant- issue a fee notice. The specified fee must be paid before we action the request for information.  |
| How specific does the request have to be?                            | The request must enable us to locate the information requested. If this is not possible the authority can ask the subject to provide further information and does not have to respond until it has received enough information to | The request must enable us to locate the information requested. If this is not possible we can ask the subject to provide further information and we do not have to respond until we have received enough information to handle the request. |
| Is there a limit to the amount of information that can be requested? | No. The individual is entitled to all the personal data held about him unless it is exempt.   | Yes. There is a limit to the searching which we are required to carry out to provide the information. This is set as the appropriate limit.  |

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| Does the board always have to answer a request for information?                    | It should always send a reply but in some circumstances it does not have to acknowledge that it holds information.  | It should always send a reply but in some circumstances it does not have to acknowledge that it holds information.   |
| Must original documents be provided?   | No. The individual is entitled to the information constituting the data not a copy of the actual data.  | No. The obligation is to provide information not to provide copy documents.  |
| Can the applicant insist on having the information in a particular form or format? | No. However, codes must be explained. If it is not possible to provide the information in permanent form without disproportionate effort the information can be provided by other means e.g. inspection.        | No. The applicant cannot insist but can specify a preferred form when making the request. An authority must accommodate the request if practicable and if it is not practicable explain why. |
| How long does the board have to respond to a request?                              | The board must respond as soon as possible and in any event within 40 calendar days of receiving a valid request and fee.   | We must respond within 20 working days.  |
| Are there any exemptions from the obligation to provide information?               | Yes. There are a range of exemptions set out in the Act. These are usually applied on a case by case basis. The IOC publication "Data Protection Legal Guidance" is useful. Can be downloaded from IOC web site | Yes. There are exemptions set out in the Act. Refer to the foi guide for schools available on the teachers section of belb web site.   |

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| <p>Can information be excluded or blacked out ("redacted") from documents supplied in response to a request?</p> | <p>Yes, if the information relates to another individual and it is not reasonable to give it or an exemption applies. Where information can be redacted that should be done rather than withholding information.</p> | <p>Yes. Information can be redacted if it is exempt. Information should be redacted rather than access being refused.</p>             |
| <p>What recourse or remedy is there if the authority does not provide the information it should?</p>             | <p>The individual can either complain to the Information Commissioner's Office or can go to court.</p>   | <p>The complainant must make a request for internal board/ school review. Then to the office of the IC and subsequently to court.</p> |



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