

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 28 November 2022

**Public Authority:** Northumberland County Council  
**Address:** County Hall  
Morpeth  
Northumberland  
NE61 2EF

#### **Decision (including any steps ordered)**

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1. The complainant requested information from Northumberland County Council ("the Council") about changes to Bellingham Middle School's catchment area. The Council confirmed that it held the information requested. The complainant disputes whether this information was in scope of the request and therefore whether the response provided by the Council meets the requirements under section 1(1)(a) of FOIA (General right of access to information held by public authorities).
2. The Commissioner's decision is that the Council's response complied with section 1(1)(a) of FOIA.
3. The Commissioner does not require the Council to take any steps.

#### **Request and response**

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4. On 24 July 2020, the complainant wrote to the Council and requested information in the following terms:

"Please provide an electronic copy of the Council documentation authorising the removal of /changes to Bellingham Middle School's catchment area without further consultation, subsequent

to the Adjudicator's decision that the School should remain open."

5. The Council responded on 5 October 2021. It explained that the Council's position regarding the school was based on a Council decision taken prior to the Schools Adjudicator's decision and why it still considered this earlier decision to be valid despite the Schools Adjudicator's decision. Regarding the original decision it stated the authorisation was based on the Council's Cabinet's final approval to the changed educational pathway for pupils living in this area of the Haydon Bridge Partnership as set out in the statutory proposal on 10 July 2018, which is in the public domain, on the Council's website. Regarding the Council's position that the original decision is still valid, it provided a link to the Schools Adjudicator's statutory proposal decision and quoted the relevant sections which form the basis of its position that the original decision is still valid.
6. The complainant requested an internal review on 19 October 2022, they stated, "if that authorisation does not exist then electronic copies cannot be provided, and I can simply be informed of that. If authorisation does exist then the Council has had adequate time to provide the electronic copies to me".
7. The Commissioner also asked the Council to carry out an internal review on 23 December 2021, the Commissioner understand that no internal review has been completed.

## **Reasons for decision**

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### **Section 1(1)(a) – General right of access to information held by public authorities**

8. The following analysis sets out why the Commissioner has concluded that the council has complied with section 1(1)(a) of FOIA.
9. Section 1(1)(a) of FOIA states:

"Any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request..."

10. The complainant's view is that the information that the Council confirmed it holds is not what they requested and therefore the Council has failed to confirm whether it holds the information requested.
11. The Commissioner's view is that there is some ambiguity as to the scope of the request given its wording. In his view it could be interpreted either as a request only for documentation dated after the Schools Adjudicator's decision of 13 November 2018 (which appears to be the complainant's intention given the content of their request for an internal review), or as a request for documentation which authorises the Council to continue despite the Schools Adjudicator's decision (which appears to be the Council's reading of the request).
12. To the extent that the request relates to documentation dated after the Schools Adjudicator's decision of 13 November 2018, the Council explained in its response of 5 October 2021 why no such information is held (because its position is that the original decision is still valid). The Commissioner is therefore satisfied that the Council met its obligation to confirm whether or not it was held.
13. To the extent that the request relates to documentation which authorises the Council to continue despite the Schools Adjudicator's decision, the Commissioner is satisfied that Council confirmed that this information was held in its response of 5 October 2021, and that the Statutory Proposal and Adjudicator's Decision are reasonably accessible to the applicant by other means.
14. Given that the Commissioner is satisfied that the Council has confirmed whether or not the information is held, taking either interpretation of the request, his decision is that the Council's response complied with section 1(1)(a) of FOIA.

## Right of appeal

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15. 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@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. 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.
17. 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 .....**

**Victoria James**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**