

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 April 2012

Public Authority: The Governing Body of Cottesloe School
Address: Aylesbury Road
Wing
Leighton Buzzard
Beds
LU7 0NY

Decision (including any steps ordered)

1. The complainant has requested information relating to meetings of the Governing Body and other administrative information relating to Cottesloe School (the School). The School provided the complainant with information in response to the request however it did not provide him with a letter referred to in a set of minutes which were disclosed dated 3 November 2011. The School provided the information to the complainant during the course of the Commissioner's investigation however it made two redactions under section 40(2) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner's decision is that the School correctly applied section 40(2) to make the redactions to the letter. However the Commissioner considers that the School breached its obligations under section 10(1) FOIA as it did not provide the complainant with a redacted copy of the letter within 20 working days of the request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 27 October 2011, the complainant wrote to the School and requested information in the following terms:

"Details of Governor Meetings for the last year. I request meeting minutes for all meetings of the Governing body and associated sub-

committees. Additionally, please include board papers issued prior to the meetings together with material such as PowerPoint presentations used during the meetings.

The school budget and forward looking projections. I would like to see Income and Expenditure statements for the current year and the projections for the next three academic years. The level of granularity I want to see is that you supply to Buckinghamshire County Council.

Plans and details related to any proposed changes in the staffing and structuring of the Cottesloe School covering the next three years, such as the TLR structure."

5. The School responded on 25 November 2011. It provided the complainant with information in relation to his request. On 27 November 2011 the complainant wrote to the School to explain that he was dissatisfied that further information which was held had not been provided to him.
6. Following an internal review the School wrote to the complainant on 11 January 2012. It stated that the further information held would be provided to him and subsequently did provide this.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled. In particular the complainant considers that a letter referred to in a set of minutes dated 3 November 2011 had not been provided to him. The complainant acknowledged that the set of minutes post dated the date of his request, however he considers that the letter referred to must have been held at the time of the request and would constitute details related to any proposed changes in the staffing and structuring of the Cottesloe School covering the next three years. He considers that there would not have been time to convene a special meeting had the letter been submitted after 27th October 2011.
8. The Commissioner put this to the School and it has not argued that the letter does not fall within the scope of the request. The Commissioner therefore accepts that the letter falls within the scope of the request and he has therefore considered whether the School was correct to make the two redactions under section 40(2) and whether it complied with other obligations under FOIA.

Reasons for decision

9. Section 40(2) of the Act provides an exemption for information that constitutes the personal data of third parties:

"Any information to which a request for information relates is also exempt information if—

(a) it constitutes personal data which do not fall within subsection (1), and

(b) either the first or the second condition below is satisfied."

Section 40(3)(a)(i) of the Act states that:

"The first condition is-

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene-

(i) any of the data protection principles, or

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress),"

10. In this case the School has explained that the letter was written by a Governor and proposed suggestions of which alternative roles within the School could be allocated elsewhere and therefore made redundant. It said that the redactions were made to two suggestions from which individual members of staff could be identified.
11. The Commissioner considers that upon viewing the redacted information and the School's arguments as to why individuals would be identified, that the redacted information is the individuals personal data from which those individuals would be identified.
12. Such information is exempt if either of the conditions set out in sections 40(3) and 40(4) of the Act are met. The relevant condition in this case is at section 40(3)(a)(i) of the Act, where disclosure would breach any of the data protection principles. In this case the Commissioner has considered whether disclosure of the personal data would breach the first data protection principle, which states that "Personal data shall be processed fairly and lawfully". Furthermore at least one of the conditions in Schedule 2 should be met.

13. In reaching a decision as to whether disclosure of the requested information would contravene the first data protection principle the Commissioner has considered the following: -

Likely expectation of the data subject

14. The Commissioner considers that the individuals would not expect details relating to potential redundancies within the School from which they would be identified to be disclosed into the public domain. Whilst the information relates to the staffing of a public body, information relating to the potential redundancies from which individuals would be identified relates to those individuals employment status and therefore their private life.

Would disclosure cause damage and distress to the data subject?

15. The School has explained that disclosure of the redacted information would cause damage and distress to the individuals who would be identified from that information. It has provided the Commissioner with arguments in support of this. However due to the nature of these arguments the Commissioner cannot provide any further detail in this notice.
16. The Commissioner is satisfied that disclosing this information into the public domain may cause these individuals damage and distress.

The legitimate public interest

17. The Commissioner considers that whilst there is a legitimate public interest in disclosing information which demonstrates that the School is dealing with the need for redundancy fairly and in accordance with all of its obligations, he does not consider that this is overridden by the data subjects legitimate interests where they can be identified from the information.
18. The Commissioner therefore considers that the School correctly applied section 40(2) FOIA to make the redactions to the letter.
19. Section 10(1) states that,

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”
20. In this case the School provided the complainant with the redacted letter during the course of the Commissioner’s investigation. As this was not provided within the statutory time for compliance, the

Reference: FS50425999

Commissioner considers that the School breached section 10(1) in its handling of this request.

Right of appeal

21. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

22. 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.
23. 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

**Pamela Clements
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Information Commissioner's Office
Wycliffe House
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Cheshire
SK9 5AF**