

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 January 2014

Public Authority:

Address: Bacup and Rawtenstall Grammar School
Glen Road
Waterfoot
Rossendale
Lancashire BB4 7BJ

Decision (including any steps ordered)

1. The complainant has requested the number of desks and workstations in every classroom at Bacup and Rawtenstall Grammar School (the "School"), plus the maximum capacity of each classroom. The School provided the complainant with a copy of its Net Capacity Document which it explained is the nearest approximation to the information requested. The School has since confirmed to the complainant that it also holds information showing that six new English rooms and a new Science laboratory hold 32 workstations. The complainant has also identified information held in a 1992 newspaper article on the School's website which specifies the capacity of two other classrooms. However the Commissioner accepts the School's argument that this is not relevant as these rooms are no longer used as classrooms.
2. The Commissioner's decision is that although the School did not consider the information it held concerning the English classrooms and the Science laboratory to be relevant, it should have provided this information to the complainant. In failing to provide the complainant with this information within 20 working days, the Commissioner considers that the School is in breach of section 1(1)(a), 1(1)(b) and section 10 of the FOIA. However, as this information has now been provided, the Commissioner requires no further steps to be taken.

Background

3. In 2013 the complainant appealed against the School's decision not to offer her daughter a place. An Appeal Hearing was held and the appeal was not allowed. As part of this process the Appeal Panel considered whether admitting an additional child would prejudice the School's educational resources. The parents have argued that the Panel accepted evidence from the School in their absence and that the Head Teacher provided it with inaccurate information concerning the size of the classrooms and the number of desks they contained.

Request and response

4. On 14 June 2013 the complainant wrote to the School and requested information in the following terms:

"...the number of desks or workspaces currently in every classroom used for main School?"

On 23 June 2013 she updated her request with regard to the desk capacity of the classrooms. She asked for each classroom's:

'...maximum capacity (not as recommended by DfE), this takes into account any workstations that are removed, any rooms that are changeable and should be the maximum that a room sensibly and commonly would hold.'

5. The School responded on 24 June 2013. It informed the complainant that it does not hold the requested information. It provided her with a copy of its Net Capacity Document which it explained is the nearest approximation to the information requested.
6. The School provided an internal review on 19 July 2013 in which it maintained its original position.

Scope of the case

7. On 21 August 2013 the complainant contacted the Commissioner to complain about the way her request for information had been handled. She argued the School had failed to provide her with information which it held.

8. The School has explained that during October 2013, as part of a detailed examination of possible accommodation solutions during proposed building work at the School, it carried out a full audit of the potential maximum capacity of every teaching room, over a period of three days. This document summarises the number of desks in each room and also the potential capacity of each space if it accommodated the maximum number of pupils possible.
9. However this document did not exist in June 2013. The complainant has submitted a new FOIA request for this information.
10. The Commissioner considers this case is concerned with the School's argument that at the time of the request it did not hold the information requested.

Reasons for decision

11. Section 1(1) of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether (a) it holds the information and if so, (b) to have that information communicated to him.
12. Section 10 of the FOIA states that a public authority must comply with a request for information within 20 working days.
13. The Commissioner has sought to determine whether, on the balance of probabilities, the School held any information relevant to the request at the time the request was made. In coming to his decision, the Commissioner has applied the civil test of the balance of probabilities. This is in line with the approach taken by the Information Rights Tribunal in past cases when it has considered the issue of whether information is held.
14. The School has explained that at the time of the request it did not hold the information required. It sent the complainant the most accurate document relating to classroom size – its Net Capacity Document.
15. The School has explained that the information provided to the Appeal Panel was held only in the form of the Net Capacity Document. The Head Teacher's comments to the Panel were a summary of the information already contained in the net capacity assessment (which indicates the suggested capacity of all of the teaching rooms in the School) and were given in response to a question from the Panel about the number of rooms in the School which were small in size.

16. The complainant does not accept that the School did not hold the information she requested concerning the number of desks or workspaces in every classroom and the maximum capacity of each room. She does not accept the argument that the Net Capacity Document was the only information held at the time.
17. She has argued that the School has been planning to increase its admission number from 150 to 180 and that it has been involved in an exercise to decide whether this increase could be accommodated before a new Maths block was built. She argues that the School had already considered how many of its classrooms were big enough to take a full class of 32. She has provided the Commissioner with figures which show that the School has often had 31 children and sometimes 32 children per class. She considers that this means the School must have held recorded information at the time of her request which shows which classrooms hold 32 desks.
18. The complainant has argued that because the School provided the Panel with figures concerning the number of desks in the classrooms, it must have performed a check and must hold this information in recorded form, other than in the Net Capacity Document.
19. For example the complainant has argued that the School explained to the Panel that out of the 30 teaching classes available, many are small and should only accommodate 22 pupils but currently have tables and chairs for 30.
20. The complainant has also argued the School explained that 50% of classes are considered to be too small for the size of the class and that some of these are recommended for 20 pupils but still have desks and chairs for 30. It explained that for classes of 30 pupils, 8 out of 11 Science Labs are undersized, 5 out of 6 suites for IT and the Art suites are considered undersized.
21. The complainant has also raised further specific points which she considers demonstrates that the School must have held the information requested. These have been each been addressed by the School in turn. Each point and response is given below.
22. The complainant has explained that the arguments put forward to the Appeals Panel do not reflect the information held in the Net Capacity Document. In particular she has argued that the School informed the panel that Room 22 was 35 square metres whereas the Net Capacity Document states that it is 66 square metres. She therefore argues that the size of the room is wrong and that the School must have obtained this information from elsewhere.

23. The School has explained that the Net Capacity Document refers to a map of the School which identifies every room by number (including offices, cleaner's cupboards etc). This is not the same as the number which is used on the teaching timetable. The room defined on the Net Capacity Document as room 22 is not the room referred to at the Appeals Panel hearing and therefore the capacity is different.
24. The complainant has argued that the caretakers should hold the required information as they frequently remove desks from classrooms and later replace them.
25. The School has confirmed that at the time of the request its caretakers did not hold any recorded information concerning the number of workspaces/desks in classrooms or the capacity of rooms.
26. The complainant argued that a recent planning application for a new building shows specifically where each desk is to be placed. She therefore considers that other buildings which have been recently constructed will probably also have been submitted with plans containing full desk layouts.
27. The School has explained it does hold plans containing workspace/desk layouts for six recently built classrooms in the new English block of the School completed in November 2011, but these are much larger than the majority of classrooms in the older part of the School. These rooms form only a very small minority of the classrooms used for teaching in the main school and were therefore not considered to be relevant to the request, which related to the number of workspaces in every classroom. It explained that no workspace/desk layouts were held for the remainder of the classrooms.
28. The complainant has argued that as a governor at the School she has been involved in a laboratory upgrade and that detailed plans of the laboratory showing every workstation have been shown to governors and parents. She has argued that the capacity of this room is therefore in the plans distributed for tender and also in the relevant Governor Building sub-committee minutes.
29. The School has confirmed that the upgrade of the laboratory was carried out in the summer of 2012 and it is correct that a plan of the laboratory showed the number of workspaces on the design. However the School did not feel this information was relevant to the request since it did not address the issue identified.
30. The School has now confirmed to the complainant that all of the designs of the English rooms and the Science laboratory identified 32 workstations.

31. In addition, the complainant has argued that when the governing body was deciding whether to convert two adjoining classrooms to a drama space, information about the number of desks which would be lost was discussed.
32. The School has explained that the discussion around the conversion of the classrooms into a drama space referred to the loss of space for examinations since the rooms concerned were a venue for external and entrance examinations. The School did not consider this to be relevant to the request since the rooms concerned could be combined into a single large space for exams and particular regulations exist about the required distance between desks in examination conditions.
33. The complainant has also provided the Commissioner with a link to a newspaper article (which she explained is accessible via the School website). This states that in 1992 the School was planning a classroom extension and explains there will be two new classrooms with a capacity of 30 pupils and four 15-pupil capacity classrooms. The complainant has explained that this building (the Clark Building) was initially used mainly for Sixth Form but which was changed to main school use about 12 months ago. The complainant has argued that this further demonstrates that the School held recorded information about the size of a further two main School classrooms.
34. The School has confirmed to the complainant that the newspaper article indicates that there were two new classrooms with a capacity of 30 pupils in the Clark Building. However the School has argued that this article is 21 years old and is therefore not relevant to this information request. The School has explained that over the past 21 years the building has been significantly extended and restructured and it is thought that the relevant classrooms have been converted into a conference room and latterly into a drama studio.

http://www.brgs.me/alumni/images2/BRGSbuilding/1992_sixth_form_extension.pdf

Conclusion

35. The Commissioner is satisfied with the School's argument that the information contained in the newspaper article is out of date and no longer relevant.
36. The School has explained that it interpreted the request as a request for the capacity of every classroom in the School. It did not consider that the size of any individual classroom was relevant.

37. However, the Commissioner considers that although a public authority may only be able to provide a partial response to a request, it still has an obligation under the FOIA to provide whatever information it holds which falls under the scope of that request.
38. As the FOIA is concerned with requests for information, there is no obligation to provide a whole document such as a plan. However a public authority must consider whether it can provide the information contained within that document in response to a request.
39. Although the School has explained that it did not consider the capacity of the six English classrooms and the Science laboratory to be relevant to the request (which asked for the number of desks and capacity of all rooms), it is apparent that the complainant required details of any individual room held. She has argued that the English rooms and the science laboratory alone represent 20% of the School's total capacity of 30 classrooms and she should have been provided with this information.
40. Whilst the Commissioner appreciates that the School considered that the capacity of these few classrooms was not relevant to the request (and of no significance to the request, given the circumstances) the Commissioner considers that the required information held for the six new English classrooms and the new Science laboratory should have been provided at the time of the request.
41. In failing to confirm that it held this information and in failing to provide it to the complainant within 20 working days, the Commissioner considers that the School is in breach of section 1(1)(a), section 1(1)(b) and section 10 of the FOIA.
42. As these numbers have now been provided to the complainant, the Commissioner requires no steps to be taken.

Right of appeal

43. 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

44. 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.
45. 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