

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 March 2017

**Public Authority:** Drayton Manor High School  
**Address:** Drayton Bridge Road  
London  
W7 1EU

#### Decision (including any steps ordered)

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1. The complainant has requested from Drayton Manor High School (the "School") information regarding staff pay progression policies in relation to equalities considerations.
2. The Commissioner has determined that the School was correct to apply section 12 of the FOIA to the request. Therefore, she does not require the School to take any steps.

#### Request and response

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3. On 21 September 2015 the complainant wrote to the School and requested information in the following terms:

*"Pay Progression and Staff Turnover, Agency Staff and Unqualified Teachers"*

Due to the length of the request, the full information request is contained within the annex attached to this decision notice.

4. On 16 November 2015 the complainant wrote to the School asking it to respond to his information request.
5. On 23 November 2015 the School acknowledged receipt of the complainant's FOI request and subsequent reminder.
6. On 30 November 2015 the complainant wrote to the School stating that he had not received the information requested and asked it to answer the questions within the form he had provided.

7. On 19 May 2016 the Information Commissioner's Office (the "ICO") received correspondence from the complainant regarding the School's handling of his request for information.
8. On 9 June 2016 the ICO wrote to the School asking it to provide a response to the request within 20 working days of the date on the letter.
9. On 20 June 2016 the School wrote to the complainant and stated that it would not provide the information requested. The School explained that it did not hold information to the part of the request concerning Pay Progression. In regards to the remaining parts of the request, the School considered that this would exceed the appropriate cost limit as defined by section 12 of the FOIA.
10. On 20 June 2016 the School provided the ICO with a copy of its letter which had been sent to the complainant on the same day, concerning his information request.
11. On 17 October 2016 the ICO acknowledged receipt of the School's letter. The ICO informed the School that it could conduct an internal review of its initial response to the request in order to consider if it had been responded to correctly.
12. On 20 October 2016 the School wrote to the ICO and proposed to delay a decision as to whether to conduct an internal review. The School said that it had invited the complainant to make his representation for an internal review and to submit his arguments as to why he disagrees with the School's initial response.
13. On 24 October 2016 the ICO informed the School that it had 20 working days to provide the complainant with the internal review outcome once the complainant had responded to its letter.
14. On 7 November 2016 the complainant wrote to the School. He referred the School to his first letter in which he stated his reasons as to why he considered the School may have got its decision wrong.
15. On 8 November 2016 the School wrote to the ICO and maintained its position as set out in its letter of 20 June 2016.
16. Following the ICO's preliminary view of the case on 10 January 2017, the complainant wrote to the ICO. He did not accept the ICO's view that it was satisfied with the School's argument of why it considers section 12 to be applicable to the request. The complainant expressed his dissatisfaction by asking the ICO to progress the case to a formal decision and he submitted further documents in support of his arguments against the School's decision.

## Scope of the case

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17. The complainant contacted the Commissioner on 20 January 2017 to complain about the way his request for information had been handled. Specifically, about the School's reliance on section 12 to his request.
18. The Commissioner considers the scope of this case is to determine if the School correctly applied section 12 of the FOIA to parts of the request. The Commissioner will not investigate the part of the request concerning Pay Progression. The School stated that it did not hold information falling within the scope of this part of the request and the complainant has not disputed this. The complainant's concerns are the School's reliance of section 12 for refusing to provide the information to the remaining parts of his request.

## Reasons for decision

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### Section 12 – cost of compliance

19. Section 12(1) allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "Regulations").
20. This limit is set in the fees regulations at £600 for central government departments and £450 for all other public authorities. The fees regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours in this case.
21. In estimating whether complying with a request would exceed the appropriate limit, Regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:
  - determining whether it holds the information;
  - locating a document containing the information;
  - retrieving a document containing the information; and
  - extracting the information from a document containing it.

22. The four activities are sequential, covering the retrieval process of the information by the public authority.

### **The School's position**

23. The School explained to the Commissioner that it had conducted a 'scoping exercise' to establish whether or not the requested information could be disclosed within the appropriate limit under section 12 of the FOIA. It said that this exercise would identify only the teachers who were employed by the School directly and not the teachers employed via agencies. The School stated that it is not always recorded as to whether an agency teacher is qualified or not.
24. The School submitted its assessment of the time it would take to provide the requested information (it holds/ or may not hold). The School estimated that it would take 36 hours. Its calculation is as follows:
- Staffing requests – Academic year September 2013 - August 2014  
Total of 16.5 hours.

The School provided a detailed breakdown of this calculation. This included a report for parts 1 and 2 which it said would have to be written to extract the data from the database to determine which teachers were employed as unqualified for that period.

25. The calculation also included data from payroll and the monthly payroll for the relevant period which would be printed (12 reports). These individual reports would be examined to identify; leavers, leaving date, role, permanent or temporary contract and maternity leave. The School said that for each leaver, the hard copy of their Personnel Record would be accessed to determine the reason for leaving and for any details about their destination. The work involved for this totalled 10.5 hours in which each part of the request estimated 30 minutes.
26. The School had estimated 3 hours for the initial scoping of approximately 700 individual agency worker records. It clarified that this is not agency workers but 700 instances of an agency worker being involved during the period in question. The School estimated 2 hours to complete 12 payroll sheets at 10 minutes per sheet. It also estimated the time to complete the initial scoping which showed approximately 24 leavers (15 minutes per leaver) totalling 6 hours.

- Staffing requests - Academic year September 2014 - August 2015  
Total of 15 hours.

The School also provided a detailed breakdown of this calculation. Some of the work involved duplicated that of the academic year 2013 – 2014. The calculation for the subsequent year was reduced by 1.5 hours as the School did not require this time to complete some of the tasks. It estimated the time to complete the initial scoping showed approximately 32 leavers (15 minutes per leaver) totalling 8 hours.

27. The School explained that if agency staff were excluded, except where expressly referred to, it would take 28 hours for the provision of the information. The School said that it understands that the costs of undertaking the scoping exercise and related advice may be included. It estimated 31 hours if agency staff members are included and 25 hours if not included.
28. The School considered whether it is possible that it had overestimated the scale of the task. However, the School is satisfied that it had not and that the estimate is reasonable and fair. It believed it to be reasonable to conclude that providing the information could not be completed within the relevant limits.
29. The School said that it had advised the complainant that he may wish to reformulate his enquiry and that it had not received a reply. The School argued that the complainant had not provided an analysis which it said it might have been taken into account when preparing to review its decision.
30. The School confirmed that the scoping exercise it had carried out was based on its knowledge of its systems. The School stated that the approach (set out in paragraphs 23 - 26) is supported by the running of basic reports from the School's database. It explained that this is to determine the number of records that would have to be analysed in order to extract the requested information.

### **The complainant's view**

31. The complainant disputes the School's application of section 12 of the FOIA to his request. He also disputes the argument for its reliance of the exemption and its calculation of the time it would take to provide the information. He considers that the School's estimation of 34.5 hours to be untrue. The complainant also described to the Commissioner his view of the School's '*management style*' and how he believed the Commissioner's decision would make an impact on thousands of teachers.

32. The complainant provided the Commissioner with correspondence containing estimations completed by other schools in response to the same request. The correspondence is from other Head Teachers stating that it had taken them a couple of hours (and not 34.5 hours) to gather the information required and to respond to his FOIA request.
33. The complainant obtained these calculations from three schools in the area and he argued that a number of other schools had disclosed the information requested within the appropriate limit.

### **The Commissioner's position**

34. When dealing with a complaint to the Commissioner under the FOIA, it is not the Commissioner's role to make a ruling on how a public authority deploys its resources, on how it chooses to hold its information, or the strength of its business reasons for holding information in the way that it does as opposed to any other way. Rather, in a case such as this, the Commissioner's role is simply to decide whether or not the requested information can, or cannot, be provided to a requester within the appropriate costs limit.
  35. The Commissioner accepts the School's calculations in relation to the cost of complying with the request and she agrees that the cost of compliance would exceed the appropriate limit prescribed by the FOIA.
  36. On the basis of the calculations, the Commissioner is satisfied that the School has correctly applied section 12(1) to the complainant's request.
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## Right of appeal

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37. 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)

38. 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.
39. 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**