

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 June 2013

Public Authority: The Governing Body of
St John the Baptist VA School

Address: Chester Road
Penymynydd
Chester
CH4 0EN

Decision (including any steps ordered)

1. The complainant made a request to St John the Baptist VA School ('the School') for copies of Annual Reports relating to a particular church. Despite the intervention of the Commissioner, the School has not provided a response to the request in accordance with the FOIA. The Commissioner's decision is that the School breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
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, to comply with section 1(1)(a);
 - if information is held in respect of the request, either provide the information to comply with section 1(1)(b), or provide a valid refusal notice in accordance with the provisions of section 17 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 Act and may be dealt with as a contempt of court.

Request and response

4. The request in this case was submitted to the School, which is a Church of Wales Aided Primary School. The Commissioner understands that the School has links with a nearby Church – St John the Baptist Church, Pentrobin ('St John's Church') and the Vicar is one of the Governors at the School.

5. On 7 June 2012 the complainant contacted the School and requested information in the following terms:

- "1. St John the Baptist Church Annual Report issued Eastertide 2012;
2. St John the Baptist Church Annual Report issued Eastertide 2010;
3. St John the Baptist Church Annual Report issued Eastertide 2009;
4. St John the Baptist Church Annual Report issued Eastertide 2008;"

The complainant explained that he already had a copy of the report for 2011. He also pointed out that he believed the reports were held by one of the Governors of the School and contained information about the school. As such he considered the information to be held by the School for the purpose of the FOIA. The request was submitted to a number of email addresses - the School's general email address and the personal email addresses of the Headteacher of the School and one of the Governors (who is also the Vicar at St John's Church).

6. The complainant chased a response to his request on a number of occasions.

7. On 2 October 2012, a response was sent by the School stating that the request was not a matter for the School and asked the complainant to stop copying the School into correspondence. The response also stated that "as the information is printed in the Benefice PCC report then we do not need to give you other bits".

8. The complainant responded to the School and referred to a previous decision notice issued by the Commissioner relating to the School¹. He again asked the School to consider providing the information he had requested.

¹ http://www.ico.org.uk/~media/documents/decisionnotices/2010/FS_50280081.ashx

9. On 29 October 2012, the School responded stating that it had no responsibility for St John's Church and re-iterated that as the information was contained within the "Benefice PCC report" it did not need to provide any information relating to individual churches.

Scope of the case

10. The complainant originally contacted the Commissioner on 2 October 2012 to complain that he had not received any response to his request.
11. The Commissioner wrote to the School on 8 January 2013 explaining that the responses issued to date did not comply with the provisions of the FOIA. He asked the School to either provide the information requested or issue a refusal notice that complied with the requirements of section 17 of the FOIA.
12. On 6 March 2013, the Commissioner received correspondence from Solicitors acting on behalf of the Diocese of St Asaph. The Solicitors explained that it had been instructed to respond to the Commissioner on behalf of the Rector Of Hawarden Rectorial Benefice and the priest with special responsibility for St John's Church. The response stated that:

"St John the Baptist Primary School has no control or input into the records for St John's Church.....In fact, the information [complainant's name] has requested does not exist at all."
13. On 29 May 2013 the Commissioner telephoned the Solicitors in question who confirmed that its letter of 6 March 2013 was issued solely on behalf of the Diocese of St Asaph and St John's Church and was in no way connected to the School or the School's handling of the request.
14. The Commissioner has considered whether the School has complied with its duty to respond to the request for Information.

Reasons for decision

15. Sections 1 and 10 of the FOIA provide a general right of access to recorded information held by public authorities. These sections provide that when a written request for information is made, the public authority must state whether it holds that recorded information within 20 working days. If it does, it must provide that information within 20 working days unless a valid reason for not doing so exists under the FOIA. If such a reason does exist, a refusal notice should be issued in accordance with section 17 of the FOIA, again within 20 working days.

16. The Commissioner understands why there appears to have been some confusion over the handling of this request. Whilst the request was submitted to the School itself, it was for reports relating to St John's Church, believed to be held by the School. Given the links between the School and the Church as detailed in paragraph 4 above, it appears that the responses to the request to date have been issued essentially on behalf of St John's Church, which is not covered by the FOIA. However, the School is a public authority for the purposes of FOIA and it is required to handle requests in accordance with the provisions of the FOIA. It is clear to the Commissioner that, to date, the School has failed to provide a substantive response to the request. At paragraph 2 above the School is now required to provide a response to the requests that is valid for the purposes of the FOIA.

Other matters

17. Although they do not form part of this decision notice the Commissioner wishes to highlight the following matters of concern.
18. Whilst the Commissioner appreciates that the public authority in this case is very small and does not have the resources of larger public authorities, the School is nonetheless required to comply with the requirements of the FOIA. Despite issuing a decision notice on 23 September 2010 which highlighted concerns regarding the way that the School had handled a request for information, the Commissioner is disappointed that similar issues have arisen in this case. In particular, this case has highlighted delayed responses and the School appearing to have chosen to withdraw almost entirely from the matter.
19. The Commissioner would again like to remind the School of its obligations under the FOIA and the associated Code of Practice issued under section 45 of the FOIA which contains guidance on the way that public authorities handle requests for information and subsequent complaints.

Right of appeal

20. 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

21. 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.
22. 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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF