

## **Freedom of Information Act 2000 (Section 51)**

### **Information notice**

**Date:** 12 May 2023

**Public Authority:** Weydon Multi Academy Trust

**Address:** Weydon School  
Weydon Lane  
Farnham  
Surrey  
GU9 8UG

### **Section 51**

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Under section 51 of the Freedom of Information Act 2000 (FOIA), which is set out below, the Information Commissioner (the Commissioner) has the power to serve a notice on a public authority requiring it to furnish him with any information he requires to enforce the requirements of FOIA.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

he may serve the authority with a notice (in FOIA referred to as “an information notice”) requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

### **Application under section 50**

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1. The Commissioner has received an application under section 50, reference IC-207735-V2F1, for a decision whether a request for information made by the complainant to Woolmer Hill School on 8 November 2022, has been dealt with in accordance with the requirements of Part I of FOIA. The School is a member of the Weydon

Multi Academy Trust (the Trust), which is the governing body and public authority for the purposes of this decision.

2. The information request was as follows:

"...I would like to see the original request for re moderation, the AQA report that you have received upholding their original assessment, and all information, records and emails between staff at WH and from WH to AQA or thr (sic) Trust on this subject, including all records surrounding the decision not to appeal. I assume I am entitled to all of this under the Freedom of Information Act.

I will ask for similar information from the other schools in the Trust on this subject, including the overall scores for each and whether there is any records on this subject between the school, but hope that the Trust would be forthcoming with this without a direct request to the Trust and to each individual school? Please let me know as with the current level of information I cannot determine whether or not the school has acted reasonably in exercising its discretion to appeal."

3. On 11 November 2022 the public authority refused to provide the information, citing section 36 of FOIA (prejudice to the effective conduct of public affairs).
4. The complainant requested a review on 13 November 2022.
5. The public authority maintained its position in its internal review on 15 December 2022.

### **Nature of complaint**

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6. The complainant was dissatisfied that the public authority had responded by withholding the requested information, citing section 36 of FOIA without any explanation.

### **Information required**

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7. The Commissioner sent a letter on 20 January 2023 to the public authority. This resulted in a brief response on 27 January 2023 that merely reiterated the exemption it had applied without providing any detail or argument.

8. The Commissioner wrote again on 15 March 2023 having previously made a telephone call to the public authority. The correspondence explained that, if the public authority was continuing to rely on section 36, it needed to respond to the questions contained in the letter and provide the withheld information.
9. The Commissioner received no response, despite chasing a reply twice in April 2023.
10. Finally, the Commissioner attended a Teams call on 21 April 2023 with an individual from the School and two individuals from an external organisation acting on behalf of the public authority. In this discussion the Commissioner explained that he required a response and the withheld information. It was agreed that section 36 of FOIA had been inappropriately cited. However, there was a lack of clarity as to what information was being requested, what fell within scope, and what exemption should be cited, although the public authority appeared certain that any relevant information should not be provided. The meeting concluded with the Commissioner saying that the public authority needed to provide a further response to the complainant in view of the withdrawal of section 36 and copy him into that response.
11. On 28 April 2023, the Commissioner received a brief, inadequate response that did not provide the withheld information. The email suggested that some information is held but should not be provided (apparently because it is personal data) but also that the public authority had searched for the requested information and did not hold any data of relevance, suggesting that the complainant needed to ask AQA. These two positions are contradictory.
12. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that the public authority shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
  - An unredacted version of any information it has withheld that falls within the scope of the request. This copy should be clearly marked to indicate which exemption/s has been applied to which information.
  - If, however, the public authority believes that it does not hold any information falling within scope of the request, it needs to respond to the Commissioner's questions regarding section 1 of FOIA. A link was provided in the letter that was originally sent to the public authority by the Commissioner on 20 January 2023: [Key](#)

[Questions for Public Authorities – Freedom of Information Act 2000 | ICO.](#)

**Failure to comply**

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13. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of FOIA, and may be dealt with as a contempt of court.

## Right of appeal

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14. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can 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](mailto:grc@Justice.gov.uk)

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

15. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

**Signed .....**

**Janine Gregory**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**