

## Freedom of Information Act 2000 (FOIA)

**Date:** 4 September 2017

**Public Authority:** Dulverton Junior School  
**Address:** Barns Close West  
Dulverton  
Somerset  
TA22 9EE

### Decision (including any steps ordered)

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1. The complainant has requested information about students, parents and members of staff at Dulverton Junior School (the school).
2. The school refused to comply with the request on the basis that the complainant did not provide it with an address for correspondence that meets the requirements of section 8(1)(b) of the FOIA and also that it was not possible to provide the information in the format requested.
3. The Commissioner's decision is that the request did not comply with section 8(1)(b) of the FOIA and also that it was not reasonably practicable for the school to provide the information in the format requested.
4. The Commissioner does not require the school to take any steps.

## Request and response

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5. On 23 February 2017, the complainant wrote to the school from the email address: 'noreply@[redacted]' requesting information in the following terms:

*"... The information requested is set out below. When you are ready to submit your response, please don't reply to this email, instead click the button below and fill in the form in your web browser. In light of the Government's guidance on Parental Responsibility and the duty that "School and local authority staff must treat all parents equally, unless there is a Court order limiting an individual's exercise of parental responsibility." and the requirements placed on schools by The Education (Pupil Registration) (England) Regulations 2006 to keep an admission register (including the name and address of every person known to the proprietor of the school to be a parent of the pupil) please provide the following information:*

1. *Does your school have a policy which ensures separated parents are treated equally? If so, what issues does it cover?*
  - *Letters Home (Pupil Post) and emails are sent to both parents*
  - *Provision for both parents to attend parents evening separately if requested*
  - *Consent for school trips*
  - *Consent for Medical Treatment*
  - *Requests to change a child's surname*
  - *Involvement in meetings about a child's exclusion etc.*
  - *Information Sharing*
  - *Parent Governor Elections*
  - *Requirement for a court order to accompany any request to restrict another parent's PR*
  - *Seeking permission for applications to change a child's school*
  - *Other areas*
2. *The number of pupils currently registered at the school.*
3. *The number of pupils where both natural parents details are on record*
4. *The number of pupils registered at your school where you only have details for the mother.*
5. *The number of pupils registered at your school where you only have details for the father.*
6. *What do you do to obtain details of all parents?*
  - *There is no policy in place to obtain a missing parents details*
  - *Request details of all parents in registration form*

- *Ask the registered parent(s), verbally or in writing.*
  - *Ask parents to fill in a data collection sheet each year.*
  - *Request a copy of the child's birth certificate*
  - *Wait for the "absent" parent to contact the school*
  - *Keep an "Absent Parent Register" (missing parents can receive information if they provide SAEs)*
7. *What is the gender of your Headteacher?*
  8. *The number of male teachers at your school.*
  9. *The number of female teachers at your school.*
  10. *The number of male teaching assistants at your school.*
  11. *The number of female teaching assistants at your school.*
  12. *The number of male ancillary staff at your school.*
  13. *The number of female ancillary staff at your school.*

*... If you have any further questions you can check out the Frequently Asked Questions or use the response button above to ask for clarification."*

6. On 24 February 2017 the school responded. It refused to comply with the request on the basis that the complainant had not provided it with an address for correspondence and because of security concerns about using the reply button. The school asked the complainant to provide an address for correspondence and it will re-consider his request.
7. On 25 February 2017, the complainant wrote to the school and provided an email address for correspondence, however, he continued to ask the school to use the reply button when responding to the request, and therefore also asked it to conduct a review of its decision.
8. On 21 April 2017, the school conducted an internal review and wrote to the complainant upholding its initial decision.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 19 March 2017 to complain about the way his request for information had been handled.
10. The Commissioner considers the scope of her investigation to be to determine whether the school was correct to refuse to comply with the request on the basis it did not comply with section 8(1)(b) of the FOIA and is not a valid request, and if it was reasonably practicable for the school to provide the information in the format requested.

## Reasons for the decision

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### Was the reply button a valid address for correspondence under section 8(1)(b) of the FOIA

11. Section 8(1) and (2) of the FOIA state:

*"(1) In this Act any reference to a "request for information" is a reference to such a request which –*

*(a) is in writing,*

*(b) states the name of the applicant and an address for correspondence, and*

*(c) describes the information requested.*

*(2) For the purposes of subsection (1)(a), a request is to be treated as made in writing where the text of the request –*

*(a) is transmitted by electronic means..."*

12. In this case, the complainant made a written request that stated his name, contained a reply button in place of an address for correspondence, described the information sought (points 1-13) and was transmitted electronically (by email).

13. The School has explained that it was not reasonably practicable to use the reply button as an address for correspondence because it was unable to seek clarification and offer advice and assistance in relation to the request, and because of its concerns about security, e.g., as a precaution against malware.

14. The school argues

- that due to the threat of malware and its policy that prohibits staff from clicking on buttons/links in emails, which, have not previously been ratified as safe and secure it was unable to use the reply button,
- that there have been a number of successful ransomware attacks on public authorities in recent months and the school has been following the ICO's guidance and ensuring that it has adequate organisational and technical controls in place to prevent such incidents occurring. However, clicking on 'untrusted' buttons and links in emails is contrary to good data protection practice and in accordance with principle 7 of the Data Protection Act 1998 (DPA)

it believes its position (not using the reply button) is a valid organisation measure to avoid malware/ransomware,

- if the school made an exception for the complainant (and used the reply button), this would be inconsistent with the advice and guidance it has provided to staff and could lead to confusion about its information security measures,
- although the information being requested is clear in the email, the school's response would need to be entered into a form behind the reply button, which, the school had no guarantee leads to the same questions, nor that it would be able to retrieve or use the original request for subsequent reference, and
- the complainant has been advised of an alternative secure means through which the school is willing to respond to the request, e.g., via email.

15. The complainant argues

- it is possible for schools to respond, request clarification or refuse the request using the reply button, and that this is no different to requests made on social media websites, e.g., Twitter,
- that he has sent 18,000 similar requests to schools across the UK and to date 2,000 have responded successfully using the reply button, and
- the number of requests made and the quantity of information sought in each request is likely to result in a substantial amount of information being received, and therefore he cannot be expected to process every individual response in whatever format each school feels is appropriate.

16. In her 'Recognising a request made under the FOIA (Section 8)' guidance, the Commissioner states<sup>1</sup> that where a request has been posted on a social media website, such as Twitter or Whatdotheyknow, then as long as that website offers a means for the authority to respond, e.g., a hyperlink to the requesters email address or a 'reply button', that

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

request will fulfil the requirements to provide a valid address. However, she goes on to say<sup>2</sup>:

*"in any case where it is not reasonably practicable for the authority to provide the information in the electronic format required by the whatdotheyknow.com site, it should ask the requester to provide an alternative postal address where it can send its full response"*

17. The Commissioner can understand how a reply button contained in a private email, that has been sent from a 'noreply' email address can appear as an unknown and insecure quantity and can be distinguished from the reply functions of well-known social media websites such as Twitter and whatdotheyknow.com, that are known for processing FOI requests and therefore she considers that the school's concerns are not unreasonable.
18. The Commissioner accepts that because of security concerns about using the reply button, it was not reasonably practicable for the school to use the reply button to fulfil the requirement of an address for correspondence, and therefore the request did not meet the requirements of section 8(1)(b) of the FOIA and was not valid.

Section 11(1)(a) of the FOIA – was it reasonably practicable to provide the information in format requested (via the reply button)

19. Section 11(1)(a) of the FOIA states:

*" Where, on making his request for information, the applicant expresses a preference for communication by any one or more of the following means, namely –*

*(a) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant...*

*the public authority shall so far as reasonably practicable give effect to that preference. "*

20. The Commissioner states in her 'Means of communicating information (section 11)' guidance <sup>3</sup> that she considers section 11(1)(a) of the FOIA

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<sup>2</sup> <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

to mean that a requester can ask for a copy of the information in the form that they prefer, e.g., electronic, hard copy, audip tape etc ...

21. Where a preference is expressed for information to be provided in electronic form, the Commissioner considers this to also extend to the particular format, and in accordance with Section 11(2) of the FOIA "*the public authority must provide it in the specified form so far as reasonably practicable.*" Section 11(2) of the FOIA says that in determining what is reasonably practicable, "*the public authority may have regard to all the circumstances*". She says that the relevant circumstances can include security concerns.
22. In this case, the complainant asked the school to provide the information, seek clarification or refuse the request electronically via the reply button.
23. The Commissioner accepts that because of security concerns (detailed above) about using the reply button, that were not unreasonable, it was not reasonably practicable for the school to provide the information in the format requested, and therefore she does not require the school to take any steps.

## Other matters

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### The 'noreply' email address and section 8(1) (b) of the FOIA

24. The Commissioner notes that the school wrote to the 'noreply' email address with its refusal notice. However, she also notes that the complainant specifically asked the school not to respond to that address. Therefore, as this was the only address supplied by the complainant other than the 'untrusted' reply button, and to have not responded to the request at all would have placed the school in breach of section 10(1)(1) of the FOIA, the Commissioner is satisfied that although the school issued the refusal notice to the 'noreply' email address, it does not however fulfil the requirement of an address for correspondence under section 8(1)(b) of the FOIA.
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<sup>3</sup> <https://ico.org.uk/media/for-organisations/documents/1163/means-of-communicating-information-foia-guidance.pdf>

## Right of appeal

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25. 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)

26. 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.
27. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**