

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 November 2015

Public Authority: St Ursula's Catholic Infant School

Address: Straight Road
Romford
Essex
RM3 7JS

Decision (including any steps ordered)

1. The complainant has requested from St Ursula's Catholic Infant School (the 'School') a copy of its employee handbook and a list including the details of all the clubs which operate within the School.
2. The School provided a copy of its employee handbook and some information relating to details of the School's clubs. However, following a further investigation of the case, the Commissioner considers that the School failed to issue an adequate response to part (b) and (g) of the request. By failing to issue an adequate response, the School breached sections 1 and 10 of the FOIA.
3. The Commissioner requires the School to take the following steps to ensure compliance with the legislation:
 - Issue a response to part (b) of the request to the complainant under the FOIA. This response should take into account the clarification the complainant provided as outlined in paragraph 25.
 - Issue a fresh response to part (g) of the request to the complaint under FOIA. This response should provide a list of each club and the location each club uses for example: Karate – school hall; or if the school considers this information to be exempt the school should provide the complainant with a response stating which exemption applies and why.
4. The School must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner

making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 15 July 2015 the complainant wrote to the School and requested information in the following terms:

"Thanks very much for the materials relating to the tribunal case which you sent home a couple of days back. Please can you provide me with a copy of your Staff/Employee Handbook to enable me prepare adequately for the hearing?"

6. On 17 July 2015 the complainant wrote to the School and requested information in the following terms:

"Please in addition to my earlier request for your school's Staff/Employee Handbook to enable me prepare for the forthcoming Tribunal sitting please can I also have a list of all the clubs operating in the school with the following details:

a. Name of club

b. Date of commencement

c. Operator (Staff or None-staff)

d. DBA (or CRB) Checked

e. Nature of safe recruitment carried out

f. Operator insured or not

g. Location used (e.g. on site, class room; or on site field; etc.)

g. Frequency of meeting (how often does the club meet: e.g. once 1 hour a week; or twice 1 hour a week; etc.)

I will appreciate your urgent response before the term ends. However, the end of the term wouldn't be an excuse to deprive me this right."

7. The background to this request is a tribunal case between the School and the complainant. The claimant had requested information from the School in which he stated that the purpose was for preparation for the court hearing.

8. On 17 July 2015 the School responded and informed the complainant that it had written to the court regarding his request for information. However, no FOI reference to the request was made by the School in its response and the School did not state that it was refusing to deal with the request at this point.
9. On the same day the complainant reiterated his request for information.
10. On 7 August 2015 the complainant wrote to the School to chase the information which he had requested.
11. The complainant contacted the Commissioner on 18 August 2015 to complain about the way his request for information had been handled.
12. On 16 September 2015 the ICO contacted the School to discuss the request. The School said that it had responded to the complainant's information request on 14 September 2015, it was therefore asked to provide a copy of this response which it had sent to the complainant.
13. On 16 September 2015 the School informed the ICO that there had been a tribunal case between the complainant and the School. It explained that an order was made by the judge to strike out the claim and that no court hearing took place. Therefore, the School considered that it was not necessary to answer the complainant's request.
14. However, the complainant said that he still required the information requested. Although it was originally required for the tribunal case, he considered his FOIA request to be independent of the tribunal issues.
15. On 6 October 2015 the School was asked by the ICO to provide a valid refusal notice outlining its reasons for refusing the request.
16. On 7 October 2015 the School confirmed that the information requested (School's employee handbook) is not held by the School. It stated that after searching both paper and electronic files, it was satisfied that this information does not exist.
17. On the same day the School was asked by the ICO to explain its statement in its correspondence to the court on 15 July 2015: *"The staff handbook is not a document usually made available to parents as it is an organisational guide for staff and is not relevant to parents. Please advise as to whether it is permissible for the parent to receive this documentation without it also being submitted to the tribunal service."*
18. The Commissioner considered that this statement would seem to imply that such a document does exist. Therefore, the School was asked to clarify which document it was referring to at that time.

19. On 19 October 2015 the School provided a copy of its employee handbook and information falling within the scope of request (a) to (g) but it did not provide an explanation as to why it had previously stated that the information was not held.
20. On 3 November 2015 the complainant acknowledged receipt of the School's employee handbook. However, he expressed his dissatisfaction to the School's response to questions (b) and (g) of his request.

Scope of the case

21. On 3 November 2015 the complainant contacted the Commissioner to complain about the way questions (b) and (g) of his request had been handled.
22. This decision notice will therefore consider whether the School has complied with the request for information to questions (b) and (g) under section 1 of the FOIA.

Reasons for decision

Section 1 – information held

23. Section 1(1) of the FOIA provides a qualified right of access to recorded information held by a public authority. It says that when a public authority receives a request, it must confirm or deny whether it holds the information of the description specified and, if it does, the information must be communicated to the requester.
24. Section 10(1) of the FOIA states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.

The complainant's position

25. The complainant is of the view that question (b) of his request had not been answered and he considered the School's use of the word "*varied*" relating to the commencement dates, is not an answer. He clarified to the Commissioner his concern: "*Did the clubs come into existence the day the school was founded? What year did each of these clubs begin to operate in the school?*"
26. Relating to question (g) of his request, the complainant said that this too had not been answered by the School. He argued that the venue should have been put against the activity, e.g. Karate (school hall);

Minecraft (classroom); Street Dance (field). The complainant considered that it was the duty of the School under the FOIA to respond to his request.

27. It was noted that the complainant had made a typographical error when he referred to two of his requests as (g). Following discussions with the complainant and the contents of his concern letter of 3 November 2015, it was made clear that the complainant is disputing that the School did not answer his question referring to the "*location used*" and not the request about "*frequency of meeting*".

The School's position

28. On 6 November 2015 the School was asked by the ICO to revisit the request and to provide a response to question (b) of the complainant's request.
29. In relation to question (g) the School said that it had been answered and that the location used for each activity was obvious due to the nature of the club. The Commissioner explained to the School that he did not consider that this provided an adequate response to the complainant's request and set out the reasons why to the School.
30. Despite this the School declined to engage with either the complainant or the Commissioner. The School did not provide any further information and it did not cite any exemptions or explain why it was refusing to provide this information.
31. In relation to question (b) the Commissioner clarified with the School what the complainant was seeking in relation to this part of the request. He explained that the complainant was seeking the actual year in which each of the clubs began to operate within the School.
32. Regardless of this clarification the School declined to engage with the complainant. The School did not provide any further information and it did not cite any exemptions or explain its reasons for its refusal to provide it.
33. The School was informed that this case will be progressed to a formal resolution and that the decision notice can include legally binding steps for the School to follow. The School maintained its position not to respond to the request and it accepted that the case will be progressed to a decision notice.

The Commissioner's position

34. In regards to question (b) the School had provided the following information: "*varied, clubs usually start in the second week of each term and finish the week before term ends.*"
35. The Commissioner notes that regarding question (b) the School did provide a response to this request stating that the date of the commencement varied but usually starts in the second week of term. However, as outlined above, during the course of the investigation the complainant clarified that he is seeking the actual year in which the club began to operate. The Commissioner clarified this with the School but it refused to issue any further response to the complainant.
36. In relation to part (g) the School had provided the following: "*varies depending on nature of club*". The School had not, however, provided any further detail in relation to each of these elements of the request.
37. In considering whether the School has satisfied these elements of the request, the Commissioner has noted that the request asked for "*a list of all the clubs operating in the school*" with the details of the date of commencement and the location used for each of the clubs.
38. The School argued that it had now provided the complainant with this information, as "*the location used for each activity was obvious due to the nature of the club*". However the Commissioner does not consider that this provides an adequate response to question (g) of the request.
39. The School had provided the complainant with a list of the clubs which operate within the School in response to question (a) and to satisfy question (g) of the request, it should have gone on to list against each club the location used for it i.e. Karate – school hall.
40. If the School had considered this information to be exempt under the FOIA it should have issued the complainant with a response stating under which exemption it was relying upon. Alternatively if the information is not held it should have issued a response stating this.
41. Whilst the Commissioner accepts that the School's reading of the request at part (b) is an objective reading of the request and that it has responded, he also considers that in this case there is more than one objective reading. Therefore, in light of the complainant's clarification as to what he was seeking, the School should have issued a new response to this element of the complainant's request.
42. In addition, as the School did not respond to question (b) and (g) of the request within the statutory timeframe, the School is in breach of section 10(1) of the FOIA.

Other matters

43. The Commissioner is concerned that the School had previously stated that some of the requested information (the School's employee handbook) was not held. However, following further investigation it transpired that the School did hold the information. The Commissioner was not satisfied with the School's response in which it had stated on 7 October 2015 that it did not hold the requested information.
44. In order to assist the School with further FOIA requests, the School should refer to the ICO guidance below:

http://www.ico.org.uk/for_organisations/freedom_of_information/guide.aspx

Right of appeal

45. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

46. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
47. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Rachael Cragg
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