



**IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL
UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000**

Appeal No. EA/2012/0080

BETWEEN:

MICK HILLYARD

Appellant

and

THE INFORMATION COMMISSIONER

First Respondent

and

LONDON BOROUGH OF SUTTON

Second Respondent

BEFORE:

**ANISA DHANJI
JUDGE**

CONSENT ORDER

Pursuant to Rule 37(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009,

And upon the consent of all the parties,

IT IS ORDERED THAT the Information Commissioner's decision of 27 March 2012 be substituted with the attached Decision Notice.

[Signed on original]

Anisa Dhanji
Judge

29 January 2013

SUBSTITUTED DECISION NOTICE

Public Authority: London Borough of Sutton

Address of Public Authority: Civic Offices, St Nicholas Way, Sutton, SM1 1EA

Name of Complainant: Mr M Hillyard

Substituted Decision

The Public Authority has not complied with the Freedom of Information Act 2000 in relation to the Appellant's request.

Reasons for Substituted Decision

1. The Complainant requested information from the Public Authority regarding bullying, harassment and compromise agreements at all schools within the London Borough of Sutton with particular focus on St Philomena's Catholic High School for Girls.
2. In determining whether or not it held any information in response to that request, the Public Authority claims to have misunderstood, and thus provided misleading information about, the nature of its electronic system and its search capabilities. The Public Authority also failed to recognise that one email which it held in a paper file and which related directly to the particular school at the heart of the Complainant's request, did fall within the scope of the material request. Accordingly, the Public Authority accepts that it was incorrect to claim that it did not hold any relevant information in response to the Complainant's request and was also incorrect to claim, as it repeatedly did, that only subject lines of emails could be searched and that emails were automatically deleted after 30 days.
3. The Public Authority has set out its explanations for its various shortcomings, but the Complainant does not consider the Public Authority's explanations for its shortcomings to be credible.
4. The Complainant is now in possession of one material email, which was not previously disclosed. The Public Authority has also now conducted a full electronic search of its email system, including the personal space of key officials,

at the time of the request. The Public Authority has notified the Complainant that no further e mails coming within the scope of the request have been found.

5. In accordance with the overriding objective as set out in rule 2 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, the parties now agree to dispose of this matter by way of this Substituted Decision Notice.

[Signed on original]

Anisa Dhanji
Judge

29 January 2013