

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 December 2024

Public Authority: The Good Shepherd Trust
Address: Academies Office
Larch Avenue
Guildford
Surrey
GU1 1JY

Decision (including any steps ordered)

1. The complainant has requested information about a proposal to merge two schools. The above public authority ("the public authority") provided some information, but the complainant believes more is held.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority has disclosed all the information it holds. However, as the public authority failed to provide all this information within 20 school days, it breached section 10 of FOIA.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 17 June 2024 the complainant requested information of the following description:

"Please provide all information relating to:

1. Any plans/proposals/discussions to close/ move pupils from the Scott Broadwood base at Capel and move to The Weald.
2. Any information regarding forecasting of pupil numbers at Scott Broadwood and The Weald.

3. Details of bequests to Scott Broadwood including, but not limited to, founding Trusts/Deeds, subsequent amendments, ownership of land and buildings together with details regarding future use of the land/buildings if Capel base closes.”
5. On 3 July 2024, the public authority responded and provided some information.
6. The complainant requested an internal review on the same day. He argued that further information was held. The public authority sent a revised response on 12 July 2024 and disclosed some additional information, but the complainant again challenged the extent of the information that was held.
7. The public authority issued a final response on 5 August 2024 and disclosed some further information.

Reasons for decision

8. Where there is a dispute between the information a public authority says it holds and what the requester believes should be held, the Commissioner will decide whether it is more likely than not that further information is held.

The complainant's position

9. The complainant has confirmed that he is happy with the public authority's responses to part 2 and 3, but believes further information is held within the scope of part 1.
10. The complainant was sceptical that he had been provided with everything he was entitled to. In particular, he was sceptical that the public authority did not hold information prior to 2024. He also noted that he had not been provided with any costings for the proposal.

The public authority's position

11. The public authority's position is that it has provided all the information it holds that falls within the scope of the request.
12. The public authority explained to the Commissioner that, in late 2023, its resources committee had highlighted concerns about the financial viability of its "eastern hub", which (then) covered four schools with a fifth likely to join.

13. The minutes of that meeting recorded that there was a "brief discussion about the possible options" and an action was taken to "appraise" all options at the committee's spring meeting, with a recommendation being put to the board thereafter. The public authority stated that there was no explicit mention of Scott Broadwood school at that particular meeting.
14. The resulting proposal has already been disclosed to the complainant.
15. In terms of financial and costings information, the public authority noted that it did not get to make the final decision about whether the schools would close or merge. It could only make a recommendation to the Secretary of State for Education.
16. At the point the request was dealt with, the public authority explained that it was in the process of putting together a business case to support its recommendation and trigger the formal process. As such it did not hold a business case at the point it responded to the request. More general information on finances was already published via its annual accounts.
17. The public authority explained that it had carried out searches, primarily focusing on files and correspondence held by its chief executive. Those searches had identified the information that had already been provided to the complainant.
18. The public authority accepted that there may have been telephone calls both within the organisation and outside it. However these calls had not been formally recorded. Board meetings were the places where the decision were made and the decisions were adequately recorded in the minutes of those meetings.
19. The public authority noted that its keyword searches had identified a lot of information that had not turned out to be relevant to the request, but which had required checking. This had meant that the work to identify all information within scope had taken longer than was ideal.

The Commissioner's view

20. The Commissioner considers that it is more likely than not that the public authority has provided all the information it holds.
21. The minutes from late 2023 indicate that the public authority was aware that it needed to take some form of action. However, they also indicate that no specific option was being pursued at that time. Whether or not Scott Broadwood School was mentioned during that meeting, there is no mention in the minutes and therefore there is no recorded information from the meeting that would fall within scope – as the request

specifically related to moving pupils from Scott Broadwood school to The Weald.

22. Based on the documents he has seen, the Commissioner considers that it was only **after** this meeting that the public authority began considering a specific proposal to merge Scott Broadwood with the Weald. That generated the information that has already been provided to the complainant.
23. The public authority has also explained that it was in the process of preparing its business case at the point the request was made and there is no evidence before the Commissioner to suggest that that was not the case. The information relating to the business case is therefore not held.
24. The Commissioner recognises that, in failing to provide all relevant information at the first opportunity, the public authority has not helped itself. When each further challenge uncovers previously undiscovered information, it is more difficult to determine with certainty that the point has been reached where everything relevant has been identified.
25. Nevertheless, the Commissioner considers that the public authority has now completed appropriate and thorough searches which would be likely to identify all relevant information that is held in recorded form.
26. The Commissioner is therefore satisfied that the public authority has, albeit belatedly, now identified all the recorded information it holds.

Procedural matters

27. Section 10 of FOIA requires the proprietor of an academy to identify all the information it holds within the scope of a request for information and to communicate that information to the requester within 20 school days – unless an exemption applies.
28. In this case, the public authority provided information outside of the 20 school day timeframe. It therefore breached section 10 of FOIA

Right of appeal

29. 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

30. 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.
31. 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

Roger Cawthorne
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