

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 February 2016

Public Authority: Westende Junior School
Address: Seaford Road
Wokingham
RG40 2EJ

Decision (including any steps ordered)

1. The complainant has requested copies of the school's fund account for the last six years. The school first responded disclosing some information. The complainant requested an internal review stating that the information provided was not what she requested and the school issued a further response invoking section 14(1) of the FOIA.
2. The Commissioner's decision is that the school has inappropriately relied on section 14(1) of the FOIA in this case, as he considers the request is not vexatious.
3. The Commissioner therefore requires the school to take the following steps to ensure compliance with the legislation:
 - The school should issue a fresh response to the complainant under the FOIA which does not rely on section 14(1).
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 4 June 2015, the complainant wrote to the school and requested information in the following terms:

"Please can you send me copies of the School Fund account for the last six years."

6. The school responded on 2 July 2015 disclosing a copy of the school fund account for the last six years.
7. As the complainant remained dissatisfied, she requested an internal review on 6 July 2015. The complainant stated that the information received on 2 July 2015 was not the information she required. Instead the complainant required a breakdown of income and expenditure and attached a copy of Wokingham Borough Council's annual statement for the school fund as an example.
8. The school responded on 9 September 2015 advising the complainant that it now considered her request to be vexatious and wished to rely on section 14 of the FOIA.

Scope of the case

9. The complainant contacted the Commissioner on 14 September 2015 to complain about the way her request for information had been handled. The complainant stated that she disagreed her information request was vexatious and urged the Commissioner to order the school to disclose the requested information.
10. The Commissioner's investigation has focussed on the school's application of section 14(1) of the FOIA to the complainant's request of 4 June 2015. The remainder of this notice outlines the Commissioner's decision.

Reasons for decision

11. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
12. The Commissioner's guidance on the application of section 14 of the FOIA can be accessed via this link and it explains the criteria that can be taken into account when assessing whether a request for information is vexatious or not:

<https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

13. The term "vexatious" is not defined in the FOIA. However, In the Upper Tier Tribunal case of *The Information Commissioner and Devon County*

Council vs Mr Alan Dransfield (GIA/3037/2011) the Tribunal concluded that 'vexatious' could be defined as the "...manifestly unjustified, inappropriate or improper use of a formal procedure" (paragraph 27).

14. Although not an exhaustive list, the Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request; and (4) and harassment or distress of and to staff.
15. The school confirmed that the complainant used to be the Secretary of the school's PTA. Between July and October 2014 PTA members discussed the possibility of changing the PTA constitution. Significant differences of opinion emerged and the complainant allegedly accused two members involved of "bullying" and "dictating" behaviour. The school has said that the complainant submitted an inappropriately large number of emails some of which had an unprofessional tone and these events resulted in the complainant resigning from position. The school confirmed that it wrote to the complainant inviting her to meet in order to resolve these issues but she chose not to.
16. In November 2014 the complainant's husband makes an information request to the school for six years of PTA accounts. The school confirmed that it complied with this request and released the requested information.
17. The Commissioner understands that the complainant submitted a 19 page complaint against the two members referred to in paragraph 15 above to the school. This was investigated in accordance with the appropriate procedures in place but found to be unjustified. An appeal was also logged by the complainant.
18. During this time the complainant made a Subject Access Request (SAR) under the Data Protection Act 1998 for a copy of her child's education records. The school complied but on receipt of the requested information the complainant made a further request for her child's records. The school confirmed that it considered this constituted a further SAR rather than a continuation of the first SAR.
19. The complainant also made the FOIA request the subject of this notice. The school confirmed that it complied and disclosed six years of accounts. However, the complainant appealed and requested an internal review, as it was not the information she required. The school confirmed that it regarded this request for an internal review as a further request to the school for information, rather than a request to have the school's initial response to the request that had already been made reviewed.

20. The school advised that it considered the request to be vexatious, as it had already expended a considerable amount of time and resources dealing with the complainant's complaints, requests and concerns. It felt the request was designed to reopen issues already addressed during the complaints investigation and was specifically targeting one particular employee. The school also felt that as no other member of the PTA had any issues with the management of the school fund the requested information had little benefit for the wider public.
21. The school argued that the complainant continues to make allegations and once one line of enquiry is exhausted another line of attack is commenced.
22. The Commissioner notes from the school's submissions that there has been an internal complaints investigation, a FOIA request made by the complainant's husband, a SAR and then the FOIA request the subject of this notice. The Commissioner does not consider the complainant's correspondence following the disclosure of her child's school records constitutes a further SAR; instead it is a continuation of the first and correspondence outlining the complainant's dissatisfaction with the records provided. Similarly the Commissioner does not consider the complainant's request for an internal review in July 2015 constitutes a further request for information; instead it is a request to have an internal review at the recommendation of the Commissioner itself.
23. The Commissioner also does not consider the complainant's husband's request is a relevant factor when determining whether the complainant's request of 4 June 2015 is vexatious. The complainant's husband is a separate applicant in his own right.
24. Even if the Commissioner was to accept that the complainant and her husband were acting together, he does not consider two requests and one SAR over a 12 month period constitutes an inappropriate use of the FOIA. If anything it would section 14(2) of the FOIA (repeated requests) that would potentially apply rather than section 14(1) and section 14(2) would only be applicable if the requests encompassed the very same information. As several months had passed between each, there would be fresh account information falling within the second request that did not fall into the first.
25. Turning back to section 14(1) of the FOIA and this particular request, the Commissioner is not convinced from the submissions he has received that the request is vexatious. He does not consider the complainant's SAR and FOIA request have been overly burdensome on the school in terms and time and resource. The Commissioner also considers that there is insufficient evidence to suggest that the complainant is simply trying to reopen issues already addressed during

the internal complaints process. Even if the complainant did raise issues during this process about the management of the account, the internal complaints process would not necessarily provide her with access to the information itself if she felt sight of it was required to address the concerns she may have.

26. The Commissioner does not consider the internal complaints investigation instigated by the complainant, in conjunction with the SAR she made for her child's educational records, renders the FOIA request of 4 June 2015 vexatious.
27. Although the school may have received correspondence in the past which it considered was inappropriate tone, the Commissioner considers the request itself was not worded in such a way or in a manner which would suggest its main purpose is to harass or make allegations against particular staff. The complainant is (or at least was at the time the request was made) a parent of a child that attended the school. She had also been involved in the raising of funds for the PTA and held the position of Secretary. The Commissioner does not consider the request itself had no serious purpose or value at all. The request relates to the expenditure of public funds; funds which have been raised by the parents of the school. There is a public interest in knowing how those funds have been utilised albeit limited to those attending the school and their parents, staff and the local authority.
28. For the above reasons the Commissioner has decided that section 14(1) of the FOIA does not apply in this case.

Other matters

29. The school has already informally agreed to withdraw the application of section 14(1) of the FOIA and issue a fresh response under the FOIA to the complainant. However, the Commissioner has experienced difficulty in setting a firm timeframe on which this should be completed with the school so he considers a formal decision notice is required on this occasion in order to set a legally binding deadline.

Right of appeal

30. 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

31. 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.
32. 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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