

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 April 2014

Public Authority: Shropshire Council
Address: Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Decision (including any steps ordered)

1. The complainant has requested various information from Shropshire Council, including information relating to the highest paid head teacher in Shropshire Schools. The Commissioner's decision is that Shropshire Council has breached section 10(1) of the FOIA by failing to disclose the requested information within the statutory time limit of 20 working days. He does not require any steps to be taken to ensure compliance with the legislation.

Request and response

2. On 30 July 2013, the complainant wrote to Shropshire Council ('the council') and requested information in the following terms:

"Please inform me under the FOIA how many gagging orders (aka compromise agreements) have been made by this Local Authority within the last 6 years and how much in total has been paid to silence/gag/compromise with members of staff.

Please under FOIA inform me which Department has had the most gagging orders within this timescale.

Please inform me out of which budget these payments are made.

Please inform me how many gagging orders have been made in the last 6 years within the Education Department and if there is/are any particular school(s) which have implemented the most gagging orders. Please name this/these school(s), how many gagging orders they have made and state how much of taxpayer's money it has paid out to gag/compromise with members of staff and for what reasons.

Please inform me if and how many Whistleblowers in the Council have been so gagged in the last 6 years.

Please inform me what is the policy/rationale for the salaries of Head Teachers in this Local Authority not being made public on the Council's website and please furnish me under FOIA with the salaries of all the Heads in Shropshire Schools. Please provide me with the name and salary of the highest paid Head Teacher working in Shropshire schools (Shrewsbury, not Telford and Wrekin). Please inform me if this Head Teacher has teaching or non teaching duties."

3. The council responded on 9 September 2013 and provided some information within the scope of the request, including a breakdown of salary bands for headteachers and the number of teachers in each band, but refused to provide the name and salary of the highest paid Head Teacher working in Shropshire schools citing the exemption at section 40(2) of the FOIA as its basis for doing so.
4. The complainant requested an internal review on 10 September 2013. The council provided its internal review response on 8 October 2013. It provided some further information but maintained its reliance on section 40(2) in respect of which school in Shropshire Council has the highest paid headteacher and how much the headteacher is paid.

Scope of the case

5. The complainant contacted the Commissioner on 25 October 2013 to complain about the way her request for information had been handled.
6. On 31 January 2014, the Commissioner wrote to the council providing his preliminary assessment that the school in Shropshire with the highest paid headteacher and how much the headteacher is paid would not be exempt under section 40(2) of the FOIA. He informed the council that it is his established line that if a request was made for the salary of a specific senior public authority employee, then it would not be unfair to disclose that information in a salary band of £5000. He noted that that the council has disclosed a breakdown of salary bands for headteachers and the number in each band and said that he appreciates that if the council provide the name of the school which has the highest

paid teacher then this will allow that individual to be identified but he does not consider that such a disclosure would be in breach of the Data Protection Act 1998. The Commissioner requested that the council review the case and disclose the name of the school with the highest paid headteacher or, if the council was not prepared to do so, to submit a full rationale as to why the exemption at section 40(2) applies in this case.

7. Following the Commissioner's invention, the council provided the complainant with the name of the school with the highest paid headteacher on 6 March 2014.
8. After having received this response, the complainant expressed her dissatisfaction with the amount of time it had taken the council to provide the requested information within the statutory time period.
9. The Commissioner has therefore considered whether the council has breached section 10(1) of the FOIA in this case.

Reasons for decision

Section 10 – Time for compliance

10. Section 1(1) of FOIA requires a public authority in receipt of a request to confirm whether it holds the requested information, and if so, disclose it to the applicant. Section 10(1) of FOIA provides that this must be done within 20 working days of receiving a request.
11. The request was submitted on the 30 July 2013. The council provided some information on 9 September 2013, 8 working days after the statutory time for compliance and did not provide the name of the school with the highest paid headteacher until 6 March 2014, almost 7 months after the request. The Commissioner therefore finds that the council did not make the information available within 20 working days and consequently finds a breach of section 10(1) of FOIA.

Right of appeal

12. 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

13. 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.
14. 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

Andrew White
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