

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 May 2014

Public Authority: Westerton Primary School
Address: Hesketh Lane
Tingley
Wakefield
WF3 1AR

Decision (including any steps ordered)

1. The complainant has requested from Westerton Primary School ("the School") a copy of a Contact Order and details regarding how the School was supplied with a copy of the Order.
2. The Commissioner's decision is that the School should have neither confirmed nor denied it held the information in accordance with section 40(5)(a).
3. The Commissioner requires the public authority to take no steps.

Request and response

4. On 4 December 2013 the complainant wrote to the School and requested information in the following terms:
 1. *"Information was provided in the hearing at Westerton Road School today which I was presented with for the first time. This stated that Legal Services informed the School that a Contact Order restricts my rights in respect of parental responsibility. This is supplied in the form of an email from [redacted name] at Leeds City Council to Westerton Road School dated 18.7.13. You will kindly supply me with a copy of this Contact Order which was supplied to [redacted name] and to which he refers in the 18.7.13 email.*
 2. *Further, I wish to know how you were supplied with a copy of this Contact Order and by whom, and on what date".*

5. The School responded on 7 January 2014. It provided the complainant with a copy of the Contact Order referred to in request 1. In response to request 2 the School explained that it did not hold this information in recorded form.
6. Following an internal review the School wrote to the complainant on 21 January 2014. It stated that a copy of the Contact Order was provided in its response of 7 January 2014.
7. With regards to request 2 the School explained it had located a letter which falls within the scope of the request. It further explained that the complainant had previously been provided with a copy of the letter during a Governors Hearing, however it disclosed another copy of the letter to him.

Scope of the case

8. The Commissioner accepted a complaint from the complainant on 3 April 2014.
9. The Commissioner has had to consider the handling of this request.

Reasons for decision

10. Under section 40(5)(a) of FOIA, a public authority does not have to confirm or deny that it holds information that is the personal data of the requester.
 11. The Commissioner considers that the way in which the request is worded clearly indicates that the complaint is seeking his own personal data. He would consider that to confirm or deny holding the information would inevitable put into the public domain information about the existence of a contact order concerning the complainant.
 12. Although the exemption set out in section 40(5)(a) was not cited by the School, given his dual role as regulator of both the FOIA and the Data Protection Act 1998 (DPA) the Commissioner considers that it is appropriate to consider the application of this exemption in relation to information of this kind.
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Other matters

13. The Commissioner notes that the information has been provided to the complainant under the FOIA. However he considers that the information request should have been dealt with under the DPA.
14. Section 7 of the DPA gives an individual the right to request copies of personal data held about them – this is referred to as the right of Subject Access.
15. The Commissioner will now consider this complaint under the DPA and contact the complainant in due course.

Right of appeal

16. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

17. 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.
18. 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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF