

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 5 June 2014

Public Authority: Department of Education Northern Ireland
Address: Rathgael House
43 Baloo Road
Bangor
BT19 7PR

Decision (including any steps ordered)

1. The complainant requested correspondence between the Department and a named individual. The Department said that it had provided all the information it held (save for some information exempt under section 40(2)), but the complainant disputed this. The Commissioner is satisfied that, on the balance of probabilities, the Department does not hold any relevant information which it has not provided to the complainant or addressed in a decision notice. The Commissioner does not require any steps to be taken by the public authority.

Request and response

2. On 21 May 2013 the complainant requested the following information from the Department:

"I wish to request... copies of all correspondence and replies, emails, minutes or notes between ETI officials and [named individual]."

I would also be grateful for a full breakdown of all of the information relating to any meetings or telephone calls for which minutes were not taken or have been destroyed or for which you have deemed it inappropriate to provide and the logic behind the decision to withhold that information".

3. The ETI is the Education and Training Inspectorate¹, which provides inspection services for a number of organisations including the Department. The ETI is part of the Department², so information held by the ETI will be held by the Department for the purposes of the FOIA.
4. When submitting her request the complainant provided the Department with a letter from the individual named in the request, confirming that he consented to disclosure of the information.
5. The Department responded on 20 June 2013. The Department advised that it was providing the requested information but had redacted third party personal information. However the Department did not cite any exemption under the FOIA in relation to the redacted information. The Department confirmed that it did not hold the breakdown requested by the complainant.
6. On 23 July 2013 the complainant complained to the Department that she had not been provided with "all the relevant documentation". The complainant specified that she had not been provided with a copy of notes of a particular meeting.
7. The Department responded to the complainant on 8 August 2013. The Department acknowledged that it had failed to provide the notes of the meeting as specified by the complainant, and now provided them to her. The Department confirmed that there were no further documents to be released.

Scope of the case

8. On 10 October 2013 the complainant argued to the Commissioner that the Department had not dealt with her request in accordance with the FOIA. Specifically the complainant alleged that the Department had not provided all the information it holds which is relevant to the request. The complainant did not raise any issue with the Commissioner about the information withheld under section 40(2) of the FOIA. Therefore the focus of the Commissioner's investigation

¹ <http://www.etini.gov.uk/index/about-us.htm>

² <http://www.niassembly.gov.uk/Documents/Education/Inquiries-and-Reviews/Education-and-Training-Inspectorate/correspondence/01-Education-and-Training-Inspectorate.pdf>

was to consider whether the Department held further information relevant to the request that had not been provided to the complainant, or withheld under an exemption.

Reasons for decision

Information held

9. When considering whether information is held, the Commissioner uses the civil standard of proof, i.e. whether it is likely or unlikely on the balance of probabilities. This approach has been supported by the Information Rights Tribunal in a number of previous judgments. In assessing such cases the Commissioner will consider the extent and quality of the authority's search for the requested information, any other explanations provided, and the complainant's reasons for believing that the information is held.
10. The Department provided the Commissioner with a copy of its response to the complainant's request as well as a schedule of the information identified, indicating what information was provided to the complainant and what information was withheld. The Department clarified to the Commissioner that all of the withheld information was exempt under section 40(2) of the FOIA.
11. The Commissioner asked the Department how it had searched for the requested information. The Department explained that it conducted a search of its electronic records management system for information relating to the individual named by the complainant. The Department then examined this information to identify records relevant to the request. As the individual named in the response was formerly a school governor the Department also contacted a number of ETI inspectors who may have dealt with the school in question, in case they held any information falling within the scope of the request. The Department confirmed that it only searched electronic files as its electronic records management system held all the recorded information held by the Department. The only physical information held predated the introduction of the electronic system and the Department had determined that this in itself predated correspondence with the individual named in the request.
12. The Commissioner asked the Department to explain how it had failed to identify the information specified by the complainant as missing in her letter of 23 July 2013. The Department explained that the information in question had been provided to the individual named in the request in response to a request he had made under the FOIA. The information had been filed with the FOIA request rather than with

other information relating to the individual. However this was rectified when the Department carried out a further search.

13. The Commissioner asked the complainant to clarify what kind of information she felt was missing from the Department's response; or details of any particular documents that she had expected to receive. The complainant explained that the individual she had named in her request had suggested that she had not been provided with all the information held by the Department.
14. The individual named in the complainant's request also made representations to the Commissioner. He explained that he had also made a request to the Department, and had received more information than the complainant. The individual considered this to be evidence that the Department had not provided the complainant with all the relevant information she had requested. The individual described four documents that he considered ought to have been provided to the complainant.
15. The Commissioner understands that the complainant, and the individual named in her request, have been involved in a long running dispute, the details of which are not required to be included in this decision notice. The complainant has advised the Commissioner that she is dissatisfied with the Department's response to numerous correspondence and information requests, including subject access requests made under the Data Protection Act 1998. However the Commissioner has stressed to the complainant and the individual that his role here is limited to examining the Department's handling of a particular information request. The Commissioner cannot comment on the wider dispute.
16. The Commissioner advised the Department of the issues raised by the complainant and the individual named in her request. The Commissioner also asked the Department to consider the four documents as identified by the individual named in the request.
17. The Department confirmed to the Commissioner that it had provided the four documents to the individual in response to a request he had made. However the Department advised that the individual's request had been slightly different to the complainant's request that is the subject of this decision notice. The Commissioner has had sight of the four documents in question and is satisfied that they are not correspondence between the individual named in the request and ETI officials. Therefore the Commissioner is satisfied that the four documents did not fall within the scope of the complainant's request.

18. In light of the above the Commissioner is satisfied that the Department conducted an adequate search for the requested information. The Department searched its own records and also contacted a number of ETI inspectors. The Commissioner has seen no evidence to suggest that the Department sought to conceal any relevant information, and on the balance of probabilities he is satisfied that the Department does not hold any further information which is relevant to the request.
19. The Commissioner has also considered whether, if he were to uphold the complaint, he could specify any steps that the Department could be required to take. However the Commissioner is of the view that there is nothing more he can oblige the Department to do in relation to the complainant's request. In conclusion the Commissioner finds on the balance of probabilities that the Department does not hold any further information which has not been provided to the complainant.

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: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

Alexander Ganotis
Group Manager
Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF