

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 March 2021

Public Authority: The South Cheshire Catholic Multi-Academy Trust

Address: Dane Bank Avenue
Crewe
CW2 8AE

Decision (including any steps ordered)

1. The complainant submitted a request to St Thomas More Catholic High School ('the School') for information associated with a disability discrimination claim. The School is a member of the South Cheshire Catholic Multi-Academy Trust, which is the governing body and public authority for the purposes of this decision.
2. The School released relevant information it holds but the complainant considers that the School holds further relevant information within the scope of one part of her request.
3. The Commissioner's decision is as follows:
 - On the balance of probabilities, the School holds no further information that falls within the scope of the complainant's request for the amount paid to a barrister. The Commissioner therefore finds that the School complied with section 1(1) of the FOIA.
 - The School breached section 10(1) of the FOIA as it did not comply with section 1(1) within 20 working days following the date of receipt of the request.
4. The Commissioner does not require the public authority to take any remedial steps.

Request and response

5. On 1 March 2020 the complainant wrote to the School and requested information in the following terms:

 "[1] Please can we have access to the SEND Link governor reports from Feb 2013?

 [2] Also, please can STM respond to our FOI request in which we asked how much was spent on employing a barrister to defend claims of Disability Discrimination?

 [3] We would also like to know please how much STM spent on buying the services of a solicitor as the ' independent' member of their SEND complaint Hearing panel?"
6. The School responded on 16 March 2020. It released information within the scope of the three parts of the request.
7. The complainant requested an internal review on 16 March 2020 in respect of the element of her request for the total amount the School had spent on a barrister to deliver its defence.
8. Following an internal review the School wrote to the complainant on 31 March 2020. It confirmed it had identified further information within the scope of part 2 of the request – an amount paid - and released this to the complainant.

Scope of the case

9. The complainant contacted the Commissioner on 25 May 2020 to complain about the way her request for information had been handled.
10. The complainant had confirmed, initially, that her complaint concerned the School's response to both parts 1 and 2 of the request. Having received the School's submission and discussed it with her, the complainant confirmed that her complaint would focus on the School's response to part 2 of her request only. The complainant did not accept the Commissioner's assessment that the School holds no further information relevant to that part and preferred to conclude the matter formally, through a decision notice.
11. The Commissioner's investigation has therefore focused on whether, on the balance of probabilities, the School has complied with section 1(1) of the FOIA with regard to part 2 of the complainant's request. She has

also considered whether the School's response to part 2 complied with section 10(1).

Reasons for decision

12. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
13. Section 10(1) of the FOIA places a duty on a public authority to comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
14. The information relevant to part 2 of the request that the School has released indicates a figure that the barrister who defended the disability discrimination claim in question was paid. The complainant considers that this cannot be accurate and that, based on her understanding of what barristers are paid, the barrister in this case would have been paid significantly more.
15. In its submission to the Commissioner the School confirmed that it had manually searched invoices relating to the companies enlisted to provide legal support relating to the claim in question. The School said it had also carried out electronic searches for the supplying business name within the schools accounting software.
16. The School provided the Commissioner with a table that details dates of two requests the complainant submitted to it about legal costs, the request for a review of 16 March 2020 and the School's responses. One of the two requests in the table post-dates the complainant's current request and internal review request. The second request focusses on the costs of services provided by the local authority legal team, rather than the cost of the barrister.
17. The School told the Commissioner that it had sent the complainant a copy of this table and, in conversation with the Commissioner, the complainant agreed that was the case. This must, however, have been subsequent to its internal review response of 31 March 2020 and after 13 May 2020, which is the date of the final response detailed in the table.
18. It appeared to the Commissioner that, through its response and internal review response, the School did appear to have provided the complainant with a total figure of the amount it had spent on a barrister.

As referenced above, the complainant disputes that this is the final figure and considers that the School must have spent more on the barrister's services.

19. The Commissioner subsequently spoke to the School's Business Manager. He explained that information on how much the barrister in the claim case would have been paid would be held in invoices clearly referenced as being associated with that barrister and that claim. The Business Manager said he had searched through the School's accounting system and all the relevant information held that was identified (ie the amounts in the invoices that were retrieved) had been disclosed to the complainant.
20. The Business Manager also said that the School uses approved accounting software, and all its accounts have to be fully auditable. He confirmed that the School holds no further information falling within the scope of part 2 of the complainant's request.
21. The Commissioner appreciates that the complainant is aware of other situations in which a barrister has been paid considerably more for their services, but she must focus on the circumstances of this case. In the Commissioner's view, the appropriate person at the School has undertaken satisfactory searches for relevant information in the appropriate places. On the balance of probabilities the Commissioner is satisfied the School has communicated to the complainant all the information it holds that is relevant to part 2 of her request and holds no further information. The Commissioner has decided that the School has complied with section 1(1) of the FOIA.
22. The School did not comply with section 10(1) of the FOIA, however. The request was submitted on 1 March 2020 and the School communicated further relevant information it holds at the point of its internal review on 31 March 2020. This was one working day outside the 20 working day requirement.

Right of appeal

23. 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@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. 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.
25. 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

Pamela Clements
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