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Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 July 2021

Public Authority: Board of Governors
Ballyclare Secondary School

Address: Doagh Road
Ballyclare
BT39 9BG

Decision (including any steps ordered)

1. The complainant has requested information from the Board of Governors of Ballyclare Secondary School ("the School") including minutes, accounts and annual reports. The School has failed to provide a substantive response to either the complainant's original request or her further new request.
2. The Commissioner's decision is that the School has breached sections 10(1) and 17(5) by not issuing a proper response or refusal notice within the 20 working day time period as set out in the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - To provide a substantive response to both of the complainant's requests.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 10 April 2020 the complainant wrote to the School and requested the following information under the FOIA:
 - Board of Governors Annual Reports from 2015-10 April 2020 (inclusive)
 - School Fund Finance Report(s) from 2015-2020 (inclusive of current academic year).
 - Teaching and Non-Teaching salary records from 2015 to 10 April 2020 (inclusive of current academic year) (staff grading where appropriate).
 - Annual Budget and Budget Deployment Report(s) from 2015-2020 (inclusive of current academic year).
 - Annual Statement of Accounts from 2015-2020 (inclusive of current academic year).
 - Financial Expenditure Reports from 2015-2020 (inclusive of current academic year).
 - Invoices, bank records, statements and lodgement books for all accounts under the name of Ballyclare Secondary School from 2015-2020 (inclusive of current academic year).
 - Audit reports from 2015-2020 (inclusive of current academic year).
 - Register of Gifts and Hospitality, in accordance with staff welfare, 2015-2020 (inclusive of current academic year) and relevant Policy Document
 - Board of Governor minutes from 2015-2020 (inclusive of current academic year).
6. On 16 April 2020 the School wrote to the complainant acknowledging her request for information and stating that it was experiencing delays due to the current pandemic. It did not specify a timescale for response.

7. As the School had not responded within the 20 working day time limit as set out in Section 10 of the FOIA, and had still not responded 9 months later, the Commissioner wrote to the School on 13 January 2021, requiring it to respond by 27 January 2021.
8. The School wrote to the complainant on 14 January 2021, stating that it had begun work on responding to her request under the FOIA. It stated that it considered that section 12(1) of the FOIA potentially applied, and that it was continuing to search for information within the scope of the complainant's request up to the £450 cost limit. It stated that it hoped to have a full response for the complainant by the half-term break in February 2021, depending on whether the School could remain open throughout the pandemic. It provided a cost estimate for searching for part of the requested information (the Board of Governors meeting minutes) and offered the complainant the opportunity to narrow or refine her request.
9. The complainant wrote to the School on 25 January 2021, with what she stated was a refined request which read as follows:-

I am now requesting copies of the following:

- a) Private School Fund Finance Reports from 2015 – 2021 (inclusive of current academic year)
 - b) Audit Reports from 2015 – 2021 (inclusive of current Academic Year)
 - c) Register of Gifts and Hospitality, in accordance with Staff Welfare, from 2015 – 2021 (inclusive of current academic year) and also the relevant Policy Document
 - d) Financial Expenditure reports from 2015 – 2021 (inclusive of current academic year)
 - e) Annual Statement of Accounts from 2015 – 2021 (inclusive of current academic year).
10. The complainant informed the School that she still expected a full response to her original request of 10 April 2020 as well as her refined request of 25 January 2021. The Commissioner notes that the complainant's request of 25 January 2021 extends the time period for the information being requested, so therefore this constitutes a new request under the FOIA.
 11. On 17 May 2021 the complainant wrote to the Commissioner stating that she had received some information, in full and unredacted - minutes of Board of Governors' meetings from the School and copies of

Annual Reports from 2014 to 2019. She had also received information in the form of Principal's Minutes dating from September 2015 to December 2020, which she had not asked for in either of her requests under the FOIA. The complainant informed the Commissioner that she had not received any other information she had requested in either of her requests and that the correspondence from the School had made no reference to this.

Scope of the case

12. The complainant first contacted the Commissioner on 7 August 2020 to complain about the way her original request for information had been handled by the School. She again contacted the Commissioner on 17 May 2021 to complain about the School's handling of both of her requests.
13. This notice deals with the School's handling of both requests, which has been considered by the Commissioner.

Reasons for decision

14. Section 1(1) of the FOIA states 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."
15. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
16. When a public authority wishes to refuse a request under section 12(1) of the FOIA, section 17(5) of the FOIA still requires it to issue a refusal notice, informing the requestor that their request has been refused under that section, within 20 working days.
17. From the evidence presented to the Commissioner, the School did not inform the complainant that her original request was being refused under section 12(1) of the FOIA within 20 working days.

18. The School issued a response to the complainant's original request following the Commissioner's intervention, well beyond the 20 working day time limit. That response mentioned potential reliance upon Section 12(1) of the FOIA but did not constitute a proper refusal notice as it did not definitively deal with the request or clearly state the reasons for applying section 12(1).
19. On 13 January 2021 the Commissioner wrote to the School, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
20. The School also failed to respond to the complainant's new request within the timescale as set out in section 10(1), as it did not provide a response to this until almost five months after the date of the request. Even then, it failed to provide a full and substantive response.
21. From the evidence provided to the Commissioner in this case, it is clear that the School did not deal with the requests for information in accordance with the FOIA. The Commissioner finds that the School has breached sections 10(1) and 17(5) by failing to respond to the complainant's requests within 20 working days and it is now required to respond to the requests in accordance with the FOIA.

Other matters

22. In its letter of 14 January 2021 to the complainant, the School mentioned "redacting" as part of its calculation of the estimated time limit in relation to the requested information.
23. The Commissioner would like to remind the School that redaction cannot be included under the activities as set out in her guidance regarding section 12(1) of the FOIA and would refer the School to that guidance.¹

¹ costs_of_compliance_exceeds_appropriate_limit.pdf (ico.org.uk)

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Deirdre Collins
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF