

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 13 March 2013

**Public Authority:** Ofsted  
**Address:** Floors 5, 6 & 7 Piccadilly Gate  
Store Street  
Manchester  
M1 2WD

#### Decision (including any steps ordered)

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The complainant has requested information from the Office for Standards in Education (Ofsted) in relation to questionnaires issued to parents regarding Ofsted inspections carried out in schools. The Commissioner's decision is that Ofsted has breached sections 1(1)(a), 1(1)(b) and 10(1) of FOIA as it failed to provide the requested information or confirm or deny whether it held that information, within the 20 working day time limit as set out in section 10(1) of FOIA. As Ofsted have now provided the complainant with a response to his request which complies with the requirements of the Act he orders no steps to be taken.

#### Request and response

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1. On 31 May 2012, the complainant wrote to Ofsted and requested information in the following terms:

"I should like to know precisely what measures did Ofsted take specifically to ensure that *fathers* of school children, particularly those who may not live with a pupil's mother, were given advance notice of the inspection, sent the questionnaire and provided with the opportunity to express their own viewpoint and have it taken into account, especially where that may not concur with that of the mother?.

Please address your answer or have the person who deals with the question to address their answer (a) to the above inspection and (b) to inspections generally. If necessary, you may also consider this a request for information under the Freedom of Information Act 2000 and in that

case provide additional policy, practical and statistical information in support."

2. Ofsted responded on 6 June 2012, providing some information in response to the complainant's request. It provided a general response to his request and suggested that he may wish to contact the school involved for further information.
3. On 10 June 2012 the complainant wrote to Ofsted stating that he was not satisfied with the response he had received and requesting that the matter be escalated to the next stage. He also attached a letter containing the following request for information:-
  - "3. Information requested includes the relevant statistical data to be entered into the following table: [table included in letter]
  4. The information below is also required. In each case please supply or state, as the case may be:
    - (a) A further breakdown of tabulated data by reference to racial and economic background.
    - (b) Whether mothers who responded were single, married or otherwise partnered.
    - (c) The number of women's partners who were fathers of one or more of their children.
    - (d) The number of previous enquiries, complaints or feedback received from fathers, in each case indicating the subject matter.
    - (e) The number of instances where there were concerns raised by Ofsted inspectors because the anticipated number of returned questionnaires was not received, or there was some other problem, in each case indicating the issue.
4. On 11 June 2012 Ofsted replied to the complainant stating that it had not treated his initial request as a request under FOIA, therefore it was unable to carry out an internal review of its response under FOIA. It stated that it was considering parts 3 and 4 of the complainant's letter as an FOIA request and would respond within 20 working days. The complainant responded on 12 June 2012, contending that his original request of 31 May 2012 was a valid request under FOIA and reiterating his request for internal review.
5. On 14 June 2012 Ofsted wrote to the complainant stating that it had not deemed it necessary to treat his original request of 31 May 2012 as a

request under FOIA, therefore it was unable to carry out an internal review of its response to that request.

6. On 18 June 2012 the complainant submitted a complaint to the Commissioner about the way Ofsted had handled his request.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 18 June 2012 to complain about the way his request for information had been handled up until that date. However, by the time the complaint was processed, the complainant had corresponded further with Ofsted and had received a response dated 18 July 2012.
8. The complainant stated in his complaint to the Commissioner that, even if he subsequently received further information in response to his request, he wished the Commissioner to issue a decision notice on Ofsted's handling of his request up to that point.
9. The Commissioner has therefore considered the way in which Ofsted handled the complainant's request up until 18 July 2012.

### **Reasons for decision**

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#### **Was the complainant's request of 31 May 2012 a valid FOIA request?**

10. Section 8 of FOIA states that:-

1) In this Act any reference to a "request for information" is a reference to such a request which-

(a) is in writing,

(b) states the name of the applicant and an address for correspondence, and

(c) describes the information requested

Section 84 of FOIA provides that:-

"In the Act, unless the context otherwise requires-

- "information" (subject to sections 51(8) and 75(2)) means information recorded in any form."

The Commissioner considers that, as the complainant's original request fulfilled all of the above requirements, it should have been treated by Ofsted as a request under FOIA and dealt with accordingly.

### **Section 1 of FOIA**

11. Section 1 of 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 the information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

### **Section 10 of FOIA**

12. Section 10(1) of the FOIA provides:

"...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. The complainant's original request was made on 31 May 2012. Ofsted responded to that request on 6 June 2012, however it did not provide the complainant with the information he requested, nor did it confirm or deny whether it held that information.

14. The complainant provided clarification on 12 June 2012 of the information he had originally requested. Ofsted chose to treat the complainant's letter of 12 June 2012 as a new request and responded accordingly. The complainant contended that this was a clarification of what was asked for in his original request, as this had not been provided to him in Ofsted's response of 6 June 2012. The complainant therefore provided that clarification as part of a request for internal review.

15. As Ofsted did not provide a full response under FOIA to the complainant's original request until 18 July 2012, when it confirmed that it held information within the scope of the complainant's request, and provided some information to him, the Commissioner considers that Ofsted has breached sections 1(1)(a), 1(1)(b) and 10(1) of FOIA, as it did not confirm or deny whether it held the requested information, or communicate the information to the complainant, within the 20 working day time limit as set out in section 10(1) of FOIA.

## Right of appeal

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16. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)
17. 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.
18. 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  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**