

Overview of Freedom of Information & Data Protection Acts for Schools



Purpose of Presentation

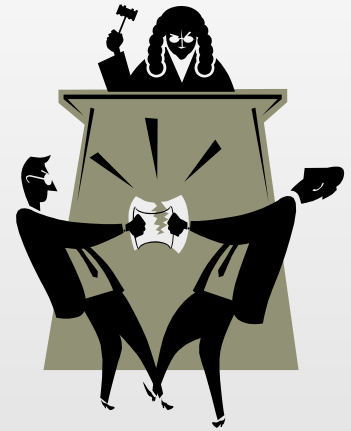
- Provide an overview.
- Offer advice & support.
- Share the burden.



The Boards Role

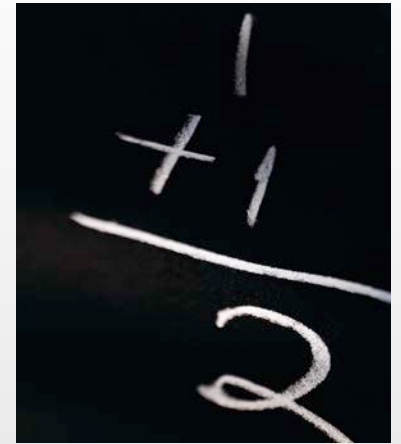
Legally, schools are:

- Separate entities for Data Protection purposes (known as Data Controllers) and for handling information requests under Freedom of Information Act – rather than a collective part of the board.
- However, the board feels it is appropriate to offer advice, where requested, to maintain a uniformity of practice across schools in it's administrative area.



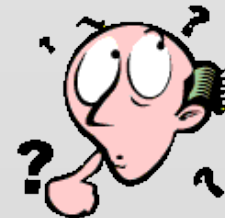
Is there a Difference between DPA & FOI?

- DPA is about an individual's access to their own personal information and response time is 40 calendar days.
- FOIA is an Act of Parliament that gives both individuals and organisations worldwide, the right of access to all recorded information such as minutes, decisions we make, questions such as how much, how many, how often etc and response time is 20 working days.



Anyone can ask for Information- They have legal rights.

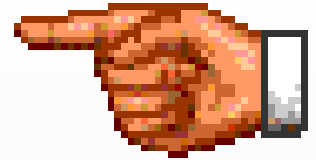
- Data Protection Act- subjects personal information. This is known as a subject access right.
- Freedom of Information Act- policies, procedures, your decision making process etc
- Environmental Information Regulations.- e.g. recycling, fuel use, car parking etc.
- For schools, in addition to the subject access right, there is a parental right to access educational records under –
- “ Education (Pupil Records) Regulations (NI) 1998” Schools have 15 days to respond and can charge depending on the number of pages that have to be copied (refer to charging schedule in the SR)
- You need to decide which legislation applies when responding to any request.



Who has Responsibility for Requests ?

- Requests from parents to view their child's educational records should be made to the Board of Governors.
- Subject access requests should be handled by the designated person (s) in the school.
- In practical terms this will make little difference in dealing with requests
- Vital that requests are quickly identified and passed to the appropriate person as reply is time sensitive.
- DPA- 40 calendar days .
- FOI- 20 working days
- Educational Records (under the control of the Head Teacher- 15 days (refer to SR)

Schools have Three Main Obligations under DPA



- 1. Register** with the Information Commissioner- this is known as “notification”. Make sure you are registered- criminal offence if not and that you renew your registration annually.
- 2. Observe** the eight data protection principles or rules of good information handling.
- 3. Allow** the data subject to exercise their rights- this can include pupils .

Aim of the Data Protection Act

- To provide individuals with important rights, including the right to find out what personal information is held.
- To balance our legitimate needs to collect and use personal data for business and other purposes against the right of individuals to expect privacy of their personal details.
- The legislation itself is complex and, in places, can be hard to understand.
- However, it is underpinned by eight common sense principles or points of good information practice.

If you make sure you handle personal data in line with the spirit of those principles, then you will go a long way towards ensuring that you comply with the letter of the law.



Staff Awareness is Key

- What is the DPA?
- What is my schools DPA policy?
- Why do I need to know about DPA?
- Eight DPA principles -What are they?
- Formal requests- how do I deal with?
- Telephone enquiries- how do I handle?
- Can I or should I release information?
- Staff know what they should be doing and are doing it!

Freedom of Information Act



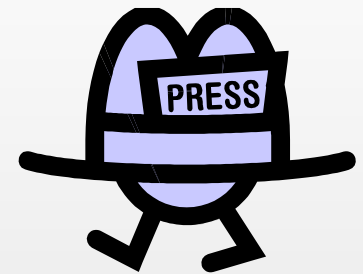
What is the Freedom of Information Act?

- The Act covers any **recorded** information that is held by a public authority. It gives legal access to information and establishes two related rights:
 1. The right to be told if information exists.
 2. The right to receive the information.
- FOIA also provides for the release of “exempt” information if it is in the public interest.
- Applicant can complain through an appeal process if they are not happy with how their request is handled.
- FOIA does not give people access to their own personal data (information about themselves)- they need to make a subject access request under the DPA

Freedom of Information Act Theory v Reality

Theory:

- Better decisions.
- Strengthening democracy.
- Better public services.
- Openness and accountability.



Reality:

- **Requests- not looking for the good we do.**
- **Parents/staff with a grievance/dispute.**
- **Press looking for a story.**

Your Responsibilities

To adopt and maintain a guide setting out school policy on the routine release of information—known as a Publication Scheme. This sets out:

1. Types of information you routinely publish.
2. Explains the way you provide information.
3. States what charges you make for providing information.

Commits your school to providing and maintaining a guide to the information you provide, how you provide it and if you charge for it.

Refer to www.ico.gov.uk

Your Responsibilities

- To deal with requests- legal duty to assist applicants and to inform on charging/ how to appeal etc.
- To consider “the public interest” when making information available.
- To explain WHY- information is not being released.

FOIA gives a legal right to access information – we can't insist on knowing why the applicant is making the request!



What is Required?

- Knowledge of legal obligations and how to identify requests.
- Consistency is vital. Identify staff who can take decisions on whether information can be released.
- Understanding of why and how you are keeping information
- The ability to quantify how much it will cost to process a FOI request in line with the fee charging schedule in the Act.



What is Required?



- Have procedures for responding to requests
- Ensure information is not held for longer than needed.
- Pro actively publish information- BOG minutes, policies etc- – don't wait for a request.
- Embrace a culture of recording what is important and structuring it so that decisions on its release are easily facilitated.
- Develop tools to assist the public in making more precise requests. Remember, often-

Public have no idea what's in our files THIS



Restricts ability to make informed requests AND



Results in ill-informed, Time- consuming requests

For similar/same information



Or for information not held!

For **specific** guidance and to register (Notification) under the Data Protection Act contact the Information Commissioner:

- ➡ Helpline- 01625 545 745
- ➡ Web site- www.ico.gov.uk
- ➡ Enquire about Notification- e mail- notification@ico.gsi.gov.uk or ring the helpline.
- ➡ Advice about the law ,ring helpline or e mail to- casework@ico.gsi.gov.uk

**For general advice from BELB contact
Liz Johnston at 028 9056 4316 or e- mail
Liz.johnston@belb.co.uk**

**Information is available on the Teachers section of the
board's web site at www.belb.co.uk**

Thank You



Belb/LJ/2012