

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 28 September 2011

Public Authority: Rathore School
Address: 9 Martins Lane
Carnagat
Newry
BT35 8PF

Summary

The complainant submitted a request to Rathore School under the Freedom of Information Act 2000 ("the Act") for a copy of the school's Freedom of Information and Data Protection Policy. The Commissioner finds that the school failed to provide the complainant with the information he requested or to issue a valid refusal notice within the statutory timeframe of 20 working days as set out in section 10(1) of the Act. Rathore School was therefore in breach of its procedural obligations under the Act. However, since the requested information has now been provided to the complainant, the Commissioner requires no steps to be taken.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Act. This Notice sets out his decision.

The Request

2. On 28 June 2010 the complainant submitted a request to the Board of Governors of Rathore School. That request was for a copy of the school's Freedom of Information and Data Protection Policy. He also requested other information, however that request falls under the Data Protection Act 1998 ("the DPA") and is therefore outside the scope of this Decision Notice

3. On 27 August 2010 the complainant, not having received a response to his request, again wrote to Rathore School requesting a copy of its Freedom of Information and Data Protection Policy.
4. On 2 September 2010 Rathore School wrote to the complainant stating that it was still looking for some information in relation to his request.
5. On 23 September 2010 Rathore School again wrote to the complainant. However in that letter it referred only to that element of his request which fell under the DPA and no mention was made of the information he requested under the Act.

The Investigation

Scope of the case

6. On 9 November 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled and specifically, the delay by Rathore School in providing him with the requested information.
7. This Decision Notice focuses solely on the element of the complainant's request which falls within the requirements of Part I of the Act, i.e. his request for a copy of Rathore School's Freedom of Information and Data Protection Policy.

Chronology

8. On 7 March 2011 the Commissioner wrote to Rathore School asking it to provide the complainant with a copy of its Freedom of Information and Data Protection Policy within 10 working days or alternatively to provide a proper refusal notice in respect of that information as per the provisions of section 17 of the Act. He wrote to the complainant informing him of this.
9. On 28 March 2011, following a telephone call from the complainant in which he stated that he had still not received the requested information, the Commissioner wrote to Rathore School to inform it that he was treating the matter as a formal complaint under section 50 of the Act. On the same date he wrote to the complainant informing him of this course of action.
10. On 4 April 2011 the complainant telephoned the Commissioner to inform him that he had now received the requested information. However, due to the delay on the part of Rathore School in providing

the information, he asked the Commissioner to issue a formal Decision Notice in this case.

Analysis

Substantive Procedural Matters

Section 10(1): Time for compliance

11. Section 1(1)(a) of the Act requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
12. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than 20 working days after the date of receipt of the request.
13. The Commissioner notes that the complainant's request for information was made on 28 June 2010, however he did not receive the information, or a valid refusal notice, until 4 April 2011. From the information provided to the Commissioner it is evident that Rathore School did not respond to the complainant under the Act within the statutory time frame and therefore it breached section 10(1) of the Act.

The Decision

14. The Commissioner's decision is that Rathore School did not deal with the request for information in accordance with the Act. Rathore School breached section 10(1) of the Act by failing to provide a response to the request within the statutory timeframe of 20 working days.

Steps Required

15. As Rathore School has now responded to the request, albeit only as a result of the Commissioner's intervention, the Commissioner requires no further steps to be taken.

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: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

Dated the 28th day of September 2011

Signed

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

Legal Annex

General Right of Access

Section 1(1) provides that -

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

Section 2(3) provides that –

"For the purposes of this section, the following provisions of Part II (and no others) are to be regarded as conferring absolute exemption –

- (a) section 21
- (b) section 23
- (c) section 32
- (d) section 34
- (e) section 36 so far as relating to information held by the House of Commons or the House of Lords
- (f) in section 40 –
 - (i) subsection (1), and
 - (ii) subsection (2) so far as relating to cases where the first condition referred to in that subsection is satisfied by virtue of subsection (3)(a)(i) or (b) of that section,
 - (iii) section 41, and
 - (iv) section 44"

Time for compliance

Section 10(1) provides that –

“Subject to subsections (2) and (3), 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.”