

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 October 2018

**Public Authority:** Governing Body of Llanidloes C P School

**Address:** [office@llanidloes.powys.sch.uk](mailto:office@llanidloes.powys.sch.uk)

### Decision (including any steps ordered)

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1. The complainant requested information about bullying, health and safety and the minutes of meetings of the Governing Body of the Llanidloes C P School ('the School'). The School provided some information and withheld the minutes under section 21 of the FOIA. The School later provided copies of the minutes, subject to some information being redacted under section 40(2). During the course of the Commissioner's investigation the School acknowledged that some of the information withheld was the complainant's own personal data, and therefore exempt under section 40(1). The Commissioner has determined that the School correctly applied section 40(1) to some information. The Commissioner also finds that the School breached section 10 of the FOIA in failing to respond to the request within the required timescales. The Commissioner does not require any steps to be taken.

### Request and response

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2. On 14 January 2018, the complainant wrote to the School and requested information in the following terms:

*"I would like to request the following Freedom Of Information (FOI)*

*1) How many incidents of bullying have been recorded by the school over the last 3 years up until 31st December 2017*

*2) The number of pupil Health & Safety incidents and near misses which have been recorded over the last 3 years up until 31st December 2017*

*3) I would also like a copy of the Governing body meeting minutes for the last 3 years up to and including the most recent".*

3. The School responded on 21 February 2018 and provided information relevant to parts 1 and 2 of the request. In relation to part 3 of the request the School advised that the minutes were exempt under section 21 of the FOIA as the documents were available to view, by appointment at the School.
4. On 22 February 2018 the complainant wrote to the School and stated that the minutes were a matter of public record. He asked where he could obtain copies of signed minutes for the time frame he had requested.
5. The School responded on 26 February 2018 and confirmed that copies of the signed minutes were available to view at the School, by appointment.
6. On 4 March 2018 the complainant contacted the School and asked if he could view the information on 7 March 2018 at 3pm.
7. The School responded on 5 March 2018 and advised that 7 March 2018 would not be suitable as it would be necessary to "*vet the minutes in question so that any personal information can be redacted, I will need a greater notice period. The notice period for the provision of documents is normally 14 days*".
8. The complainant wrote back to the School on 6 March 2018 and confirmed that he only required access to view and copy minutes of full governing body meetings which were public and did not require any minutes filed/recorded as confidential.
9. On 5 April 2018 the complainant wrote to the School and asked it to send him electronic copies of the minutes in question as the time slots offered to view the information were not suitable to him.
10. The complainant wrote back to the School on 9 April 2018 and requested an internal review of its handling of the request. He reiterated that he was seeking access to signed copies of the minutes of meetings of the Governing Body from January 2015 to date. He also raised concerns about the delay in handling his request.
11. On 24 April 2018 the School provided electronic copies of the minutes in question. On 25 April 2018 the School provided the outcome of its internal review. It maintained that section 21 of the FOIA had been applied correctly to the request. The School also stated that small amounts of information within the minutes had been redacted in order to "*protect staff and pupils from being identified*".

## Scope of the case

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12. The complainant contacted the Commissioner on 26 April 2018 to complain about the way his request for information had been handled.
13. In his complaint to the Commissioner the complainant raised a number of issues which fell outside the Commissioner's remit. Following correspondence with the complainant it was agreed that the scope of the Commissioner's investigation would be to consider the information which the School had redacted under section 40(2), and whether any of the information referred to the complainant, and the delay in the School dealing with the request.
14. During the course of the Commissioner's investigation, the School acknowledged that some of the information it had redacted from the minutes constituted the complainant's own personal data. The School stated that it considered this information to be exempt under section 40(1) of the FOIA. However, it provided the information to the complainant in line with his right of access under section 7 of the Data Protection Act 1998 ('the DPA'), which was the legislation in place at the time of the request.
15. Following the additional disclosure of information, the complainant indicated that he no longer wished to pursue the third party personal data which had been redacted under section 40(2). However, he asked the Commissioner to issue a decision notice relating to his complaint.

## Reasons for decision

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### Section 40 – personal data

16. Section 40(1) of the FOIA provides an exemption for information that is the personal data of the requester. Consideration of this exemption requires a single step; if the requested information constitutes the personal data of the requester, it is exempt.
17. Section 1(1) of the DPA defines personal data as:  
  
*"...data which relate to a living individual who can be identified*  
  
*a) from those data, or*  
  
*b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any*

*indication of the intention of the data controller or any other person in respect of the individual."*

18. The two main elements of personal data are that the information must 'relate' to a living person and that the person must be identifiable from that information. Information will relate to a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
19. When it provided the complainant with copies of the minutes of meetings of the Governing Body, the School had redacted the name of the complainant in respect of one comment about him. It is clear to the Commissioner that an individual can be identified from their name and as such the information clearly comprises the complainant's own personal data. This information is, therefore, exempt under section 40(1) of the FOIA and the School was not obliged by the FOIA to comply with this part of the complainant's request. However, as noted earlier in this notice, the School provided the information to the complainant during the Commissioner's investigation.

### **Section 10(1) – time for compliance**

20. Section 10(1) of the FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following the date that a request was received. Section 1(1) states that a public authority should confirm whether it holds relevant recorded information and, if so, to communicate that information to the applicant.
21. The request in this case was submitted to the School on 14 January 2018. The School provided some information in its initial response of 21 February 2018, and applied section 21 of the FOIA to the request for copies of the minutes of meetings of its Governing Body. The School later provided copies of the minutes on 24 April 2018. The School has apologised for the delay in dealing with request and advised that part of the delay was due to half term taking place between 12 and 16 February 2018.
22. The Commissioner notes that, in this case, the request was submitted to a school. The Freedom of Information (Time for Compliance with Request) Regulations introduced variations to the 20 working day limit for requests to schools. The Regulations state that the time for compliance will be whichever is the shorter period;
  - 20 working days following the date of receipt, excluding any day which is not a school day (this effectively equates to a period of 20 school days); **or**

- 60 working days following the date of receipt.
23. The Commissioner notes that despite taking into account the half term holiday in February 2018, the School failed to comply with section 1(1) within 20 working days of receipt the request, the Commissioner finds that the School breached section 10(1) of the FOIA.

## Right of appeal

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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: 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)

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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**