

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 September 2020

Public Authority: Harris Primary Academy Philip Lane

Address: Philip Lane
London
N15 4AB

Decision (including any steps ordered)

1. The complainant has requested information about students' authorised absences from Harris Primary Academy Philip Lane ('the Academy'). The Academy released information falling within the scope of the request, but the complainant considers the Academy holds further relevant information.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, the Academy holds no further information relevant to the request and has complied with section 1(1) of the FOIA.
 - The Academy breached section 10(1) of the FOIA as it did not release the relevant information it holds within 20 working days of the request.
3. The Commissioner does not require the Academy to take any remedial steps.

Request and response

4. On 19 June 2019 the complainant wrote to the Academy and requested information in the following terms:

"In the past 2 years how many pupils with attendance level below 90% were authorised leave and what was the reason?"

Likewise in the past 2 years how many pupils with attendance level above 90% were authorised leave and what was the reason?"

5. The Academy responded on 20 June 2019. It said that no child in the school currently had had an absence authorised for exceptional circumstances in 2018-2019.
6. The complainant wrote to the Academy on 28 June 2019. They said that they wanted evidence, such as a data print out. The complainant wrote again to the Academy again on 4 September 2019 as they had not received a response to their previous correspondence.
7. The Academy wrote to the complainant on 23 September 2019. It said it was not able to provide reasons for absences because of data protection legislation. However, on 16 October 2019 the Academy provided a further response to the request, releasing some information. It released percentage figures for students with above and below 90% attendance who had authorised absences, for the two years in question. The Academy also advised that since January 2019 no absences for holidays had been authorised for students who did not have an above 90% attendance record.
8. The complainant requested an internal review on 18 November 2019. They said the information they wanted was a numeric figure followed by a single word explaining the reason for authorising each absence.
9. The Academy provided an internal review on 20 November 2019. It addressed the complainant's queries, advising that it was not able to provide the specific information they have requested as to do so would involve breaching data protection legislation.

Scope of the case

10. The complainant contacted the Commissioner on 8 October 2019 to complain about the way their request for information had been handled.
11. In the course of the complaint's investigation, which is detailed below, it became apparent that the crux of the matter, in the first instance, was whether the Academy holds the specific information the complainant is seeking.

12. The Commissioner's investigation has therefore focussed on whether the Academy holds that further information. She has also considered the timeliness of the Academy's compliance with section 1(1) of the FOIA.

Reasons for decision

13. Under section 1(1) of the FOIA, anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to him or her if it is held and is not exempt information.
14. Under section 10(1) of the FOIA, a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
15. In addition to its responses above, on 26 March 2020 the Academy released further information to the complainant. This was a table with the number of absences below 90% and above 90% for two academic years, against four reasons for absence: I (illness); R (Religious); M (medical/dental) and C (other authorised).
16. In correspondence to the Commissioner dated 3 April 2020 the complainant told the Commissioner that they would expect to receive the specific reasons for absence under the category 'C (other authorised)', in the table the Academy had released. The Commissioner therefore contacted the Academy about that matter.
17. In correspondence dated 21 July 2020, the Academy told the Commissioner that the 'C (other authorised)' category is, in effect, the Principal's discretion and can be applied in exceptional circumstances such as weddings, funerals or other compassionate reasons. The Academy said that the current Principal took over in January 2019 and so the figures it provided to the complainant in its correspondence of 26 March 2020 refer to the 'discretion' applied by two different Principals. It said that, as such, the occasion for approving 'C (other authorised)' may and does differ and that there was no further level of 'granularity' or detail with regard to those particular figures.
18. The Commissioner asked the Academy to consider whether that level of detail would not be held in the individual records of the students who had been granted 'other authorised' absence.
19. In correspondence to the Commissioner dated 23 July 2020 the Academy advised, first, that the Academy did not hold that information. However, it then went on to say that the information would be held in

students' files but that the required manipulation would take significant time to produce the detail requested.

20. The Academy also told the Commissioner that some of the children who were included in the table of statistics that it provided to the complainant have now left the Academy. As a result, the exceptional circumstances that led them to be being allowed authorised leave would not be known, because their electronic and paper student files left with them to their next educational establishment.
21. The Commissioner contacted the Academy again. She asked the Academy to clarify whether it does nor does not hold the specific information the complainant is seeking in students' files and, if the Academy does hold some or all of this information, to confirm what its position is regarding the request for that information.
22. In correspondence dated 4 September 2020, the Academy confirmed to the Commissioner that its staff had now gone through all the paper student file records and its electronic Management Information System, to ascertain the exact breakdown/explanation of the reasons for 'C (other authorised)' for years 17/18 and 18/19 in the table the Academy released to the complainant. The Academy said that, unfortunately, they could find no recorded explanation for the granting of this leave in either the paper or electronic records. Furthermore, as the attendance officer employed at the time no longer works for the Academy there is no one to follow this up with further.
23. The Academy acknowledged that, whilst there is no legal requirement to record the exact reason for granting such leave, it had expected that this information would have been kept in some form, either in paper or recorded on the Academy's Management Information System.
24. However, the Academy had found that this information had not been kept and it confirmed to the Commissioner that it is therefore not in a position to provide any further breakdown for the reasons under 'C (other authorised)' in the table it has released.
25. The Commissioner relayed this response to the complainant, who remained of the view that the Academy should and does hold the level of detail about authorised absences that they are seeking.

Conclusion

26. The Academy has explained that some of the students granted 'other authorised' absence for the years in question have now left the school and taken their records with them. The Academy therefore does not hold those records or any relevant information they may, or may not, contain. The Commissioner accepts that position.

27. The Academy has also now carried out a search of the paper and electronic records of those students who were granted 'other authorised' absence and who remain at the school. The Academy has confirmed that these records do not contain the information the complainant is seeking ie the specific reason for each 'other authorised' absence.
28. The Academy has said that it would have expected the students' records to contain that information and the complainant certainly considers that the Academy should hold information of that level of detail. However, the Commissioner cannot consider whether a public authority *should* hold particular information, only whether it does or does not - on the balance of probabilities. The Commissioner is satisfied on this occasion that the Academy has now undertaken adequate searches for the specific information the complainant has requested and that it does not hold any further information. She finds that the Academy has therefore complied with section 1(1) of the FOIA.
29. The complainant submitted their request on 19 June 2019. The Academy released some relevant information on 16 October 2019 and released further relevant information on 26 March 2020. The Academy therefore breached section 10(1) of the FOIA as it did not comply with section 1(1) within 20 working days of the request.

Right of appeal

30. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

31. 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.
32. 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
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