

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 June 2012

Public Authority: The Governing Body of Lickhill Primary School

Address: Almond Way
Stourport-on-Severn
Worcestershire
DY13 8UA

Decision (including any steps ordered)

1. The complainant made two associated requests to Lickhill Primary School (the 'school') in April 2011 and July 2011 regarding the governing structure of the school. The Commissioner finds that the school has not provided any substantive responses to the complainant for either of the requests. The Commissioner's decision is that the school did not handle the requests for information in accordance with the FOIA. The school breached sections 1(1) and 10(1) of the FOIA by failing to provide a response to the requests within the statutory timeframe as set out in section 10 of the FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Confirm or deny whether the requested information is held in respect of each request to comply with section 1(1)(a);
 - If information is held in respect of each request, either provide the information to comply with section 1(1)(b), or withhold the information by issuing valid refusal notice for each request under section 17(1) of the FOIA.
3. The public authority 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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 28 April 2011, the complainant wrote to the school and requested the following information:

'electronic copies of the most recent minutes of the IEB. In January you supplied me with minutes for 10.06.10, 12.07.10, 13.09.10, 11.10.10 and 15.11.10. I would appreciate copies of any minutes since this period to bring my records up to date. I would also like copies of any other minutes which may not have been agreed when you sent the last batch in January 2011.

I would also be grateful if you would let me have a list of the current Governors and an overview of the make up of the current Governing body including any "shadow" governors and their terms of office.'

5. The school has not disputed that it received the request. For the avoidance of doubt, the Commissioner forwarded the request to the school on 17 February 2012. However, based on the information provided to the Commissioner, it has not responded to date.
6. On 11 July 2011 the complainant made a further request for information in the following terms:

'the IEB/Governors minutes since September 2010 and a copy of the names and constitution of the current Governing body at Lickhill Primary School including the appointing body, the period of office of each Governor and any transitional arrangements that are planned for the Governing body to revert to an elected Foundation School Governing Body.'

7. Again the school has not disputed that it received the request. As with the previous request the Commissioner forwarded it to the school on 17 February 2012. However, based on the information provided to the Commissioner, it has not responded to date.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way her request for information had been handled. Specifically, she complained that the school had not responded to her requests.
9. The Commissioner's investigation has therefore focused on whether the school handled the complainant's requests in accordance with the FOIA.

Reasons for decision

10. Section 8(1) of the FOIA states that requests for information should be in writing, should bear the name and address of the applicant and describe the information requested. The Commissioner considers that the requests in this case can be defined as such and therefore constituted valid requests under the FOIA for recorded information.
11. Section 1(1) of the FOIA provides that 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, and
 - (b) if that is the case, to have that information communicated to him.
12. Section 10(1) of the FOIA provides that 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.
13. Section 3 of the Freedom of Information (Time for Compliance with Request) Regulations 2004 (the 'Regulations') gives effect to section 10 so that, for schools, the 20 working days are interpreted to be either 20 school days where the school is in session or 60 working days, whichever is sooner.
14. In this case the complainant made her requests to the school on 28 April 2011 and 11 July 2011. The Commissioner additionally forwarded on copies of the requests to the school on 17 February 2012.
15. The Commissioner contacted the school on 19 March 2012 asking it to confirm whether responses had been provided to the complainant and, if so, to provide copies of those to the Commissioner.
16. On 23 March 2012 the school provided the Commissioner with information which it said it had provided to the complainant in response to the requests. It provided a receipt of postage and stated that the responses had been sent on 9 February 2012.
17. On further investigation the Commissioner considered that the information disclosed to him was not that which was sent to the complainant on 9 February 2012. The Commissioner is of the view that, based on the information in front of him, the school communicated information to the complainant on 9 February 2012 in regard to a subject access request she had made under the Data Protection Act 1998. This information did not constitute responses to the requests under the FOIA.

18. The Commissioner therefore asked the school to either provide further evidence of responses being provided under the FOIA or respond to the requests.
19. To date, the school has not provided evidence to the Commissioner of any such responses being provided and, on the information available to him the Commissioner considers that such responses have not been provided.
20. Consequently, the Commissioner finds that the school has breached section 10(1) of the FOIA by failing to comply with its obligations under section 1(1).

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

Rachael Cragg
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