

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 20 September 2016

Public Authority: Cambridge House Grammar School

Address: Cambridge Avenue

Ballymena

BT42 2EL

Decision (including any steps ordered)

1. The complainant has requested information from Cambridge House Grammar School. The School has failed to respond to the request; therefore the Commissioner's decision is that the School has failed to comply with section 10(1) of the FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request: Firstly, confirm or deny that the requested information is held (or, if the public authority decides to refuse to confirm or deny that any of the requested information is held, then a refusal notice should be issued that complies with the requirements of section 17 of the FOIA).
 - Secondly, and subject to the above, if the information is held the public authority must either disclose the requested information or, if it wishes to withhold any information, issue a refusal notice in relation to the information it wishes to withhold and disclose the remainder.
3. 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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 25 April 2016 the complainant requested the following information from the School:
 - *Details of all reviews of structure under the terms of 1.2 in Salary Policy in past 18 months, including papers for consideration, minutes and associated documents;*
 - *The Salary Policy for 2015-16 (if different from that in 2014-15, signed on 2 June 2015);*
 - *Minutes of the Salary Subcommittee meeting that took place in the month(s) before the Board of Governors meeting where the Salary Policy 2015-16 was agreed;*
 - *Minutes of the Governors meeting of 19th January 2016 (i.e. in relation to the January 2016 restructuring and/or the decision to withdraw the Acting Vice Principal post);*
 - *Information associated with the decision in June-October 2015 not to advertise internally for a Vice Principal (temporary position);*
 - *Information associated with the decision in October 2015 to advertise internally for a Vice Principal (temporary position); and*
 - *Papers, minutes and information associated with the creation of an additional (4th) Senior Teacher role (as stated by the Principal in March 2016) for commencement in the academic year 2016/17.*
5. The School acknowledged receipt of the request on the day it was made, ie 25 April 2016.
6. On 23 May 2016 the complainant clarified to the School that his request had been made under the FOIA.
7. On 11 July 2016 the complainant sent a follow-up email since he had not at that time received a substantive response. On the same day the School responded and advised that the Principal was due to provide the requested information.

Scope of the case

8. The complainant contacted the Commissioner on 28 July 2016 to complain that he had not received a response to his request.
9. The Commissioner wrote to the School on 24 August 2016 to request that it respond to the complainant's request within ten working days. The School responded to the Commissioner on 5, 9 and 13 September 2016 to advise that a response would be issued shortly. However at the time of issuing this decision notice the complainant had not received a substantive response from the School.

Reasons for decision

Section 1: general right of access Section 10(1): time for compliance

10. Section 1(1)(a) of the FOIA requires a public authority to inform an applicant whether or not it holds recorded information in response to a request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
11. Section 10(1) requires that the public authority comply with section 1 promptly, and in most cases no later than 20 working days after the date of receipt of the request. However the FOIA recognises the need for schools to have slightly longer to take account of school holidays. The Freedom of Information (Time for Compliance) Regulations 2009 extend the time for compliance for Northern Ireland schools as follows:

"2(2) Where this regulation applies, subsections (1) and (2) of section 10 of the Freedom of Information Act 2000 have effect as if any reference to the twentieth working day following the date of receipt were a reference to either—
 - (a) the twentieth working day following the date of receipt, disregarding any working day which, in relation to the school or unit referred to in paragraph (1), is not a school day, or*
 - (b) the sixtieth working day following the date of receipt,**whichever occurs first."*
12. The Regulations define a school day as any day on which there is a session at the school.

13. Despite the Commissioner's intervention, the School has failed to respond to the complainant's request. The School has not explicitly confirmed that it holds the requested information, but it has indicated a number of times that it is preparing to provide information to the complainant. Despite these assurances the School has neither disclosed the requested information nor provided a valid refusal notice.
14. The Commissioner therefore finds the School in breach of section 10(1) of the FOIA.

Right of appeal

15. 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 123 4504
Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
17. 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

Sarah O’Cathain
Senior Case Officer
Information Commissioner’s Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF