

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 24 February 2016

**Public Authority:** Durand Academy  
**Address:** Hackford Road  
London  
SW9 0RD

### Decision (including any steps ordered)

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1. The complainant has requested from the Durand Academy information on the outcomes of pay progression decisions taken for its teachers. To date the Durand Academy has not responded to the request.
2. The Commissioner's decision is that the Durand Academy has breached Section 10(1) of the FOIA.
3. The Commissioner requires the Durand Academy to take the following steps to ensure compliance with the legislation.
  - Provide a substantive response to the request in accordance with FOIA.
4. 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 Act and may be dealt with as a contempt of court.

### Request and response

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5. On 21 April 2015 the complainant emailed Mark McLaughlin at the Durand Academy and requested information in the following terms:

*'I am writing on behalf of the National Union of Teachers to request information from you on the outcomes of pay progression decisions taken for September 2014 for teachers in your school.'*

*You should already have compiled most of the information in accordance with your duties under the Equality Act 2010 (see p 13 -17 of the [DfE Advice to schools on equality and pay progression](#)) and to enable you to complete a return to the DfE School Workforce Census. As you know, the NUT's recognition agreement provides for the disclosure of information for collective bargaining purposes. The duty to disclose this information is enshrined in section 181 of the Trade Union and Labour Relations (Consolidation) Act 1992. For the avoidance of doubt, this request is also made in accordance with the Freedom of Information Act 2000.*

*We have written to all schools in Lambeth seeking this information, therefore, when providing this information to us, you may find it convenient to provide this information to the LA as well.*

*We would be grateful if you could provide us with the data specified on the attached sheet, broken down by workplace as well as by the categories specified.*

*Should more than one pay policy be operating in respect of particular groups of teachers it would be helpful if you could indicate this in the information provided and provide a separate breakdown for each policy.*

*We would also be grateful if you could provide information on how you are monitoring the outcomes of pay progression decisions including in relation to equality and what steps eg a pay audit have been adopted to indicate any possible trends*

*We look forward to receiving a response to my request within the next 20 days, as required by law, or if the information is publicly available, to being informed of where we may find it.*

*If you do not hold the information requested, we look forward to receiving an explanation as to why this is the case.*

## **FOIA Request for information regarding pay progression Information sought**

### **Total teacher workforce**

*A breakdown of the teacher workforce by pay scale point, gender, age (under / over 50), part-time/full-time status, teachers who identify themselves as disabled, and teachers who have been on maternity leave during the 2013/14 academic year.*

*Where it is possible also to provide data on sexual orientation and transgender status, we would wish to receive such information as well.*

**Main Scale progression**

1. Number of teachers who were

i. eligible for progression on the main pay scale

ii. successful in gaining progression

iii. denied progression

iv. subject to another outcome

2. Number of teachers in each of the above categories who were:

i. female

ii. age 50 or over

iii. employed on a part-time basis

iv. disabled

v. on maternity leave for some or all of the 2013/14 academic year

vi. on sickness absence totalling 3 months or more during the 2013/14 academic year.

3. Number of teachers in each of the above categories whose ethnicity is:

i. White British

ii. Black or Black British

iii. Asian or Asian British

iv. White Other

v. Mixed or Other

**Progression from the Main Pay Scale to the Upper Pay Scale**

1. Number of teachers who were

i. eligible for progression from the main pay scale to the upper pay scale

ii. eligible for progression but did not apply

iii. successful in gaining progression

iv. denied progression

v. subject to another outcome

2. Number of teachers in each of the above categories who were:

i. female

ii. age 50 or over

iii. employed on a part-time basis

iv. disabled

v. on maternity leave for some or all of the 2013/14 academic year

vi. on sickness absence totalling 3 months or more during the 2013/14 academic year.

3. Number of teachers in each of the above categories whose ethnicity is:

i. *White British*

ii. *Black or Black British*

iii. *Asian or Asian British*

iv. *White Other*

v. *Mixed or Other*

***Progression on the Upper Pay Scale***

1. Number of teachers who were

i. *eligible for progression on the upper pay scale*

ii. *successful in gaining progression*

iii. *denied progression*

iv. *subject to another outcome*

2. Number of teachers in each of the above categories who were:

i. *female*

ii. *age 50 or over*

iii. *employed on a part-time basis*

iv. *disabled*

v. *on maternity leave for some or all of the 2013/14 academic year*

vi. *on sickness absence totalling 3 months or more during the 2013/14 academic year.*

3. Number of teachers in each of the above categories whose ethnicity is:

i. *White British*

ii. *Black or Black British*

iii. *Asian or Asian British*

iv. *White Other*

v. *Mixed or Other*

*Again, where it is possible also to provide data on sexual orientation and transgender status for teachers moving on the main scale and to and on the upper scale, we would wish to receive that information for these teachers as well.'*

6. As no response was received within 20 working days, the complainant contacted the Durand Academy again on a number of occasions, most recently on 12 October 2015, reminding it that the request was overdue.

## **Scope of the case**

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7. The complainant contacted the Commissioner in November 2015 to complain about the way her request for information had been handled. In particular, she said that she was unhappy that the Durand Academy has not responded to her request at all.
8. On 13 November 2015 the Commissioner emailed the Durand Academy with a copy of the request but to date has not received a response.

## **Reasons for decision**

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### **Section 1 of the FOIA**

9. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.

### **Section 10 of the FOIA**

10. Section 10 of the FOIA states that;  
  
    "...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."
11. In the present case, the request was made on 21 April 2015 and to date the complainant has not received a response.
12. The Commissioner's decision is that the Durand Academy did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days.
13. At paragraph 3 above the Durand Academy is now required to respond to the complainant's request in accordance with the provisions of the FOIA.

## Right of appeal

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14. 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)

15. 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.
16. 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 .....**

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