

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 November 2015

**Public Authority:** Department for Education  
**Address:** Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

#### Decision (including any steps ordered)

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1. The complainant has requested from the Department for Education (DfE) information exchanged between Cheshire Academies Trust (including their solicitors {name redacted}) and the Schools Complainants Unit regarding case number (redacted).
2. The DfE dealt with the request as a business as usual enquiry and disclosed the requested information to the complainant with some redactions in excess of 20 working days.
3. The Commissioner's decision is that the DfE should have dealt with the request under the FOIA and responded to the complainant promptly and in any event within 20 working days. As the DfE failed to do this the Commissioner finds that it breached section 1(1) and 10(1) of the FOIA.
4. As the DfE has now disclosed the requested information to the complainant, the Commissioner does not require it to take any steps.

#### Request and response

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5. On or about 1 July 2015 the complainant wrote to the Department for Education (DfE) and requested information under the FOIA in the following terms:

*'..authenticated copies of all correspondence and information that has been exchanged between Cheshire Academies Trust (including their*

*solicitors {name redacted}) and the Schools Complainants Unit in relation to SCU case number (redacted).*

6. The DfE responded on 7 August 2015. It stated that it was not treating the request under the FOIA but as a business as usual enquiry. It also stated that before it could disclose any information it would have to obtain the consent of Cheshire Academies Trust's solicitors.
7. The complainant requested an internal review on 18 August 2015
8. Following an internal review the DfE wrote to the complainant in September 2015 and disclosed the requested information with some redactions for third party personal data. It also apologised for the delay in responding

### **Scope of the case**

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9. The complainant contacted the Commissioner on 6 and 17 August and 28 September 2015 to complain that the DfE had failed to respond to his request for information under the FOIA but instead had dealt with it as a business as usual enquiry.
10. The complaint confirmed to the Commissioner on 29 September 2015 that he had received the requested information (with some redactions for personal data but stated that he did not wish to take issue with these). However, he said that what he wanted to complain about was the DfE's decision to deal with his request as a business as usual enquiry as opposed to a request for information under the FOIA and the fact that it took more than 20 working days in which to respond.
11. The scope of the Commissioner's investigation is limited to whether the DfE was correct to deal with the complainant's request as a business as usual enquiry as opposed to a request under the FOIA.

### **Chronology**

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12. On 7 September 2015 the Commissioner contacted the DfE and invited it to respond to the complainant's request direct under the FOIA.
13. The DfE responded by telephone on 8 September 2015 and said it would be carrying out a 'review' of the complaint.
14. The DfE contacted the Commissioner again on 28 September and confirmed that it had written to the complainant earlier in the month with the outcome of its review.

15. The complainant contacted the Commissioner on 28 September 2015 with copies of the responses he had received from the DfE earlier in the month and said he did not accept that there were any grounds for his request having been dealt with as 'business as usual'.

## **Decision**

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### **Section 1 of the FOIA - General right of access to information**

16. Section 1(1) 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'.

### **Section 10 of the FOIA - Time for compliance with request**

17. Section 10(1) 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'.

18. The Commissioner's 'Guide to freedom of information'<sup>1</sup> states that to be valid under the FOIA, a request must be in writing, include the requester's real name together with an address for correspondence and describe the information requested.
19. The Guide goes on to state that; 'This doesn't mean you have to treat every enquiry formally as a request under the Act. It will often be most sensible and provide better customer service to deal with it as a normal customer enquiry under your usual customer service procedures, for example, if a member of the public wants to know what date their

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<sup>1</sup> <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

rubbish will be collected, or whether a school has a space for their child. The provisions of the Act need to come into force only if:

- a. you cannot provide the requested information straight away; or
  - b. the requester makes it clear they expect a response under the Act'.
20. In the present case the complainant specifically requested a response under the FOIA. Furthermore, it is clear from the chronology of events above that the DfE was unable to provide the information right away or in any event, within 20 working days and without any redactions.
  21. The Commissioner therefore concludes that the DfE should have dealt with the complainant's request under the FOIA and not as a business as usual enquiry.
  22. As the DfE responded to the complainant's request in excess of 20 working days, the Commissioner finds that it breached sections 1 and 10 of the FOIA.

### **Other matters**

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23. The Commissioner would like to remind the DfE when it receives a request for information referencing the FOIA where it cannot provide the information straight away and without any redactions it should deal with it under the provisions of the FOIA.

## Right of appeal

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24. 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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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**