



Barneslai Close  
Barnsley  
S70 2HS

# Circular Letter No 45/09/10

To: Headteachers of all Schools and Chairpersons  
of Governing Body  
Date: 7 January 2010  
**Status: Read and Retain**  
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Dear Colleague

## **CONFIDENTIALITY AND MINUTES OF THE GOVERNING BODY**

There is one particular area of uncertainty which generates the most questions from Governors and Clerks and that is: what confidential information can be deleted / excluded from the minutes of governing body meetings?

To provide an answer to this I have prepared an advice and guidance note which is attached to this letter. However, there will be, on occasions, matters which this note does not cover, therefore Headteachers and Chairpersons should contact the Local Authority prior to taking a decision.

Yours sincerely

STEVE BRAILSFORD  
Assistant Head of Infrastructure for Learning and Care (Access)

# CONFIDENTIALITY AND MINUTES OF THE GOVERNING BODY

## Advice and Guidance

### Governing Body Meetings

Any interested person can request a copy of the minutes of a governing body meeting, this includes any documents or reports which are considered at the meeting.

Minutes of governing body meetings cannot be released until the content as been agreed by the governing body and signed on their behalf by the Chairperson. Governors will have decided if there are any items in the minutes or accompanying documents which require deletion / exclusion.

The governing body may exclude any item relating to:

- a a named person who works, or who it is proposed should work, at the school; or
- b a named pupil at, or candidate for admission to, the school; or
- c any other matter, that by its nature, the governing body is satisfied should remain confidential.

**Points (a) and (b) above are self-explanatory, but point (c) appears to provide a good deal of latitude to keep any information confidential governors feel appropriate. Unfortunately the governing body can only keep information they are legally allowed to exclude confidential under the Freedom of Information Act 2000.**

**(Details can be found in: A Guide to the Law for School Governors; section 25, paragraphs 78 to 90; which deals specifically with FOI requests).**

**If in doubt the governing body should seek legal advice via the Local Authority.**

In addition to personal details data relating to pupils and employees the minutes can be edited to remove sensitive personal data i.e. information relating to:

- 1 a pupil's disciplinary / exclusion;
- 2 a member staff's disciplinary;
- 3 pupils' and staff members' ill health;
- 4 a pupil's special educational needs;
- 5 any child protection issue;
- 6 details relating to matters before the court;
- 7 complaints by a member of staff, pupil or parent;
- 8 any information which the application would be likely to cause serious harm to the physical or mental health or condition of the individual;
- 9 disclosure of such information into the public arena which would be that person's right of privacy

However the minutes can only be edited in relation to information in respect of individual cases it cannot be edited to remove general statistics about exclusions, ill health, disciplinary, complaints etc and in some cases it might be more appropriate to anonymise rather than remove completely.

Information provided in confidence can be excluded or withheld. This exemption can be used where the information was supplied to the school by an outside body or individual and the disclosure of the information would be an actionable breach of confidence. That is, there is a reasonable prospect that a court would rule against the school if the information was released. An actionable breach of confidence is, likely to occur if all the following conditions were met:

- the information has the necessary “quality of confidence”: i.e. it is not widely available or completely trivial;
- when the information was conveyed to the school, there was an explicit or implicit understanding that the information would be kept in confidence;
- and
- the release of the information is done without the permission of the party which supplied it.

Commercial Interests-This exemption applies to a number of circumstances for which legal advice should be obtained.

Finally any advice obtained from a legal representative in respect of legal action or on behalf of the school can be excluded / withheld from release.

**In the following circumstances minutes or reports relating to relevant information may be disclosed:**

- 1) where there is an Order of the Court or Tribunals
- 2) where there is a request by Child Protection Professionals-such as a Social Worker-when the matter involves a child in need.
- 3) when a legal or trade union representative provides an authority from the pupil, parent or member of staff requiring disclosure of document or documents relating to that specific person.

Applying the Guidance

- 1 The guidance for governing body meetings applies also to meetings of the committees which are acting with delegated authority of the governing body.
- 2 Pupil Discipline Committee – It has been custom and practice to use the pupil’s initials in the minutes of the meeting. The practice should be to completely anonymise by using the term “Pupil A”. Parents should not be referred to by name.
- 3 Redundancy Committee Appeals

Following the approval of the minutes and the start of the consultation process the minutes can be released subject to the deletion personal or sensitive information as set out in this guidance.

Redundancy Committee Hearing – these can be released to those who were present at the hearing.

Redundancy Appeal Committee Hearing – these can be released to those who were present at the hearing.

Following the Redundancy Committee and Redundancy Appeal Committee Hearings the minutes can be made available to all the Governors on the Governing Body.

- 4 Dismissal Committee / Appeals

The same process applies for dismissals as that for redundancy.